

1.1 CONFERENCE COMMITTEE REPORT ON H. F. No. 2123

1.2 A bill for an act

1.3 relating to state government; environment, natural resources, and energy  
1.4 finance; appropriating money for environment and natural resources; authorizing  
1.5 sale of gift cards and certificates; establishing composting competitive grant  
1.6 program; modifying regulation of storm water discharges; modifying waste  
1.7 management reporting requirements and creating a work group; requiring  
1.8 nonresident all-terrain vehicle state trail pass; modifying horse trail and state  
1.9 park pass requirements; requiring disclosure of certain chemicals in children's  
1.10 products by manufacturers; requiring plastic yard waste bags to be compostable  
1.11 and establishing labeling standards; authorizing uses of the Hennepin County  
1.12 solid and hazardous waste fund; modifying greenhouse gas emissions provisions  
1.13 and requiring a registry; establishing and authorizing fees; providing for  
1.14 disposition of certain fees; modifying and establishing assessments for certain  
1.15 regulatory expenses; providing for fish consumption advisories in different  
1.16 languages; limiting use of certain funds; requiring reports; appropriating  
1.17 money to Department of Commerce and Public Utilities Commission to finance  
1.18 activities related to commerce and energy; modifying provisions related to  
1.19 Telecommunications Access Minnesota assessments, insurance audits, insurers  
1.20 and insurance products, certain financial institutions, regulated activities related  
1.21 to certain mortgage transactions and professionals, and debt management and  
1.22 debt settlement services; providing penalties and remedies; appropriating and  
1.23 allocating federal stimulus money for various energy programs; amending  
1.24 Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1;  
1.25 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60,  
1.26 subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126;  
1.27 58.13, subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15;  
1.28 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01;  
1.29 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835,  
1.30 subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631;  
1.31 84.632; 84.788, subdivision 3; 84.922, subdivision 1a; 85.015, subdivision 1b;  
1.32 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 93.481, subdivisions 1, 3, 5,  
1.33 7; 97A.075, subdivision 1; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c;  
1.34 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2;  
1.35 115A.557, subdivision 3; 115A.931; 116.07, subdivision 4d; 116.41, subdivision  
1.36 2; 116C.834, subdivision 1; 116D.045; 216B.62, subdivisions 3, 4, 5, by  
1.37 adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision  
1.38 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding a subdivision; 332A.04,  
1.39 subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; Laws 2002,  
1.40 chapter 220, article 8, section 15; Laws 2007, chapter 57, article 1, section  
1.41 4, subdivision 2; Laws 2008, chapter 363, article 5, section 4, subdivision  
1.42 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A;

2.1 67A; 84; 93; 115A; 116; 216H; 325E; 383B; proposing coding for new law as  
 2.2 Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections  
 2.3 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws  
 2.4 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180;  
 2.5 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140.

2.6 May 4, 2009

2.7 The Honorable Margaret Anderson Kelliher  
 2.8 Speaker of the House of Representatives

2.9 The Honorable James P. Metzen  
 2.10 President of the Senate

2.11 We, the undersigned conferees for H. F. No. 2123 report that we have agreed upon  
 2.12 the items in dispute and recommend as follows:

2.13 That the Senate recede from its amendment and that H. F. No. 2123 be further  
 2.14 amended as follows:

2.15 Delete everything after the enacting clause and insert:

2.16 **"ARTICLE 1**

2.17 **ENVIRONMENT AND NATURAL RESOURCES FINANCE**

2.18 Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
2.21 <u>General</u>	\$ 112,820,000	\$ 111,945,000	\$ 224,765,000
2.22 <u>State Government Special</u>			
2.23 <u>Revenue</u>	48,000	48,000	96,000
2.24 <u>Environmental</u>	69,064,000	69,188,000	138,252,000
2.25 <u>Natural Resources</u>	82,010,000	80,910,000	162,920,000
2.26 <u>Game and Fish</u>	94,312,000	93,912,000	188,224,000
2.27 <u>Remediation</u>	11,186,000	11,186,000	22,372,000
2.28 <u>Permanent School</u>	200,000	200,000	400,000
2.29 <b><u>Total</u></b>	<b>\$ 369,640,000</b>	<b>\$ 367,389,000</b>	<b>\$ 737,029,000</b>

2.30

2.31 Sec. 2. **ENVIRONMENT AND NATURAL RESOURCES APPROPRIATIONS.**

2.32 The sums shown in the columns marked "Appropriations" are appropriated to the  
 2.33 agencies and for the purposes specified in this article. The appropriations are from the  
 2.34 general fund, or another named fund, and are available for the fiscal years indicated

3.1 for each purpose. The figures "2010" and "2011" used in this article mean that the  
 3.2 appropriations listed under them are available for the fiscal year ending June 30, 2010, or  
 3.3 June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal  
 3.4 year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal  
 3.5 year ending June 30, 2009, are effective the day following final enactment.

3.6 **APPROPRIATIONS**  
 3.7 **Available for the Year**  
 3.8 **Ending June 30**  
 3.9 **2010                      2011**

3.10 **Sec. 3. POLLUTION CONTROL AGENCY**

3.11 **Subdivision 1. Total Appropriation                      \$      90,969,000 \$      90,493,000**

3.12 **Appropriations by Fund**

	<u>2010</u>	<u>2011</u>
3.13		
3.14	<u>10,771,000</u>	<u>10,171,000</u>
3.15	<u>State Government</u>	
3.16	<u>48,000</u>	<u>48,000</u>
3.17	<u>69,064,000</u>	<u>69,188,000</u>
3.18	<u>11,086,000</u>	<u>11,086,000</u>

3.19 The amounts that may be spent for each  
 3.20 purpose are specified in the following  
 3.21 subdivisions.

3.22 The commissioner shall require the chief  
 3.23 financial officer or other financial staff to  
 3.24 display the agency's budget on the agency's  
 3.25 Web site in a manner that will allow citizens  
 3.26 to understand more easily the value they are  
 3.27 getting for their money. The agency must  
 3.28 have an air permit and regulatory account,  
 3.29 water permit and regulatory account, and  
 3.30 solid waste permit and regulatory account to  
 3.31 track revenues and expenses.

4.1 By October 1, 2010 and 2011, the  
 4.2 commissioner shall submit a report to the  
 4.3 chairs of the legislative committees with  
 4.4 primary jurisdiction over the environment  
 4.5 and natural resources policy and finance  
 4.6 that includes the number of environmental  
 4.7 assessment worksheets completed in the  
 4.8 previous fiscal year, the total number of  
 4.9 staff hours spent on those environmental  
 4.10 assessment worksheets, and the average and  
 4.11 median number of hours spent per completed  
 4.12 environmental assessment worksheet.

4.13 Fee rules adopted by the agency during fiscal  
 4.14 year 2010 are effective retroactively on July  
 4.15 1, 2009.

4.16 A recipient of a grant funded by an  
 4.17 appropriation under this section shall display  
 4.18 on its Web site detailed information on  
 4.19 the expenditure of the grant funds, and  
 4.20 measurable outcomes as a result of the  
 4.21 expenditure of funds, and submit this  
 4.22 information to the agency by June 30 each  
 4.23 year. A recipient without an active Web site  
 4.24 shall report to the agency by June 30 each  
 4.25 year detailed information on the expenditure  
 4.26 of the grant funds, and measurable outcomes  
 4.27 as a result of the expenditure of funds. The  
 4.28 commissioner shall display the information  
 4.29 received by recipients under this paragraph  
 4.30 on the agency's Web site.

4.31	<u>Subd. 2. <b>Water</b></u>	<u>33,867,000</u>	<u>33,267,000</u>
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4.32 Appropriations by Fund

4.33	<u>General</u>	<u>8,148,000</u>	<u>7,548,000</u>
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5.1	<u>State Government</u>		
5.2	<u>Special Revenue</u>	<u>48,000</u>	<u>48,000</u>
5.3	<u>Environmental</u>	<u>25,671,000</u>	<u>25,671,000</u>

5.4 \$2,348,000 the first year and \$2,348,000  
5.5 the second year are for the clean water  
5.6 partnership program. Priority shall be  
5.7 given to projects preventing impairments  
5.8 and degradation of lakes, rivers, streams,  
5.9 and groundwater according to Minnesota  
5.10 Statutes, section 114D.20, subdivision 2,  
5.11 clause (4). Funds from this appropriation  
5.12 may not be used to purchase or use pesticides  
5.13 suspected by current science of being  
5.14 endocrine disruptors. To the extent possible,  
5.15 with money from this appropriation, a  
5.16 person must plant vegetation or sow seed  
5.17 only of ecotypes native to Minnesota, and  
5.18 preferably of the local ecotype, using a high  
5.19 diversity of species originating from as  
5.20 close to the restoration site as possible, and  
5.21 protect existing native prairies from genetic  
5.22 contamination. Any balance remaining in the  
5.23 first year does not cancel and is available for  
5.24 the second year.

5.25 \$2,164,000 the first year and \$2,164,000 the  
5.26 second year must be distributed as grants to  
5.27 delegated counties to administer the county  
5.28 feedlot program under new Minnesota  
5.29 Statutes, section 116.0711, subdivisions 2  
5.30 and 3. Any money remaining after the first  
5.31 year is available for the second year.

5.32 \$310,000 the first year and \$310,000 the  
5.33 second year are for community technical  
5.34 assistance and education, including grants

6.1 and technical assistance to communities for  
6.2 local and basinwide water quality protection.

6.3 \$100,000 the first year is for grants to  
6.4 local units of government to implement  
6.5 cost-effective projects to control runoff,  
6.6 prevent erosion, and provide ditch  
6.7 stabilization, in order to protect water quality  
6.8 in lakes, rivers, and streams and to protect  
6.9 groundwater from degradation. This is a  
6.10 onetime appropriation.

6.11 \$350,000 the first year and \$350,000 the  
6.12 second year are for challenge grants to  
6.13 counties for subsurface sewage treatment  
6.14 system (SSTS) inventories that will  
6.15 determine the number of systems that are  
6.16 failing or that pose an imminent health threat  
6.17 and are located on riparian land or a lake  
6.18 or near wetlands or other sensitive waters.

6.19 Counties must provide a nonstate match of  
6.20 at least 50 percent that may be in cash or in  
6.21 kind. The commissioner shall, by county,  
6.22 report: the number of systems evaluated, the  
6.23 number of systems determined to be failing  
6.24 or that pose an imminent health threat located  
6.25 on riparian land or a lake or near wetlands or  
6.26 other sensitive waters, the number replaced  
6.27 or soon to be replaced, and the gallons of  
6.28 sewage that are prevented from threatening  
6.29 waters. The commissioner shall develop  
6.30 recommendations and a plan for directly  
6.31 or indirectly inspecting and providing an  
6.32 inventory for all subsurface sewage treatment  
6.33 systems and submit a report to the chairs of  
6.34 the legislative committees having primary  
6.35 jurisdiction over environment and natural  
6.36 resources policy and finance no later than

7.1 September 15, 2010. Direct inspection  
7.2 methods shall include field verification of  
7.3 each SSTS on riparian land or a lake or  
7.4 near wetlands or other sensitive waters to  
7.5 determine the owner, location, and which  
7.6 systems are failing or are an imminent  
7.7 health threat. Indirect inspection methods  
7.8 may include census-type data collection to  
7.9 determine the owner and location of each  
7.10 SSTS in the remaining portion of each  
7.11 county. An SSTS with a valid certificate of  
7.12 compliance may be considered inventoried  
7.13 without further work. This is a onetime  
7.14 appropriation.

7.15 \$375,000 the first year and \$375,000 the  
7.16 second year are for subsurface sewage  
7.17 treatment system (SSTS) administration and  
7.18 grants. Of this amount, \$80,000 each year  
7.19 is for assistance to counties through grants  
7.20 for SSTS program administration. Any  
7.21 unexpended balance in the first year does not  
7.22 cancel but is available in the second year.

7.23 \$740,000 the first year and \$740,000 the  
7.24 second year are from the environmental  
7.25 fund to address the need for continued  
7.26 increased activity in the areas of new  
7.27 technology review, technical assistance  
7.28 for local governments, and enforcement  
7.29 under Minnesota Statutes, sections 115.55  
7.30 to 115.58, and to complete the requirements  
7.31 of Laws 2003, chapter 128, article 1, section  
7.32 165. Of this amount, \$48,000 each year is for  
7.33 administration of individual septic tank fees,  
7.34 as provided in this article.

8.1 \$1,250,000 the first year and \$1,250,000  
8.2 the second year are for assessment and  
8.3 monitoring of lakes, rivers, and streams.

8.4 \$100,000 the first year and \$100,000 the  
8.5 second year are for a grant to the Red River  
8.6 Watershed Management Board to enhance  
8.7 and expand existing river watch activities in  
8.8 the Red River of the North and shall enhance  
8.9 student understanding of the causes of  
8.10 flooding, flood prevention, and the impacts  
8.11 of flood waters on land and water resources.

8.12 The Red River Watershed Management  
8.13 Board shall provide a report that includes  
8.14 formal evaluation results from the river  
8.15 watch program to the commissioners of  
8.16 education and the Pollution Control Agency  
8.17 and to the legislative committees with  
8.18 jurisdiction over the environment and natural  
8.19 resources policy and finance and K-12 policy  
8.20 and finance by February 15, 2011. This is a  
8.21 onetime appropriation.

8.22 \$7,540,000 the first year and \$7,540,000  
8.23 the second year are from the environmental  
8.24 fund for completion of 20 percent of the  
8.25 needed statewide assessments of surface  
8.26 water quality and trends.

8.27 \$500,000 the first year is to develop minimal  
8.28 impact design standards for urban storm  
8.29 water runoff. This is a onetime appropriation  
8.30 and is available until June 30, 2011. The  
8.31 commissioner shall report to the chairs and  
8.32 ranking minority members of the legislative  
8.33 committees and divisions having primary  
8.34 jurisdiction over environment and natural  
8.35 resources policy and finance no later than

9.1 January 12, 2011, regarding the expenditure  
 9.2 of this appropriation.

9.3 By October 1, 2009 and 2010, the  
 9.4 commissioner shall report to the chairs  
 9.5 of the legislative committees having  
 9.6 primary jurisdiction over environment and  
 9.7 natural resources policy and finance on the  
 9.8 effectiveness of enforcement actions in the  
 9.9 previous fiscal year in preventing water  
 9.10 pollution.

9.11 The commissioner shall continue the  
 9.12 rulemaking process to better align water  
 9.13 permit fee revenue for fiscal years 2010,  
 9.14 2011, 2012, and 2013 with the cost of issuing  
 9.15 permits, including environmental review.

9.16 Notwithstanding Minnesota Statutes, section  
 9.17 16A.28, the appropriations encumbered on or  
 9.18 before June 30, 2011, as grants or contracts  
 9.19 for clean water partnership, SSTS's, surface  
 9.20 water and groundwater assessments, total  
 9.21 maximum daily loads, stormwater, and local  
 9.22 basinwide water quality protection in this  
 9.23 subdivision are available until June 30, 2013.

9.24 Subd. 3. **Air** 11,871,000 12,131,000

9.25 Appropriations by Fund  
 9.26 Environmental 11,871,000 12,131,000

9.27 Up to \$150,000 the first year and \$150,000  
 9.28 the second year may be transferred from the  
 9.29 environmental fund to the small business  
 9.30 environmental improvement loan account  
 9.31 established in Minnesota Statutes, section  
 9.32 116.993.

10.1 \$200,000 the first year and \$200,000 the  
10.2 second year are from the environmental fund  
10.3 for a monitoring program under Minnesota  
10.4 Statutes, section 116.454.

10.5 \$125,000 the first year and \$125,000 the  
10.6 second year are from the environmental fund  
10.7 for monitoring ambient air for hazardous  
10.8 pollutants in the metropolitan area.

10.9 An agency report on the level of fine  
10.10 particulate matter in Minnesota's air must  
10.11 compare measured levels with a 24-hour  
10.12 PM 2.5 standard of 13 to 14 micrograms  
10.13 per cubic meter and an annual PM 2.5  
10.14 standard of 30 to 35 micrograms per cubic  
10.15 meter, as recommended by the Particulate  
10.16 Matter Review Panel of the Environmental  
10.17 Protection Agency's Clean Air Scientific  
10.18 Advisory Committee in its June 2005 report,  
10.19 EPA's Review of the National Ambient Air  
10.20 Quality Standards for Particulate Matter  
10.21 (Second Draft PM Staff Paper, January  
10.22 2005).

10.23 \$700,000 the first year and \$700,000 the  
10.24 second year are from the environmental  
10.25 fund for an air emissions database, including  
10.26 monitoring greenhouse gas emissions.

10.27 The commissioner shall continue the  
10.28 rulemaking process to better align air quality  
10.29 fee revenue for fiscal years 2010, 2011, 2012,  
10.30 and 2013 with the cost of issuing permits,  
10.31 including environmental review.

10.32 Subd. 4. **Land** 18,467,000 18,467,000

11.1	<u>Appropriations by Fund</u>		
11.2	<u>General</u>	<u>465,000</u>	<u>465,000</u>
11.3	<u>Environmental</u>	<u>6,916,000</u>	<u>6,916,000</u>
11.4	<u>Remediation</u>	<u>11,086,000</u>	<u>11,086,000</u>

11.5 All money for environmental response,  
 11.6 compensation, and compliance in the  
 11.7 remediation fund not otherwise appropriated  
 11.8 is appropriated to the commissioners of the  
 11.9 Pollution Control Agency and agriculture  
 11.10 for purposes of Minnesota Statutes, section  
 11.11 115B.20, subdivision 2, clauses (1), (2),  
 11.12 (3), (6), and (7). At the beginning of each  
 11.13 fiscal year, the two commissioners shall  
 11.14 jointly submit an annual spending plan to  
 11.15 the commissioner of finance that maximizes  
 11.16 the utilization of resources and appropriately  
 11.17 allocates the money between the two  
 11.18 departments. This appropriation is available  
 11.19 until June 20, 2011.

11.20 \$3,616,000 the first year and \$3,616,000 the  
 11.21 second year are from the petroleum tank fund  
 11.22 to be transferred to the remediation fund for  
 11.23 purposes of the leaking underground storage  
 11.24 tank program to protect the land.

11.25 \$252,000 the first year and \$252,000 the  
 11.26 second year are from the remediation fund to  
 11.27 be transferred to the Department of Health for  
 11.28 private water supply monitoring and health  
 11.29 assessment costs in areas contaminated  
 11.30 by unpermitted mixed municipal solid  
 11.31 waste disposal facilities and drinking water  
 11.32 advisories and public information activities  
 11.33 for areas contaminated by hazardous releases.

12.1 \$500,000 each year is for environmental  
 12.2 health tracking and biomonitoring of a  
 12.3 representative sample of the population  
 12.4 including indigenous people and people of  
 12.5 color. Of this amount, \$450,000 each year is  
 12.6 for transfer to the Department of Health.

12.7 **Subd. 5. Environmental Assistance and**  
 12.8 **Cross-Media**

25,420,000                      25,284,000

12.9                      Appropriations by Fund

12.10	<u>General</u>	<u>814,000</u>	<u>814,000</u>
12.11	<u>Environmental</u>	<u>24,606,000</u>	<u>24,470,000</u>

12.12 \$14,250,000 each year is from the  
 12.13 environmental fund for SCORE block grants  
 12.14 to counties.

12.15 \$250,000 each year is from the environmental  
 12.16 fund to administer the composting  
 12.17 grant program established under new  
 12.18 Minnesota Statutes, section 115A.559. The  
 12.19 appropriation is added to the agency base  
 12.20 and available until June 30, 2011.

12.21 By January 15, 2012, the commissioner shall  
 12.22 report to the legislative committees with  
 12.23 jurisdiction over environment and natural  
 12.24 resources policy on:

12.25 (1) the mixed municipal solid waste diversion  
 12.26 rates accomplished by the grant program  
 12.27 under new Minnesota Statutes, section  
 12.28 115A.559;

12.29 (2) participants in the grant program and the  
 12.30 programs developed with grant funds; and

12.31 (3) the potential for new permanent programs  
 12.32 based on results of projects funded with

- 13.1 grants issued under new Minnesota Statutes,  
13.2 section 115A.559.
- 13.3 \$225,000 the first year and \$89,000 the  
13.4 second year are from the environmental  
13.5 fund for duties related to harmful chemicals  
13.6 in products under new Minnesota Statutes,  
13.7 sections 116.9401 to 116.9407. Of this  
13.8 amount, \$133,000 the first year and \$57,000  
13.9 the second year are for transfer to the  
13.10 Department of Health.
- 13.11 \$119,000 the first year and \$119,000 the  
13.12 second year are from the environmental  
13.13 fund for environmental assistance grants  
13.14 or loans under Minnesota Statutes, section  
13.15 115A.0716. Any unencumbered grant and  
13.16 loan balances in the first year do not cancel  
13.17 but are available for grants and loans in the  
13.18 second year.
- 13.19 All money deposited in the environmental  
13.20 fund for the metropolitan solid waste  
13.21 landfill fee in accordance with Minnesota  
13.22 Statutes, section 473.843, and not otherwise  
13.23 appropriated, is appropriated for the purposes  
13.24 of Minnesota Statutes, section 473.844.
- 13.25 Notwithstanding Minnesota Statutes, section  
13.26 16A.28, the appropriations encumbered on  
13.27 or before June 30, 2011, as contracts or  
13.28 grants for surface water and groundwater  
13.29 assessments; environmental assistance  
13.30 awarded under Minnesota Statutes, section  
13.31 115A.0716; technical and research assistance  
13.32 under Minnesota Statutes, section 115A.152;  
13.33 technical assistance under Minnesota  
13.34 Statutes, section 115A.52; and pollution  
13.35 prevention assistance under Minnesota

14.1 Statutes, section 115D.04, are available until  
 14.2 June 30, 2013.

14.3 Before the governor makes budget  
 14.4 recommendations to the legislature in 2011,  
 14.5 the commissioner must report on revenues  
 14.6 received and expenditures made under  
 14.7 Minnesota Statutes, section 115A.1314,  
 14.8 subdivision 2, during fiscal years 2010  
 14.9 and 2011 to determine if fees collected  
 14.10 are covering the costs of the program and  
 14.11 request that the governor recommend a direct  
 14.12 appropriation for the purposes of that section.

14.13 **Subd. 6. Administrative Support** 1,344,000 1,344,000

14.14 The commissioner shall transfer \$40,000,000  
 14.15 from the environmental fund to the  
 14.16 remediation fund for the purposes of the  
 14.17 remediation fund under Minnesota Statutes,  
 14.18 section 116.155, subdivision 2.

14.19 **Sec. 4. NATURAL RESOURCES**

14.20 **Subdivision 1. Total Appropriation** **\$ 245,313,000** **\$ 243,813,000**

14.21 Appropriations by Fund

	<u>2010</u>	<u>2011</u>
14.23 <u>General</u>	<u>74,411,000</u>	<u>74,411,000</u>
14.24 <u>Natural Resources</u>	<u>76,290,000</u>	<u>75,190,000</u>
14.25 <u>Game and Fish</u>	<u>94,312,000</u>	<u>93,912,000</u>
14.26 <u>Remediation</u>	<u>100,000</u>	<u>100,000</u>
14.27 <u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>

14.28 The amounts that may be spent for each  
 14.29 purpose are specified in the following  
 14.30 subdivisions.

15.1 To the extent possible, a person conducting  
15.2 restoration with money appropriated in this  
15.3 section must plant vegetation or sow seed  
15.4 only of ecotypes native to Minnesota, and  
15.5 preferably of the local ecotype, using a high  
15.6 diversity of species originating from as  
15.7 close to the restoration site as possible, and  
15.8 protect existing native prairies from genetic  
15.9 contamination.

15.10 A recipient of a grant funded by an  
15.11 appropriation under this section shall display  
15.12 on its Web site detailed information on  
15.13 the expenditure of the grant funds, and  
15.14 measurable outcomes as a result of the  
15.15 expenditure of funds, and submit this  
15.16 information to the department by June 30  
15.17 each year. A recipient without an active  
15.18 Web site shall report to the department by  
15.19 June 30 each year detailed information on  
15.20 the expenditure of the grant funds, and  
15.21 measurable outcomes as a result of the  
15.22 expenditure of funds. The commissioner  
15.23 shall display the information received by  
15.24 recipients under this paragraph on the  
15.25 department's Web site.

15.26 The commissioner shall require the chief  
15.27 financial officer or other financial staff  
15.28 to display the department's budget on the  
15.29 department's Web site in a manner that will  
15.30 allow citizens to easily understand the value  
15.31 they are getting for their money.

15.32 **Subd. 2. Land and Mineral Resources**

15.33 **Management**

10,398,000

10,398,000

16.1	<u>Appropriations by Fund</u>		
16.2	<u>General</u>	<u>3,351,000</u>	<u>3,351,000</u>
16.3	<u>Natural Resources</u>	<u>5,461,000</u>	<u>5,461,000</u>
16.4	<u>Game and Fish</u>	<u>1,386,000</u>	<u>1,386,000</u>
16.5	<u>Permanent School</u>	<u>200,000</u>	<u>200,000</u>

16.6 \$1,202,000 the first year and \$1,202,000  
 16.7 the second year are from the mining  
 16.8 administration account in the natural  
 16.9 resources fund to cover the costs associated  
 16.10 with issuing mining permits.

16.11 \$612,000 each year is from the dedicated  
 16.12 receipts account in the natural resources fund  
 16.13 to cover the costs associated with issuing  
 16.14 licenses for land and water crossings and  
 16.15 road easements.

16.16 \$351,000 the first year and \$351,000 the  
 16.17 second year are for iron ore cooperative  
 16.18 research. Of this amount, \$200,000 each year  
 16.19 is from the minerals management account  
 16.20 in the natural resources fund. \$175,500 the  
 16.21 first year and \$175,500 the second year are  
 16.22 available only as matched by \$1 of nonstate  
 16.23 money for each \$1 of state money. The  
 16.24 match may be cash or in-kind.

16.25 \$86,000 the first year and \$86,000 the  
 16.26 second year are for minerals cooperative  
 16.27 environmental research, of which \$43,000  
 16.28 the first year and \$43,000 the second year are  
 16.29 available only as matched by \$1 of nonstate  
 16.30 money for each \$1 of state money. The  
 16.31 match may be cash or in-kind.

16.32 \$2,696,000 the first year and \$2,696,000  
 16.33 the second year are from the minerals

17.1 management account in the natural resources  
 17.2 fund for use as provided in Minnesota  
 17.3 Statutes, section 93.2236, paragraph (c),  
 17.4 for mineral resource management, projects  
 17.5 to enhance future mineral income, and  
 17.6 projects to promote new mineral resource  
 17.7 opportunities.

17.8 \$200,000 the first year and \$200,000 the  
 17.9 second year are from the state forest suspense  
 17.10 account in the permanent school fund to  
 17.11 accelerate land exchanges, land sales, and  
 17.12 commercial leasing of school trust lands and  
 17.13 to identify, evaluate, and lease construction  
 17.14 aggregate located on school trust lands. This  
 17.15 appropriation is to be used for securing  
 17.16 maximum long-term economic return  
 17.17 from the school trust lands consistent with  
 17.18 fiduciary responsibilities and sound natural  
 17.19 resources conservation and management  
 17.20 principles.

17.21 **Subd. 3. Water Resources Management** 11,732,000 11,732,000

17.22	<u>Appropriations by Fund</u>		
17.23	<u>General</u>	<u>11,452,000</u>	<u>11,452,000</u>
17.24	<u>Natural Resources</u>	<u>280,000</u>	<u>280,000</u>

17.25 By January 15, 2010, the commissioner  
 17.26 shall submit a report evaluating and  
 17.27 recommending options to provide for the  
 17.28 long-term protection of the state's surface  
 17.29 water and groundwater resources and  
 17.30 the funding of programs to provide this  
 17.31 protection.

17.32 \$275,000 the first year and \$275,000 the  
 17.33 second year are for grants for up to 50  
 17.34 percent of the cost of implementation of

18.1 the Red River mediation agreement. The  
18.2 commissioner shall submit a report to the  
18.3 chairs of the legislative committees having  
18.4 primary jurisdiction over environment and  
18.5 natural resources policy and finance on the  
18.6 accomplishments achieved with the grants  
18.7 by January 15, 2012.

18.8 \$60,000 the first year and \$60,000 the  
18.9 second year are for a grant to the Mississippi  
18.10 Headwaters Board for up to 50 percent of  
18.11 the cost of implementing the comprehensive  
18.12 plan for the upper Mississippi within areas  
18.13 under the board's jurisdiction.

18.14 \$5,000 the first year and \$5,000 the second  
18.15 year are for payment to the Leech Lake Band  
18.16 of Chippewa Indians to implement the band's  
18.17 portion of the comprehensive plan for the  
18.18 upper Mississippi.

18.19 \$125,000 the first year and \$125,000 the  
18.20 second year are for the construction of ring  
18.21 dikes under Minnesota Statutes, section  
18.22 103F.161. The ring dikes may be publicly  
18.23 or privately owned. If the appropriation in  
18.24 either year is insufficient, the appropriation  
18.25 in the other year is available for it.

18.26 By October 1, 2009, the commissioner shall  
18.27 develop a plan for the development of an  
18.28 adequate groundwater level monitoring  
18.29 network of wells in the 11-county  
18.30 metropolitan area. The commissioner,  
18.31 working with the Metropolitan Council,  
18.32 the Department of Homeland Security, and  
18.33 the commissioner of the Pollution Control  
18.34 Agency, shall design the network so that  
18.35 the wells can be used to identify threats to

19.1 groundwater quality and institute practices to  
 19.2 protect the groundwater from degradation.  
 19.3 The network must be sufficient to ensure  
 19.4 that water use in the metropolitan area  
 19.5 does not harm ecosystems, degrade water  
 19.6 quality, or compromise the ability of future  
 19.7 generations to meet their own needs. The  
 19.8 plan should include recommendations on  
 19.9 the necessary payment rates for users of the  
 19.10 system expressed in cents per gallon for well  
 19.11 drilling, operation, and maintenance.

19.12 **Subd. 4. Forest Management** 39,609,000 38,259,000

19.13	<u>Appropriations by Fund</u>		
19.14	<u>General</u>	<u>25,952,000</u>	<u>25,952,000</u>
19.15	<u>Natural Resources</u>	<u>12,193,000</u>	<u>11,093,000</u>
19.16	<u>Game and Fish</u>	<u>1,464,000</u>	<u>1,214,000</u>

19.17 \$2,000,000 each year is to maintain forest  
 19.18 management operations. This is a onetime  
 19.19 appropriation.  
 19.20 \$1,200,000 the first year and \$950,000  
 19.21 the second year are from the heritage  
 19.22 enhancement account in the game and fish  
 19.23 fund to maintain and expand the ecological  
 19.24 classification system program on state forest  
 19.25 lands and prevent the introduction and spread  
 19.26 of invasive species on state lands. This is a  
 19.27 onetime appropriation.  
 19.28 \$7,217,000 the first year and \$7,217,000  
 19.29 the second year are for prevention,  
 19.30 presuppression, and suppression costs of  
 19.31 emergency firefighting and other costs  
 19.32 incurred under Minnesota Statutes, section  
 19.33 88.12. If the appropriation for either

20.1 year is insufficient to cover all costs of  
 20.2 presuppression and suppression, the amount  
 20.3 necessary to pay for these costs during the  
 20.4 biennium is appropriated from the general  
 20.5 fund.

20.6 By January 15 of each year, the commissioner  
 20.7 of natural resources shall submit a report to  
 20.8 the chairs and ranking minority members  
 20.9 of the house and senate committees  
 20.10 and divisions having jurisdiction over  
 20.11 environment and natural resources finance,  
 20.12 identifying all firefighting costs incurred  
 20.13 and reimbursements received in the prior  
 20.14 fiscal year. These appropriations may  
 20.15 not be transferred. Any reimbursement  
 20.16 of firefighting expenditures made to the  
 20.17 commissioner from any source other than  
 20.18 federal mobilizations shall be deposited into  
 20.19 the general fund.

20.20 \$12,193,000 the first year and \$11,093,000  
 20.21 the second year are from the forest  
 20.22 management investment account in the  
 20.23 natural resources fund for only the purposes  
 20.24 specified in Minnesota Statutes, section  
 20.25 89.039, subdivision 2.

20.26 \$780,000 the first year and \$780,000 the  
 20.27 second year are for the Forest Resources  
 20.28 Council for implementation of the  
 20.29 Sustainable Forest Resources Act.

20.30 Subd. 5. **Parks and Trails Management** 67,372,000 67,372,000

20.31 Appropriations by Fund

20.32 General 21,857,000 21,857,000

21.1	<u>Natural Resources</u>	<u>43,321,000</u>	<u>43,321,000</u>
21.2	<u>Game and Fish</u>	<u>2,194,000</u>	<u>2,194,000</u>

21.3 \$1,175,000 the first year and \$1,175,000 the  
 21.4 second year are from the water recreation  
 21.5 account in the natural resources fund for  
 21.6 enhancing public water access facilities.

21.7 Of this amount, \$100,000 is a onetime  
 21.8 appropriation to provide downloadable  
 21.9 GPS coordinates and river gauge data  
 21.10 interpretation. The base appropriation is  
 21.11 \$1,075,000.

21.12 The appropriation in Laws 2003, chapter  
 21.13 128, article 1, section 5, subdivision 6, from  
 21.14 the water recreation account in the natural  
 21.15 resources fund for a cooperative project with  
 21.16 the United States Army Corps of Engineers  
 21.17 to develop the Mississippi Whitewater Park  
 21.18 is available until June 30, 2011. The project  
 21.19 must be designed to prevent the spread of  
 21.20 aquatic invasive species.

21.21 \$4,371,000 the first year and \$4,371,000 the  
 21.22 second year are from the natural resources  
 21.23 fund for state park and recreation area  
 21.24 operations. Of this amount, \$375,000 each  
 21.25 year is for coordinated activities with Explore  
 21.26 Minnesota Tourism. This appropriation is  
 21.27 from the revenue deposited in the natural  
 21.28 resources fund under Minnesota Statutes,  
 21.29 section 297A.94, paragraph (e), clause (2).

21.30 \$8,424,000 the first year and \$8,424,000  
 21.31 the second year are from the snowmobile  
 21.32 trails and enforcement account in the  
 21.33 natural resources fund for the snowmobile  
 21.34 grants-in-aid program. This additional

- 22.1 money may be used for new grant-in-aid  
 22.2 trails. Any unencumbered balance does not  
 22.3 cancel at the end of the first year and is  
 22.4 available for the second year.
- 22.5 \$400,000 the first year and \$400,000 the  
 22.6 second year are from the snowmobile trails  
 22.7 and enforcement account in the natural  
 22.8 resources fund for operation and maintenance  
 22.9 of state trails and increased oversight and  
 22.10 training for the grant-in-aid program. This is  
 22.11 a onetime appropriation.
- 22.12 \$1,360,000 the first year and \$1,360,000  
 22.13 the second year are from the natural  
 22.14 resources fund for the off-highway vehicle  
 22.15 grants-in-aid program. Of this amount,  
 22.16 \$1,110,000 each year is from the all-terrain  
 22.17 vehicle account; \$150,000 each year is from  
 22.18 the off-highway motorcycle account; and  
 22.19 \$100,000 each year is from the off-road  
 22.20 vehicle account. Any unencumbered balance  
 22.21 does not cancel at the end of the first year  
 22.22 and is available for the second year.
- 22.23 \$760,000 the first year and \$760,000 the  
 22.24 second year are from the natural resources  
 22.25 fund for state trail operations. This  
 22.26 appropriation is from the revenue deposited  
 22.27 in the natural resources fund under Minnesota  
 22.28 Statutes, section 297A.94, paragraph (e),  
 22.29 clause (2).
- 22.30 Subd. 6. **Fish and Wildlife Management** 67,574,000 67,424,000
- 22.31 Appropriations by Fund
- 22.32 General 1,340,000 1,340,000

23.1	<u>Natural Resources</u>	<u>1,976,000</u>	<u>1,976,000</u>
23.2	<u>Game and Fish</u>	<u>64,258,000</u>	<u>64,108,000</u>
23.3	<u>\$100,000 the first year and \$100,000 the</u>		
23.4	<u>second year are from the nongame wildlife</u>		
23.5	<u>account in the natural resources fund for gray</u>		
23.6	<u>wolf research.</u>		
23.7	<u>\$120,000 the first year and \$120,000 the</u>		
23.8	<u>second year from the game and fish fund are</u>		
23.9	<u>for gray wolf management.</u>		
23.10	<u>\$285,000 the first year and \$285,000 the</u>		
23.11	<u>second year are from the walleye stamp</u>		
23.12	<u>account in the game and fish fund for the</u>		
23.13	<u>purposes specified under Minnesota Statutes,</u>		
23.14	<u>section 97A.075, subdivision 6. Of this</u>		
23.15	<u>amount, \$25,000 must be spent in the first</u>		
23.16	<u>year to provide signage to each independent</u>		
23.17	<u>licensed dealer for display and promotion of</u>		
23.18	<u>the walleye stamp.</u>		
23.19	<u>\$600,000 the first year and \$600,000 the</u>		
23.20	<u>second year are to accelerate wildlife health</u>		
23.21	<u>programs. This is a onetime appropriation.</u>		
23.22	<u>\$1,860,000 the first year and \$1,860,000 the</u>		
23.23	<u>second year are from the wildlife acquisition</u>		
23.24	<u>surcharge account for only the purposes</u>		
23.25	<u>specified in Minnesota Statutes, section</u>		
23.26	<u>97A.071, subdivision 2a. This appropriation</u>		
23.27	<u>is available until spent.</u>		
23.28	<u>\$8,167,000 the first year and \$8,167,000</u>		
23.29	<u>the second year are from the heritage</u>		
23.30	<u>enhancement account in the game and</u>		
23.31	<u>fish fund only for activities specified in</u>		
23.32	<u>Minnesota Statutes, section 297A.94,</u>		
23.33	<u>paragraph (e), clause (1). Of this amount, at</u>		

24.1 least 20 percent must be used to purchase  
24.2 or restore land, of which over half must  
24.3 be used for restoration. Notwithstanding  
24.4 Minnesota Statutes, section 297A.94, five  
24.5 percent of this appropriation may be used for  
24.6 expanding hunter and angler recruitment and  
24.7 retention. This appropriation may be used to  
24.8 leverage other funds and to provide fish and  
24.9 wildlife technical assistance for shallow lake  
24.10 management and restoration and stream and  
24.11 lake shoreland and habitat improvement and  
24.12 maintenance on private lands.

24.13 Notwithstanding Minnesota Statutes, section  
24.14 84.943, \$13,000 the first year and \$13,000  
24.15 the second year from the critical habitat  
24.16 private sector matching account may be used  
24.17 to publicize the critical habitat license plate  
24.18 match program.

24.19 \$830,000 the first year and \$830,000 the  
24.20 second year are from the trout and salmon  
24.21 management account for only the purposes  
24.22 specified in Minnesota Statutes, section  
24.23 97A.075, subdivision 3.

24.24 \$1,553,000 the first year and \$1,553,000 the  
24.25 second year are from the deer management  
24.26 account for only the purposes specified  
24.27 in Minnesota Statutes, section 97A.075,  
24.28 subdivision 1, paragraph (b).

24.29 \$890,000 the first year and \$890,000 the  
24.30 second year are from the deer and bear  
24.31 management account for only the purposes  
24.32 specified in Minnesota Statutes, section  
24.33 97A.075, subdivision 1, paragraph (c).

24.34 \$700,000 the first year and \$700,000 the  
24.35 second year are from the waterfowl habitat

25.1 improvement account for only the purposes  
 25.2 specified in Minnesota Statutes, section  
 25.3 97A.075, subdivision 2.

25.4 \$925,000 the first year and \$925,000 the  
 25.5 second year are from the pheasant habitat  
 25.6 improvement account for only the purposes  
 25.7 specified in Minnesota Statutes, section  
 25.8 97A.075, subdivision 4.

25.9 \$192,000 the first year and \$192,000 the  
 25.10 second year are from the wild turkey  
 25.11 management account for only the purposes  
 25.12 specified in Minnesota Statutes, section  
 25.13 97A.075, subdivision 5. Of this amount,  
 25.14 \$8,000 the first year and \$8,000 the second  
 25.15 year are transferred from the game and fish  
 25.16 fund to the wild turkey management account.

25.17 \$535,000 the first year and \$535,000 the  
 25.18 second year are for preserving, restoring, and  
 25.19 enhancing grassland/wetland complexes on  
 25.20 public or private lands.

25.21 Notwithstanding Minnesota Statutes, section  
 25.22 16A.28, the appropriations encumbered  
 25.23 under contract on or before June 30, 2011, for  
 25.24 aquatic restoration grants and wildlife habitat  
 25.25 grants are available until June 30, 2012.

25.26 Subd. 7. **Ecological Services** 14,175,000 14,175,000

25.27 Appropriations by Fund

25.28 <u>General</u>	<u>6,230,000</u>	<u>6,230,000</u>
25.29 <u>Natural Resources</u>	<u>3,994,000</u>	<u>3,994,000</u>
25.30 <u>Game and Fish</u>	<u>3,951,000</u>	<u>3,951,000</u>

25.31 \$1,223,000 the first year and \$1,223,000 the  
 25.32 second year are from the nongame wildlife  
 25.33 management account in the natural resources

26.1 fund for the purpose of nongame wildlife  
26.2 management. Notwithstanding Minnesota  
26.3 Statutes, section 290.431, \$100,000 the first  
26.4 year and \$100,000 the second year may  
26.5 be used for nongame wildlife information,  
26.6 education, and promotion.

26.7 \$1,636,000 the first year and \$1,636,000  
26.8 the second year are from the heritage  
26.9 enhancement account in the game and  
26.10 fish fund for only the purposes specified  
26.11 in Minnesota Statutes, section 297A.94,  
26.12 paragraph (e), clause (1).

26.13 \$2,142,000 the first year and \$2,142,000 the  
26.14 second year are from the invasive species  
26.15 account, and \$2,090,000 the first year  
26.16 and \$2,090,000 the second year are from  
26.17 the general fund for management, public  
26.18 awareness, assessment and monitoring  
26.19 research, law enforcement, and water access  
26.20 inspection to prevent the spread of invasive  
26.21 species; management of invasive plants in  
26.22 public waters; and management of terrestrial  
26.23 invasive species on state-administered lands.

26.24 Funds from this appropriation may not be  
26.25 used to purchase or use pesticides suspected  
26.26 by current science of being endocrine  
26.27 disruptors.

26.28 The commissioner shall report on the  
26.29 projected outcomes and goals for protecting  
26.30 species in all ecological provinces and the  
26.31 quantity and quality of groundwater and  
26.32 surface water of the state, including but not  
26.33 limited to, protecting rare and endangered  
26.34 species, native prairies, and wetlands, from  
26.35 merging ecological services and waters

27.1 duties to the senate and house natural  
 27.2 resources policy and finance committees and  
 27.3 divisions. The commissioner shall not merge  
 27.4 ecological services and waters duties prior to  
 27.5 presenting the report to the committees and  
 27.6 divisions. Any merger must include a variant  
 27.7 of the word "ecology" in the title of the new  
 27.8 division.

27.9 **Subd. 8. Enforcement** 31,490,000 31,490,000

27.10 Appropriations by Fund

27.11	<u>General</u>	<u>2,889,000</u>	<u>2,889,000</u>
27.12	<u>Natural Resources</u>	<u>8,531,000</u>	<u>8,531,000</u>
27.13	<u>Game and Fish</u>	<u>19,970,000</u>	<u>19,970,000</u>
27.14	<u>Remediation</u>	<u>100,000</u>	<u>100,000</u>

27.15 \$1,082,000 the first year and \$1,082,000 the  
 27.16 second year are from the water recreation  
 27.17 account in the natural resources fund for  
 27.18 grants to counties for boat and water safety.

27.19 \$315,000 the first year and \$315,000 the  
 27.20 second year are from the snowmobile  
 27.21 trails and enforcement account in the  
 27.22 natural resources fund for grants to local  
 27.23 law enforcement agencies for snowmobile  
 27.24 enforcement activities.

27.25 \$1,164,000 the first year and \$1,164,000  
 27.26 the second year are from the heritage  
 27.27 enhancement account in the game and  
 27.28 fish fund for only the purposes specified  
 27.29 in Minnesota Statutes, section 297A.94,  
 27.30 paragraph (e), clause (1).

27.31 \$510,000 the first year and \$510,000  
 27.32 the second year are from the natural  
 27.33 resources fund for grants to county law

28.1 enforcement agencies for off-highway  
28.2 vehicle enforcement and public education  
28.3 activities based on off-highway vehicle use  
28.4 in the county. Of this amount, \$498,000 each  
28.5 year is from the all-terrain vehicle account;  
28.6 \$11,000 each year is from the off-highway  
28.7 motorcycle account; and \$1,000 each year  
28.8 is from the off-road vehicle account. The  
28.9 county enforcement agencies may use  
28.10 money received under this appropriation  
28.11 to make grants to other local enforcement  
28.12 agencies within the county that have a high  
28.13 concentration of off-highway vehicle use. Of  
28.14 this appropriation, \$25,000 each year is for  
28.15 administration of these grants.

28.16 \$250,000 the first year and \$250,000 the  
28.17 second year are from the all-terrain vehicle  
28.18 account for grants to qualifying organizations  
28.19 to assist in safety and environmental  
28.20 education and monitoring trails on public  
28.21 lands under Minnesota Statutes, section  
28.22 84.9011. Grants issued under this paragraph:  
28.23 (1) must be issued through a formal  
28.24 agreement with the organization; and (2)  
28.25 must not be used as a substitute for traditional  
28.26 spending by the organization. By December  
28.27 15 each year, an organization receiving a  
28.28 grant under this paragraph shall report to the  
28.29 commissioner with details on expenditures  
28.30 and outcomes from the grant. By January  
28.31 15, 2011, the commissioner shall report  
28.32 on the expenditures and outcomes of the  
28.33 grants to the chairs and ranking minority  
28.34 members of the natural resources policy  
28.35 and finance committees and divisions. Of

29.1 this appropriation, \$25,000 each year is for  
 29.2 administration of these grants.

29.3 The commissioner must publicize  
 29.4 opportunities for conservation officer  
 29.5 employment and recruit, when possible,  
 29.6 conservation officer candidates from the  
 29.7 biological sciences departments at colleges  
 29.8 and universities.

29.9 Subd. 9. Operations Support 2,963,000 2,963,000

29.10	<u>Appropriations by Fund</u>		
29.11	<u>General</u>	<u>1,340,000</u>	<u>1,340,000</u>
29.12	<u>Natural Resources</u>	<u>534,000</u>	<u>534,000</u>
29.13	<u>Game and Fish</u>	<u>1,089,000</u>	<u>1,089,000</u>

29.14 The commissioner may redirect the general  
 29.15 fund reduction of \$800,000 in fiscal year  
 29.16 2010 and \$800,000 in fiscal year 2011, to  
 29.17 other subdivisions of this section. No grants  
 29.18 may be reduced. The commissioner shall  
 29.19 report by October 1, 2011, to the chairs of  
 29.20 the legislative committees having primary  
 29.21 jurisdiction over environment and natural  
 29.22 resources policy and finance regarding any  
 29.23 redirection and what department outcomes  
 29.24 were affected by the redirection.

29.25 \$320,000 the first year and \$320,000 the  
 29.26 second year are from the natural resources  
 29.27 fund for grants to be divided equally between  
 29.28 the city of St. Paul for the Como Zoo  
 29.29 and Conservatory and the city of Duluth  
 29.30 for the Duluth Zoo. This appropriation  
 29.31 is from the revenue deposited to the fund  
 29.32 under Minnesota Statutes, section 297A.94,  
 29.33 paragraph (e), clause (5).

30.1 Sec. 5. **BOARD OF WATER AND SOIL**

30.2 **RESOURCES** **\$ 15,618,000 \$ 15,343,000**

30.3 \$3,900,000 the first year and \$3,900,000 the

30.4 second year are for natural resources block

30.5 grants to local governments. The board may

30.6 reduce the amount of the natural resources

30.7 block grant to a county by an amount equal to

30.8 any reduction in the county's general services

30.9 allocation to a soil and water conservation

30.10 district from the county's previous year

30.11 allocation when the board determines that

30.12 the reduction was disproportionate. Grants

30.13 must be matched with a combination of local

30.14 cash or in-kind contributions. The base

30.15 grant portion related to water planning must

30.16 be matched by an amount as specified by

30.17 Minnesota Statutes, section 103B.3369.

30.18 \$3,500,000 the first year and \$3,500,000

30.19 the second year are for grants requested

30.20 by soil and water conservation districts for

30.21 general purposes, nonpoint engineering,

30.22 and implementation of the reinvest in

30.23 Minnesota conservation reserve program.

30.24 Upon approval of the board, expenditures

30.25 may be made from these appropriations for

30.26 supplies and services benefiting soil and

30.27 water conservation districts. Any district

30.28 requesting a grant under this paragraph shall

30.29 maintain a Web page that publishes, at a

30.30 minimum, its annual plan, annual report,

30.31 annual audit, annual budget, including

30.32 membership dues, and meeting notices and

30.33 minutes.

- 31.1 \$500,000 the first year and \$500,000 the  
31.2 second year are for feedlot water quality  
31.3 grants for feedlots under 300 animal units  
31.4 where there are impaired waters.
- 31.5 \$2,000,000 the first year and \$2,000,000  
31.6 the second year are for grants to soil and  
31.7 water conservation districts for cost-sharing  
31.8 contracts for erosion control, water quality  
31.9 management, of which at least \$900,000  
31.10 each year is for establishing and maintaining  
31.11 riparian vegetation buffers of restored native  
31.12 prairie and restored prairie.
- 31.13 \$100,000 the first year and \$100,000  
31.14 the second year are available for county  
31.15 cooperative weed management programs and  
31.16 to restore native plants in selected invasive  
31.17 species management sites by providing local  
31.18 native seeds and plants to landowners for  
31.19 implementation.
- 31.20 Notwithstanding Minnesota Statutes, section  
31.21 103C.501, the board may shift cost-share  
31.22 funds in this section and may adjust the  
31.23 technical and administrative assistance  
31.24 portion of the grant funds to leverage  
31.25 federal or other nonstate funds or to address  
31.26 high-priority needs identified in local water  
31.27 management plans.
- 31.28 \$500,000 the first year and \$500,000 the  
31.29 second year are for implementation and  
31.30 enforcement of the Wetland Conservation  
31.31 Act. The board must make available  
31.32 information about final enforcement actions  
31.33 on the board's Web site.
- 31.34 \$60,000 each year is for staff to monitor and  
31.35 enforce wetland replacement, wetland bank

32.1 sites, and the Wetland Conservation Act. The  
32.2 board must include in its biennial report to  
32.3 the legislature information on all state and  
32.4 local units of government, including special  
32.5 purpose districts and impacts on wetlands  
32.6 in the state. This information must be made  
32.7 available on the board's Web site.

32.8 \$100,000 each year is for transfer to the  
32.9 commissioner of natural resources for  
32.10 enforcement of wetland violations.

32.11 \$100,000 each year is to make grants to local  
32.12 units of government within the 11-county  
32.13 metropolitan area to improve response to  
32.14 major wetland violations.

32.15 \$100,000 each year is for cost-share grants  
32.16 to local governments for public drainage  
32.17 records modernization.

32.18 \$212,000 each year is to provide assistance  
32.19 to local drainage management officials and  
32.20 for the costs of the Drainage Work Group.

32.21 \$90,000 the first year and \$90,000 the second  
32.22 year are for a grant to the Red River Basin  
32.23 Commission for water quality and floodplain  
32.24 management, including administration of  
32.25 programs. The commission shall submit  
32.26 a report to the chairs of the legislative  
32.27 committees having primary jurisdiction  
32.28 over environment and natural resources  
32.29 policy and finance on the accomplishments  
32.30 achieved with this appropriation by January  
32.31 15, 2012. If the appropriation in either year  
32.32 is insufficient, the appropriation in the other  
32.33 year is available for it.

33.1 \$90,000 each year is to the Minnesota River  
33.2 Basin Joint Powers Board, also known as  
33.3 the Minnesota River Board, for operating  
33.4 expenses to measure and report the results of  
33.5 projects in the 12 major watersheds within  
33.6 the Minnesota River basin.

33.7 \$130,000 each year is for grants to Area  
33.8 II, Minnesota River Basin Projects,  
33.9 for floodplain management, including  
33.10 administration of programs.

33.11 Notwithstanding Minnesota Statutes, section  
33.12 103C.501, a balance in the board's cost-share  
33.13 program is available for \$150,000 each year  
33.14 for evaluating and reporting on performance,  
33.15 financial, and activity information of local  
33.16 water management entities as provided for in  
33.17 Minnesota Statutes, section 103B.102.

33.18 The appropriations for grants in this  
33.19 section are available until expended. If an  
33.20 appropriation for grants in either year is  
33.21 insufficient, the appropriation in the other  
33.22 year is available for it.

33.23 To the extent possible, any person conducting  
33.24 a restoration with money appropriated in  
33.25 this section must plant vegetation or sow  
33.26 seed only of ecotypes native to Minnesota,  
33.27 and preferably of the local ecotype, using a  
33.28 high diversity of species originating from as  
33.29 close to the restoration site as possible, and  
33.30 protect existing native prairies from genetic  
33.31 contamination.

33.32 A recipient of a grant funded by an  
33.33 appropriation under this section shall display  
33.34 on its Web site detailed information on  
33.35 the expenditure of the grant funds, and

34.1 measurable outcomes as a result of the  
 34.2 expenditure of funds, and submit this  
 34.3 information to the board by June 30 each  
 34.4 year. A recipient without an active Web site  
 34.5 shall report to the board by June 30 each year  
 34.6 detailed information on the expenditure of  
 34.7 the grant funds, and measurable outcomes  
 34.8 as a result of the expenditure of funds. The  
 34.9 board shall display the information received  
 34.10 by recipients under this paragraph on the  
 34.11 board's Web site.

34.12 The board shall require the chief financial  
 34.13 officer or other financial staff to display the  
 34.14 board's budget on the board's Web site in a  
 34.15 manner that will allow citizens to understand  
 34.16 more easily the value they are getting for  
 34.17 their money.

34.18 Sec. 6. METROPOLITAN COUNCIL                    \$            8,880,000 \$            8,880,000

34.19	<u>Appropriations by Fund</u>		
34.20		<u>2010</u>	<u>2011</u>
34.21	<u>General</u>	<u>3,810,000</u>	<u>3,810,000</u>
34.22	<u>Natural Resources</u>	<u>5,070,000</u>	<u>5,070,000</u>

34.23 \$3,810,000 the first year and \$3,810,000  
 34.24 the second year are for metropolitan area  
 34.25 regional parks operation and maintenance  
 34.26 according to Minnesota Statutes, section  
 34.27 473.351.

34.28 \$5,070,000 the first year and \$5,070,000 the  
 34.29 second year are from the natural resources  
 34.30 fund for metropolitan area regional parks  
 34.31 and trails maintenance and operations. This  
 34.32 appropriation is from the revenue deposited  
 34.33 in the natural resources fund under Minnesota

35.1 Statutes, section 297A.94, paragraph (e),  
 35.2 clause (3).

35.3 **Sec. 7. MINNESOTA CONSERVATION**

35.4 **CORPS** **\$ 945,000 \$ 945,000**

35.5 Appropriations by Fund

	<u>2010</u>	<u>2011</u>
35.6		
35.7 <u>General</u>	<u>455,000</u>	<u>455,000</u>
35.8 <u>Natural Resources</u>	<u>490,000</u>	<u>490,000</u>

35.9 The Minnesota Conservation Corps may  
 35.10 receive money appropriated from the  
 35.11 natural resources fund under this section  
 35.12 only as provided in an agreement with the  
 35.13 commissioner of natural resources.

35.14 **Sec. 8. ZOOLOGICAL BOARD** **\$ 6,728,000 \$ 6,728,000**

35.15 Appropriations by Fund

	<u>2010</u>	<u>2011</u>
35.16		
35.17 <u>General</u>	<u>6,568,000</u>	<u>6,568,000</u>
35.18 <u>Natural Resources</u>	<u>160,000</u>	<u>160,000</u>

35.19 \$160,000 the first year and \$160,000 the  
 35.20 second year are from the natural resources  
 35.21 fund from the revenue deposited under  
 35.22 Minnesota Statutes, section 297A.94,  
 35.23 paragraph (e), clause (5).

35.24 **Sec. 9. SCIENCE MUSEUM OF**

35.25 **MINNESOTA** **\$ 1,187,000 \$ 1,187,000**

35.26 Sec. 10. Minnesota Statutes 2008, section 84.0835, subdivision 3, is amended to read:

35.27 Subd. 3. **Citation authority.** Employees designated by the commissioner under  
 35.28 subdivision 1 may issue citations, as specifically authorized under this subdivision, for  
 35.29 violations of:

36.1 (1) sections 85.052, subdivision 3 (payment of camping fees in state parks),  
36.2 85.45, subdivision 1 (cross-country ski pass), ~~and~~ 85.46 (horse trail pass), and 84.9275  
36.3 (nonresident all-terrain vehicle state trail pass);

36.4 (2) rules relating to hours and days of operation, restricted areas, noise, fireworks,  
36.5 environmental protection, fires and refuse, pets, picnicking, camping and dispersed  
36.6 camping, nonmotorized uses, construction of unauthorized permanent trails, mooring of  
36.7 boats, fish cleaning, swimming, storage and abandonment of personal property, structures  
36.8 and stands, animal trespass, state park individual and group motor vehicle permits,  
36.9 licensed motor vehicles, designated roads, and snowmobile operation off trails;

36.10 (3) rules relating to off-highway vehicle registration, display of registration numbers,  
36.11 required equipment, operation restrictions, off-trail use for hunting and trapping, and  
36.12 operation in lakes, rivers, and streams;

36.13 (4) rules relating to off-highway vehicle and snowmobile operation causing damage  
36.14 or in closed areas within the Richard J. Dorer Memorial Hardwood State Forest;

36.15 (5) rules relating to parking, snow removal, and damage on state forest roads; and

36.16 (6) rules relating to controlled hunting zones on major wildlife management units.

36.17 **EFFECTIVE DATE.** This section is effective January 1, 2010.

36.18 Sec. 11. **[84.0854] GIFT CARD AND CERTIFICATE SALES; RECEIPTS;**  
36.19 **TRANSFERS; APPROPRIATION.**

36.20 Subdivision 1. Sales authorized; gift cards and certificates. The commissioner  
36.21 may sell gift cards and certificates that can be used to purchase licenses, permits, products,  
36.22 or services sold by the commissioner. Gift cards and certificates are valid until they  
36.23 are redeemed. The commissioner may advertise the availability of this program and  
36.24 items offered for sale under this section. The commissioner may make the purchase and  
36.25 redemption of gift cards available electronically.

36.26 Subd. 2. Receipts; disposition. Proceeds of gift card and certificate sales shall be  
36.27 deposited in an account in the special revenue fund. When gift cards or certificates are  
36.28 redeemed, funds shall be transferred to the appropriate account or fund based on the  
36.29 license, permit, product, or service purchased. Money in the gift card and certificate  
36.30 account shall accrue interest, which shall be credited to the account. Interest on funds in  
36.31 the account is appropriated to the commissioner to help cover the cost of administering  
36.32 the gift card and certificate program. Money from gift cards and certificates sold but  
36.33 unredeemed after three years shall be transferred to the various accounts and funds  
36.34 receiving revenue from purchases of licenses, permits, products, or services purchased  
36.35 with gift card or certificate redemptions in the last two fiscal years. Unredeemed funds

37.1 shall be distributed based on the dollar value of cards redeemed for the various licenses,  
37.2 permits, products, or services on a pro rata basis.

37.3 Subd. 3. **Exemption from rulemaking.** This section is not subject to the  
37.4 rulemaking provisions of chapter 14 and section 14.386 does not apply.

37.5 Sec. 12. Minnesota Statutes 2008, section 84.415, subdivision 5, is amended to read:

37.6 Subd. 5. ~~Fee Fees; disposition.~~ (a) In the event the construction of such lines  
37.7 causes damage to timber or other property of the state on or along the same, the license  
37.8 or permit shall also provide for payment to the commissioner of finance of the amount  
37.9 thereof of the damages as may be determined by the commissioner.

37.10 (b) The application fee specified in Minnesota Rules is credited to the general fund.

37.11 ~~All money received under such licenses or permits~~ (c) The utility crossing fees  
37.12 specified in Minnesota Rules shall be credited to the fund to which other income or  
37.13 proceeds of sale from such the land would be credited, if provision therefor be made as  
37.14 provided by law, otherwise to the general fund.

37.15 (d) Money received from licenses and permits issued under this section for use of  
37.16 the beds of navigable waters shall be credited to the permanent school fund.

37.17 (e) Money received under subdivision 6 must be credited to the land management  
37.18 account in the natural resources fund and is appropriated to the commissioner of natural  
37.19 resources to cover the costs incurred for issuing and monitoring utility licenses.

37.20 Sec. 13. Minnesota Statutes 2008, section 84.415, is amended by adding a subdivision  
37.21 to read:

37.22 Subd. 6. **Supplemental application fee and monitoring fee.** (a) In addition to the  
37.23 application fee and utility crossing fees specified in Minnesota Rules, the commissioner of  
37.24 natural resources shall assess the applicant for a utility license the following fees:

37.25 (1) a supplemental application fee of \$1,500 for a public water crossing license and  
37.26 a supplemental application fee of \$4,500 for a public lands crossing license, to cover  
37.27 reasonable costs for reviewing the application and preparing the license; and

37.28 (2) a monitoring fee to cover the projected reasonable costs for monitoring the  
37.29 construction of the utility line and preparing special terms and conditions of the license  
37.30 to ensure proper construction. The commissioner must give the applicant an estimate of  
37.31 the monitoring fee before the applicant submits the fee.

37.32 (b) The applicant shall pay fees under this subdivision to the commissioner of  
37.33 natural resources. The commissioner shall not issue the license until the applicant has  
37.34 paid all fees in full.

38.1 (c) Upon completion of construction of the improvement for which the license  
38.2 or permit was issued, the commissioner shall refund the unobligated balance from the  
38.3 monitoring fee revenue. The commissioner shall not return the application fees, even  
38.4 if the application is withdrawn or denied.

38.5 Sec. 14. Minnesota Statutes 2008, section 84.63, is amended to read:

38.6 **84.63 CONVEYANCE OF INTERESTS IN LANDS TO STATE AND**  
38.7 **FEDERAL GOVERNMENTS.**

38.8 (a) Notwithstanding any existing law to the contrary, the commissioner of natural  
38.9 resources is hereby authorized on behalf of the state to convey to the United States  
38.10 or to the state of Minnesota or any of its subdivisions, upon state-owned lands under  
38.11 the administration of the commissioner of natural resources, permanent or temporary  
38.12 easements for specified periods or otherwise for trails, highways, roads including  
38.13 limitation of right of access from the lands to adjacent highways and roads, flowage for  
38.14 development of fish and game resources, stream protection, flood control, and necessary  
38.15 appurtenances thereto, such conveyances to be made upon such terms and conditions  
38.16 including provision for reversion in the event of non-user as the commissioner of natural  
38.17 resources may determine.

38.18 (b) In addition to the fee for the market value of the easement, the commissioner of  
38.19 natural resources shall assess the applicant the following fees:

38.20 (1) an application fee of \$2,000 to cover reasonable costs for reviewing the  
38.21 application and preparing the easement; and

38.22 (2) a monitoring fee to cover the projected reasonable costs for monitoring the  
38.23 construction of the improvement for which the easement was conveyed and preparing  
38.24 special terms and conditions for the easement. The commissioner must give the applicant  
38.25 an estimate of the monitoring fee before the applicant submits the fee.

38.26 (c) The applicant shall pay these fees to the commissioner of natural resources.  
38.27 The commissioner shall not issue the easement until the applicant has paid in full the  
38.28 application fee, the monitoring fee, and the market value payment for the easement.

38.29 (d) Upon completion of construction of the improvement for which the easement  
38.30 was conveyed, the commissioner shall refund the unobligated balance from the monitoring  
38.31 fee revenue. The commissioner shall not return the application fee, even if the application  
38.32 is withdrawn or denied.

38.33 (e) Money received under paragraph (b) must be deposited in the land management  
38.34 account in the natural resources fund and is appropriated to the commissioner of natural  
38.35 resources to cover the reasonable costs incurred for issuing and monitoring easements.

39.1 Sec. 15. Minnesota Statutes 2008, section 84.631, is amended to read:

39.2 **84.631 ROAD EASEMENTS ACROSS STATE LANDS.**

39.3 (a) Except as provided in section 85.015, subdivision 1b, the commissioner, on  
39.4 behalf of the state, may convey a road easement across state land under the commissioner's  
39.5 jurisdiction other than school trust land, to a private person requesting an easement for  
39.6 access to property owned by the person only if the following requirements are met: (1)  
39.7 there are no reasonable alternatives to obtain access to the property; and (2) the exercise  
39.8 of the easement will not cause significant adverse environmental or natural resource  
39.9 management impacts.

39.10 (b) The commissioner shall:

39.11 (1) require the applicant to pay the market value of the easement;

39.12 (2) provide that the easement reverts to the state in the event of nonuse; and

39.13 (3) impose other terms and conditions of use as necessary and appropriate under  
39.14 the circumstances.

39.15 (c) An applicant shall submit ~~a~~ an application fee of ~~up to~~ \$2,000 with each  
39.16 application for a road easement across state land. ~~The commissioner must give the~~  
39.17 ~~applicant an estimate of the costs of the road easement before the applicant submits the~~  
39.18 ~~fee.~~ The application fee is nonrefundable, even if the application is withdrawn or denied.

39.19 (d) In addition to the payment for the market value of the easement and the  
39.20 application fee, the commissioner of natural resources shall assess the applicant a  
39.21 monitoring fee to cover the projected reasonable costs for monitoring the construction of  
39.22 the road and preparing special terms and conditions for the easement. The commissioner  
39.23 must give the applicant an estimate of the monitoring fee before the applicant submits  
39.24 the fee. The applicant shall pay the application and monitoring fees to the commissioner  
39.25 of natural resources. The commissioner shall not issue the easement until the applicant  
39.26 has paid in full the application fee, the monitoring fee, and the market value payment for  
39.27 the easement.

39.28 (e) Upon completion of construction of the road, the commissioner shall refund the  
39.29 unobligated balance from the monitoring fee revenue.

39.30 (f) Fees collected under ~~paragraph~~ paragraphs (c) and (d) must be ~~deposited in~~  
39.31 credited to the land management account in the natural resources fund and are appropriated  
39.32 to the commissioner of natural resources to cover the reasonable costs incurred under  
39.33 this section.

39.34 Sec. 16. Minnesota Statutes 2008, section 84.632, is amended to read:

39.35 **84.632 CONVEYANCE OF UNNEEDED STATE EASEMENTS.**

40.1 (a) Notwithstanding section 92.45, the commissioner of natural resources may,  
40.2 in the name of the state, release all or part of an easement acquired by the state upon  
40.3 application of a landowner whose property is burdened with the easement if the easement  
40.4 is not needed for state purposes.

40.5 (b) All or part of an easement may be released by payment of ~~consideration of not~~  
40.6 ~~less than \$500, to be determined by the commissioner~~ the market value of the easement.  
40.7 The release must be in a form approved by the attorney general.

40.8 (c) Money received ~~for release of the easement~~ under paragraph (b) must be credited  
40.9 to the account from which money was expended for purchase of the easement. If there is  
40.10 no specific account, the money must be credited to the land acquisition account established  
40.11 in section 94.165.

40.12 (d) In addition to payment under paragraph (b), the commissioner of natural  
40.13 resources shall assess a landowner who applies for a release under this section an  
40.14 application fee of \$2,000 for reviewing the application and preparing the release of  
40.15 easement. The applicant shall pay the application fee to the commissioner of natural  
40.16 resources. The commissioner shall not issue the release of easement until the applicant  
40.17 has paid the application fee in full. The commissioner shall not return the application fee,  
40.18 even if the application is withdrawn or denied.

40.19 (e) Money received under paragraph (d) must be credited to the land management  
40.20 account in the natural resources fund and is appropriated to the commissioner of natural  
40.21 resources to cover the reasonable costs incurred under this section.

40.22 Sec. 17. Minnesota Statutes 2008, section 84.922, subdivision 1a, is amended to read:

40.23 Subd. 1a. **Exemptions.** All-terrain vehicles exempt from registration are:

40.24 (1) vehicles owned and used by the United States, the state, another state, or a  
40.25 political subdivision;

40.26 (2) vehicles registered in another state or country that have not been in this state for  
40.27 more than 30 consecutive days;

40.28 (3) vehicles that:

40.29 (i) are owned by a resident of another state or country that does not require  
40.30 registration of all-terrain vehicles;

40.31 (ii) have not been in this state for more than 30 consecutive days; and

40.32 (iii) are operated on state and grant-in-aid trails by a nonresident possessing a  
40.33 nonresident all-terrain vehicle state trail pass;

40.34 ~~(3)~~ (4) vehicles used exclusively in organized track racing events; and

41.1 ~~(4)~~ (5) vehicles that are 25 years old or older and were originally produced as a  
41.2 separate identifiable make by a manufacturer.

41.3 **EFFECTIVE DATE.** This section is effective January 1, 2010.

41.4 Sec. 18. **[84.9275] NONRESIDENT ALL-TERRAIN VEHICLE STATE TRAIL**  
41.5 **PASS.**

41.6 Subdivision 1. **Pass required; fee.** (a) A nonresident may not operate an all-terrain  
41.7 vehicle on a state or grant-in-aid all-terrain vehicle trail unless the operator carries a valid  
41.8 nonresident all-terrain vehicle state trail pass in immediate possession. The pass must  
41.9 be available for inspection by a peace officer, a conservation officer, or an employee  
41.10 designated under section 84.0835.

41.11 (b) The commissioner of natural resources shall issue a pass upon application and  
41.12 payment of a \$20 fee. The pass is valid from January 1 through December 31. Fees  
41.13 collected under this section, except for the issuing fee for licensing agents, shall be  
41.14 deposited in the state treasury and credited to the all-terrain vehicle account in the natural  
41.15 resources fund and, except for the electronic licensing system commission established by  
41.16 the commissioner under section 84.027, subdivision 15, must be used for grants-in-aid to  
41.17 counties and municipalities for all-terrain vehicle organizations to construct and maintain  
41.18 all-terrain vehicle trails and use areas.

41.19 (c) A nonresident all-terrain vehicle state trail pass is not required for:

41.20 (1) an all-terrain vehicle that is owned and used by the United States, another state,  
41.21 or a political subdivision thereof that is exempt from registration under section 84.922,  
41.22 subdivision 1a; or

41.23 (2) a person operating an all-terrain vehicle only on the portion of a trail that is  
41.24 owned by the person or the person's spouse, child, or parent.

41.25 Subd. 2. **License agents.** The commissioner may appoint agents to issue and sell  
41.26 nonresident all-terrain vehicle state trail passes. The commissioner may revoke the  
41.27 appointment of an agent at any time. The commissioner may adopt additional rules as  
41.28 provided in section 97A.485, subdivision 11. An agent shall observe all rules adopted  
41.29 by the commissioner for accounting and handling of passes pursuant to section 97A.485,  
41.30 subdivision 11. An agent shall promptly deposit and remit all money received from the  
41.31 sale of the passes, exclusive of the issuing fee, to the commissioner.

41.32 Subd. 3. **Issuance of passes.** The commissioner and agents shall issue and sell  
41.33 nonresident all-terrain vehicle state trail passes. The commissioner shall also make the

42.1 passes available through the electronic licensing system established under section 84.027,  
42.2 subdivision 15.

42.3 Subd. 4. **Agent's fee.** In addition to the fee for a pass, an issuing fee of \$1 per pass  
42.4 shall be charged. The issuing fee may be retained by the seller of the pass. Issuing fees for  
42.5 passes issued by the commissioner shall be deposited in the all-terrain vehicle account in  
42.6 the natural resources fund and retained for the operation of the electronic licensing system.

42.7 Subd. 5. **Duplicate passes.** The commissioner and agents shall issue a duplicate  
42.8 pass to persons whose pass is lost or destroyed using the process established under section  
42.9 97A.405, subdivision 3, and rules adopted thereunder. The fee for a duplicate nonresident  
42.10 all-terrain vehicle state trail pass is \$2, with an issuing fee of 50 cents.

42.11 **EFFECTIVE DATE.** This section is effective January 1, 2010.

42.12 Sec. 19. Minnesota Statutes 2008, section 84D.15, subdivision 2, is amended to read:

42.13 Subd. 2. **Receipts.** Money received from surcharges on watercraft licenses under  
42.14 section 86B.415, subdivision 7, and civil penalties under section 84D.13 shall be deposited  
42.15 in the invasive species account. Each year, the commissioner of finance shall transfer from  
42.16 the game and fish fund to the invasive species account, the annual surcharge collected on  
42.17 nonresident fishing licenses under section 97A.475, subdivision 7, paragraph (b). In fiscal  
42.18 years 2010 and 2011, the commissioner of finance shall transfer \$725,000 from the water  
42.19 recreation account under section 86B.706 to the invasive species account.

42.20 Sec. 20. Minnesota Statutes 2008, section 85.015, subdivision 1b, is amended to read:

42.21 Subd. 1b. **Easements for ingress and egress.** (a) Notwithstanding section 16A.695,  
42.22 except as provided in paragraph (b), when a trail is established under this section, a  
42.23 private property owner who has a preexisting right of ingress and egress over the trail  
42.24 right-of-way is granted, without charge, a permanent easement for ingress and egress  
42.25 purposes only. The easement is limited to the preexisting crossing and reverts to the state  
42.26 upon abandonment. Nothing in this subdivision is intended to diminish or alter any written  
42.27 or recorded easement that existed before the state acquired the land for the trail.

42.28 (b) The commissioner of natural resources shall assess the applicant an application  
42.29 fee of \$2,000 for reviewing the application and preparing the easement. The applicant  
42.30 shall pay the application fee to the commissioner of natural resources. The commissioner  
42.31 shall not issue the easement until the applicant has paid the application fee in full. The  
42.32 commissioner shall not return the application fee, even if the application is withdrawn  
42.33 or denied.

43.1 (c) Money received under paragraph (b) must be credited to the land management  
43.2 account in the natural resources fund and is appropriated to the commissioner of natural  
43.3 resources to cover the reasonable costs incurred under this section.

43.4 Sec. 21. Minnesota Statutes 2008, section 85.053, subdivision 10, is amended to read:

43.5 Subd. 10. **Free entrance; totally and permanently disabled veterans.** The  
43.6 commissioner shall issue an annual park permit for no charge ~~for~~ to any veteran with a  
43.7 total and permanent service-connected disability, as determined by the United States  
43.8 Department of Veterans Affairs, who presents each year a copy of their determination  
43.9 letter to a park attendant or commissioner's designee. For the purposes of this section,  
43.10 "veteran" ~~with a total and permanent service-connected disability" means a resident who~~  
43.11 ~~has a total and permanent service-connected disability as adjudicated by the United States~~  
43.12 ~~Veterans Administration or by the retirement board of one of the several branches of the~~  
43.13 ~~armed forces~~ has the meaning given in section 197.447.

43.14 **EFFECTIVE DATE.** This section is effective July 1, 2009, for state park permits  
43.15 issued on or after that date.

43.16 Sec. 22. Minnesota Statutes 2008, section 85.46, subdivision 3, is amended to read:

43.17 Subd. 3. **Issuance.** The commissioner of natural resources and agents shall issue  
43.18 and sell horse trail passes. The pass shall include the applicant's signature and other  
43.19 information deemed necessary by the commissioner. To be valid, a daily or annual pass  
43.20 must be signed by the person riding, leading, or driving the horse, and a commercial  
43.21 annual pass must be signed by the owner of the commercial trail riding facility.

43.22 **EFFECTIVE DATE.** This section is effective January 1, 2010.

43.23 Sec. 23. Minnesota Statutes 2008, section 85.46, subdivision 4, is amended to read:

43.24 Subd. 4. **Pass fees.** (a) The fee for an annual horse trail pass is \$20 for an individual  
43.25 16 years of age and over. The fee shall be collected at the time the pass is purchased.  
43.26 Annual passes are valid for one year beginning January 1 and ending December 31.

43.27 (b) The fee for a daily horse trail pass is \$4 for an individual 16 years of age and  
43.28 over. The fee shall be collected at the time the pass is purchased. The daily pass is valid  
43.29 only for the date designated on the pass form.

43.30 (c) The fee for a commercial annual horse trail pass is \$200 and includes issuance  
43.31 of 15 passes. Additional or individual commercial annual horse trail passes may be  
43.32 purchased by the commercial trail riding facility owner at a fee of \$20 each. Commercial  
43.33 annual horse trail passes are valid for one year beginning January 1 and ending December

44.1 31 and may be affixed to the horse tack, saddle, or person. Commercial annual horse trail  
44.2 passes are not transferable to another commercial trail riding facility. For the purposes of  
44.3 this section, a "commercial trail riding facility" is an operation where horses are used for  
44.4 riding instruction or other equestrian activities for hire or use by others.

44.5 **EFFECTIVE DATE.** This section is effective January 1, 2010.

44.6 Sec. 24. Minnesota Statutes 2008, section 85.46, subdivision 7, is amended to read:

44.7 Subd. 7. **Duplicate horse trail passes.** The commissioner of natural resources and  
44.8 agents shall issue a duplicate pass to a person or commercial trail riding facility owner  
44.9 whose pass is lost or destroyed using the process established under section 97A.405,  
44.10 subdivision 3, and rules adopted thereunder. The fee for a duplicate horse trail pass is \$2,  
44.11 with an issuing fee of 50 cents.

44.12 **EFFECTIVE DATE.** This section is effective January 1, 2010.

44.13 Sec. 25. **[86A.055] PROHIBITION ON SALES OF OUTDOOR RECREATION**  
44.14 **SYSTEM LANDS FOR CERTAIN PURPOSES.**

44.15 Notwithstanding Laws 2005, chapter 156, article 2, section 45, as amended by Laws  
44.16 2007, chapter 148, article 2, section 73, or other law to the contrary, a state agency shall  
44.17 not sell land that, on or after the effective date of this section, is classified as a unit of the  
44.18 outdoor recreation system under section 86A.05, for the purpose of anticipated savings  
44.19 to the general fund.

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

44.21 Sec. 26. Minnesota Statutes 2008, section 92.685, is amended to read:

44.22 **92.685 LAND MANAGEMENT ACCOUNT.**

44.23 The land management account is created in the natural resources fund. Money  
44.24 credited to the account is appropriated annually to the commissioner of natural resources  
44.25 ~~for the Lands and Minerals Division~~ to administer the utility easement program under  
44.26 section 84.415, the easement program under section 84.63, the road easement program  
44.27 under section 84.631, the easement release program under section 84.632, and the trail  
44.28 easement program under section 85.015, subdivision 1b.

44.29 Sec. 27. Minnesota Statutes 2008, section 93.481, subdivision 1, is amended to read:

44.30 Subdivision 1. **Prohibition against mining without permit; application for**  
44.31 **permit.** Except as provided in this subdivision, after June 30, 1975, no person shall

45.1 engage in or carry out a mining operation for metallic minerals within the state unless the  
 45.2 person has first obtained a permit to mine from the commissioner. Any person engaging  
 45.3 in or carrying out a mining operation as of the effective date of the rules ~~promulgated~~  
 45.4 adopted under section 93.47 shall apply for a permit to mine within 180 days after the  
 45.5 effective date of such rules. Any such existing mining operation may continue during the  
 45.6 pendency of the application for the permit to mine. The person applying for a permit shall  
 45.7 apply on forms prescribed by the commissioner and shall submit such information as the  
 45.8 commissioner may require, including but not limited to the following:

45.9 ~~(a)~~ (1) a proposed plan for the reclamation or restoration, or both, of any mining  
 45.10 area affected by mining operations to be conducted on and after the date on which permits  
 45.11 are required for mining under this section;

45.12 ~~(b)~~ (2) a certificate issued by an insurance company authorized to do business in  
 45.13 the United States that the applicant has a public liability insurance policy in force for  
 45.14 the mining operation for which the permit is sought, or evidence that the applicant has  
 45.15 satisfied other state or federal self-insurance requirements, to provide personal injury  
 45.16 and property damage protection in an amount adequate to compensate any persons who  
 45.17 might be damaged as a result of the mining operation or any reclamation or restoration  
 45.18 operations connected with the mining operation;

45.19 (3) an application fee of:

45.20 (i) \$25,000 for a permit to mine for a taconite mining operation;

45.21 (ii) \$50,000 for a permit to mine for a nonferrous metallic minerals operation;

45.22 (iii) \$10,000 for a permit to mine for a scam mining operation; or

45.23 (iv) \$5,000 for a permit to mine for a peat operation;

45.24 ~~(c)~~ (4) a bond which may be required pursuant to section 93.49; and

45.25 ~~(d)~~ (5) a copy of the applicant's advertisement of the ownership, location, and  
 45.26 boundaries of the proposed mining area and reclamation or restoration operations, which  
 45.27 advertisement shall be published in a legal newspaper in the locality of the proposed site  
 45.28 at least once a week for four successive weeks before the application is filed, except that if  
 45.29 the application is for a permit to conduct lean ore stockpile removal the advertisement  
 45.30 need be published only once.

45.31 Sec. 28. Minnesota Statutes 2008, section 93.481, subdivision 3, is amended to read:

45.32 Subd. 3. **Term of permit; amendment.** A permit issued by the commissioner  
 45.33 pursuant to this section shall be granted for the term determined necessary by the  
 45.34 commissioner for the completion of the proposed mining operation, including reclamation  
 45.35 or restoration. A permit may be amended upon written application to the commissioner.

46.1 A permit amendment application fee must be submitted with the written application. The  
46.2 permit amendment application fee is ten percent of the amount provided for in subdivision  
46.3 1, clause (3), for an application for the applicable permit to mine. If the commissioner  
46.4 determines that the proposed amendment constitutes a substantial change to the permit,  
46.5 the person applying for the amendment shall publish notice in the same manner as for a  
46.6 new permit, and a hearing shall be held if written objections are received in the same  
46.7 manner as for a new permit. An amendment may be granted by the commissioner if the  
46.8 commissioner determines that lawful requirements have been met.

46.9 Sec. 29. Minnesota Statutes 2008, section 93.481, subdivision 5, is amended to read:

46.10 Subd. 5. **Assignment.** A permit may not be assigned or otherwise transferred  
46.11 without the written approval of the commissioner. A permit assignment application fee  
46.12 must be submitted with the written application. The permit assignment application fee  
46.13 is ten percent of the amount provided for in subdivision 1, clause (3), for an application  
46.14 for the applicable permit to mine.

46.15 Sec. 30. Minnesota Statutes 2008, section 93.481, subdivision 7, is amended to read:

46.16 Subd. 7. **Mining administration account.** The mining administration account is  
46.17 established as an account in the natural resources fund. ~~Ferrous mining administrative~~  
46.18 Fees charged to owners, operators, or managers of mines under this section and section  
46.19 93.482 shall be credited to the account and may be appropriated to the commissioner  
46.20 to cover the costs of providing and monitoring permits to mine ferrous metals under  
46.21 this section. Earnings accruing from investment of the account remain with the account  
46.22 until appropriated.

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

46.24 Sec. 31. **[93.482] RECLAMATION FEES.**

46.25 Subdivision 1. **Annual permit to mine fee.** (a) The commissioner shall charge  
46.26 every person holding a permit to mine an annual permit fee. The fee is payable to the  
46.27 commissioner by June 30 of each year, beginning in 2009.

46.28 (b) The annual permit to mine fee for a taconite mining operation is \$60,000 if the  
46.29 operation had production within the calendar year immediately preceding the year in  
46.30 which payment is due and \$30,000 if there was no production within the immediately  
46.31 preceding calendar year.

46.32 (c) The annual permit to mine fee for a nonferrous metallic minerals mining  
46.33 operation is \$75,000 if the operation had production within the calendar year immediately

47.1 preceding the year in which payment is due and \$37,500 if there was no production within  
47.2 the immediately preceding calendar year.

47.3 (d) The annual permit to mine fee for a scam mining operation is \$5,000 if the  
47.4 operation had production within the calendar year immediately preceding the year in  
47.5 which payment is due and \$2,500 if there was no production within the immediately  
47.6 preceding calendar year.

47.7 (e) The annual permit to mine fee for a peat mining operation is \$1,000 if the  
47.8 operation had production within the calendar year immediately preceding the year in  
47.9 which payment is due and \$500 if there was no production within the immediately  
47.10 preceding calendar year.

47.11 Subd. 2. **Supplemental application fee for taconite and nonferrous metallic**  
47.12 **minerals mining operation.** (a) In addition to the application fee specified in section  
47.13 93.481, the commissioner shall assess a person submitting an application for a permit to  
47.14 mine for a taconite or a nonferrous metallic minerals mining operation the reasonable  
47.15 costs for reviewing the application and preparing the permit to mine. For nonferrous  
47.16 metallic minerals mining, the commissioner shall assess reasonable costs for monitoring  
47.17 construction of the mining facilities.

47.18 (b) The commissioner must give the applicant an estimate of the supplemental  
47.19 application fee under this subdivision. The estimate must include a brief description  
47.20 of the tasks to be performed and the estimated cost of each task. The application fee  
47.21 under section 93.481 must be subtracted from the estimate of costs to determine the  
47.22 supplemental application fee.

47.23 (c) The applicant and the commissioner shall enter into a written agreement to cover  
47.24 the estimated costs to be incurred by the commissioner.

47.25 (d) The commissioner shall not issue the permit to mine until the applicant has paid  
47.26 all fees in full. Upon completion of construction of a nonferrous metallic minerals facility,  
47.27 the commissioner shall refund the unobligated balance of the monitoring fee revenue.

47.28 Subd. 3. **Reclamation fee on taconite iron ore produced.** (a) For the purposes  
47.29 of this subdivision:

47.30 (1) "fee owner" means a person having any right, title, or interest in any minerals  
47.31 or mineral rights in this state from which taconite iron ore is mined. Fee owner does not  
47.32 include the United States, the state, or the University of Minnesota;

47.33 (2) "taconite iron ore" means a ferruginous chert or ferruginous slate in the form of  
47.34 compact siliceous rock, in which the iron oxide is so finely disseminated that substantially  
47.35 all of the iron bearing particles of merchantable grade are smaller than 20 mesh; and

47.36 (3) "ton" means a gross ton of 2,240 pounds.

48.1 (b) A fee owner is subject to a reclamation fee of \$.0075 per ton of taconite iron ore  
48.2 mined from the minerals or mineral rights owned by the fee owner.

48.3 (c) The fee owner shall make payment to the commissioner no later than January  
48.4 20 of each calendar year for ore removed during the previous calendar year. The fee  
48.5 owner is liable for the payment of the reclamation fee. The fee owner may enter into an  
48.6 agreement with the mining operator to make the payment on their behalf from royalties  
48.7 due and owing or other financial terms.

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

48.9 Sec. 32. Minnesota Statutes 2008, section 94.342, subdivision 3, is amended to read:

48.10 Subd. 3. **Additional restrictions on riparian land.** (a) Land bordering on or  
48.11 adjacent to any meandered or other public waters and withdrawn from sale by law is  
48.12 riparian land. Riparian land may not be given in exchange unless:

48.13 (1) expressly authorized by the legislature or unless;

48.14 (2) through the same exchange the state acquires land on the same or other public  
48.15 waters in the same general vicinity affording at least equal opportunity for access to the  
48.16 waters and other riparian use by the public;

48.17 (3) Class A land is being exchanged for Class A land; or

48.18 ~~provided, that any (4) the exchange with is an agency of the United States or any~~  
48.19 ~~agency thereof may be made free from this limitation upon condition that and the state~~  
48.20 ~~land given in exchange bordering on public waters shall be subject to reservations by~~  
48.21 ~~the state for public travel along the shores as provided by section 92.45, unless waived~~  
48.22 ~~as provided in this subdivision paragraph (b), and that there shall be reserved by the~~  
48.23 ~~state such additional rights of public use upon suitable portions of such state land as~~  
48.24 ~~the commissioner of natural resources, with the approval of the Land Exchange Board,~~  
48.25 ~~may deem necessary or desirable for camping, hunting, fishing, access to the water, and~~  
48.26 ~~other public uses.~~

48.27 ~~In regard to~~ (b) For Class B or riparian land that is contained within that portion  
48.28 of the Superior National Forest that is designated as the Boundary Waters Canoe Area  
48.29 Wilderness, the condition that state land given in exchange bordering on public waters  
48.30 must be subject to the public travel reservations provided in section 92.45, may be waived  
48.31 by the Land Exchange Board upon the recommendation of the commissioner of natural  
48.32 resources and, if the land is Class B land, the additional recommendation of the county  
48.33 board in which the land is located.

48.34 Sec. 33. Minnesota Statutes 2008, section 97A.075, subdivision 1, is amended to read:

49.1 Subdivision 1. **Deer, bear, and lifetime licenses.** (a) For purposes of this  
49.2 subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2,  
49.3 clauses (5), (6), (7), (11), (13), (15), (16), and (17), and 3, clauses (2), (3), (4), (9), (11),  
49.4 (12), and (13), and licenses issued under section 97B.301, subdivision 4.

49.5 (b) \$2 from each annual deer license and \$2 annually from the lifetime fish and  
49.6 wildlife trust fund, established in section 97A.4742, for each license issued under section  
49.7 97A.473, subdivision 4, shall be credited to the deer management account and shall be  
49.8 used for deer habitat improvement or deer management programs.

49.9 (c) \$1 from each annual deer license and each bear license and \$1 annually from  
49.10 the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license  
49.11 issued under section 97A.473, subdivision 4, shall be credited to the deer and bear  
49.12 management account and shall be used for deer and bear management programs, including  
49.13 a computerized licensing system.

49.14 (d) Fifty cents from each deer license is credited to the emergency deer feeding  
49.15 and wild cervidae health management account and is appropriated for emergency deer  
49.16 feeding and wild cervidae health management. Money appropriated for emergency  
49.17 deer feeding and wild cervidae health management is available until expended. ~~When~~  
49.18 ~~the unencumbered balance in the appropriation for emergency deer feeding and wild~~  
49.19 ~~cervidae health management at the end of a fiscal year exceeds \$2,500,000 for the first~~  
49.20 ~~time, \$750,000 is canceled to the unappropriated balance of the game and fish fund.~~  
49.21 The commissioner must inform the legislative chairs of the natural resources finance  
49.22 committees every two years on how the money for emergency deer feeding and wild  
49.23 cervidae health management has been spent.

49.24 ~~Thereafter,~~ When the unencumbered balance in the appropriation for emergency  
49.25 deer feeding and wild cervidae health management exceeds \$2,500,000 at the end of a  
49.26 fiscal year, the unencumbered balance in excess of \$2,500,000 is canceled and available  
49.27 for deer and bear management programs and computerized licensing.

49.28 Sec. 34. Minnesota Statutes 2008, section 103G.271, subdivision 6, is amended to read:

49.29 Subd. 6. **Water use permit processing fee.** (a) Except as described in paragraphs  
49.30 (b) to (f), a water use permit processing fee must be prescribed by the commissioner in  
49.31 accordance with the schedule of fees in this subdivision for each water use permit in force  
49.32 at any time during the year. The schedule is as follows, with the stated fee in each clause  
49.33 applied to the total amount appropriated:

49.34 (1) \$140 for amounts not exceeding 50,000,000 gallons per year;

50.1 (2) \$3.50 per 1,000,000 gallons for amounts greater than 50,000,000 gallons but less  
50.2 than 100,000,000 gallons per year;

50.3 (3) \$4 per 1,000,000 gallons for amounts greater than 100,000,000 gallons but less  
50.4 than 150,000,000 gallons per year;

50.5 (4) \$4.50 per 1,000,000 gallons for amounts greater than 150,000,000 gallons but  
50.6 less than 200,000,000 gallons per year;

50.7 (5) \$5 per 1,000,000 gallons for amounts greater than 200,000,000 gallons but less  
50.8 than 250,000,000 gallons per year;

50.9 (6) \$5.50 per 1,000,000 gallons for amounts greater than 250,000,000 gallons but  
50.10 less than 300,000,000 gallons per year;

50.11 (7) \$6 per 1,000,000 gallons for amounts greater than 300,000,000 gallons but less  
50.12 than 350,000,000 gallons per year;

50.13 (8) \$6.50 per 1,000,000 gallons for amounts greater than 350,000,000 gallons but  
50.14 less than 400,000,000 gallons per year;

50.15 (9) \$7 per 1,000,000 gallons for amounts greater than 400,000,000 gallons but less  
50.16 than 450,000,000 gallons per year;

50.17 (10) \$7.50 per 1,000,000 gallons for amounts greater than 450,000,000 gallons but  
50.18 less than 500,000,000 gallons per year; and

50.19 (11) \$8 per 1,000,000 gallons for amounts greater than 500,000,000 gallons per year.

50.20 (b) For once-through cooling systems, a water use processing fee must be prescribed  
50.21 by the commissioner in accordance with the following schedule of fees for each water use  
50.22 permit in force at any time during the year:

50.23 (1) for nonprofit corporations and school districts, \$200 per 1,000,000 gallons; and

50.24 (2) for all other users, \$420 per 1,000,000 gallons.

50.25 (c) The fee is payable based on the amount of water appropriated during the year  
50.26 and, except as provided in paragraph (f), the minimum fee is \$100.

50.27 (d) For water use processing fees other than once-through cooling systems:

50.28 (1) the fee for a city of the first class may not exceed \$250,000 per year;

50.29 (2) the fee for other entities for any permitted use may not exceed:

50.30 (i) ~~\$50,000~~ \$60,000 per year for an entity holding three or fewer permits;

50.31 (ii) ~~\$75,000~~ \$90,000 per year for an entity holding four or five permits;

50.32 (iii) ~~\$250,000~~ \$300,000 per year for an entity holding more than five permits;

50.33 (3) the fee for agricultural irrigation may not exceed \$750 per year;

50.34 (4) the fee for a municipality that furnishes electric service and cogenerates steam  
50.35 for home heating may not exceed \$10,000 for its permit for water use related to the  
50.36 cogeneration of electricity and steam; and

51.1 (5) no fee is required for a project involving the appropriation of surface water to  
51.2 prevent flood damage or to remove flood waters during a period of flooding, as determined  
51.3 by the commissioner.

51.4 (e) Failure to pay the fee is sufficient cause for revoking a permit. A penalty of two  
51.5 percent per month calculated from the original due date must be imposed on the unpaid  
51.6 balance of fees remaining 30 days after the sending of a second notice of fees due. A fee  
51.7 may not be imposed on an agency, as defined in section 16B.01, subdivision 2, or federal  
51.8 governmental agency holding a water appropriation permit.

51.9 (f) The minimum water use processing fee for a permit issued for irrigation of  
51.10 agricultural land is \$20 for years in which:

51.11 (1) there is no appropriation of water under the permit; or

51.12 (2) the permit is suspended for more than seven consecutive days between May 1  
51.13 and October 1.

51.14 (g) A surcharge of ~~\$20~~ \$30 per million gallons in addition to the fee prescribed in  
51.15 paragraph (a) shall be applied to the volume of water used in each of the months of June,  
51.16 July, and August that exceeds the volume of water used in January for municipal water  
51.17 use, irrigation of golf courses, and landscape irrigation. The surcharge for municipalities  
51.18 with more than one permit shall be determined based on the total appropriations from all  
51.19 permits that supply a common distribution system.

51.20 Sec. 35. Minnesota Statutes 2008, section 103G.301, subdivision 2, is amended to read:

51.21 Subd. 2. **Permit application fees.** (a) A permit application fee to defray the costs of  
51.22 receiving, recording, and processing the application must be paid for a permit authorized  
51.23 under this chapter and for each request to amend or transfer an existing permit. Fees  
51.24 established under this subdivision, unless specified in paragraph (c), shall be compliant  
51.25 with section 16A.1285.

51.26 (b) ~~The fee for a project appropriating~~ Proposed projects that require water in excess  
51.27 of 100 million gallons per year must be assessed fees to recover the ~~reasonable~~ costs  
51.28 ~~of preparing and processing the permit, including costs~~ incurred to evaluate the project  
51.29 and the costs incurred for environmental review. Fees collected under this paragraph  
51.30 must be credited to an account in the natural resources fund and are appropriated to the  
51.31 commissioner ~~for fiscal years 2008 and 2009.~~

51.32 (c) The fee to apply for a permit to appropriate water, ~~other than a permit subject~~  
51.33 ~~to the~~ in addition to any fee under paragraph (b); a permit to construct or repair a dam  
51.34 that is subject to dam safety inspection; or a state general permit ~~or to apply for the state~~  
51.35 ~~water bank program~~ is \$150. The application fee for a permit to work in public waters or

52.1 to divert waters for mining must be at least \$150, but not more than \$1,000, ~~according to a~~  
52.2 ~~schedule of fees adopted under section 16A.1285.~~

52.3 Sec. 36. Minnesota Statutes 2008, section 103G.301, subdivision 3, is amended to read:

52.4 Subd. 3. **Field inspection fees.** (a) In addition to the application fee, the  
52.5 commissioner may charge a field inspection fee for:

52.6 (1) projects requiring a mandatory environmental assessment under chapter 116D;

52.7 (2) projects undertaken without a required permit or application; and

52.8 (3) projects undertaken in excess of limitations established in an issued permit.

52.9 (b) The fee must be at least \$100 but not more than actual inspection costs.

52.10 (c) The fee is to cover actual costs related to a permit applied for under this chapter  
52.11 or for a project undertaken without proper authorization.

52.12 (d) The commissioner shall establish a schedule of field inspection fees under section  
52.13 16A.1285. The schedule must include actual costs related to field inspection, including  
52.14 investigations of the area affected by the proposed activity, analysis of the proposed  
52.15 activity, consultant services, and subsequent monitoring, if any, of the activity authorized  
52.16 by the permit. Fees collected under this subdivision must be credited to an account in the  
52.17 natural resources fund and are appropriated to the commissioner.

52.18 Sec. 37. Minnesota Statutes 2008, section 115.03, subdivision 5c, is amended to read:

52.19 Subd. 5c. **Regulation of storm water discharges.** (a) The agency may issue a  
52.20 general permit to any category or subcategory of point source storm water discharges  
52.21 that it deems administratively reasonable and efficient without making any findings  
52.22 under agency rules. Nothing in this subdivision precludes the agency from requiring an  
52.23 individual permit for a point source storm water discharge if the agency finds that it is  
52.24 appropriate under applicable legal or regulatory standards.

52.25 (b) Pursuant to this paragraph, the legislature authorizes the agency to adopt and  
52.26 enforce rules regulating point source storm water discharges. No further legislative  
52.27 approval is required under any other legal or statutory provision whether enacted before or  
52.28 after May 29, 2003.

52.29 (c) The agency shall develop performance standards, design standards, or other  
52.30 tools to enable and promote the implementation of low-impact development and other  
52.31 storm water management techniques. For the purposes of this section, "low-impact  
52.32 development" means an approach to storm water management that mimics a site's natural  
52.33 hydrology as the landscape is developed. Using the low-impact development approach,  
52.34 storm water is managed on-site and the rate and volume of predevelopment storm water

53.1 reaching receiving waters is unchanged. The calculation of predevelopment hydrology is  
53.2 based on native soil and vegetation.

53.3 Sec. 38. Minnesota Statutes 2008, section 115.073, is amended to read:

53.4 **115.073 ENFORCEMENT FUNDING.**

53.5 Except as provided in section 115C.05, all money recovered by the state under this  
53.6 chapter and chapters 115A and 116, including civil penalties and money paid under an  
53.7 agreement, stipulation, or settlement, excluding money paid for past due fees or taxes,  
53.8 ~~up to the amount appropriated for implementation of Laws 1991, chapter 347,~~ must be  
53.9 deposited in the state treasury and credited to the environmental fund.

53.10 Sec. 39. Minnesota Statutes 2008, section 115.56, subdivision 4, is amended to read:

53.11 Subd. 4. **License fee.** (a) Until the agency adopts a final rule establishing fees for  
53.12 licenses under subdivision 2, the fee for a license required under subdivision 2 is \$100  
53.13 \$200 per year and the annual license fee for a business with multiple licenses shall not  
53.14 exceed \$400.

53.15 (b) Revenue from the any fees charged by the agency for licenses under subdivision  
53.16 2 must be credited to the environmental fund and is exempt from section 16A.1285.

53.17 Sec. 40. Minnesota Statutes 2008, section 115.77, subdivision 1, is amended to read:

53.18 Subdivision 1. **Fees established.** ~~The following fees are established for the~~  
53.19 ~~purposes indicated:~~ agency shall collect fees in amounts necessary, but no greater than the  
53.20 amounts necessary, to cover the reasonable costs of reviewing applications and issuing  
53.21 certifications.

53.22 ~~(1) application for examination, \$32;~~

53.23 ~~(2) issuance of certificate, \$23;~~

53.24 ~~(3) reexamination resulting from failure to pass an examination, \$32;~~

53.25 ~~(4) renewal of certificate, \$23;~~

53.26 ~~(5) replacement certificate, \$10; and~~

53.27 ~~(6) reinstatement or reciprocity certificate, \$40.~~

53.28 Sec. 41. Minnesota Statutes 2008, section 115A.1314, subdivision 2, is amended to  
53.29 read:

53.30 Subd. 2. **Creation of account; appropriations.** (a) The electronic waste account  
53.31 is established in the environmental fund. The commissioner of revenue must deposit  
53.32 receipts from the fee established in subdivision 1 in the account. Any interest earned on

54.1 the account must be credited to the account. Money from other sources may be credited to  
 54.2 the account. Beginning in the second program year and continuing each program year  
 54.3 thereafter, as of the last day of each program year, the commissioner ~~of revenue~~ shall  
 54.4 determine the total amount of the variable fees that were collected. ~~By July 15, 2009, and~~  
 54.5 ~~each July 15 thereafter, the commissioner of the Pollution Control Agency shall inform~~  
 54.6 ~~the commissioner of revenue of the amount necessary to operate the program in the new~~  
 54.7 ~~program year.~~ To the extent that the total fees collected by the commissioner ~~of revenue~~  
 54.8 in connection with this section exceed the amount the commissioner ~~of the Pollution~~  
 54.9 ~~Control Agency~~ determines necessary to operate the program for the new program  
 54.10 year, the commissioner ~~of revenue~~ shall refund on a pro rata basis, to all manufacturers  
 54.11 who paid any fees for the previous program year, the amount of fees collected by the  
 54.12 commissioner ~~of revenue~~ in excess of the amount necessary to operate the program for the  
 54.13 new program year. No individual refund is required of amounts of \$100 or less for a fiscal  
 54.14 year. Manufacturers who report collections less than 50 percent of their obligation for the  
 54.15 previous program year are not eligible for a refund. ~~Amounts not refunded pursuant to this~~  
 54.16 ~~paragraph shall remain in the account. The commissioner of revenue shall issue refunds~~  
 54.17 ~~by August 10. In lieu of issuing a refund, the commissioner of revenue may grant credit~~  
 54.18 ~~against a manufacturer's variable fee due by September 1.~~

54.19 (b) Until June 30, ~~2009~~ 2011, money in the account is annually appropriated to the  
 54.20 Pollution Control Agency:

54.21 (1) for the purpose of implementing sections 115A.1312 to 115A.1330, including  
 54.22 transfer to the commissioner of revenue to carry out the department's duties under  
 54.23 section 115A.1320, subdivision 2, and transfer to the commissioner of administration for  
 54.24 responsibilities under section 115A.1324; and

54.25 (2) to the commissioner of the Pollution Control Agency to be distributed on a  
 54.26 competitive basis through contracts with counties outside the 11-county metropolitan  
 54.27 area, as defined in paragraph (c), and with private entities that collect for recycling  
 54.28 covered electronic devices in counties outside the 11-county metropolitan area, where the  
 54.29 collection and recycling is consistent with the respective county's solid waste plan, for  
 54.30 the purpose of carrying out the activities under sections 115A.1312 to 115A.1330. In  
 54.31 awarding competitive grants under this clause, the commissioner must give preference to  
 54.32 counties and private entities that are working cooperatively with manufacturers to help  
 54.33 them meet their recycling obligations under section 115A.1318, subdivision 1.

54.34 (c) The 11-county metropolitan area consists of the counties of Anoka, Carver,  
 54.35 Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

55.1 Sec. 42. Minnesota Statutes 2008, section 115A.557, subdivision 1, is amended to read:

55.2 Subdivision 1. **Distribution; formula.** Any funds appropriated to the commissioner  
55.3 for the purpose of distribution to counties under this section must be distributed each fiscal  
55.4 year by the commissioner based on population, except a county may not receive less than  
55.5 \$55,000 in a fiscal year. If the amount available for distribution under this section is less  
55.6 or more than the amount available in fiscal year 2001, the minimum county payment under  
55.7 this section is reduced or increased proportionately. For purposes of this subdivision,  
55.8 "population" has the definition given in section 477A.011, subdivision 3. A county that  
55.9 participates in a multicounty district that manages solid waste and that has responsibility  
55.10 for recycling programs as authorized in section 115A.552, must pass through to the  
55.11 districts funds received by the county in excess of the minimum county payment under  
55.12 this section in proportion to the population of the county served by that district.

55.13 Sec. 43. **[115A.559] COMPOSTING COMPETITIVE GRANT PROGRAM.**

55.14 Subdivision 1. **Grant program established.** The commissioner shall make  
55.15 competitive grants to political subdivisions to increase composting, reduce the amount of  
55.16 organic wastes entering disposal facilities, and reduce the costs associated with hauling  
55.17 waste by locating the composting site as close as possible to the site where the waste is  
55.18 generated. To achieve the purpose of the grant program, the commissioner shall actively  
55.19 recruit potential applicants beyond traditional solid waste professionals and organizations,  
55.20 such as soil and water conservation districts and schools. Each grant must include an  
55.21 educational component on the methods and benefits of composting.

55.22 Subd. 2. **Application.** (a) The commissioner must develop forms and procedures  
55.23 for soliciting and reviewing applications for grants under this section.

55.24 (b) The determination of whether to make a grant under this section is within the  
55.25 discretion of the commissioner, subject to subdivision 4. The commissioner's decisions  
55.26 are not subject to judicial review, except for abuse of discretion.

55.27 Subd. 3. **Priorities; eligible projects.** (a) If applications for grants exceed the  
55.28 available appropriations, grants must be made for projects that, in the commissioner's  
55.29 judgment, provide the highest return in public benefits.

55.30 (b) To be eligible to receive a grant, a project must:

55.31 (1) be locally administered;

55.32 (2) have measurable outcomes; and

55.33 (3) include at least one of the following elements:

55.34 (i) the development of erosion control methods that use compost;

- 56.1 (ii) activities to encourage on-site composting by homeowners; or  
56.2 (iii) activities to encourage composting by schools or public institutions.

56.3 Subd. 4. **Cancellation of grant.** If a grant is awarded under this section and  
56.4 funds are not encumbered for the grant within four years after the award date, the grant  
56.5 must be canceled.

56.6 Sec. 44. Minnesota Statutes 2008, section 115A.931, is amended to read:

56.7 **115A.931 YARD WASTE PROHIBITION.**

56.8 (a) Except as authorized by the agency, in the metropolitan area after January 1,  
56.9 1990, and outside the metropolitan area after January 1, 1992, a person may not place  
56.10 yard waste:

56.11 (1) in mixed municipal solid waste;

56.12 (2) in a disposal facility; or

56.13 (3) in a resource recovery facility except for the purposes of reuse, composting, or  
56.14 cocomposting.

56.15 (b) [Renumbered 115A.03, subd 38]

56.16 (c) On or after January 1, 2010, a person may not place yard waste or  
56.17 source-separated compostable materials generated in a metropolitan county in a plastic bag  
56.18 delivered to a transfer station or compost facility unless the bag meets all the specifications  
56.19 in ASTM Standard Specification for Compostable Plastics (D6400). For purposes of this  
56.20 paragraph, "metropolitan county" has the meaning given in section 473.121, subdivision  
56.21 4, and "ASTM" has the meaning given in section 296A.01, subdivision 6.

56.22 (d) A person who immediately empties a plastic bag containing yard waste or  
56.23 source-separated compostable materials delivered to a transfer station or compost facility  
56.24 and removes the plastic bag from the transfer station or compost facility is exempt from  
56.25 paragraph (c).

56.26 (e) Residents of a city of the first class that currently contracts for the collection of  
56.27 yard waste are exempt from paragraph (c) until January 1, 2013, if, by that date, the  
56.28 city implements a citywide source-separated compostable materials collection program  
56.29 using durable carts.

56.30 Sec. 45. Minnesota Statutes 2008, section 116.0711, is amended to read:

56.31 **116.0711 FEEDLOT ~~PERMIT CONDITIONS~~ PERMITS; CONDITIONS;**  
56.32 **COUNTY GRANTS.**

56.33 Subdivision 1. **Conditions.** (a) The agency shall not require feedlot permittees to  
56.34 maintain records as to rainfall or snowfall as a condition of a general feedlot permit if the

57.1 owner directs the commissioner or agent of the commissioner to appropriate data on  
57.2 precipitation maintained by a government agency or educational institution.

57.3 (b) A feedlot permittee shall give notice to the agency when the permittee proposes  
57.4 to transfer ownership or control of the feedlot to a new party. The commissioner shall  
57.5 not unreasonably withhold or unreasonably delay approval of any transfer request. This  
57.6 request shall be handled in accordance with sections 116.07 and 15.992.

57.7 ~~(c) The Environmental Quality Board shall review and recommend modifications~~  
57.8 ~~to environmental review rules related to phased actions and animal agriculture facilities.~~  
57.9 ~~The Environmental Quality Board shall report recommendations to the chairs of the~~  
57.10 ~~committees of the senate and house of representatives with jurisdiction over agriculture~~  
57.11 ~~and the environment by January 15, 2002.~~

57.12 ~~(d) If the owner of an animal feedlot requests an extension for an application for a~~  
57.13 ~~national pollutant discharge elimination permit or state disposal system permit by June 1,~~  
57.14 ~~2001, then the agency shall grant an extension for the application to September 1, 2001.~~

57.15 ~~(e)~~ (c) An animal feedlot in shoreland that has been unused may resume operation  
57.16 after obtaining a permit from the agency or county, regardless of the number of years that  
57.17 the feedlot was unused.

57.18 Subd. 2. County feedlot program grants; three-part formula. (a) Money  
57.19 appropriated to the commissioner to make grants to delegated counties to administer  
57.20 the county feedlot program must be distributed according to the three-part formula in  
57.21 paragraphs (b) to (d).

57.22 (b) Number of feedlots in the county: 60 percent of the total appropriation must be  
57.23 distributed according to the number of feedlots that are required to be registered in the  
57.24 county. Grants awarded under this paragraph must be matched with a combination of local  
57.25 cash and in-kind contributions.

57.26 (c) Minimum program requirements: 25 percent of the total appropriation must be  
57.27 distributed based on the county (1) conducting an annual number of inspections at feedlots  
57.28 that is equal to or greater than seven percent of the total number of registered feedlots that  
57.29 are required to be registered in the county; and (2) meeting noninspection minimum  
57.30 program requirements as identified in the county feedlot workplan form. Counties that do  
57.31 not meet the inspection requirement must not receive 50 percent of the eligible funding  
57.32 under this paragraph. Counties must receive funding for noninspection requirements under  
57.33 this paragraph according to a scoring system checklist administered by the commissioner.  
57.34 The commissioner, in consultation with the Minnesota Association of County Feedlot  
57.35 Officers executive team, shall make a final decision regarding any appeal by a county  
57.36 regarding the terms and conditions of this paragraph.

58.1 (d) Performance credits: 15 percent of the total appropriation must be distributed  
 58.2 according to work that has been done by the counties during the fiscal year. The amount  
 58.3 must be determined by the number of performance credits a county accumulates during  
 58.4 the year based on a performance credit matrix jointly agreed upon by the commissioner  
 58.5 in consultation with the Minnesota Association of County Feedlot Officers executive  
 58.6 team. To receive an award under this paragraph, the county must meet the requirements  
 58.7 of paragraph (c), clause (1), and achieve 90 percent of the requirements according to  
 58.8 paragraph (c), clause (2), of the formula. The rate of reimbursement per performance  
 58.9 credit item must not exceed \$200.

58.10 Subd. 3. **Minimum grant; prorated grant; transfers.** Delegated counties are  
 58.11 eligible for a minimum grant of \$7,500. To receive the full \$7,500 amount, a county must  
 58.12 meet the requirements under subdivision 2, paragraph (c). Nondelegated counties that  
 58.13 apply for delegation shall receive a grant prorated according to the number of full quarters  
 58.14 remaining in the program year from the date of commissioner approval of the delegation.  
 58.15 Awards to any newly delegated counties must be made out of the appropriation reserved  
 58.16 under subdivision 2, paragraph (d). The commissioner, in consultation with the Minnesota  
 58.17 Association of County Feedlot Officers executive team, may decide to use money reserved  
 58.18 under subdivision 2, paragraph (d), in an amount not to exceed five percent of the total  
 58.19 annual appropriation for initiatives to enhance existing delegated county feedlot programs,  
 58.20 information and education, or technical assistance efforts to reduce feedlot-related  
 58.21 pollution hazards. Any amount remaining after distribution under subdivision 2,  
 58.22 paragraphs (b) and (c), must be transferred for purposes of subdivision 2, paragraph (d).

58.23 Sec. 46. Minnesota Statutes 2008, section 116.41, subdivision 2, is amended to read:

58.24 Subd. 2. **Training and certification programs.** The agency shall develop standards  
 58.25 of competence for persons operating and inspecting various classes of disposal facilities.  
 58.26 The agency shall conduct training programs for persons operating facilities for the  
 58.27 disposal of waste and for inspectors of such facilities, and ~~may~~ shall charge such fees as  
 58.28 are necessary to cover the actual costs of the training programs. All fees received shall be  
 58.29 paid into the state treasury and credited to the Pollution Control Agency training account  
 58.30 and are appropriated to the agency to pay expenses relating to the training of disposal  
 58.31 facility personnel.

58.32 The agency shall require operators and inspectors of such facilities to obtain from  
 58.33 the agency a certificate of competence. The agency shall conduct examinations to test the  
 58.34 competence of applicants for certification, and shall require that certificates be renewed at  
 58.35 reasonable intervals. The agency may charge such fees as are necessary to cover the actual

59.1 costs of receiving and processing applications, conducting examinations, and issuing  
59.2 and renewing certificates. Certificates shall not be required for a private individual for  
59.3 land-spreading and associated interim and temporary storage of sewage sludge on property  
59.4 owned or farmed by that individual.

59.5 Sec. 47. [116.9401] DEFINITIONS.

59.6 (a) For the purposes of sections 116.9401 to 116.9407, the following terms have  
59.7 the meanings given them.

59.8 (b) "Agency" means the Pollution Control Agency.

59.9 (c) "Alternative" means a substitute process, product, material, chemical, strategy,  
59.10 or combination of these that is technically feasible and serves a functionally equivalent  
59.11 purpose to a chemical in a children's product.

59.12 (d) "Chemical" means a substance with a distinct molecular composition or a group  
59.13 of structurally related substances and includes the breakdown products of the substance or  
59.14 substances that form through decomposition, degradation, or metabolism.

59.15 (e) "Chemical of high concern" means a chemical identified on the basis of credible  
59.16 scientific evidence by a state, federal, or international agency as being known or suspected  
59.17 with a high degree of probability to:

59.18 (1) harm the normal development of a fetus or child or cause other developmental  
59.19 toxicity;

59.20 (2) cause cancer, genetic damage, or reproductive harm;

59.21 (3) disrupt the endocrine or hormone system;

59.22 (4) damage the nervous system, immune system, or organs, or cause other systemic  
59.23 toxicity;

59.24 (5) be persistent, bioaccumulative, and toxic; or

59.25 (6) be very persistent and very bioaccumulative.

59.26 (f) "Child" means a person under 12 years of age.

59.27 (g) "Children's product" means a consumer product intended for use by children,  
59.28 such as baby products, toys, car seats, personal care products, and clothing.

59.29 (h) "Commissioner" means the commissioner of the Pollution Control Agency.

59.30 (i) "Department" means the Department of Health.

59.31 (j) "Distributor" means a person who sells consumer products to retail establishments  
59.32 on a wholesale basis.

59.33 (k) "Green chemistry" means an approach to designing and manufacturing products  
59.34 that minimizes the use and generation of toxic substances.

60.1 (l) "Manufacturer" means any person who manufactures a final consumer product  
60.2 sold at retail or whose brand name is affixed to the consumer product. In the case of a  
60.3 consumer product imported into the United States, manufacturer includes the importer  
60.4 or domestic distributor of the consumer product if the person who manufactured or  
60.5 assembled the consumer product or whose brand name is affixed to the consumer product  
60.6 does not have a presence in the United States.

60.7 (m) "Priority chemical" means a chemical identified by the Department of Health as  
60.8 a chemical of high concern that meets the criteria in section 116.9403.

60.9 (n) "Safer alternative" means an alternative whose potential to harm human health is  
60.10 less than that of the use of a priority chemical that it could replace.

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

60.12 Sec. 48. **[116.9402] IDENTIFICATION OF CHEMICALS OF HIGH CONCERN.**

60.13 (a) By July 1, 2010, the department shall, after consultation with the agency,  
60.14 generate a list of chemicals of high concern.

60.15 (b) The department must periodically review and revise the list of chemicals of high  
60.16 concern at least every three years. The department may add chemicals to the list if the  
60.17 chemical meets one or more of the criteria in section 116.9401, paragraph (e).

60.18 (c) The department shall consider chemicals listed as a suspected carcinogen,  
60.19 reproductive or developmental toxicant, or as being persistent, bioaccumulative, and  
60.20 toxic, or very persistent and very bioaccumulative by a state, federal, or international  
60.21 agency. These agencies may include, but are not limited to, the California Environmental  
60.22 Protection Agency, the Washington Department of Ecology, the United States Department  
60.23 of Health, the United States Environmental Protection Agency, the United Nation's World  
60.24 Health Organization, and European Parliament Annex XIV concerning the Registration,  
60.25 Evaluation, Authorisation, and Restriction of Chemicals.

60.26 (d) The department may consider chemicals listed by another state as harmful to  
60.27 human health or the environment for possible inclusion in the list of chemicals of high  
60.28 concern.

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

60.30 Sec. 49. **[116.9403] IDENTIFICATION OF PRIORITY CHEMICALS.**

60.31 (a) The department, after consultation with the agency, may designate a chemical of  
60.32 high concern as a priority chemical if the department finds that the chemical:

60.33 (1) has been identified as a high-production volume chemical by the United States  
60.34 Environmental Protection Agency; and

61.1 (2) meets any of the following criteria:

61.2 (i) the chemical has been found through biomonitoring to be present in human blood,  
61.3 including umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

61.4 (ii) the chemical has been found through sampling and analysis to be present in  
61.5 household dust, indoor air, drinking water, or elsewhere in the home environment; or

61.6 (iii) the chemical has been found through monitoring to be present in fish, wildlife,  
61.7 or the natural environment.

61.8 (b) By February 1, 2011, the department shall publish a list of priority chemicals in  
61.9 the State Register and on the department's Internet Web site and shall update the published  
61.10 list whenever a new priority chemical is designated.

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

61.12 Sec. 50. **[116.9405] APPLICABILITY.**

61.13 The requirements of sections 116.9401 to 116.9407 do not apply to:

61.14 (1) chemicals in used children's products;

61.15 (2) priority chemicals used in the manufacturing process, but that are not present  
61.16 in the final product;

61.17 (3) priority chemicals used in agricultural production;

61.18 (4) motor vehicles as defined in chapter 168 or watercraft as defined in chapter  
61.19 86B or their component parts, except that the use of priority chemicals in detachable  
61.20 car seats is not exempt;

61.21 (5) priority chemicals generated solely as combustion by-products or that are present  
61.22 in combustible fuels;

61.23 (6) retailers;

61.24 (7) pharmaceutical products or biologics;

61.25 (8) a medical device as defined in the federal Food, Drug, and Cosmetic Act, United  
61.26 States Code, title 21, section 321(h);

61.27 (9) food and food or beverage packaging, except a container containing baby food  
61.28 or infant formula;

61.29 (10) consumer electronics products and electronic components, including but not  
61.30 limited to personal computers; audio and video equipment; calculators; digital displays;  
61.31 wireless phones; cameras; game consoles; printers; and handheld electronic and electrical  
61.32 devices used to access interactive software or their associated peripherals; or products that  
61.33 comply with the provisions of directive 2002/95/EC of the European Union, adopted by  
61.34 the European Parliament and Council of the European Union now or hereafter in effect; or

62.1 (11) outdoor sport equipment, including snowmobiles as defined in section 84.81,  
62.2 subdivision 3; all-terrain vehicles as defined in section 84.92, subdivision 8; personal  
62.3 watercraft as defined in section 86B.005, subdivision 14a; watercraft as defined in section  
62.4 86B.005, subdivision 18; and off-highway motorcycles, as defined in section 84.787,  
62.5 subdivision 7, and all attachments and repair parts for all of this equipment.

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

62.7 Sec. 51. **[116.9406] DONATIONS TO THE STATE.**

62.8 The commissioner may accept donations, grants, and other funds to carry out the  
62.9 purposes of sections 116.9401 to 116.9407. All donations, grants, and other funds must  
62.10 be accepted without preconditions regarding the outcomes of the regulatory oversight  
62.11 processes set forth in sections 116.9401 to 116.9407.

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

62.13 Sec. 52. **[116.9407] PARTICIPATION IN INTERSTATE CHEMICALS**  
62.14 **CLEARINGHOUSE.**

62.15 The state may cooperate with other states in an interstate chemicals clearinghouse  
62.16 regarding chemicals in consumer products, including the classification of priority  
62.17 chemicals in commerce; organizing and managing available data on chemicals, including  
62.18 information on uses, hazards, risks, and environmental and health concerns; and producing  
62.19 and evaluating information on safer alternatives to specific uses of priority chemicals.

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

62.21 Sec. 53. Minnesota Statutes 2008, section 116C.834, subdivision 1, is amended to read:

62.22 Subdivision 1. **Costs.** All costs incurred by the state to carry out its responsibilities  
62.23 under the compact and under sections 116C.833 to 116C.843 shall be paid by generators  
62.24 of low-level radioactive waste in this state through fees assessed by the Pollution Control  
62.25 Agency. Fees may be reasonably assessed on the basis of volume or degree of hazard of  
62.26 the waste produced by a generator. Costs for which fees may be assessed include, but  
62.27 are not limited to:

62.28 (1) the state contribution required to join the compact;

62.29 (2) the expenses of the commission member and state agency costs incurred to  
62.30 support the work of the Interstate Commission; and

62.31 (3) regulatory costs.

62.32 ~~The fees are exempt from section 16A.1285.~~

63.1           Sec. 54. [216H.021] GREENHOUSE GAS EMISSIONS REPORTING.

63.2           Subdivision 1. Commissioner to establish reporting system and maintain  
63.3 inventory. In order to measure the progress in meeting the goals of section 216H.02,  
63.4 subdivision 1, and to provide information to develop strategies to achieve those goals, the  
63.5 commissioner of the Pollution Control Agency shall establish a system for reporting and  
63.6 maintaining an inventory of greenhouse gas emissions. The commissioner must consult  
63.7 with the chief information officer of the Office of Enterprise Technology about system  
63.8 design and operation. Greenhouse gas emissions include those emissions described in  
63.9 section 216H.01, subdivision 2.

63.10          Subd. 2. Reporting system design. (a) The commissioner shall, to the extent  
63.11 practicable, design the system to coordinate with other regional or federal greenhouse gas  
63.12 emissions-reporting and inventory systems. The coordination may, without limitation,  
63.13 include the use of similar forms and reports, the sharing of information, and the use of  
63.14 common facilities, systems, and databases.

63.15          (b) The reporting system need not include all sources of emissions nor all amounts  
63.16 of emissions but, at its outset, must include:

63.17          (1) all stationary sources and other facilities required to obtain a permit under Title  
63.18 V of the federal Clean Air Act, United States Code, title 42, section 7401 et. seq.; and

63.19          (2) facilities whose annual carbon dioxide equivalent emissions, as defined in  
63.20 section 216H.10, subdivision 3, exceed a threshold set by the commissioner at between  
63.21 10,000 tons and 25,000 tons. The reporting threshold set by the commissioner must  
63.22 be consistent with the goal of accurately tracking progress in attaining greenhouse  
63.23 gas emissions-reduction goals and the need for emissions data to assist in developing  
63.24 greenhouse gas emissions-reduction strategies.

63.25          (c) In designing the greenhouse gas emissions reporting system, the commissioner  
63.26 shall consider requiring the reporting of greenhouse gas emissions from transportation  
63.27 fuels and greenhouse gas emissions from natural gas combustion that are not included  
63.28 in reporting from stationary sources. In determining whether to include reporting of  
63.29 these emissions, the commissioner must consider both the goal of accurately tracking  
63.30 progress in attaining greenhouse gas emissions-reduction goals and the need for emissions  
63.31 data to assist in developing greenhouse gas emissions-reduction strategies recommended  
63.32 by the Minnesota Climate Change Advisory Group. If the commissioner decides that  
63.33 transportation fuels and portions of natural gas combustion should not be included in  
63.34 the initial emissions reporting system, the commissioner must report to the chairs and  
63.35 ranking minority members of the senate and house of representatives committees with  
63.36 primary jurisdiction over energy and environmental policy the reasons for that decision

64.1 and suggestions for steps that should be taken to allow their inclusion in the emissions  
64.2 reporting system in the future.

64.3 (d) A facility reporting greenhouse gas emissions under this section must maintain  
64.4 the data used to create the reports for a minimum of five years.

64.5 Subd. 3. Rules. The commissioner of the Pollution Control Agency may adopt rules  
64.6 for the purposes of this section.

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

64.8 Sec. 55. Minnesota Statutes 2008, section 216H.10, subdivision 7, is amended to read:

64.9 Subd. 7. **High-GWP greenhouse gas.** "High-GWP greenhouse gas" means  
64.10 hydrofluorocarbons, perfluorocarbons, ~~and~~ sulfur hexafluoride, nitrous trifluoride, and any  
64.11 other gas the agency determines by rule to have a high global warming potential.

64.12 Sec. 56. Minnesota Statutes 2008, section 216H.11, is amended to read:

64.13 **216H.11 HIGH-GWP GREENHOUSE GAS REPORTING.**

64.14 Subdivision 1. **Gas manufacturers.** ~~Beginning By October 1, 2008, and~~ each year  
64.15 ~~thereafter,~~ a manufacturer of a high-GWP greenhouse gas must report to the agency the  
64.16 total amount of each high-GWP greenhouse gas sold to a purchaser in this state during  
64.17 the previous year.

64.18 Subd. 2. **Purchases.** ~~Beginning By October 1, 2008, and~~ each year ~~thereafter,~~  
64.19 a person ~~in this state~~ who purchases ~~500~~ 10,000 metric tons or more carbon dioxide  
64.20 equivalent of a high-GWP greenhouse gas for use or retail sale in this state must report  
64.21 to the agency, on a form prescribed by the commissioner, the total amount of each  
64.22 high-GWP greenhouse gas purchased for use or retail sale in this state during the previous  
64.23 year and the purpose for which the gas was used. The commissioner may adopt rules  
64.24 under chapter 14 to establish a different reporting threshold or to adopt specific reporting  
64.25 requirements for commercial or industrial facilities that purchase high-GWP gases for use  
64.26 or retail sale in this state.

64.27 Subd. 3. **Acceptance of federal filing.** With the approval of the commissioner, this  
64.28 section may be satisfied by filing with the commissioner a copy of a greenhouse gas  
64.29 emissions report filed with a federal agency or a regional or national greenhouse gas  
64.30 registry, provided that the entity with which the report is filed requires the emissions  
64.31 data to be verified.

64.32 Sec. 57. **[325E.046] STANDARDS FOR LABELING PLASTIC BAGS.**

65.1 Subdivision 1. "Biodegradable" label. A manufacturer, distributor, or wholesaler  
65.2 may not offer for sale in this state a plastic bag labeled "biodegradable," "degradable,"  
65.3 or any form of those terms, or in any way imply that the bag will chemically decompose  
65.4 into innocuous elements in a reasonably short period of time in a landfill, composting, or  
65.5 other terrestrial environment unless a scientifically based standard for biodegradability is  
65.6 developed and the bags are certified as meeting the standard.

65.7 Subd. 2. "Compostable" label. A manufacturer, distributor, or wholesaler may not  
65.8 offer for sale in this state a plastic bag labeled "compostable" unless, at the time of sale,  
65.9 the bag meets the ASTM Standard Specification for Compostable Plastics (D6400). Each  
65.10 bag must be labeled to reflect that it meets the standard. For purposes of this subdivision,  
65.11 "ASTM" has the meaning given in section 296A.01, subdivision 6.

65.12 Subd. 3. Enforcement; civil penalty; injunctive relief. (a) A manufacturer,  
65.13 distributor, or wholesaler who violates subdivision 1 or 2 is subject to a civil penalty of  
65.14 \$100 for each prepackaged saleable unit offered for sale up to a maximum of \$5,000  
65.15 and may be enjoined from those violations.

65.16 (b) The attorney general may bring an action in the name of the state in a court of  
65.17 competent jurisdiction for recovery of civil penalties or for injunctive relief as provided in  
65.18 this subdivision. The attorney general may accept an assurance of discontinuance of acts  
65.19 in violation of subdivision 1 or 2 in the manner provided in section 8.31, subdivision 2b.

65.20 EFFECTIVE DATE. This section is effective January 1, 2010.

65.21 Sec. 58. [383B.236] WASTE MANAGEMENT BY HENNEPIN COUNTY.

65.22 The Hennepin County Board of Commissioners may utilize money received from  
65.23 the sale of energy and recovered materials and placed in the county solid and hazardous  
65.24 waste fund under section 473.811, subdivision 9, for program expenses of the Department  
65.25 of Environmental Services, or the department or office succeeding to the functions of the  
65.26 Department of Environmental Services. This authority shall be in addition to the authority  
65.27 given in section 473.811, subdivision 9.

65.28 Sec. 59. Laws 2005, chapter 156, article 2, section 45, as amended by Laws 2007,  
65.29 chapter 148, article 2, section 73, is amended to read:

65.30 Sec. 45. SALE OF STATE LAND.

65.31 Subdivision 1. State land sales. The commissioner of administration shall  
65.32 coordinate with the head of each department or agency having control of state-owned land  
65.33 to identify and sell at least \$6,440,000 of state-owned land. Sales should be completed  
65.34 according to law and as provided in this section as soon as practicable but no later than

66.1 June 30, ~~2009~~ 2011. Notwithstanding Minnesota Statutes, sections 16B.281 and 16B.282,  
 66.2 94.09 and 94.10, or any other law to the contrary, the commissioner may offer land  
 66.3 for public sale by only providing notice of lands or an offer of sale of lands to state  
 66.4 departments or agencies, the University of Minnesota, cities, counties, towns, school  
 66.5 districts, or other public entities.

66.6 Subd. 2. **Anticipated savings.** Notwithstanding Minnesota Statutes, section  
 66.7 94.16, subdivision 3, or other law to the contrary, the amount of the proceeds from the  
 66.8 sale of land under this section that exceeds the actual expenses of selling the land must  
 66.9 be deposited in the general fund, except as otherwise provided by the commissioner of  
 66.10 finance. Notwithstanding Minnesota Statutes, section 94.11 or 16B.283, the commissioner  
 66.11 of finance may establish the timing of payments for land purchased under this section. If  
 66.12 the total of all money deposited into the general fund from the proceeds of the sale of land  
 66.13 under this section is anticipated to be less than \$6,440,000, the governor must allocate the  
 66.14 amount of the difference as reductions to general fund operating expenditures for other  
 66.15 executive agencies for the biennium ending June 30, ~~2009~~ 2011.

66.16 Subd. 3. **Sale of state lands revolving loan fund.** \$290,000 is appropriated from  
 66.17 the general fund in fiscal year 2006 to the commissioner of administration for purposes  
 66.18 of paying the actual expenses of selling state-owned lands to achieve the anticipated  
 66.19 savings required in this section. From the gross proceeds of land sales under this section,  
 66.20 the commissioner of administration must cancel the amount of the appropriation in this  
 66.21 subdivision to the general fund by June 30, ~~2009~~ 2011.

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

66.23 Sec. 60. Laws 2007, chapter 57, article 1, section 4, subdivision 2, is amended to read:

66.24 Subd. 2. **Land and Mineral Resources**

66.25 **Management** 11,747,000 11,272,000

66.26 Appropriations by Fund

66.27 General 6,633,000 6,230,000

66.28 Natural Resources 3,551,000 3,447,000

66.29 Game and Fish 1,363,000 1,395,000

66.30 Permanent School 200,000 200,000

66.31 \$475,000 the first year and \$475,000 the  
 66.32 second year are for iron ore cooperative

67.1 research. Of this amount, \$200,000 each year  
67.2 is from the minerals management account in  
67.3 the natural resources fund and \$275,000 each  
67.4 year is from the general fund. \$237,500 the  
67.5 first year and \$237,500 the second year are  
67.6 available only as matched by \$1 of nonstate  
67.7 money for each \$1 of state money. The  
67.8 match may be cash or in-kind.

67.9 \$86,000 the first year and \$86,000 the  
67.10 second year are for minerals cooperative  
67.11 environmental research, of which \$43,000  
67.12 the first year and \$43,000 the second year are  
67.13 available only as matched by \$1 of nonstate  
67.14 money for each \$1 of state money. The  
67.15 match may be cash or in-kind.

67.16 \$2,800,000 the first year and \$2,696,000  
67.17 the second year are from the minerals  
67.18 management account in the natural resources  
67.19 fund for use as provided in Minnesota  
67.20 Statutes, section 93.2236, paragraph (c).

67.21 \$200,000 the first year and \$200,000 the  
67.22 second year are from the state forest suspense  
67.23 account in the permanent school fund to  
67.24 accelerate land exchanges, land sales, and  
67.25 commercial leasing of school trust lands and  
67.26 to identify, evaluate, and lease construction  
67.27 aggregate located on school trust lands. This  
67.28 appropriation is to be used for securing  
67.29 maximum long-term economic return  
67.30 from the school trust lands consistent with  
67.31 fiduciary responsibilities and sound natural  
67.32 resources conservation and management  
67.33 principles.

67.34 \$15,000 the first year is for a report  
67.35 by February 1, 2008, to the house and

68.1 senate committees with jurisdiction over  
 68.2 environment and natural resources on  
 68.3 proposed minimum legal and conservation  
 68.4 standards that could be applied to  
 68.5 conservation easements acquired with public  
 68.6 money.

68.7 \$1,201,000 the first year and \$701,000 the  
 68.8 second year are to support the land records  
 68.9 management system. Of this amount,  
 68.10 \$326,000 the first year and \$326,000 the  
 68.11 second year are from the game and fish fund  
 68.12 and \$375,000 the first year and \$375,000 the  
 68.13 second year are from the natural resources  
 68.14 fund. The unexpended balances are available  
 68.15 until June 30, 2011. The commissioner  
 68.16 must report to the legislative chairs on  
 68.17 environmental finance on the outcomes of  
 68.18 the land records management support.

68.19 \$500,000 the first year and \$500,000 the  
 68.20 second year are for land asset management.  
 68.21 This is a onetime appropriation.

68.22 Sec. 61. Laws 2008, chapter 363, article 5, section 4, subdivision 7, is amended to read:

68.23 Subd. 7. **Fish and Wildlife Management** 123,000 119,000

68.24 Appropriations by Fund

68.25 General	-0-	(427,000)
68.26 Game and Fish	123,000	546,000

68.27 \$329,000 in 2009 is a reduction for fish and  
 68.28 wildlife management.

68.29 \$46,000 in 2009 is a reduction in the  
 68.30 appropriation for the Minnesota Shooting  
 68.31 Sports Education Center.

68.32 \$52,000 in 2009 is a reduction for licensing.

69.1 \$123,000 in 2008 and \$246,000 in 2009 are  
69.2 from the game and fish fund to implement  
69.3 fish virus surveillance, prepare infrastructure  
69.4 to handle possible outbreaks, and implement  
69.5 control procedures for highest risk waters  
69.6 and fish production operations. This is a  
69.7 onetime appropriation.

69.8 Notwithstanding Minnesota Statutes, section  
69.9 297A.94, paragraph (e), \$300,000 in 2009  
69.10 is from the second year appropriation in  
69.11 Laws 2007, chapter 57, article 1, section 4,  
69.12 subdivision 7, from the heritage enhancement  
69.13 account in the game and fish fund to study,  
69.14 predesign, and design a shooting sports  
69.15 ~~facilities at the Vermillion Highlands Wildlife~~  
69.16 ~~Management Area authorized by Laws 2007,~~  
69.17 ~~chapter 57, article 1, section 168~~ facility in  
69.18 the seven-county metropolitan area. This is  
69.19 available onetime only and is available until  
69.20 expended.

69.21 \$300,000 in 2009 is appropriated from the  
69.22 game and fish fund for only activities that  
69.23 improve, enhance, or protect fish and wildlife  
69.24 resources. This is a onetime appropriation.

69.25 Sec. 62. **SCORE REPORTING.**

69.26 Subdivision 1. **2010 requirement.** The requirements for the report specified in  
69.27 Minnesota Statutes, section 115A.557, subdivision 3, paragraph (b), clause (2), that is due  
69.28 April 1, 2010, shall be abbreviated in scope. The information collected shall be sufficient  
69.29 for the commissioner of the Pollution Control Agency to determine that counties have  
69.30 complied with the requirements of this subdivision.

69.31 Subd. 2. **Recommendations; report.** The commissioner of the Pollution Control  
69.32 Agency, in consultation with the Association of Minnesota Counties, the Solid Waste  
69.33 Administrators Association, the Solid Waste Management Coordinating Board, and other  
69.34 interested parties shall make recommendations to amend the reporting requirements under

70.1 Minnesota Statutes, section 115A.557, subdivision 3, in ways that reduce the resources  
70.2 counties employ to collect the data reported, while ensuring that estimation methods used  
70.3 to report data are consistent across counties and that the data reported are accurate and  
70.4 useful as a guide to solid waste management policy makers. The commissioner shall also  
70.5 make recommendations regarding the feasibility and desirability of multicounty reporting  
70.6 of the data. The commissioner's recommendations must be presented in a report submitted  
70.7 to the chairs and ranking minority members of the senate and house of representatives  
70.8 committees and divisions with primary jurisdiction over solid waste policy and finance  
70.9 no later than January 15, 2010.

70.10 Sec. 63. **PRIORITY CHEMICAL REPORTS.**

70.11 (a) By January 15, 2010, the commissioner of health, in consultation with the  
70.12 Pollution Control Agency, shall report to the chairs and ranking minority members  
70.13 of the senate and house of representatives committees with primary jurisdiction over  
70.14 environment and natural resources policy, commerce, and public health regarding the  
70.15 progress on implementing new Minnesota Statutes, sections 116.9401 to 116.9406, and  
70.16 information on the progress of federal, international, and other states in identifying,  
70.17 prioritizing, evaluating, regulating, and reducing the use of chemicals of high concern  
70.18 and priority chemicals in children's products and in determining the availability of safer  
70.19 alternatives for specific applications and promoting the use of those safer alternatives.

70.20 (b) By December 15, 2010, the commissioner of the Pollution Control Agency  
70.21 shall report to the chairs and ranking minority members of the senate and house of  
70.22 representatives committees with primary jurisdiction over environment and natural  
70.23 resources policy, commerce, and public health assessing mechanisms used by other states,  
70.24 the federal government, and other countries to reduce and phase out the use of priority  
70.25 chemicals in children's products and promote the use of safer alternatives. The report shall  
70.26 include potential funding mechanisms to implement this process. The report must include  
70.27 recommendations to promote and provide incentives for product design that use principles  
70.28 of green chemistry and life-cycle analysis. In developing the report, the agency may  
70.29 consult with stakeholders, including representatives of state agencies, manufacturers of  
70.30 children's products, chemical manufacturers, public health experts, independent scientists,  
70.31 and public interest groups. The report must include information on any stakeholder  
70.32 process consulted with or used in developing the report.

70.33 (c) By January 15, 2010, the agency shall provide an interim report about the  
70.34 progress in developing the report required under paragraph (b), including information  
70.35 on the status of any stakeholder process.

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

71.2 Sec. 64. **REORGANIZATION PROHIBITION; ENVIRONMENTAL QUALITY**  
71.3 **BOARD.**

71.4 Notwithstanding Minnesota Statutes, section 16B.37, unless expressly provided by  
71.5 law, the commissioner of administration shall not reorganize the Environmental Quality  
71.6 Board within another agency, prior to July 1, 2011.

71.7 Sec. 65. **ENVIRONMENTAL REVIEW STREAMLINING REPORT.**

71.8 By February 15, 2010, the commissioner of the Pollution Control Agency, in  
71.9 consultation with staff from the Environmental Quality Board, shall submit a report  
71.10 to the environment and natural resources policy and finance committees of the house  
71.11 and senate on options to streamline the environmental review process under Minnesota  
71.12 Statutes, chapter 116D. In preparing the report, the commissioner shall consult with state  
71.13 agencies, local government units, and business, agriculture, and environmental advocacy  
71.14 organizations with an interest in the environmental review process. The report shall  
71.15 include options that will reduce the time required to complete environmental review and  
71.16 the cost of the process to responsible governmental units and project proposers while  
71.17 maintaining or improving air, land, and water quality standards.

71.18 Sec. 66. **COMPENSATION OF GOVERNOR'S STAFF.**

71.19 For fiscal years 2010 and 2011, the Department of Natural Resources, the Pollution  
71.20 Control Agency, and the Board of Water and Soil Resources may not use funds  
71.21 appropriated in this article or funds from any statutory or open appropriation to pay  
71.22 directly or indirectly for the compensation costs of staff in the office of the governor.

71.23 Sec. 67. **FISH CONSUMPTION ADVISORIES.**

71.24 The commissioner of natural resources, in cooperation with the commissioner of  
71.25 health, shall ensure that fish consumption advisories are displayed in at least four different  
71.26 languages, one of which must be English, to fairly represent the population of the state.

71.27 Sec. 68. **CARBON SEQUESTRATION FORESTRY REPORT.**

71.28 The Minnesota Forest Resources Council shall review the Minnesota Climate  
71.29 Change Advisory Group's recommendation to increase carbon sequestration in forests by  
71.30 planting 1,000,000 acres of trees and shall submit a report to the chairs of the house of  
71.31 representatives and senate committees with jurisdiction over energy and energy finance,  
71.32 environment and natural resources, and environment and natural resources finance; the

72.1 governor; and the commissioner of natural resources by January 15, 2010. The report  
 72.2 shall, at a minimum, include recommendations on implementation and analysis of the  
 72.3 number and ownership of acres available for tree planting, the types of native species best  
 72.4 suited for planting, the availability of planting stock, and potential costs.

72.5 Sec. 69. **REPEALER.**

72.6 Laws 2008, chapter 363, article 5, section 30, is repealed.

72.7 **ARTICLE 2**  
 72.8 **ENERGY FINANCE**

72.9 Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
72.12			
72.13 <u>General</u>	\$ <u>27,291,000</u>	\$ <u>27,041,000</u>	\$ <u>54,332,000</u>
72.14 <u>Petroleum Tank Cleanup</u>	<u>1,084,000</u>	<u>1,084,000</u>	<u>2,168,000</u>
72.15 <u>Workers' Compensation</u>	<u>751,000</u>	<u>751,000</u>	<u>1,502,000</u>
72.16 <u>Telecommunications Access</u>			
72.17 <u>Minnesota</u>	<u>600,000</u>	<u>600,000</u>	<u>1,200,000</u>
72.18 <u>Special Revenue</u>	<u>1,350,000</u>	<u>625,000</u>	<u>1,975,000</u>
72.19 <b><u>Total</u></b>	<b>\$ <u>31,076,000</u></b>	<b>\$ <u>30,101,000</u></b>	<b>\$ <u>61,177,000</u></b>

72.20 Sec. 2. **ENERGY FINANCE APPROPRIATIONS.**

72.21 The sums shown in the columns marked "Appropriations" are appropriated to the  
 72.22 agencies and for the purposes specified in this article. The appropriations are from the  
 72.23 general fund, or another named fund, and are available for the fiscal years indicated  
 72.24 for each purpose. The figures "2010" and "2011" used in this article mean that the  
 72.25 appropriations listed under them are available for the fiscal year ending June 30, 2010, or  
 72.26 June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal  
 72.27 year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal  
 72.28 year ending June 30, 2009, are effective the day following final enactment.

	<b><u>APPROPRIATIONS</u></b>	
	<b><u>Available for the Year</u></b>	
	<b><u>Ending June 30</u></b>	
	<b><u>2010</u></b>	<b><u>2011</u></b>
72.29		
72.30		
72.31		
72.32		



74.1	<u>Appropriations by Fund</u>		
74.2	<u>General</u>	<u>6,670,000</u>	<u>6,670,000</u>
74.3	<u>Workers'</u>		
74.4	<u>Compensation</u>	<u>751,000</u>	<u>751,000</u>
74.5	<u>Subd. 7. Office of Energy Security</u>	<u>4,590,000</u>	<u>3,615,000</u>

74.6	<u>Appropriations by Fund</u>		
74.7	<u>General</u>	<u>3,240,000</u>	<u>2,990,000</u>
74.8	<u>Special Revenue</u>	<u>1,350,000</u>	<u>625,000</u>

74.9 \$250,000 the first year is for E-85 grants  
 74.10 under Laws 2007, chapter 57, article 2,  
 74.11 section 3, subdivision 6. Grants for on-site  
 74.12 blending pumps must include up to 75  
 74.13 percent of the total cost of the project, up to  
 74.14 a maximum of \$15,000 per pump. This is a  
 74.15 onetime appropriation.

74.16 The utility subject to Minnesota Statutes,  
 74.17 section 116C.779, shall transfer \$1,350,000  
 74.18 in fiscal year 2010 and \$625,000 in fiscal  
 74.19 year 2011 only to the Department of  
 74.20 Commerce on a schedule determined by the  
 74.21 commissioner of commerce. These funds  
 74.22 must be deposited in the special revenue fund  
 74.23 and are appropriated to the commissioner  
 74.24 for grants to promote renewable energy  
 74.25 projects and community energy outreach and  
 74.26 assistance. Of the amounts identified:

74.27 (1) \$300,000 the first year is for a grant  
 74.28 to the Board of Regents of the University  
 74.29 of Minnesota for the Natural Resources  
 74.30 and Research Institute at the University of  
 74.31 Minnesota, Duluth, to develop statewide  
 74.32 heat flow maps in order to determine

75.1 the geothermal potential of the state of  
 75.2 Minnesota;

75.3 (2) \$625,000 each year is for continued  
 75.4 funding of community energy technical  
 75.5 assistance and outreach on renewable  
 75.6 energy and energy efficiency, as described  
 75.7 in Minnesota Statutes, section 216C.385.  
 75.8 Of this amount, \$125,000 each year is for  
 75.9 technical assistance in the metropolitan area;

75.10 (3) \$25,000 the first year is for a grant to  
 75.11 a nonprofit organization with experience  
 75.12 in creating innovative partnerships through  
 75.13 collaborative action with diverse interests,  
 75.14 including businesses, government agencies,  
 75.15 environmental organizations, and others,  
 75.16 to manage a stakeholder process on green  
 75.17 jobs that would integrate the work of the  
 75.18 state Green Jobs Task Force and the mayors'  
 75.19 initiative on green manufacturing; and

75.20 (4) \$400,000 the first year is to provide  
 75.21 financial rebates for new solar electricity  
 75.22 projects.

75.23 **Subd. 8. Telecommunications Access**

75.24 **Minnesota** 600,000 600,000

75.25 \$300,000 the first year and \$300,000  
 75.26 the second year are for transfer to the  
 75.27 commissioner of human services to  
 75.28 supplement the ongoing operational expenses  
 75.29 of the Minnesota Commission Serving  
 75.30 Deaf and Hard-of-Hearing People. This  
 75.31 appropriation is from the telecommunication  
 75.32 access Minnesota fund, and is added to  
 75.33 the commission's base. This appropriation  
 75.34 consolidates, and is not in addition to,

76.1 appropriation language from Laws 2006,  
76.2 chapter 282, article 11, section 4, and  
76.3 Laws 2007, chapter 57, article 2, section 3,  
76.4 subdivision 7.

76.5 \$300,000 each year is from the  
76.6 telecommunications access fund to the  
76.7 commissioner of commerce for a grant to  
76.8 the Legislative Coordinating Commission  
76.9 for a pilot program to provide captioning  
76.10 of live streaming of legislative sessions  
76.11 on the commission's Web site and a grant  
76.12 to the Commission of Deaf, DeafBlind,  
76.13 and Hard-of-Hearing Minnesotans to  
76.14 provide information on their Web site in  
76.15 American Sign Language and to provide  
76.16 technical assistance to state agencies. The  
76.17 commissioner of commerce may allocate  
76.18 a portion of this money to the Office  
76.19 of Technology to coordinate technology  
76.20 accessibility and usability.

76.21 Subd. 9. **Transfers**

76.22 By July 31, 2009, the commissioner of  
76.23 finance shall transfer \$500,000 from the  
76.24 unexpended balance in the auto theft  
76.25 prevention account to the general fund.

76.26 Sec. 4. **PUBLIC UTILITIES COMMISSION**    \$            5,433,000    \$            5,433,000

76.27        Sec. 5. Minnesota Statutes 2008, section 45.027, subdivision 1, is amended to read:

76.28            Subdivision 1. **General powers.** In connection with the duties and responsibilities  
76.29 entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner  
76.30 of commerce may:

76.31            (1) make public or private investigations within or without this state as the  
76.32 commissioner considers necessary to determine whether any person has violated or is

77.1 about to violate any law, rule, or order related to the duties and responsibilities entrusted  
77.2 to the commissioner;

77.3 (2) require or permit any person to file a statement in writing, under oath or otherwise  
77.4 as the commissioner determines, as to all the facts and circumstances concerning the  
77.5 matter being investigated;

77.6 (3) hold hearings, upon reasonable notice, in respect to any matter arising out of the  
77.7 duties and responsibilities entrusted to the commissioner;

77.8 (4) conduct investigations and hold hearings for the purpose of compiling  
77.9 information related to the duties and responsibilities entrusted to the commissioner;

77.10 (5) examine the books, accounts, records, and files of every licensee, and of every  
77.11 person who is engaged in any activity regulated; the commissioner or a designated  
77.12 representative shall have free access during normal business hours to the offices and  
77.13 places of business of the person, and to all books, accounts, papers, records, files, safes,  
77.14 and vaults maintained in the place of business;

77.15 (6) publish information which is contained in any order issued by the commissioner;

77.16 ~~and~~

77.17 (7) require any person subject to duties and responsibilities entrusted to the  
77.18 commissioner, to report all sales or transactions that are regulated. The reports must  
77.19 be made within ten days after the commissioner has ordered the report. The report is  
77.20 accessible only to the respondent and other governmental agencies unless otherwise  
77.21 ordered by a court of competent jurisdiction; and

77.22 (8) assess a licensee the necessary expenses of the investigation performed by the  
77.23 department when an investigation is made by order of the commissioner. The cost of the  
77.24 investigation shall be determined by the commissioner and is based on the salary cost  
77.25 of investigators or assistants and at an average rate per day or fraction thereof so as to  
77.26 provide for the total cost of the investigations. All money collected must be deposited into  
77.27 the general fund. A natural person licensed under chapter 60K or 82 shall not be charged  
77.28 costs of an investigation if the investigation results in no finding of a violation.

77.29 Sec. 6. Minnesota Statutes 2008, section 60A.14, subdivision 1, is amended to read:

77.30 Subdivision 1. **Fees other than examination fees.** In addition to the fees and  
77.31 charges provided for examinations, the following fees must be paid to the commissioner  
77.32 for deposit in the general fund:

77.33 (a) by township mutual fire insurance companies;

77.34 (1) for filing certificate of incorporation \$25 and amendments thereto, \$10;

77.35 (2) for filing annual statements, \$15;

- 78.1 (3) for each annual certificate of authority, \$15;
- 78.2 (4) for filing bylaws \$25 and amendments thereto, \$10;
- 78.3 (b) by other domestic and foreign companies including fraternal and reciprocal
- 78.4 exchanges;
- 78.5 (1) for filing an application for an initial certification of authority to be admitted
- 78.6 to transact business in this state, \$1,500;
- 78.7 (2) for filing certified copy of certificate of articles of incorporation, \$100;
- 78.8 (3) for filing annual statement, \$225;
- 78.9 (4) for filing certified copy of amendment to certificate or articles of incorporation,
- 78.10 \$100;
- 78.11 (5) for filing bylaws, \$75 or amendments thereto, \$75;
- 78.12 (6) for each company's certificate of authority, \$575, annually;
- 78.13 (c) the following general fees apply:
- 78.14 (1) for each certificate, including certified copy of certificate of authority, renewal,
- 78.15 valuation of life policies, corporate condition or qualification, \$25;
- 78.16 (2) for each copy of paper on file in the commissioner's office 50 cents per page,
- 78.17 and \$2.50 for certifying the same;
- 78.18 (3) for license to procure insurance in unadmitted foreign companies, \$575;
- 78.19 (4) for valuing the policies of life insurance companies, one cent per \$1,000 of
- 78.20 insurance so valued, provided that the fee shall not exceed \$13,000 per year for any
- 78.21 company. The commissioner may, in lieu of a valuation of the policies of any foreign life
- 78.22 insurance company admitted, or applying for admission, to do business in this state, accept
- 78.23 a certificate of valuation from the company's own actuary or from the commissioner of
- 78.24 insurance of the state or territory in which the company is domiciled;
- 78.25 (5) for receiving and filing certificates of policies by the company's actuary, or by
- 78.26 the commissioner of insurance of any other state or territory, \$50;
- 78.27 (6) for each appointment of an agent filed with the commissioner, \$10;
- 78.28 (7) for filing forms, rates, and compliance certifications under section 60A.315, ~~\$90~~
- 78.29 \$140 per filing, or ~~\$75~~ \$125 per filing when submitted via electronic filing system. Filing
- 78.30 fees may be paid on a quarterly basis in response to an invoice. Billing and payment may
- 78.31 be made electronically;
- 78.32 (8) for annual renewal of surplus lines insurer license, \$300.
- 78.33 The commissioner shall adopt rules to define filings that are subject to a fee.

78.34 Sec. 7. [116J.438] MINNESOTA GREEN ENTERPRISE ASSISTANCE.

79.1           (a) The commissioner of employment and economic development, in consultation  
 79.2 with the commissioner of commerce, shall lead a multiagency project to advise,  
 79.3 promote, market, and coordinate state agency collaboration on green enterprise and  
 79.4 green economy projects, as defined in section 116J.437. The multiagency project must  
 79.5 include the commissioners of employment and economic development, natural resources,  
 79.6 agriculture, transportation, and commerce, and the Pollution Control Agency. The  
 79.7 project must involve collaboration with the chairs and ranking minority members of  
 79.8 legislative committees overseeing energy policy and energy finance, state agencies,  
 79.9 local governments, representatives from business and agriculture, and other interested  
 79.10 stakeholders. The objective of the project is to utilize existing state resources to expedite  
 79.11 the delivery of grants, licenses, permits, and other state authorizations and approvals for  
 79.12 green economy projects. The commissioner shall appoint a lead person to coordinate  
 79.13 green enterprise assistance activities.

79.14           (b) The commissioner of employment and economic development shall seek out and  
 79.15 may select persons from the business community to assist the commissioner in project  
 79.16 activities.

79.17           (c) The commissioner may accept gifts, contributions, and in-kind services for the  
 79.18 purposes of this section, under the authority provided in section 116J.035, subdivision  
 79.19 1. Any funds received must be placed in a special revenue account for the purposes of  
 79.20 this section.

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

79.22           Sec. 8. Minnesota Statutes 2008, section 216B.62, subdivision 3, is amended to read:

79.23           Subd. 3. **Assessing all public utilities.** The department and commission shall  
 79.24 quarterly, at least 30 days before the start of each quarter, estimate the total of their  
 79.25 expenditures in the performance of their duties relating to ~~(1) public utilities under section~~  
 79.26 ~~216A.085~~, sections 216A.085 and 216B.01 to 216B.67, other than amounts chargeable  
 79.27 to public utilities under subdivision 2 ~~or~~ 6, and ~~(2) alternative energy engineering~~  
 79.28 ~~activity under section 216C.261 or 7~~. The remainder, ~~except the amount assessed~~  
 79.29 ~~against cooperatives and municipalities for alternative energy engineering activity under~~  
 79.30 ~~subdivision 5~~, shall be assessed by the commission and department to the several public  
 79.31 utilities in proportion to their respective gross operating revenues from retail sales of gas  
 79.32 or electric service within the state during the last calendar year. The assessment shall be  
 79.33 paid into the state treasury within 30 days after the bill has been transmitted via mail,  
 79.34 personal delivery, or electronic service to the several public utilities, which shall constitute  
 79.35 notice of the assessment and demand of payment thereof. The total amount which may

80.1 be assessed to the public utilities, under authority of this subdivision, shall not exceed  
80.2 one-sixth of one percent of the total gross operating revenues of the public utilities  
80.3 during the calendar year from retail sales of gas or electric service within the state. The  
80.4 assessment for the third quarter of each fiscal year shall be adjusted to compensate for the  
80.5 amount by which actual expenditures by the commission and department for the preceding  
80.6 fiscal year were more or less than the estimated expenditures previously assessed.

80.7 Sec. 9. Minnesota Statutes 2008, section 216B.62, subdivision 4, is amended to read:

80.8 Subd. 4. **Objections.** Within 30 days after the date of the transmittal of any bill as  
80.9 provided by ~~subdivisions~~ subdivision 2 and 3, or 7, the public utility against which the bill  
80.10 has been rendered may file with the commission objections setting out the grounds upon  
80.11 which it is claimed the bill is excessive, erroneous, unlawful or invalid. The commission  
80.12 shall within 60 days hold a hearing and issue an order in accordance with its findings. The  
80.13 order shall be appealable in the same manner as other final orders of the commission.

80.14 Sec. 10. Minnesota Statutes 2008, section 216B.62, subdivision 5, is amended to read:

80.15 Subd. 5. **Assessing cooperatives and municipals.** The commission and department  
80.16 may charge cooperative electric associations, generation and transmission cooperative  
80.17 electric associations, municipal power agencies, and municipal electric utilities their  
80.18 proportionate share of the expenses incurred in the review and disposition of resource  
80.19 plans, adjudication of service area disputes, proceedings under section 216B.1691,  
80.20 216B.2425, or 216B.243, and the costs incurred in the adjudication of complaints over  
80.21 service standards, practices, and rates. Cooperative electric associations electing to  
80.22 become subject to rate regulation by the commission pursuant to section 216B.026,  
80.23 subdivision 4, are also subject to this section. Neither a cooperative electric association  
80.24 nor a municipal electric utility is liable for costs and expenses in a calendar year in excess  
80.25 of the limitation on costs that may be assessed against public utilities under subdivision  
80.26 2. A cooperative electric association, generation and transmission cooperative electric  
80.27 association, municipal power agency, or municipal electric utility may object to and appeal  
80.28 bills of the commission and department as provided in subdivision 4.

80.29 ~~The department shall assess cooperatives and municipalities for the costs of~~  
80.30 ~~alternative energy engineering activities under section 216C.261. Each cooperative and~~  
80.31 ~~municipality shall be assessed in proportion that its gross operating revenues for the sale~~  
80.32 ~~of gas and electric service within the state for the last calendar year bears to the total of~~  
80.33 ~~those revenues for all public utilities, cooperatives, and municipalities.~~

81.1 Sec. 11. Minnesota Statutes 2008, section 216B.62, is amended by adding a subdivision  
81.2 to read:

81.3 Subd. 7. **Assessing all utilities.** The department shall assess public utilities,  
81.4 cooperative electric associations, and municipal utilities for the costs of activities under  
81.5 chapter 216C. The department shall not assess for costs of grants, loans, or other aids or  
81.6 for costs that can be recovered through other assessment authority. Each public utility,  
81.7 cooperative, and municipal utility shall be assessed in the proportion that its gross  
81.8 operating revenue for the sale of gas and electric service within the state for the last  
81.9 calendar year bears to the total of those revenues for all public utilities, cooperatives,  
81.10 and municipalities.

81.11 Sec. 12. **BULK INSTALLATION OF SOLAR PHOTOVOLTAIC PANELS ON**  
81.12 **SCHOOL BUILDINGS; FEASIBILITY STUDY AND REPORT.**

81.13 The director of the Office of Energy Security, in consultation with the commissioner  
81.14 of education, schools, school districts, and solar industry experts, must study the economic  
81.15 and technical feasibility of bulk installation of solar photovoltaic panels on school  
81.16 buildings in this state. The study must use a power-purchase agreement model in which  
81.17 a private company would pay for, install, and own the solar photovoltaic panels. No  
81.18 later than January 15, 2010, the director of the Office of Energy Security must report  
81.19 the results of the feasibility study, including whether the proposed model would reduce  
81.20 carbon emissions and result in savings to school districts, to the chairs and ranking  
81.21 minority members of the house of representatives and senate committees with jurisdiction  
81.22 over energy policy and finance.

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

81.24 Sec. 13. **APPROPRIATIONS; CANCELLATIONS.**

81.25 (a) The remaining balance of the fiscal year 2009 special revenue fund appropriation  
81.26 for the Green Jobs Task Force under Laws 2008, chapter 363, article 6, section 3,  
81.27 subdivision 4, is transferred and appropriated to the commissioner of employment and  
81.28 economic development for the purposes of green enterprise assistance under Minnesota  
81.29 Statutes, section 116J.438. This appropriation is available until spent.

81.30 (b) The unencumbered balance of the fiscal year 2008 appropriation to the  
81.31 commissioner of commerce for the rural and energy development revolving loan  
81.32 fund under Laws 2007, chapter 57, article 2, section 3, subdivision 6, is canceled and  
81.33 reappropriated as follows:



83.1 federally chartered credit union supervised by the National Credit Union Administration,  
83.2 to the extent permitted by federal law.

83.3 (c) "Borrower" includes any natural person holding an interest in severalty or as joint  
83.4 tenant or tenant-in-common in the property securing a reverse mortgage loan.

83.5 (d) "Outstanding loan balance" means the current net amount of money owed by the  
83.6 borrower to the lender whether or not that sum is suspended pursuant to the terms of the  
83.7 reverse mortgage loan agreement or is immediately due and payable. The outstanding  
83.8 loan balance is calculated by adding the current totals of the items described in clauses (1)  
83.9 to (5) and subtracting the current totals of the item described in clause (6):

83.10 (1) The sum of all payments made by the lender which are necessary to clear the  
83.11 property securing the loan of any outstanding mortgage encumbrance or mechanics or  
83.12 material supplier's lien.

83.13 (2) The total disbursements made by the lender to date pursuant to the loan  
83.14 agreement as formulated in accordance with subdivision 3.

83.15 (3) All taxes, assessments, insurance premiums and other similar charges paid to  
83.16 date by the lender pursuant to subdivision 6, which charges were not reimbursed by the  
83.17 borrower within 60 days.

83.18 (4) All actual closing costs which the borrower has deferred, if a deferral provision  
83.19 is contained in the loan agreement as authorized by subdivision 7.

83.20 (5) The total accrued interest to date, as authorized by subdivision 5.

83.21 (6) All payments made by the borrower pursuant to subdivision 4.

83.22 (e) "Actual closing costs" mean reasonable charges or sums ordinarily paid at the  
83.23 time of closing for the following, whether or not retained by the lender:

83.24 (1) Any insurance premiums on policies covering the mortgaged property including  
83.25 but not limited to premiums for title insurance, fire and extended coverage insurance, flood  
83.26 insurance, and private mortgage insurance.

83.27 (2) Abstracting, title examination and search, and examination of public records  
83.28 related to the mortgaged property.

83.29 (3) The preparation and recording of any or all documents required by law or custom  
83.30 for closing a reverse mortgage loan agreement.

83.31 (4) Appraisal and survey of real property securing a reverse mortgage loan.

83.32 (5) A single service charge, which service charge shall include any consideration,  
83.33 not otherwise specified in this section as an "actual closing cost," paid by the borrower to  
83.34 the lender for or in relation to the acquisition, making, refinancing or modification of a  
83.35 reverse mortgage loan, and shall also include any consideration received by the lender  
83.36 for making a commitment for a reverse mortgage loan, whether or not an actual loan

84.1 follows the commitment. The service charge shall not exceed one percent of the bona fide  
84.2 committed principal amount of the reverse mortgage loan.

84.3 (6) Charges and fees necessary for or related to the transfer of real property securing  
84.4 a reverse mortgage loan or the closing of a reverse mortgage loan agreement paid by the  
84.5 borrower and received by any party other than the lender.

84.6 Sec. 2. Minnesota Statutes 2008, section 47.60, subdivision 1, is amended to read:

84.7 Subdivision 1. **Definitions.** For purposes of this section, the terms defined have  
84.8 the meanings given them:

84.9 (a) "Consumer small loan" is a loan transaction in which cash is advanced to a  
84.10 borrower for the borrower's own personal, family, or household purpose. A consumer  
84.11 small loan is a short-term, unsecured loan to be repaid in a single installment. The cash  
84.12 advance of a consumer small loan is equal to or less than \$350. A consumer small loan  
84.13 includes an indebtedness evidenced by but not limited to a promissory note or agreement  
84.14 to defer the presentation of a personal check for a fee.

84.15 (b) "Consumer small loan lender" is a financial institution as defined in section  
84.16 47.59 or a person business entity registered with the commissioner and engaged in the  
84.17 business of making consumer small loans.

84.18 Sec. 3. Minnesota Statutes 2008, section 47.60, subdivision 3, is amended to read:

84.19 Subd. 3. **Filing.** Before a person business entity other than a financial institution  
84.20 as defined by section 47.59 engages in the business of making consumer small loans to  
84.21 Minnesota residents, the person business entity shall file with the commissioner as a  
84.22 consumer small loan lender. The filing must be on a form prescribed by the commissioner  
84.23 together with a fee of \$250 for each place of business and contain the following  
84.24 information in addition to the information required by the commissioner:

84.25 (1) evidence that the filer has available for the operation of the business at the  
84.26 location specified, liquid assets of at least \$50,000; and

84.27 (2) a biographical statement on the principal person responsible for the operation  
84.28 and management of the business to be certified.

84.29 Revocation of the filing ~~and the right to engage in the business of a consumer small~~  
84.30 ~~loan lender~~ is the same as in the case of a regulated lender license in section 56.09.

84.31 For purposes of this subdivision, "business entity" includes one that does not have a  
84.32 physical location in Minnesota that makes a consumer small loan electronically via the  
84.33 Internet.

85.1 Sec. 4. Minnesota Statutes 2008, section 47.60, subdivision 6, is amended to read:

85.2 Subd. 6. **Penalties for violation.** A ~~person~~ business entity or the ~~person's~~ entity's  
85.3 members, officers, directors, agents, and employees who violate or participate in the  
85.4 violation of any of the provisions of this section may be liable in the same manner as in  
85.5 section 56.19.

85.6 Sec. 5. Minnesota Statutes 2008, section 48.21, is amended to read:

85.7 **48.21 REAL ESTATE; RESTRICTIONS ON HOLDING.**

85.8 Subdivision 1. **Specific restrictions.** (a) A bank may purchase, carry as an asset,  
85.9 and convey real estate only:

85.10 (1) as provided for in section 47.10;

85.11 (2) if acquired through foreclosure of a mortgage given to it in good faith as security  
85.12 for loans made by or money due to it;

85.13 (3) if conveyed to it in satisfaction of debts previously contracted in good faith in  
85.14 the course of its dealings;

85.15 (4) if acquired by sale on execution or judgment of a court in its favor; or

85.16 (5) if reasonably necessary to mitigate or avoid loss on a loan or investment  
85.17 theretofore made.

85.18 (b) Real estate acquired under paragraph (a), clauses (2) to (5), shall be carried as an  
85.19 asset only in accordance with rules the commissioner prescribes. The maximum period for  
85.20 holding other real estate as an asset shall be five years, provided that upon application to  
85.21 the commissioner, the commissioner may approve the possession of such real estate by a  
85.22 bank for a period longer than five years, but not to exceed an additional five years, if:

85.23 (1) the bank has made a good faith attempt to dispose of the real estate within the  
85.24 initial five-year period; or

85.25 (2) disposal within the initial five-year period would be detrimental to the bank.

85.26 Subd. 2. **Real estate holdings not bank liabilities.** Real estate owned by a bank as  
85.27 a result of actions authorized in ~~clauses (2) to (5)~~ of subdivision 1, paragraph (a), clauses  
85.28 (2) to (5), and subsequently sold to any buyer on a contract for deed may not be considered  
85.29 creating a liability to a bank for purposes of section 48.24.

85.30 Subd. 3. **Real estate holdings not sold; authority to write off.** Notwithstanding  
85.31 any rules of the commissioner to the contrary, if real estate owned by a bank pursuant to  
85.32 ~~clauses (2) to (5)~~ of subdivision 1, paragraph (a), clauses (2) to (5), is not sold or otherwise  
85.33 disposed of within the maximum period ~~established by rule by the commissioner,~~ the

86.1 bank may write off any remaining balance at a rate not less than one-fifth of that balance  
86.2 each subsequent calendar year.

86.3 Sec. 6. Minnesota Statutes 2008, section 58.05, subdivision 3, is amended to read:

86.4 Subd. 3. **Certificate of exemption.** A person must obtain a certificate of exemption  
86.5 from the commissioner to qualify as an exempt person under section 58.04, subdivision 1,  
86.6 paragraph (c), a financial institution under clause (2), or by order of the commissioner  
86.7 under clause (6); or under section 58.04, subdivision 2, paragraph (b), as a financial  
86.8 institution under clause ~~(3)~~ (4), or by order of the commissioner under clause ~~(7)~~ (8).

86.9 Sec. 7. Minnesota Statutes 2008, section 58.06, subdivision 2, is amended to read:

86.10 Subd. 2. **Application contents.** (a) The application must contain the name and  
86.11 complete business address or addresses of the license applicant. The license applicant  
86.12 must be a partnership, limited liability partnership, association, limited liability company,  
86.13 corporation, or other form of business organization, and the application must contain the  
86.14 names and complete business addresses of each partner, member, director, and principal  
86.15 officer. The application must also include a description of the activities of the license  
86.16 applicant, in the detail and for the periods the commissioner may require.

86.17 (b) ~~An~~ A residential mortgage originator applicant must submit one of the following:

86.18 (1) evidence which shows, to the commissioner's satisfaction, that either the federal  
86.19 Department of Housing and Urban Development or the Federal National Mortgage  
86.20 Association has approved the residential mortgage originator applicant as a mortgagee;

86.21 (2) a surety bond or irrevocable letter of credit in the amount of not less than  
86.22 \$50,000 in a form approved by the commissioner, issued by an insurance company or bank  
86.23 authorized to do so in this state. The bond or irrevocable letter of credit must be available  
86.24 for the recovery of expenses, fines, and fees levied by the commissioner under this chapter  
86.25 and for losses incurred by borrowers. The bond or letter of credit must be submitted with  
86.26 the license application, and evidence of continued coverage must be submitted with each  
86.27 renewal. Any change in the bond or letter of credit must be submitted for approval by the  
86.28 commissioner within ten days of its execution; or

86.29 (3) a copy of the residential mortgage originator applicant's most recent audited  
86.30 financial statement, including balance sheet, statement of income or loss, statements of  
86.31 changes in shareholder equity, and statement of changes in financial position. Financial  
86.32 statements must be as of a date within 12 months of the date of application.

86.33 (c) The application must also include all of the following:

86.34 (1) an affirmation under oath that the applicant:

- 87.1 (i) is in compliance with the requirements of section 58.125;
- 87.2 (ii) will maintain a perpetual roster of individuals employed as residential mortgage  
87.3 originators, including employees and independent contractors, which includes the ~~date~~  
87.4 dates that mandatory testing, initial education was, and continuing education were  
87.5 completed. In addition, the roster must be made available to the commissioner on demand,  
87.6 within three business days of the commissioner's request;
- 87.7 (iii) will advise the commissioner of any material changes to the information  
87.8 submitted in the most recent application within ten days of the change;
- 87.9 (iv) will advise the commissioner in writing immediately of any bankruptcy petitions  
87.10 filed against or by the applicant or licensee;
- 87.11 (v) will maintain at all times either a net worth, net of intangibles, of at least  
87.12 \$250,000 or a surety bond or irrevocable letter of credit in the amount of at least \$50,000;
- 87.13 (vi) complies with federal and state tax laws; and
- 87.14 (vii) complies with sections 345.31 to 345.60, the Minnesota unclaimed property  
87.15 law;
- 87.16 (2) information as to the mortgage lending, servicing, or brokering experience of the  
87.17 applicant and persons in control of the applicant;
- 87.18 (3) information as to criminal convictions, excluding traffic violations, of persons in  
87.19 control of the license applicant;
- 87.20 (4) whether a court of competent jurisdiction has found that the applicant or persons  
87.21 in control of the applicant have engaged in conduct evidencing gross negligence, fraud,  
87.22 misrepresentation, or deceit in performing an act for which a license is required under  
87.23 this chapter;
- 87.24 (5) whether the applicant or persons in control of the applicant have been the subject  
87.25 of: an order of suspension or revocation, cease and desist order, or injunctive order, or  
87.26 order barring involvement in an industry or profession issued by this or another state or  
87.27 federal regulatory agency or by the Secretary of Housing and Urban Development within  
87.28 the ten-year period immediately preceding submission of the application; and
- 87.29 (6) other information required by the commissioner.

87.30 Sec. 8. Minnesota Statutes 2008, section 58.126, is amended to read:

87.31 **58.126 EDUCATION AND TESTING REQUIREMENT.**

87.32 (a) No individual shall engage in residential mortgage origination or make residential  
87.33 mortgage loans, whether as an employee or independent contractor, before the completion  
87.34 of ~~15~~ 20 hours of educational training which has been approved by the commissioner, and  
87.35 covering state and federal laws concerning residential mortgage lending.

88.1 (b) In addition to the initial education requirements in paragraph (a), each individual  
88.2 must also complete eight hours of continuing education annually. The education must  
88.3 include:

88.4 (1) three hours of federal law and regulations;

88.5 (2) two hours of ethics, which must include fraud, consumer protection, and fair  
88.6 lending; and

88.7 (3) two hours of standards governing nontraditional mortgage lending.

88.8 (c) The commissioner may by rule establish testing requirements for individuals  
88.9 subject to the requirements of paragraphs (a) and (b). An individual must satisfy the  
88.10 testing requirements established by the commissioner before engaging in residential  
88.11 mortgage loan origination or making residential mortgage loans.

88.12 **EFFECTIVE DATE.** This section is effective September 1, 2009, and applies to  
88.13 license applications and renewals made on or after that date.

88.14 Sec. 9. Minnesota Statutes 2008, section 58.13, subdivision 1, is amended to read:

88.15 Subdivision 1. **Generally.** (a) No person acting as a residential mortgage originator  
88.16 or servicer, including a person required to be licensed under this chapter, and no person  
88.17 exempt from the licensing requirements of this chapter under section 58.04, except as  
88.18 otherwise provided in paragraph (b), shall:

88.19 (1) fail to maintain a trust account to hold trust funds received in connection with a  
88.20 residential mortgage loan;

88.21 (2) fail to deposit all trust funds into a trust account within three business days of  
88.22 receipt; commingle trust funds with funds belonging to the licensee or exempt person; or  
88.23 use trust account funds for any purpose other than that for which they are received;

88.24 (3) unreasonably delay the processing of a residential mortgage loan application,  
88.25 or the closing of a residential mortgage loan. For purposes of this clause, evidence of  
88.26 unreasonable delay includes but is not limited to those factors identified in section 47.206,  
88.27 subdivision 7, clause (d);

88.28 (4) fail to disburse funds according to its contractual or statutory obligations;

88.29 (5) fail to perform in conformance with its written agreements with borrowers,  
88.30 investors, other licensees, or exempt persons;

88.31 (6) charge a fee for a product or service where the product or service is not actually  
88.32 provided, or misrepresent the amount charged by or paid to a third party for a product  
88.33 or service;

88.34 (7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property  
88.35 law;

89.1 (8) violate any provision of any other applicable state or federal law regulating  
89.2 residential mortgage loans including, without limitation, sections 47.20 to 47.208, and  
89.3 47.58;

89.4 (9) make or cause to be made, directly or indirectly, any false, deceptive, or  
89.5 misleading statement or representation in connection with a residential loan transaction  
89.6 including, without limitation, a false, deceptive, or misleading statement or representation  
89.7 regarding the borrower's ability to qualify for any mortgage product;

89.8 (10) conduct residential mortgage loan business under any name other than that  
89.9 under which the license or certificate of exemption was issued;

89.10 (11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for  
89.11 the purpose of influencing the independent judgment of the appraiser with respect to the  
89.12 value of real estate that is to be covered by a residential mortgage or is being offered as  
89.13 security according to an application for a residential mortgage loan;

89.14 (12) issue any document indicating conditional qualification or conditional approval  
89.15 for a residential mortgage loan, unless the document also clearly indicates that final  
89.16 qualification or approval is not guaranteed, and may be subject to additional review;

89.17 (13) make or assist in making any residential mortgage loan with the intent that the  
89.18 loan will not be repaid and that the residential mortgage originator will obtain title to  
89.19 the property through foreclosure;

89.20 (14) provide or offer to provide for a borrower, any brokering or lending services  
89.21 under an arrangement with a person other than a licensee or exempt person, provided that  
89.22 a person may rely upon a written representation by the residential mortgage originator that  
89.23 it is in compliance with the licensing requirements of this chapter;

89.24 (15) claim to represent a licensee or exempt person, unless the person is an employee  
89.25 of the licensee or exempt person or unless the person has entered into a written agency  
89.26 agreement with the licensee or exempt person;

89.27 (16) fail to comply with the record keeping and notification requirements identified  
89.28 in section 58.14 or fail to abide by the affirmations made on the application for licensure;

89.29 (17) represent that the licensee or exempt person is acting as the borrower's agent  
89.30 after providing the nonagency disclosure required by section 58.15, unless the disclosure  
89.31 is retracted and the licensee or exempt person complies with all of the requirements of  
89.32 section 58.16;

89.33 (18) make, provide, or arrange for a residential mortgage loan that is of a lower  
89.34 investment grade if the borrower's credit score or, if the originator does not utilize credit  
89.35 scoring or if a credit score is unavailable, then comparable underwriting data, indicates  
89.36 that the borrower may qualify for a residential mortgage loan, available from or through

90.1 the originator, that is of a higher investment grade, unless the borrower is informed that  
90.2 the borrower may qualify for a higher investment grade loan with a lower interest rate  
90.3 and/or lower discount points, and consents in writing to receipt of the lower investment  
90.4 grade loan;

90.5 For purposes of this section, "investment grade" refers to a system of categorizing  
90.6 residential mortgage loans in which the loans are: (i) commonly referred to as "prime" or  
90.7 "subprime"; (ii) commonly designated by an alphabetical character with "A" being the  
90.8 highest investment grade; and (iii) are distinguished by interest rate or discount points  
90.9 or both charged to the borrower, which vary according to the degree of perceived risk  
90.10 of default based on factors such as the borrower's credit, including credit score and  
90.11 credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior  
90.12 bankruptcy or foreclosure;

90.13 (19) make, publish, disseminate, circulate, place before the public, or cause to be  
90.14 made, directly or indirectly, any advertisement or marketing materials of any type, or any  
90.15 statement or representation relating to the business of residential mortgage loans that is  
90.16 false, deceptive, or misleading;

90.17 (20) advertise loan types or terms that are not available from or through the licensee  
90.18 or exempt person on the date advertised, or on the date specified in the advertisement.  
90.19 For purposes of this clause, advertisement includes, but is not limited to, a list of sample  
90.20 mortgage terms, including interest rates, discount points, and closing costs provided by  
90.21 licensees or exempt persons to a print or electronic medium that presents the information  
90.22 to the public;

90.23 (21) use or employ phrases, pictures, return addresses, geographic designations, or  
90.24 other means that create the impression, directly or indirectly, that a licensee or other  
90.25 person is a governmental agency, or is associated with, sponsored by, or in any manner  
90.26 connected to, related to, or endorsed by a governmental agency, if that is not the case;

90.27 (22) violate section 82.49, relating to table funding;

90.28 (23) make, provide, or arrange for a residential mortgage loan all or a portion  
90.29 of the proceeds of which are used to fully or partially pay off a "special mortgage"  
90.30 unless the borrower has obtained a written certification from an authorized independent  
90.31 loan counselor that the borrower has received counseling on the advisability of the  
90.32 loan transaction. For purposes of this section, "special mortgage" means a residential  
90.33 mortgage loan originated, subsidized, or guaranteed by or through a state, tribal, or  
90.34 local government, or nonprofit organization, that bears one or more of the following  
90.35 nonstandard payment terms which substantially benefit the borrower: (i) payments vary  
90.36 with income; (ii) payments of principal or interest are not required or can be deferred under

91.1 specified conditions; (iii) principal or interest is forgivable under specified conditions;  
91.2 or (iv) where no interest or an annual interest rate of two percent or less is charged in  
91.3 connection with the loan. For purposes of this section, "authorized independent loan  
91.4 counselor" means a nonprofit, third-party individual or organization providing homebuyer  
91.5 education programs, foreclosure prevention services, mortgage loan counseling, or credit  
91.6 counseling certified by the United States Department of Housing and Urban Development,  
91.7 the Minnesota Home Ownership Center, the Minnesota Mortgage Foreclosure Prevention  
91.8 Association, AARP, or NeighborWorks America;

91.9 (24) make, provide, or arrange for a residential mortgage loan without verifying  
91.10 the borrower's reasonable ability to pay the scheduled payments of the following, as  
91.11 applicable: principal; interest; real estate taxes; homeowner's insurance, assessments,  
91.12 and mortgage insurance premiums. For loans in which the interest rate may vary, the  
91.13 reasonable ability to pay shall be determined based on a fully indexed rate and a repayment  
91.14 schedule which achieves full amortization over the life of the loan. For all residential  
91.15 mortgage loans, the borrower's income and financial resources must be verified by tax  
91.16 returns, payroll receipts, bank records, or other similarly reliable documents.

91.17 Nothing in this section shall be construed to limit a mortgage originator's or exempt  
91.18 person's ability to rely on criteria other than the borrower's income and financial resources  
91.19 to establish the borrower's reasonable ability to repay the residential mortgage loan,  
91.20 including criteria established by the United States Department of Veterans Affairs or the  
91.21 United States Department of Housing and Urban Development for interest rate reduction  
91.22 refinancing loans or streamline loans, or criteria authorized or promulgated by the  
91.23 Federal National Mortgage Association or Federal Home Loan Mortgage Corporation;  
91.24 however, such other criteria must be verified through reasonably reliable methods and  
91.25 documentation. The mortgage originator's analysis of the borrower's reasonable ability  
91.26 to repay may include, but is not limited to, consideration of the following items, if  
91.27 verified: (1) the borrower's current and expected income; (2) current and expected cash  
91.28 flow; (3) net worth and other financial resources other than the consumer's equity in the  
91.29 dwelling that secures the loan; (4) current financial obligations; (5) property taxes and  
91.30 insurance; (6) assessments on the property; (7) employment status; (8) credit history; (9)  
91.31 debt-to-income ratio; (10) credit scores; (11) tax returns; (12) pension statements; and  
91.32 (13) employment payment records, provided that no mortgage originator shall disregard  
91.33 facts and circumstances that indicate that the financial or other information submitted by  
91.34 the consumer is inaccurate or incomplete. A statement by the borrower to the residential  
91.35 mortgage originator or exempt person of the borrower's income and resources or sole

92.1 reliance on any single item listed above is not sufficient to establish the existence of the  
92.2 income or resources when verifying the reasonable ability to pay.

92.3 (25) engage in "churning." As used in this section, "churning" means knowingly or  
92.4 intentionally making, providing, or arranging for a residential mortgage loan when the  
92.5 new residential mortgage loan does not provide a reasonable, tangible net benefit to the  
92.6 borrower considering all of the circumstances including the terms of both the new and  
92.7 refinanced loans, the cost of the new loan, and the borrower's circumstances;

92.8 (26) the first time a residential mortgage originator orally informs a borrower of the  
92.9 anticipated or actual periodic payment amount for a first-lien residential mortgage loan  
92.10 which does not include an amount for payment of property taxes and hazard insurance,  
92.11 the residential mortgage originator must inform the borrower that an additional amount  
92.12 will be due for taxes and insurance and, if known, disclose to the borrower the amount of  
92.13 the anticipated or actual periodic payments for property taxes and hazard insurance. This  
92.14 same oral disclosure must be made each time the residential mortgage originator orally  
92.15 informs the borrower of a different anticipated or actual periodic payment amount change  
92.16 from the amount previously disclosed. A residential mortgage originator need not make  
92.17 this disclosure concerning a refinancing loan if the residential mortgage originator knows  
92.18 that the borrower's existing loan that is anticipated to be refinanced does not have an  
92.19 escrow account; or

92.20 (27) make, provide, or arrange for a residential mortgage loan, other than a reverse  
92.21 mortgage pursuant to United States Code, title 15, chapter 41, if the borrower's compliance  
92.22 with any repayment option offered pursuant to the terms of the loan will result in negative  
92.23 amortization during any six-month period.

92.24 (b) Paragraph (a), clauses (24) through (27), do not apply to a state or federally  
92.25 chartered bank, savings bank, or credit union, an institution chartered by Congress under  
92.26 the Farm Credit Act, or to a person making, providing, or arranging a residential mortgage  
92.27 loan originated or purchased by a state agency or a tribal or local unit of government. This  
92.28 paragraph supersedes any inconsistent provision of this chapter.

92.29 Sec. 10. Minnesota Statutes 2008, section 60A.124, is amended to read:

92.30 **60A.124 INDEPENDENT AUDIT.**

92.31 The audit report of the independent certified public accountant that performs the  
92.32 audit of an insurer's annual statement as required under section ~~60A.129~~ 60A.1291,  
92.33 subdivision ~~3~~ 2, ~~paragraph (a)~~, should contain a statement as to whether anything, in  
92.34 connection with their audit, came to their attention that caused them to believe that the

93.1 insurer failed to adopt and consistently apply the valuation procedure as required by  
93.2 sections 60A.122 and 60A.123.

93.3 Sec. 11. [60A.1291] ANNUAL AUDIT.

93.4 Subdivision 1. Definitions. The definitions in this subdivision apply to this section.

93.5 (a) "Accountant" and "independent public accountant" mean an independent certified  
93.6 public accountant or accounting firm in good standing with the American Institute of  
93.7 Certified Public Accountants and in all states in which the accountant or firm is licensed  
93.8 or is required to be licensed to practice. For Canadian and British companies, the term  
93.9 means a Canadian-chartered or British-chartered accountant.

93.10 (b) "Audit committee" means a committee or equivalent body established by the  
93.11 board of directors of an entity for the purpose of overseeing the accounting and financial  
93.12 reporting processes of an insurer or group of insurers, and audits of financial statements of  
93.13 the insurer or group of insurers. The audit committee of any entity that controls a group of  
93.14 insurers may be deemed to be the audit committee for one or more of these controlled  
93.15 insurers solely for the purposes of this section at the election of the controlling person  
93.16 under subdivision 15, paragraph (e). If an audit committee is not designated by the insurer,  
93.17 the insurer's entire board of directors constitutes the audit committee.

93.18 (c) "Indemnification" means an agreement of indemnity or a release from liability  
93.19 where the intent or effect is to shift or limit in any manner the potential liability of the  
93.20 person or firm for failure to adhere to applicable auditing or professional standards,  
93.21 whether or not resulting in part from knowing of other misrepresentations made by the  
93.22 insurer or its representatives.

93.23 (d) "Independent board member" has the same meaning as described in subdivision  
93.24 15, paragraph (c).

93.25 (e) "Internal control over financial reporting" means a process effected by an entity's  
93.26 board of directors, management, and other personnel designed to provide reasonable  
93.27 assurance regarding the reliability of the financial statements, for example, those items  
93.28 specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and includes  
93.29 those policies and procedures that:

93.30 (1) pertain to the maintenance of records that, in reasonable detail, accurately and  
93.31 fairly reflect the transactions and dispositions of assets;

93.32 (2) provide reasonable assurance that transactions are recorded as necessary to permit  
93.33 preparation of the financial statements, for example, those items specified in subdivision 4,  
93.34 paragraphs (a), clauses (2) to (6), (b), and (c), and that receipts and expenditures are being  
93.35 made only in accordance with authorizations of management and directors; and

94.1 (3) provide reasonable assurance regarding prevention or timely detection of  
94.2 unauthorized acquisition, use, or disposition of assets that could have a material effect on  
94.3 the financial statements, for example, those items specified in subdivision 4, paragraphs  
94.4 (a), clauses (2) to (6), (b), and (c).

94.5 (f) "SEC" means the United States Securities and Exchange Commission.

94.6 (g) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the  
94.7 SEC's rules and regulations promulgated under it.

94.8 (h) "Section 404 report" means management's report on "internal control over  
94.9 financial reporting" as defined by the SEC and the related attestation report of the  
94.10 independent certified public accountant as described in paragraph (a).

94.11 (i) "SOX compliant entity" means an entity that either is required to be  
94.12 compliant with, or voluntarily is compliant with, all of the following provisions of the  
94.13 Sarbanes-Oxley Act of 2002: (i) the preapproval requirements of Section 201 (section  
94.14 10A(i) of the Securities Exchange Act of 1934); (ii) the audit committee independence  
94.15 requirements of Section 301 (section 10A(m)(3) of the Securities Exchange Act of 1934);  
94.16 and (iii) the internal control over financial reporting requirements of Section 404 (Item  
94.17 308 of SEC Regulation S-K).

94.18 Subd. 2. **Filing requirements.** Every insurance company doing business in this  
94.19 state, including fraternal benefit societies, reciprocal exchanges, service plan corporations  
94.20 licensed pursuant to chapter 62C, and legal service plans licensed pursuant to chapter  
94.21 62G, unless exempted by the commissioner pursuant to subdivision 9, paragraph (a), or by  
94.22 subdivision 18, shall have an annual audit of the financial activities of the most recently  
94.23 completed calendar year performed by an independent certified public accountant, and  
94.24 shall file the report of this audit with the commissioner on or before June 1 for the  
94.25 immediately preceding year ending December 31. The commissioner may require an  
94.26 insurer to file an audited financial report earlier than June 1 with 90 days' advance notice  
94.27 to the insurer.

94.28 Extensions of the June 1 filing date may be granted by the commissioner for 30-day  
94.29 periods upon a showing by the insurer and its independent certified public accountant of  
94.30 the reasons for requesting the extension and a determination by the commissioner of good  
94.31 cause for the extension.

94.32 The request for extension must be submitted in writing not less than ten days before  
94.33 the due date in sufficient detail to permit the commissioner to make an informed decision  
94.34 with respect to the requested extension.

95.1 If an extension is granted in accordance with this subdivision, a similar extension of  
95.2 30 days is granted to the filing of management's report of internal control over financial  
95.3 reporting.

95.4 Every insurer required to file an annual audited financial report pursuant to this  
95.5 subdivision shall designate a group of individuals as constituting its audit committee. The  
95.6 audit committee of an entity that controls an insurer may be deemed to be the insurer's  
95.7 audit committee for purposes of this subdivision at the election of the controlling person.

95.8 Subd. 3. **Exemptions.** Foreign and alien insurers filing audited financial reports  
95.9 in another state under the other state's requirements of audited financial reports which  
95.10 have been found by the commissioner to be substantially similar to these requirements  
95.11 are exempt from this section if a copy of the audited financial report, communication of  
95.12 internal control related matters noted in an audit, accountant's letter of qualifications, and  
95.13 report on significant deficiencies in internal controls, which are filed with the other state,  
95.14 are filed with the commissioner in accordance with the filing dates specified in subdivision  
95.15 2 (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion  
95.16 Department of Insurance); and a copy of any notification of adverse financial condition  
95.17 report filed with the other state is filed with the commissioner within the time specified  
95.18 in subdivision 11. Foreign or alien insurers required to file management's report of  
95.19 internal control over financial reporting in another state are exempt from filing the report  
95.20 in this state provided the other state has substantially similar reporting requirements and  
95.21 the report is filed with the commissioner of the other state within the time specified.  
95.22 This subdivision does not prohibit or in any way limit the commissioner from ordering,  
95.23 conducting, and performing examinations of insurers under the authority of this chapter.

95.24 Subd. 4. **Contents of annual audit; financial report.** (a) The annual audited  
95.25 financial report must report, in conformity with statutory accounting practices required  
95.26 or permitted by the commissioner of insurance of the state of domicile, the financial  
95.27 position of the insurer as of the end of the most recent calendar year and the results of  
95.28 its operations, cash flows, and changes in capital and surplus for the year ended. The  
95.29 annual audited financial report must include:

95.30 (1) a report of an independent certified public accountant;

95.31 (2) a balance sheet reporting admitted assets, liabilities, capital, and surplus;

95.32 (3) a statement of operations;

95.33 (4) a statement of cash flows;

95.34 (5) a statement of changes in capital and surplus; and

95.35 (6) notes to the financial statements.

96.1 (b) The notes required under paragraph (a) are those required by the appropriate  
 96.2 National Association of Insurance Commissioners (NAIC) annual statement instructions  
 96.3 and National Association of Insurance Commissioners Accounting Practices and  
 96.4 Procedures Manual and include reconciliation of differences, if any, between the audited  
 96.5 statutory financial statements and the annual statement filed under section 60A.13,  
 96.6 subdivision 1, with a written description of the nature of these differences.

96.7 (c) The financial statements included in the audited financial report must be prepared  
 96.8 in a form and using language and groupings substantially the same as the relevant sections  
 96.9 of the annual statement of the insurer filed with the commissioner. The financial statement  
 96.10 must be comparative, presenting the amounts as of December 31 of the current year and  
 96.11 the amounts as of the immediately preceding December 31. In the first year in which  
 96.12 an insurer is required to file an audited financial report, the comparative data may be  
 96.13 omitted. The amounts may be rounded to the nearest \$1,000, and all immaterial amounts  
 96.14 may be combined.

96.15 Subd. 5. **Designation of independent certified public accountant.** Each insurer  
 96.16 required by this section to file an annual audited financial report must notify the  
 96.17 commissioner in writing of the name and address of the independent certified public  
 96.18 accountant or accounting firm retained to conduct the annual audit within 60 days after  
 96.19 becoming subject to the annual audit requirement. The insurer shall obtain from the  
 96.20 accountant a letter which states that the accountant is aware of the provisions that relate  
 96.21 to accounting and financial matters in the insurance laws and the rules of the insurance  
 96.22 regulatory authority of the state of domicile. The letter shall affirm that the accountant will  
 96.23 express an opinion on the financial statements in terms of their conformity to the statutory  
 96.24 accounting practices prescribed or otherwise permitted by that insurance regulatory  
 96.25 authority, specifying the exceptions believed to be appropriate. A copy of the accountant's  
 96.26 letter shall be filed with the commissioner.

96.27 Subd. 6. **Report of disagreements.** If an accountant who was the accountant for  
 96.28 the immediately preceding filed audited financial report is dismissed or resigns, the  
 96.29 insurer shall notify the commissioner of this event within five business days. Within  
 96.30 ten business days of this notification, the insurer shall also furnish the commissioner  
 96.31 with a separate letter stating whether in the 24 months preceding this event there were  
 96.32 any disagreements with the former accountant on any matter of accounting principles or  
 96.33 practices, financial statement disclosure, or auditing scope or procedure, which, if not  
 96.34 resolved to the satisfaction of the former accountant, would have caused that person to  
 96.35 make reference to the subject matter of the disagreement in connection with the opinion  
 96.36 on the financial statements. The disagreements required to be reported in response to this

97.1 subdivision include both those resolved to the former accountant's satisfaction and those  
 97.2 not resolved to the former accountant's satisfaction. Disagreements contemplated by this  
 97.3 subdivision are those disagreements between personnel of the insurer responsible for  
 97.4 presentation of its financial statements and personnel of the accounting firm responsible  
 97.5 for rendering its report. The insurer shall also in writing request the former accountant  
 97.6 to furnish a letter addressed to the insurer stating whether the accountant agrees with  
 97.7 the statements contained in the insurer's letter and, if not, stating the reasons for any  
 97.8 disagreement. The insurer shall furnish this responsive letter from the former accountant  
 97.9 to the commissioner together with its own.

97.10 Subd. 7. **Qualifications of independent certified public accountant.** (a) The  
 97.11 commissioner shall not recognize any person or firm as a qualified independent certified  
 97.12 public accountant that is not in good standing with the American Institute of Certified  
 97.13 Public Accountants and in all states in which the accountant is licensed or is required  
 97.14 to be licensed to practice, or for a Canadian or British company, that is not a chartered  
 97.15 accountant, or that has either directly or indirectly entered into an agreement of indemnity  
 97.16 or release from liability (collectively referred to as an indemnification agreement) with  
 97.17 respect to the audit of the insurer. Except as otherwise provided, an independent certified  
 97.18 public accountant must be recognized as qualified as long as the person conforms to the  
 97.19 standards of the person's profession, as contained in the Code of Professional Conduct  
 97.20 of the American Institute of Certified Public Accountants and the Code of Professional  
 97.21 Conduct of the Minnesota Board of Public Accountancy or similar code and the person is  
 97.22 properly licensed in good standing with all required state boards of accountancy.

97.23 (b) The lead or coordinating audit partner, having primary responsibility for the  
 97.24 audit, may not act in that capacity for more than five consecutive years. The person shall  
 97.25 be disqualified from acting in that or a similar capacity for the same company or its  
 97.26 insurance subsidiaries or affiliates for a period of five consecutive years. An insurer may  
 97.27 make application to the commissioner for relief from this rotation requirement on the  
 97.28 basis of unusual circumstances. This application must be made at least 30 days before  
 97.29 the end of the calendar year. The commissioner may consider the following factors in  
 97.30 determining if the relief should be granted:

97.31 (1) number of partners, expertise of the partners, or the number of insurance clients  
 97.32 in the currently registered firm;

97.33 (2) premium volume of the insurer; or

97.34 (3) number of jurisdictions in which the insurer transacts business.

97.35 The insurer shall file, with its annual statement filing, the approval for relief from this  
 97.36 paragraph with the states that it is licensed in or doing business in and with the NAIC. If

98.1 the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the  
98.2 approval in an electronic format acceptable to the NAIC.

98.3 (c) The commissioner shall not recognize as a qualified independent certified public  
98.4 accountant, nor accept an annual audited financial report, prepared in whole or in part by  
98.5 an accountant who provides to an insurer, contemporaneously with the audit, the following  
98.6 nonaudit services:

98.7 (1) bookkeeping or other services related to the accounting records or financial  
98.8 statements of the insurer;

98.9 (2) financial information systems design and implementation;

98.10 (3) appraisal or valuation services, fairness opinions, or contribution in-kind reports;

98.11 (4) actuarially oriented advisory services involving the determination of amounts  
98.12 recorded in the financial statements. The accountant may assist an insurer in understanding  
98.13 the methods, assumptions, and inputs used in the determination of amounts recorded in the  
98.14 financial statement only if it is reasonable to conclude that the services provided will not  
98.15 be subject to audit procedures during an audit of the insurer's financial statements. An  
98.16 accountant's actuary may also issue an actuarial opinion or certification on an insurer's  
98.17 reserves if the following conditions have been met:

98.18 (i) neither the accountant nor the accountant's actuary has performed any  
98.19 management functions or made any management decisions;

98.20 (ii) the insurer has competent personnel, or engages a third-party actuary, to estimate  
98.21 the loss reserves for which management takes responsibility; and

98.22 (iii) the accountant's actuary tests the reasonableness of the reserves after the  
98.23 insurer's management has determined the amount of the loss reserves;

98.24 (5) internal audit outsourcing services;

98.25 (6) management functions or human resources;

98.26 (7) broker or dealer, investment adviser, or investment banking services;

98.27 (8) legal services or expert services unrelated to the audit; and

98.28 (9) any other services that the commissioner determines, by rule, are impermissible.

98.29 (d) The commissioner shall not recognize as a qualified independent certified public  
98.30 accountant, nor accept any audited financial report, prepared in whole or in part by any  
98.31 natural person who has been convicted of fraud, bribery, a violation of the Racketeer  
98.32 Influenced and Corrupt Organizations Act, United States Code, title 18, sections 1961 to  
98.33 1968, or any dishonest conduct or practices under federal or state law, has been found to  
98.34 have violated the insurance laws of this state with respect to any previous reports submitted  
98.35 under this section, or has demonstrated a pattern or practice of failing to detect or disclose  
98.36 material information in previous reports filed under the provisions of this section.

99.1 (e) The commissioner, after notice and hearing under chapter 14, may find that  
99.2 the accountant is not qualified for purposes of expressing an opinion on the financial  
99.3 statements in the annual audited financial report. The commissioner may require the  
99.4 insurer to replace the accountant with another whose relationship with the insurer is  
99.5 qualified within the meaning of this section.

99.6 Subd. 8. Exemptions to qualifications of certified public accountant. (a) Insurers  
99.7 having direct written and assumed premiums of less than \$100,000,000 in any calendar  
99.8 year may request an exemption from subdivision 7, paragraph (c). The insurer shall  
99.9 file with the commissioner a written statement discussing the reasons why the insurer  
99.10 should be exempt from these provisions. If the commissioner finds, upon review of this  
99.11 statement, that compliance with this section would constitute a financial or organizational  
99.12 hardship upon the insurer, an exemption may be granted.

99.13 (b) A qualified independent certified public accountant who performs the audit  
99.14 may engage in other nonaudit services, including tax services, that are not described in  
99.15 subdivision 7, paragraph (c), only if the activity is approved in advance by the audit  
99.16 committee, in accordance with paragraph (c).

99.17 (c) All auditing services and nonaudit services provided to an insurer by the qualified  
99.18 independent certified public accountant of the insurer must be preapproved by the audit  
99.19 committee. The preapproval requirement is waived with respect to nonaudit services if  
99.20 the insurer is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a  
99.21 SOX compliant entity or:

99.22 (1) the aggregate amount of all such nonaudit services provided to the insurer  
99.23 constitutes not more than five percent of the total amount of fees paid by the insurer to  
99.24 its qualified independent certified public accountant during the fiscal year in which the  
99.25 nonaudit services are provided;

99.26 (2) the services were not recognized by the insurer at the time of the engagement to  
99.27 be nonaudit services; and

99.28 (3) the services are promptly brought to the attention of the audit committee and  
99.29 approved before the completion of the audit by the audit committee or by one or more  
99.30 members of the audit committee who are the members of the board of directors to whom  
99.31 authority to grant such approvals has been delegated by the audit committee.

99.32 (d) The audit committee may delegate to one or more designated members of the  
99.33 audit committee the authority to grant the preapprovals required by paragraph (c). The  
99.34 decisions of any member to whom this authority is delegated must be presented to the full  
99.35 audit committee at each of its scheduled meetings.

100.1 (e) The commissioner shall not recognize an independent certified public accountant  
100.2 as qualified for a particular insurer if a member of the board, president, chief executive  
100.3 officer, controller, chief financial officer, chief accounting officer, or any person serving in  
100.4 an equivalent position for that insurer, was employed by the independent certified public  
100.5 accountant and participated in the audit of that insurer during the one-year period preceding  
100.6 the date that the most current statutory opinion is due. This paragraph applies only to  
100.7 partners and senior managers involved in the audit. An insurer may make application to  
100.8 the commissioner for relief from this paragraph on the basis of unusual circumstances.

100.9 (f) The insurer shall file, with its annual statement filing, the approval for relief with  
100.10 the states that it is licensed in or doing business in and the NAIC. If the nondomestic state  
100.11 accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic  
100.12 format acceptable to the NAIC.

100.13 Subd. 9. **Consolidated or combined audits.** (a) The commissioner may allow  
100.14 an insurer to file consolidated or combined audited financial statements required by  
100.15 subdivision 2, in lieu of separate annual audited financial statements, where it can be  
100.16 demonstrated that an insurer is part of a group of insurance companies that has a pooling  
100.17 or 100 percent reinsurance agreement which substantially affects the solvency and  
100.18 integrity of the reserves of the insurer and the insurer cedes all of its direct and assumed  
100.19 business to the pool. An affiliated insurance company not meeting these requirements may  
100.20 be included in the consolidated or combined audited financial statements, if the company's  
100.21 total admitted assets are less than five percent of the consolidated group's total admitted  
100.22 assets. If these circumstances exist, then the company may file a written application to  
100.23 file consolidated or combined audited financial statements. This application must be for  
100.24 a specified period.

100.25 (b) Upon written application by a domestic insurer, the commissioner may  
100.26 authorize the domestic insurer to include additional affiliated insurance companies in the  
100.27 consolidated or combined audited financial statements. A foreign insurer must obtain the  
100.28 prior written authorization of the commissioner of its state of domicile in order to submit  
100.29 an application for authority to file consolidated or combined audited financial statements.  
100.30 This application must be for a specified period.

100.31 (c) A consolidated annual audit filing must include a columnar consolidated or  
100.32 combining worksheet. Amounts shown on the audited consolidated or combined financial  
100.33 statement must be shown on the worksheet. Amounts for each insurer must be stated  
100.34 separately. Noninsurance operations may be shown on the worksheet on a combined or  
100.35 individual basis. Explanations of consolidating or eliminating entries must be shown on  
100.36 the worksheet. A reconciliation of any differences between the amounts shown in the

101.1 individual insurer columns of the worksheet and comparable amounts shown on the annual  
101.2 statement of the insurers must be included on the worksheet.

101.3 **Subd. 10. Scope of audit and report of independent certified public accountant.**

101.4 Financial statements furnished pursuant to subdivision 4 must be examined by an  
101.5 independent certified public accountant. The audit of the insurer's financial statements  
101.6 must be conducted in accordance with generally accepted auditing standards. In  
101.7 accordance with AICPA Statement on Auditing Standards (SAS) No. 109, Understanding  
101.8 the Entity and its Environment and Assessing the Risks of Material Misstatement, or its  
101.9 replacement, the independent certified public accountant should obtain an understanding  
101.10 of internal control sufficient to plan the audit. To the extent required by SAS No. 109,  
101.11 for those insurers required to file a management's report of internal control over financial  
101.12 reporting pursuant to subdivision 17, the independent certified public accountant should  
101.13 consider (as that term is defined in SAS No. 102, Defining Professional Requirements in  
101.14 Statements on Auditing Standards or its replacement) the most recently available report in  
101.15 planning and performing the audit of the statutory financial statements. Consideration  
101.16 should be given to other procedures illustrated in the Financial Condition Examiners  
101.17 Handbook promulgated by the National Association of Insurance Commissioners as the  
101.18 independent certified public accountant deems necessary.

101.19 **Subd. 11. Notification of adverse financial condition.** The insurer required to  
101.20 furnish the annual audited financial report shall require the independent certified public  
101.21 accountant to provide written notice within five business days to the board of directors of  
101.22 the insurer or its audit committee of any determination by that independent certified public  
101.23 accountant that the insurer has materially misstated its financial condition as reported to  
101.24 the commissioner as of the balance sheet date currently under audit or that the insurer does  
101.25 not meet the minimum capital and surplus requirement of sections 60A.07, 66A.32, and  
101.26 66A.33 as of that date. An insurer required to file an annual audited financial report who  
101.27 received a notification of adverse financial condition from the accountant shall file a  
101.28 copy of the notification with the commissioner within five business days of the receipt  
101.29 of the notification. The insurer shall provide the independent certified public accountant  
101.30 making the notification with evidence of the report being furnished to the commissioner.  
101.31 If the independent certified public accountant fails to receive the evidence within the  
101.32 required five-day period, the independent certified public accountant shall furnish to the  
101.33 commissioner a copy of the notification to the board of directors or its audit committee  
101.34 within the next five business days. No independent certified public accountant is liable in  
101.35 any manner to any person for any statement made in connection with this subdivision if  
101.36 the statement is made in good faith in compliance with this subdivision. If the accountant

102.1 becomes aware of facts which might have affected the audited financial report after  
102.2 the date it was filed, the accountant shall take the action prescribed by AU section  
102.3 561, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report of the  
102.4 Professional Standards issued by the American Institute of Certified Public Accountants,  
102.5 or its replacement.

102.6 Subd. 12. **Communication of internal control related matters noted in an**  
102.7 **audit.** In addition to the annual audited financial report, each insurer shall furnish the  
102.8 commissioner with a written communication as to any unremediated material weaknesses  
102.9 in its internal control over financial reporting noted during the audit. The communication  
102.10 must be prepared by the accountant within 60 days after the filing of the annual audited  
102.11 financial report, and must contain a description of any unremediated material weakness, as  
102.12 the term material weakness is defined by SAS No. 115, Communicating Internal Control  
102.13 Related Matters Identified in an Audit, or its replacement, as of December 31 immediately  
102.14 preceding so as to coincide with the audited financial report discussed in subdivision 2 in  
102.15 the insurer's internal control over financial reporting noted by the accountant during the  
102.16 course of their audit of the financial statements. If no unremediated material weaknesses  
102.17 were noted, the communication should so state.

102.18 The insurer is required to provide a description of remedial actions taken or  
102.19 proposed to correct unremediated material weaknesses, if the actions are not described in  
102.20 the accountant's communication.

102.21 Subd. 13. **Accountant's letter of qualification.** The accountant shall furnish the  
102.22 insurer in connection with, and for inclusion in, the filing of the annual audited financial  
102.23 report, a letter stating that the accountant is independent with respect to the insurer and  
102.24 conforms to the standards of the accountant's profession as contained in the Code of  
102.25 Professional Conduct of the American Institute of Certified Public Accountants and the  
102.26 Code of Professional Conduct of the Minnesota Board of Accountancy or similar code;  
102.27 the background and experience in general, and the experience in audits of insurers of the  
102.28 staff assigned to the engagement and whether each is an independent certified public  
102.29 accountant; that the accountant understands that the annual audited financial report and the  
102.30 opinion on it will be filed in compliance with this statute and that the commissioner will  
102.31 be relying on this information in the monitoring and regulation of the financial position of  
102.32 insurers; that the accountant consents to the requirements of subdivision 14 and that the  
102.33 accountant consents and agrees to make available for review by the commissioner, or the  
102.34 commissioner's designee or appointed agent, the work papers, as defined in subdivision  
102.35 14; a representation that the accountant is properly licensed in good standing by the  
102.36 appropriate state licensing authorities and is a member in good standing in the American

103.1 Institute of Certified Public Accountants; and a representation that the accountant complies  
103.2 with subdivision 7. Nothing in this section prohibits the accountant from utilizing staff  
103.3 the accountant deems appropriate where use is consistent with the standards prescribed  
103.4 by generally accepted auditing standards.

103.5 Subd. 14. **Availability and maintenance of independent certified public**  
103.6 **accountants' work papers.** Work papers are the records kept by the independent certified  
103.7 public accountant of the procedures followed, tests performed, information obtained, and  
103.8 conclusions reached pertinent to the independent certified public accountant's audit of the  
103.9 financial statements of an insurer. Work papers may include audit planning documents,  
103.10 work programs, analyses, memoranda, letters of confirmation and representation,  
103.11 management letters, abstracts of company documents, and schedules or commentaries  
103.12 prepared or obtained by the independent certified public accountant in the course of the  
103.13 audit of the financial statements of an insurer and that support the accountant's opinion.  
103.14 Every insurer required to file an audited financial report shall require the accountant,  
103.15 through the insurer, to make available for review by the examiners the work papers  
103.16 prepared in the conduct of the audit and any communications related to the audit between  
103.17 the accountant and the insurer. The work papers must be made available at the offices of  
103.18 the insurer, at the offices of the commissioner, or at any other reasonable place designated  
103.19 by the commissioner. The insurer shall require that the accountant retain the audit work  
103.20 papers and communications until the commissioner has filed a report on examination  
103.21 covering the period of the audit but no longer than seven years after the period reported  
103.22 upon, provided retention of the working papers beyond the seven years is not required by  
103.23 other professional or regulatory requirements. In the conduct of the periodic review by  
103.24 the examiners, it must be agreed that photocopies of pertinent audit work papers may be  
103.25 made and retained by the commissioner. These copies shall be part of the commissioner's  
103.26 work papers and must be given the same confidentiality as other examination work papers  
103.27 generated by the commissioner.

103.28 Subd. 15. **Requirements for audit committee.** (a) The audit committee must  
103.29 be directly responsible for the appointment, compensation, and oversight of the work  
103.30 of any accountant including resolution of disagreements between management and the  
103.31 accountant regarding financial reporting for the purpose of preparing or issuing the audited  
103.32 financial report or related work pursuant to this section. Each accountant shall report  
103.33 directly to the audit committee.

103.34 (b) Each member of the audit committee must be a member of the board of directors  
103.35 of the insurer or a member of the board of directors of an entity elected pursuant to  
103.36 paragraph (e) and subdivision 1, paragraph (b).

104.1 (c) In order to be considered independent for purposes of this section, a member of  
104.2 the audit committee may not, other than in his or her capacity as a member of the audit  
104.3 committee, the board of directors, or any other board committee, accept any consulting,  
104.4 advisory, or other compensatory fee from the entity or be an affiliated person of the entity  
104.5 or any subsidiary of the entity. However, if law requires board participation by otherwise  
104.6 nonindependent members, that law shall prevail and such members may participate in the  
104.7 audit committee and be designated as independent for audit committee purposes, unless  
104.8 they are an officer or employee of the insurer or one of its affiliates.

104.9 (d) If a member of the audit committee ceases to be independent for reasons outside  
104.10 the member's reasonable control, that person, with notice by the responsible entity to the  
104.11 state, may remain an audit committee member of the responsible entity until the earlier of  
104.12 the next annual meeting of the responsible entity or one year from the occurrence of the  
104.13 event that caused the member to be no longer independent.

104.14 (e) To exercise the election of the controlling person to designate the audit committee  
104.15 for purposes of this section, the ultimate controlling person shall provide written notice to  
104.16 the commissioners of the affected insurers. Notification must be made timely before the  
104.17 issuance of the statutory audit report and include a description of the basis for the election.  
104.18 The election can be changed through notice to the commissioner by the insurer, which  
104.19 shall include a description of the basis for the change. The election remains in effect for  
104.20 perpetuity, until rescinded.

104.21 (f) The audit committee shall require the accountant that performs for an insurer any  
104.22 audit required by this section to timely report to the audit committee in accordance with  
104.23 the requirements of SAS No. 114, The Auditor's Communication with Those Charged  
104.24 with Governance, or its replacement, including:

104.25 (1) all significant accounting policies and material permitted practices;

104.26 (2) all material alternative treatments of financial information within statutory  
104.27 accounting principles that have been discussed with management officials of the insurer,  
104.28 ramifications of the use of the alternative disclosures and treatments, and the treatment  
104.29 preferred by the accountant; and

104.30 (3) other material written communications between the accountant and the  
104.31 management of the insurer, such as any management letter or schedule of unadjusted  
104.32 differences.

104.33 (g) If an insurer is a member of an insurance holding company system, the reports  
104.34 required by paragraph (f) may be provided to the audit committee on an aggregate basis  
104.35 for insurers in the holding company system, provided that any substantial differences  
104.36 among insurers in the system are identified to the audit committee.

105.1 (h) The proportion of independent audit committee members shall meet or exceed  
105.2 the following criteria:

105.3 (1) for companies with prior calendar year direct written and assumed premiums \$0  
105.4 to \$300,000,000, no minimum requirements;

105.5 (2) for companies with prior calendar year direct written and assumed premiums  
105.6 over \$300,000,000 to \$500,000,000, majority of members must be independent; and

105.7 (3) for companies with prior calendar year direct written and assumed premiums  
105.8 over \$500,000,000, 75 percent or more must be independent.

105.9 (i) An insurer with direct written and assumed premium, excluding premiums  
105.10 reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less  
105.11 than \$500,000,000 may make application to the commissioner for a waiver from the  
105.12 requirements of this subdivision based upon hardship. The insurer shall file, with its  
105.13 annual statement filing, the approval for relief from this subdivision with the states that  
105.14 it is licensed in or doing business in and the NAIC. If the nondomestic state accepts  
105.15 electronic filing with the NAIC, the insurer shall file the approval in an electronic format  
105.16 acceptable to the NAIC.

105.17 This subdivision does not apply to foreign or alien insurers licensed in this state or  
105.18 an insurer that is a SOX compliant entity or a direct or indirect wholly-owned subsidiary  
105.19 of a SOX compliant entity.

105.20 **Subd. 16. Conduct of insurer in connection with the preparation of required**  
105.21 **reports and documents. (a) No director or officer of an insurer shall, directly or indirectly:**

105.22 (1) make or cause to be made a materially false or misleading statement to an  
105.23 accountant in connection with any audit, review, or communication required under this  
105.24 section; or

105.25 (2) omit to state, or cause another person to omit to state, any material fact necessary  
105.26 in order to make statements made, in light of the circumstances under which the statements  
105.27 were made, not misleading to an accountant in connection with any audit, review, or  
105.28 communication required under this section.

105.29 (b) No officer or director of an insurer, or any other person acting under the direction  
105.30 thereof, shall directly or indirectly take any action to coerce, manipulate, mislead, or  
105.31 fraudulently influence any accountant engaged in the performance of an audit pursuant to  
105.32 this section if that person knew or should have known that the action, if successful, could  
105.33 result in rendering the insurer's financial statements materially misleading.

105.34 (c) For purposes of paragraph (b), actions that, "if successful, could result in  
105.35 rendering the insurer's financial statements materially misleading" include, but are not

106.1 limited to, actions taken at any time with respect to the professional engagement period to  
106.2 coerce, manipulate, mislead, or fraudulently influence an accountant:

106.3 (1) to issue or reissue a report on an insurer's financial statements that is not  
106.4 warranted in the circumstances due to material violations of statutory accounting  
106.5 principles prescribed by the commissioner, generally accepted auditing standards, or  
106.6 other professional or regulatory standards;

106.7 (2) not to perform audit, review, or other procedures required by generally accepted  
106.8 auditing standards or other professional standards;

106.9 (3) not to withdraw an issued report; or

106.10 (4) not to communicate matters to an insurer's audit committee.

106.11 **Subd. 17. Management's report of internal control over financial reporting.**

106.12 (a) Every insurer required to file an audited financial report pursuant to this section that  
106.13 has annual direct written and assumed premiums, excluding premiums reinsured with the  
106.14 Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or  
106.15 more, shall prepare a report of the insurer's or group of insurers' internal control over  
106.16 financial reporting, as these terms are defined in subdivision 1. The report must be filed  
106.17 with the commissioner along with the communication of internal control related matters  
106.18 noted in an audit described under subdivision 12. Management's report of internal control  
106.19 over financial reporting shall be as of December 31 immediately preceding.

106.20 (b) Notwithstanding the premium threshold in paragraph (a), the commissioner may  
106.21 require an insurer to file management's report of internal control over financial reporting  
106.22 if the insurer is in any RBC level event, or meets any one or more of the standards of  
106.23 an insurer deemed to be in hazardous financial condition pursuant to sections 60G.20  
106.24 to 60G.22.

106.25 (c) An insurer or a group of insurers that is:

106.26 (1) directly subject to Section 404;

106.27 (2) part of a holding company system whose parent is directly subject to Section 404;

106.28 (3) not directly subject to Section 404 but is a SOX compliant entity; or

106.29 (4) a member of a holding company system whose parent is not directly subject to  
106.30 Section 404 but is a SOX compliant entity;

106.31 may file its or its parent's Section 404 report and an addendum in satisfaction of this  
106.32 requirement provided that those internal controls of the insurer or group of insurers  
106.33 having a material impact on the preparation of the insurer's or group of insurers' audited  
106.34 statutory financial statements, consisting of those items included in subdivision 4,  
106.35 paragraphs (a), clauses (2) to (6), (b), and (c), were included in the scope of the Section  
106.36 404 report. The addendum shall be a positive statement by management that there are

107.1 no material processes with respect to the preparation of the insurer's or group of insurers'  
107.2 audited statutory financial statements, consisting of those items included in subdivision 4,  
107.3 paragraphs (a), clauses (2) to (6), (b), and (c), excluded from the Section 404 report. If  
107.4 there are internal controls of the insurer or group of insurers that have a material impact on  
107.5 the preparation of the insurer's or group of insurers' audited statutory financial statements  
107.6 and those internal controls were not included in the scope of the Section 404 report, the  
107.7 insurer or group of insurers may either file (i) a report under this subdivision, or (ii) the  
107.8 Section 404 report and a report under this subdivision for those internal controls that have  
107.9 a material impact on the preparation of the insurer's or group of insurers' audited statutory  
107.10 financial statements not covered by the Section 404 report.

107.11 (d) Management's report of internal control over financial reporting shall include:

107.12 (1) a statement that management is responsible for establishing and maintaining  
107.13 adequate internal control over financial reporting;

107.14 (2) a statement that management has established internal control over financial  
107.15 reporting and an assertion, to the best of management's knowledge and belief, after diligent  
107.16 inquiry, as to whether its internal control over financial reporting is effective to provide  
107.17 reasonable assurance regarding the reliability of financial statements in accordance with  
107.18 statutory accounting principles;

107.19 (3) a statement that briefly describes the approach or processes by which  
107.20 management evaluated the effectiveness of its internal control over financial reporting;

107.21 (4) a statement that briefly describes the scope of work that is included and whether  
107.22 any internal controls were excluded;

107.23 (5) disclosure of any unremediated material weaknesses in the internal control over  
107.24 financial reporting identified by management as of December 31 immediately preceding.

107.25 Management is not permitted to conclude that the internal control over financial reporting  
107.26 is effective to provide reasonable assurance regarding the reliability of financial statements  
107.27 in accordance with statutory accounting principles if there is one or more unremediated  
107.28 material weaknesses in its internal control over financial reporting;

107.29 (6) a statement regarding the inherent limitations of internal control systems; and

107.30 (7) signatures of the chief executive officer and the chief financial officer or  
107.31 equivalent position or title.

107.32 (e) Management shall document and make available upon financial condition  
107.33 examination the basis upon which its assertions, required in paragraph (d), are made.

107.34 Management may base its assertions, in part, upon its review, monitoring, and testing of  
107.35 internal controls undertaken in the normal course of its activities.

108.1 (1) Management has discretion as to the nature of the internal control framework  
108.2 used, and the nature and extent of documentation, in order to make its assertion in a  
108.3 cost-effective manner and, as such, may include assembly of or reference to existing  
108.4 documentation.

108.5 (2) Management's report on internal control over financial reporting, required by  
108.6 paragraph (a), and any documentation provided in support of the report during the course  
108.7 of a financial condition examination, must be kept confidential by the Department of  
108.8 Commerce.

108.9 Subd. 18. **Exemptions.** (a) Upon written application of any insurer, the  
108.10 commissioner may grant an exemption from compliance with the provisions of this  
108.11 section. In order to receive an exemption, an insurer must demonstrate to the satisfaction  
108.12 of the commissioner that compliance would constitute a financial or organizational  
108.13 hardship upon the insurer. An exemption may be granted at any time and from time  
108.14 to time for specified periods. Within ten days from the denial of an insurer's written  
108.15 request for an exemption, the insurer may request in writing a hearing on its application  
108.16 for an exemption. This hearing must be held in accordance with chapter 14. Upon written  
108.17 application of any insurer, the commissioner may permit an insurer to file annual audited  
108.18 financial reports on some basis other than a calendar year basis for a specified period. An  
108.19 exemption may not be granted until the insurer presents an alternative method satisfying  
108.20 the purposes of this section. Within ten days from a denial of a written request for an  
108.21 exemption, the insurer may request in writing a hearing on its application. The hearing  
108.22 must be held in accordance with chapter 14.

108.23 (b) This section applies to all insurers, unless otherwise indicated, required to file  
108.24 an annual audit by subdivision 2, except insurers having less than \$1,000,000 of direct  
108.25 written premiums in this state in any calendar year and fewer than 1,000 policyholders  
108.26 or certificate holders of directly written policies nationwide at the end of the calendar  
108.27 year, are exempt from this section for that year, unless the commissioner makes a  
108.28 specific finding that compliance is necessary for the commissioner to carry out statutory  
108.29 responsibilities, except that insurers having assumed premiums from reinsurance contracts  
108.30 or treaties of \$1,000,000 or more are not exempt.

108.31 Subd. 19. **Canadian and British companies.** (a) In the case of Canadian and  
108.32 British insurers, the annual audited financial report means the annual statement of total  
108.33 business on the form filed by these companies with their domiciliary supervision authority  
108.34 and duly audited by an independent chartered accountant.

108.35 (b) For these insurers the letter required in subdivision 5 shall state that the  
108.36 accountant is aware of the requirements relating to the annual audited statement filed

109.1 with the commissioner under subdivision 2, and shall affirm that the opinion expressed  
109.2 is in conformity with those requirements.

109.3 Subd. 20. **Commercial mortgage loan valuation procedures.** A report of the  
109.4 independent certified public accountant that performs the audit of an insurer's annual  
109.5 statement as required under subdivision 2, shall be filed and contain a statement as to  
109.6 whether anything in connection with the audit came to the accountant's attention that  
109.7 caused the accountant to believe that the insurer failed to adopt and consistently apply the  
109.8 valuation procedures as required by sections 60A.122 and 60A.123.

109.9 Subd. 21. **Examinations.** (a) The commissioner or a designated representative shall  
109.10 determine the nature, scope, and frequency of examinations under this section conducted  
109.11 by examiners under section 60A.031. These examinations may cover all aspects of the  
109.12 insurer's assets, condition, affairs, and operations and may include and be supplemented  
109.13 by audit procedures performed by independent certified public accountants. Scheduling  
109.14 of examinations will take into account all relevant matters with respect to the insurer's  
109.15 condition, including results of the National Association of Insurance Commissioners,  
109.16 Insurance Regulatory Information Systems, changes in management, results of market  
109.17 conduct examinations, and audited financial reports. The type of examinations performed  
109.18 by examiners under this section must be compliance examinations, targeted examinations,  
109.19 and comprehensive examinations.

109.20 (b) Compliance examinations will consist of a review of the accountant's workpapers  
109.21 defined under this section and a general review of the insurer's corporate affairs and  
109.22 insurance operations to determine compliance with the Minnesota insurance laws and  
109.23 the rules of the Department of Commerce. The examiners may perform alternative or  
109.24 additional examination procedures to supplement those performed by the accountant  
109.25 when the examiners determine that the procedures are necessary to verify the financial  
109.26 condition of the insurer.

109.27 (c) Targeted examinations may cover limited areas of the insurer's operations as  
109.28 the commissioner may deem appropriate.

109.29 (d) Comprehensive examinations will be performed when the report of the  
109.30 accountant as provided for in subdivision 7, paragraph (b), the notification required by  
109.31 subdivision 7, paragraph (c), the results of compliance or targeted examinations, or other  
109.32 circumstances indicate in the judgment of the commissioner or a designated representative  
109.33 that a complete examination of the condition and affairs of the insurer is necessary.

109.34 (e) Upon completion of each targeted, compliance, or comprehensive examination,  
109.35 the examiner appointed by the commissioner shall make a full and true report on the  
109.36 results of the examination. Each report shall include a general description of the audit

110.1 procedures performed by the examiners and the procedures of the accountant that  
110.2 the examiners may have utilized to supplement their examination procedures and the  
110.3 procedures that were performed by the registered independent certified public accountant  
110.4 if included as a supplement to the examination.

110.5 Subd. 22. **Penalties.** An annual statement, report, or document related to the  
110.6 business of insurance must not be filed with the commissioner or issued to the public if it  
110.7 is signed by anyone who is represented in the instrument as an "accountant," unless the  
110.8 person is qualified as defined by this section. A violation of this subdivision is a violation  
110.9 of section 72A.19 and punishable in accordance with section 72A.25.

110.10 **EFFECTIVE DATE.** (a) Domestic insurers retaining a certified public accountant  
110.11 on the effective date of this section who qualify as independent shall comply with this  
110.12 section for the year ending December 31, 2010, and each year thereafter unless the  
110.13 commissioner permits otherwise.

110.14 (b) Domestic insurers not retaining a certified public accountant on the effective  
110.15 date of this section who qualifies as independent shall meet the following schedule for  
110.16 compliance unless the commissioner permits otherwise.

110.17 (1) As of December 31, 2010, file with the commissioner an audited financial report.

110.18 (2) For the year ending December 31, 2010, and each year thereafter, such insurers  
110.19 shall file with the commissioner all reports and communication required by this section.

110.20 (c) Foreign insurers shall comply with this section for the year ending December 31,  
110.21 2010, and each year thereafter, unless the commissioner permits otherwise.

110.22 (d) The requirements of subdivision 7, paragraph (b), are in effect for audits of the  
110.23 year beginning January 1, 2010, and thereafter.

110.24 (e) The requirements of subdivision 15 are in effect January 1, 2010. An insurer or  
110.25 group of insurers that is not required to have independent audit committee members or  
110.26 only a majority of independent audit committee members, as opposed to a supermajority,  
110.27 because the total written and assumed premium is below the threshold and subsequently  
110.28 becomes subject to one of the independence requirements due to changes in premium has  
110.29 one year following the year the threshold is exceeded, but not earlier than January 1,  
110.30 2010, to comply with the independence requirements. Likewise, an insurer that becomes  
110.31 subject to one of the independence requirements as a result of a business combination  
110.32 has one calendar year following the date of acquisition or combination to comply with  
110.33 the independence requirements.

110.34 (f) An insurer or group of insurers that is not required to file a report because the total  
110.35 written premium is below the threshold and subsequently becomes subject to the reporting  
110.36 requirements has two years following the year the threshold is exceeded, but not earlier

111.1 than December 31, 2010, to file a report. Likewise, an insurer acquired in a business  
111.2 combination has two calendar years following the date of acquisition or combination to  
111.3 comply with the reporting requirements.

111.4 (g) The requirements and provisions contained in this section are effective January  
111.5 1, 2010, and thereafter.

111.6 Sec. 12. Minnesota Statutes 2008, section 60B.03, subdivision 15, is amended to read:

111.7 Subd. 15. **Insolvency.** "Insolvency" means:

111.8 (a) For an insurer organized under sections 67A.01 to 67A.26, the inability to pay  
111.9 any uncontested debt as it becomes due ~~or any other loss within 30 days after the due date~~  
111.10 ~~specified in the first assessment notice issued pursuant to section 67A.17.~~

111.11 (b) For any other insurer, that it is unable to pay its debts or meet its obligations  
111.12 as they mature or that its assets do not exceed its liabilities plus the greater of (1) any  
111.13 capital and surplus required by law to be constantly maintained, or (2) its authorized and  
111.14 issued capital stock. For purposes of this subdivision, "assets" includes one-half of the  
111.15 maximum total assessment liability of the policyholders of the insurer, and "liabilities"  
111.16 includes reserves required by law. For policies issued on the basis of unlimited assessment  
111.17 liability, the maximum total liability, for purposes of determining solvency only, shall be  
111.18 deemed to be that amount that could be obtained if there were 100 percent collection of an  
111.19 assessment at the rate of ten mills per dollar of insurance written by it and in force.

111.20 Sec. 13. Minnesota Statutes 2008, section 60L.02, subdivision 3, is amended to read:

111.21 Subd. 3. **Additional requirements.** (a) In order to be eligible to be governed by  
111.22 sections 60L.01 to 60L.15, the insurer must meet the requirements specified under this  
111.23 subdivision.

111.24 (b) The insurer shall:

111.25 (1) have been in continuous operation for a minimum of five years; and

111.26 (2) maintain a minimum claims-paying, financial strength, or equivalent rating from  
111.27 at least one nationally recognized statistical rating organization in one of the organization's  
111.28 three highest rating categories for the time period during which sections 60L.01 to 60L.15  
111.29 apply to the insurer. For purposes of this subdivision, the rating must be based on a  
111.30 review of the insurer by the nationally recognized statistical rating organization with the  
111.31 cooperation of the insurer; must not depend on a guarantee or other credit enhancement  
111.32 from another entity; and must not be modified or otherwise qualified to show dependence  
111.33 of the rating on the performance or a contractual obligation of, or the insurer's affiliation  
111.34 with, another insurer.

112.1 (c) The insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the  
112.2 insurer shall employ at least one individual as a professional investment manager for  
112.3 the insurer's investments whom the board of directors or trustees of the insurer finds  
112.4 is qualified on the basis of experience, education or training, competence, personal  
112.5 integrity, and who conducts professional investment management activities in accordance  
112.6 with the Code of Ethics and Standards of Professional Conduct of the Association for  
112.7 Investment Management and Research. For purposes of complying with this paragraph,  
112.8 an employee of an affiliate may only be used if they are responsible for managing the  
112.9 insurer's investments.

112.10 (d) The board of directors of the insurer must annually adopt a resolution finding  
112.11 that the insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer  
112.12 has employed a professional investment manager for the insurer's investments with  
112.13 sufficient expertise and has sufficient other resources to implement and monitor the  
112.14 insurer's investment policies and strategies.

112.15 (e) In the report required under section ~~60A.129~~ 60A.1291, subdivision ~~3~~ 12,  
112.16 ~~paragraph (1)~~, the insurer's independent auditor shall not have identified any significant  
112.17 deficiencies in the insurer's internal control structure related to investments during any of  
112.18 the five years immediately preceding the date on which sections 60L.01 to 60L.15 begin to  
112.19 apply to the insurer, and as long as sections 60L.01 to 60L.15 apply to the insurer.

112.20 Sec. 14. **[61A.258] PRENEED INSURANCE PRODUCTS; MINIMUM**  
112.21 **MORTALITY STANDARDS FOR RESERVES AND NONFORFEITURE VALUES.**

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

112.24 (1) "2001 CSO Mortality Table (2001 CSO)" means that mortality table, consisting  
112.25 of separate rates of mortality for male and female lives, developed by the American  
112.26 Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table  
112.27 developed by the Society of Actuaries Individual Life Insurance Valuation Mortality  
112.28 Task Force, and adopted by the National Association of Insurance Commissioners  
112.29 (NAIC) in December 2002. The 2001 CSO Mortality Table (2001 CSO) is included in  
112.30 the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise,  
112.31 the "2001 CSO Mortality Table (2001 CSO)" includes both the ultimate form of that  
112.32 table and the select and ultimate form of that table and includes both the smoker and  
112.33 nonsmoker mortality tables and the composite mortality tables. It also includes both the  
112.34 age-nearest-birthday and age-last-birthday bases of the mortality tables;

113.1 (2) "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life  
113.2 Valuation Mortality Tables (1980 CSO) without ten-year selection factors, incorporated  
113.3 into the 1980 amendments to the NAIC Standard Valuation Law approved in December  
113.4 1983; and

113.5 (3) "preneed insurance" is any life insurance policy or certificate that is issued  
113.6 in combination with, in support of, with an assignment to, or as a guarantee for a  
113.7 prearrangement agreement for goods and services to be provided at the time of and  
113.8 immediately following the death of the insured. Goods and services may include, but  
113.9 are not limited to embalming, cremation, body preparation, viewing or visitation, coffin  
113.10 or urn, memorial stone, and transportation of the deceased. The status of the policy or  
113.11 contract as preneed insurance is determined at the time of issue in accordance with the  
113.12 policy form filing.

113.13 Subd. 2. **Minimum valuation mortality standards.** For preneed insurance  
113.14 contracts, the minimum mortality standard for determining reserve liabilities and  
113.15 nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

113.16 Subd. 3. **Minimum valuation interest rate standards.** (a) The interest rates used  
113.17 in determining the minimum standard for valuation of preneed insurance shall be the  
113.18 calendar year statutory valuation interest rates as defined in section 61A.25.

113.19 (b) The interest rates used in determining the minimum standard for nonforfeiture  
113.20 values for preneed insurance shall be the calendar year statutory nonforfeiture interest  
113.21 rates as defined in section 61A.24.

113.22 Subd. 4. **Minimum valuation method standards.** (a) The method used in  
113.23 determining the standard for the minimum valuation of reserves of preneed insurance shall  
113.24 be the method defined in section 61A.25.

113.25 (b) The method used in determining the standard for the minimum nonforfeiture  
113.26 values for preneed insurance shall be the method defined in section 61A.24.

113.27 **EFFECTIVE DATE; TRANSITION RULES.** (a) This section is effective January  
113.28 1, 2009, and applies to preneed insurance policies and certificates issued on or after that  
113.29 date.

113.30 (b) For preneed insurance policies issued on or after the effective date of this  
113.31 section and before January 1, 2012, the 2001 CSO may be used as the minimum standard  
113.32 for reserves and minimum standard for nonforfeiture benefits for both male and female  
113.33 insureds.

113.34 (c) If an insurer elects to use the 2001 CSO as a minimum standard for any policy  
113.35 issued on or after the effective date of this section and before January 1, 2012, the insurer

114.1 shall provide, as a part of the actuarial opinion memorandum submitted in support of  
114.2 the company's asset adequacy testing, an annual written notification to the domiciliary  
114.3 commissioner. The notification shall include:

114.4 (1) a complete list of all preneed policy forms that use the 2001 CSO as a minimum  
114.5 standard;

114.6 (2) a certification signed by the appointed actuary stating that the reserve  
114.7 methodology employed by the company in determining reserves for the preneed policies  
114.8 issued after the effective date and using the 2001 CSO as a minimum standard, develops  
114.9 adequate reserves (For the purposes of this certification, the preneed insurance policies  
114.10 using the 2001 CSO as a minimum standard cannot be aggregated with any other  
114.11 policies.); and

114.12 (3) supporting information regarding the adequacy of reserves for preneed insurance  
114.13 policies issued after the effective date of this section and using the 2001 CSO as a  
114.14 minimum standard for reserves.

114.15 (d) Preneed insurance policies issued on or after January 1, 2012, must use the  
114.16 Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum  
114.17 reserves.

114.18 Sec. 15. Minnesota Statutes 2008, section 61B.19, subdivision 4, is amended to read:

114.19 Subd. 4. **Limitation of benefits.** The benefits for which the association may become  
114.20 liable shall in no event exceed the lesser of:

114.21 (1) the contractual obligations for which the insurer is liable or would have been  
114.22 liable if it were not an impaired or insolvent insurer; or

114.23 (2) subject to the limitation in clause (5), with respect to any one life, regardless of  
114.24 the number of policies or contracts:

114.25 (i) ~~\$300,000~~ \$500,000 in life insurance death benefits, but not more than ~~\$100,000~~  
114.26 \$130,000 in net cash surrender and net cash withdrawal values for life insurance;

114.27 (ii) ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender  
114.28 and net cash withdrawal values;

114.29 (iii) ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values;

114.30 (iv) ~~\$300,000~~ \$410,000 in present value of annuity benefits for structured settlement  
114.31 annuities or for annuities in regard to which periodic annuity benefits, for a period of not  
114.32 less than the annuitant's lifetime or for a period certain of not less than ten years, have  
114.33 begun to be paid, on or before the date of impairment or insolvency; or

114.34 (3) subject to the limitations in clauses (5) and (6), with respect to each individual  
114.35 resident participating in a retirement plan, except a defined benefit plan, established under

115.1 section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through  
115.2 December 31, 1992, covered by an unallocated annuity contract, or the beneficiaries  
115.3 of each such individual if deceased, in the aggregate, ~~\$100,000~~ \$250,000 in net cash  
115.4 surrender and net cash withdrawal values;

115.5 (4) where no coverage limit has been specified for a covered policy or benefit, the  
115.6 coverage limit shall be ~~\$300,000~~ \$500,000 in present value;

115.7 (5) in no event shall the association be liable to expend more than ~~\$300,000~~  
115.8 \$500,000 in the aggregate with respect to any one life under clause (2), items (i), (ii), (iii),  
115.9 (iv), and clause (4), and any one individual under clause (3);

115.10 (6) in no event shall the association be liable to expend more than ~~\$7,500,000~~  
115.11 \$10,000,000 with respect to all unallocated annuities of a retirement plan, except a defined  
115.12 benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code  
115.13 of 1986, as amended through December 31, 1992. If total claims from a plan exceed  
115.14 ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among the  
115.15 claimants;

115.16 (7) for purposes of applying clause (2)(ii) and clause (5), with respect only to  
115.17 health insurance benefits, the term "any one life" applies to each individual covered by a  
115.18 health insurance policy;

115.19 (8) where covered contractual obligations are equal to or less than the limits stated in  
115.20 this subdivision, the association will pay the difference between the covered contractual  
115.21 obligations and the amount credited by the estate of the insolvent or impaired insurer, if  
115.22 that amount has been determined or, if it has not, the covered contractual limit, subject  
115.23 to the association's right of subrogation;

115.24 (9) where covered contractual obligations exceed the limits stated in this subdivision,  
115.25 the amount payable by the association will be determined as though the covered  
115.26 contractual obligations were equal to those limits. In making the determination, the estate  
115.27 shall be deemed to have credited the covered person the same amount as the estate would  
115.28 credit a covered person with contractual obligations equal to those limits; or

115.29 (10) the following illustrates how the principles stated in clauses (8) and (9) apply.  
115.30 The example illustrated concerns hypothetical claims subject to the limit stated in clause  
115.31 (2)(iii). The principles stated in clauses (8) and (9), and illustrated in this clause, apply  
115.32 to claims subject to any limits stated in this subdivision.

115.33 CONTRACTUAL OBLIGATIONS OF:

116.1		\$50,000	
116.2			Guaranty
116.3	Estate		Association
116.4	0% recovery	\$ 0	\$ 50,000
116.5	from estate		
116.6	25% recovery	\$ 12,500	\$ 37,500
116.7	from estate		
116.8	50% recovery	\$ 25,000	\$ 25,000
116.9	from estate		
116.10	75% recovery	\$ 37,500	\$ 12,500
116.11	from estate		
116.12		\$100,000	
116.13			Guaranty
116.14	Estate		Association
116.15	0% recovery	\$ 0	\$ 100,000
116.16	from estate		
116.17	25% recovery	\$ 25,000	\$ 75,000
116.18	from estate		
116.19	50% recovery	\$ 50,000	\$ 50,000
116.20	from estate		
116.21	75% recovery	\$ 75,000	\$ 25,000
116.22	from estate		
116.23		\$200,000	
116.24			Guaranty
116.25	Estate		Association
116.26	0% recovery	\$ 0	\$ 100,000
116.27	from estate		
116.28	25% recovery	\$ 50,000	\$ 75,000
116.29	from estate		

117.1	50% recovery	\$ 100,000	\$ 50,000
117.2	from estate		
117.3	75% recovery	\$ 150,000	\$ 25,000
117.4	from estate		

117.5 For purposes of this subdivision, the commissioner shall determine the discount rate  
117.6 to be used in determining the present value of annuity benefits.

117.7 **EFFECTIVE DATE.** This section is effective the day following final enactment  
117.8 and applies to member insurers who are first determined to be impaired or insolvent on or  
117.9 after that date. Member insurers who are subject to an order of impairment in effect on the  
117.10 effective date but are not declared insolvent until after the effective date shall continue to  
117.11 be governed by the law in effect prior to the effective date.

117.12 Sec. 16. Minnesota Statutes 2008, section 61B.28, subdivision 4, is amended to read:

117.13 Subd. 4. **Prohibited sales practice.** No person, including an insurer, agent, or  
117.14 affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the  
117.15 public, or cause directly or indirectly, to be made, published, disseminated, circulated,  
117.16 or placed before the public, in any newspaper, magazine, or other publication, or in the  
117.17 form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television  
117.18 station, or in any other way, an advertisement, announcement, or statement, written or  
117.19 oral, which uses the existence of the Minnesota Life and Health Insurance Guaranty  
117.20 Association for the purpose of sales, solicitation, or inducement to purchase any form of  
117.21 insurance covered by sections 61B.18 to 61B.32. The notice required by subdivision 8  
117.22 is not a violation of this subdivision nor is it a violation of this subdivision to explain  
117.23 verbally to an applicant or potential applicant the coverage provided by the Minnesota  
117.24 Life and Health Insurance Guaranty Association at any time during the application process  
117.25 or thereafter. This subdivision does not apply to the Minnesota Life and Health Insurance  
117.26 Guaranty Association or an entity that does not sell or solicit insurance. ~~A person violating~~  
117.27 ~~this section is guilty of a misdemeanor.~~

117.28 Sec. 17. Minnesota Statutes 2008, section 61B.28, subdivision 8, is amended to read:

117.29 Subd. 8. **Form.** The form of notice referred to in subdivision 7, paragraph (a),  
117.30 is as follows:

117.31 ".....  
117.32 .....  
117.33 .....

118.1 (insert name, current address, and  
118.2 telephone number of insurer)

118.3 NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN  
118.4 INSOLVENCY UNDER THE MINNESOTA LIFE AND HEALTH  
118.5 INSURANCE GUARANTY ASSOCIATION LAW

118.6 If the insurer that issued your life, annuity, or health insurance policy becomes  
118.7 impaired or insolvent, you are entitled to compensation for your policy from the assets of  
118.8 that insurer. The amount you recover will depend on the financial condition of the insurer.

118.9 In addition, residents of Minnesota who purchase life insurance, annuities, or health  
118.10 insurance from insurance companies authorized to do business in Minnesota are protected,  
118.11 SUBJECT TO LIMITS AND EXCLUSIONS, in the event the insurer becomes financially  
118.12 impaired or insolvent. This protection is provided by the Minnesota Life and Health  
118.13 Insurance Guaranty Association.

118.14 Minnesota Life and Health Insurance Guaranty Association  
118.15 (insert current  
118.16 address and telephone number)

118.17 The maximum amount the guaranty association will pay for all policies issued on  
118.18 one life by the same insurer is limited to ~~\$300,000~~ \$500,000. Subject to this ~~\$300,000~~  
118.19 \$500,000 limit, the guaranty association will pay up to ~~\$300,000~~ \$500,000 in life  
118.20 insurance death benefits, ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal  
118.21 values for life insurance, ~~\$300,000~~ \$500,000 in health insurance benefits, including any  
118.22 net cash surrender and net cash withdrawal values, ~~\$100,000~~ \$250,000 in annuity net  
118.23 cash surrender and net cash withdrawal values, ~~\$300,000~~ \$410,000 in present value of  
118.24 annuity benefits for annuities which are part of a structured settlement or for annuities  
118.25 in regard to which periodic annuity benefits, for a period of not less than the annuitant's  
118.26 lifetime or for a period certain of not less than ten years, have begun to be paid on or  
118.27 before the date of impairment or insolvency, or if no coverage limit has been specified  
118.28 for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present  
118.29 value. Unallocated annuity contracts issued to retirement plans, other than defined benefit  
118.30 plans, established under section 401, 403(b), or 457 of the Internal Revenue Code of  
118.31 1986, as amended through December 31, 1992, are covered up to ~~\$100,000~~ \$250,000 in  
118.32 net cash surrender and net cash withdrawal values, for Minnesota residents covered by  
118.33 the plan provided, however, that the association shall not be responsible for more than  
118.34 ~~\$7,500,000~~ \$10,000,000 in claims from all Minnesota residents covered by the plan. If  
118.35 total claims exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated  
118.36 among all claimants. These are the maximum claim amounts. Coverage by the guaranty  
118.37 association is also subject to other substantial limitations and exclusions and requires  
118.38 continued residency in Minnesota. If your claim exceeds the guaranty association's limits,

119.1 you may still recover a part or all of that amount from the proceeds of the liquidation of  
119.2 the insolvent insurer, if any exist. Funds to pay claims may not be immediately available.  
119.3 The guaranty association assesses insurers licensed to sell life and health insurance in  
119.4 Minnesota after the insolvency occurs. Claims are paid from this assessment.

119.5 THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT  
119.6 A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES  
119.7 THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN  
119.8 INSURANCE COMPANY OR POLICY, YOU SHOULD NOT RELY ON COVERAGE  
119.9 BY THE GUARANTY ASSOCIATION.

119.10 THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE  
119.11 POLICYHOLDERS OF LIFE, ANNUITY, OR HEALTH INSURANCE POLICIES  
119.12 OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES  
119.13 FINANCIALLY INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE  
119.14 COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL LIFE,  
119.15 ANNUITY, AND HEALTH INSURANCE POLICIES ARE REQUIRED TO PROVIDE  
119.16 THIS NOTICE."

119.17 Additional language may be added to the notice if approved by the commissioner  
119.18 prior to its use in the form. This section does not apply to fraternal benefit societies  
119.19 regulated under chapter 64B.

119.20 Sec. 18. Minnesota Statutes 2008, section 67A.01, is amended to read:

119.21 **67A.01 NUMBER OF MEMBERS REQUIRED, PROPERTY AND**  
119.22 **TERRITORY.**

119.23 Subdivision 1. Number of members. (a) It shall be lawful for any number of  
119.24 persons, not less than 25, residing in adjoining ~~townships~~ counties in this state, who shall  
119.25 collectively own property worth at least \$50,000, to form themselves into a corporation  
119.26 for mutual insurance against loss or damage by the perils listed in section 67A.13.

119.27 ~~(b) Except as otherwise provided in this section, the company shall operate in no~~  
119.28 ~~more than 150 adjoining townships in the aggregate at the same time. The company may,~~  
119.29 ~~if approval has been granted by the commissioner, operate in more than 150 adjoining~~  
119.30 ~~townships in the aggregate at the same time, subject to a maximum of 300 townships.~~  
119.31 ~~If the company confines its operations to one county it may transact business in that~~  
119.32 ~~county by so providing in its certificate of incorporation. In case of merger of two or~~  
119.33 ~~more companies having contiguous territories, the surviving company in the merger may~~  
119.34 ~~transact business in the entire territory of the merged companies, but the territory of the~~  
119.35 ~~surviving company in the merger must not be larger than 300 townships.~~

120.1 Subd. 2. Authorized territory. (a) A township mutual fire insurance company may  
 120.2 be authorized to write business in up to nine adjoining counties in the aggregate at the  
 120.3 same time. If policyholder surplus is at least \$500,000 as reported in the company's last  
 120.4 annual financial statement filed with the commissioner, the company may, if approval has  
 120.5 been granted by the commissioner, be authorized to write business in ten or more counties  
 120.6 in the aggregate at the same time, subject to a maximum of 20 adjoining counties, in  
 120.7 accordance with the following schedule:

120.8	<u>Number of</u>	<u>Surplus</u>
120.9	<u>Counties</u>	<u>Requirement</u>
120.10	<u>10</u>	<u>\$500,000</u>
120.11	<u>11</u>	<u>600,000</u>
120.12	<u>12</u>	<u>700,000</u>
120.13	<u>13</u>	<u>800,000</u>
120.14	<u>14</u>	<u>900,000</u>
120.15	<u>15</u>	<u>1,000,000</u>
120.16	<u>16</u>	<u>1,100,000</u>
120.17	<u>17</u>	<u>1,200,000</u>
120.18	<u>18</u>	<u>1,300,000</u>
120.19	<u>19</u>	<u>1,400,000</u>
120.20	<u>20</u>	<u>1,500,000</u>

120.21 (b) In the case of a merger of two or more companies having contiguous territories,  
 120.22 the surviving company in the merger may transact business in the entire territory of the  
 120.23 merged companies; however, the territory of the surviving company in the merger may not  
 120.24 be larger than 20 counties.

120.25 (c) A township mutual fire insurance company may write new and renewal insurance  
 120.26 on property in cities within the company's authorized territory having a population less  
 120.27 than 25,000. A township mutual may continue to write new and renewal insurance once  
 120.28 the population increases to 25,000 or greater provided that amended and restated articles  
 120.29 are filed with the commissioner along with a certification that such city's population has  
 120.30 increased to 25,000 or greater.

120.31 (d) A township mutual fire insurance company may write new and renewal insurance  
 120.32 on property in cities within the company's authorized territory with a population of 25,000  
 120.33 or greater, but less than 150,000, if approval has been granted by the commissioner.

121.1 No township mutual fire insurance company shall insure any property in cities with a  
121.2 population of 150,000 or greater.

121.3 (e) If a township mutual fire insurance company provides evidence to the  
121.4 commissioner that the company had insurance in force on December 31, 2007, in a city  
121.5 within the company's authorized territory with a population of 25,000 or greater, but less  
121.6 than 150,000, the company may write new and renewal insurance on property in that city  
121.7 provided that the company files amended and restated articles by July 31, 2010, naming  
121.8 that city.

121.9 Sec. 19. Minnesota Statutes 2008, section 67A.06, is amended to read:

121.10 **67A.06 POWERS OF CORPORATION.**

121.11 Every corporation formed under the provisions of sections 67A.01 to 67A.26,  
121.12 shall have power:

121.13 (1) to have succession by its corporate name for the time stated in its certificate of  
121.14 incorporation;

121.15 (2) to sue and be sued in any court;

121.16 (3) to have and use a common seal and alter the same at pleasure;

121.17 (4) to acquire, by purchase or otherwise, and to hold, enjoy, improve, lease,  
121.18 encumber, and convey all real and personal property necessary for the purpose of its  
121.19 organization, subject to such limitations as may be imposed by law or by its articles of  
121.20 incorporation;

121.21 (5) to elect or appoint in such manner as it may determine all necessary or proper  
121.22 officers, agents, boards, and committees, fix their compensation, and define their powers  
121.23 and duties;

121.24 (6) to make and amend consistently with law bylaws providing for the management  
121.25 of its property and the regulation and government of its affairs;

121.26 (7) to wind up and liquidate its business in the manner provided by chapter 60B; ~~and~~

121.27 (8) to indemnify certain persons against expenses and liabilities as provided in  
121.28 section 302A.521. In applying section 302A.521 for this purpose, the term "members"  
121.29 shall be substituted for the terms "shareholders" and "stockholders-"; and

121.30 (9) to eliminate or limit a director's personal liability to the company or its members  
121.31 for monetary damages for breach of fiduciary duty as a director. A company shall not  
121.32 eliminate or limit the liability of a director:

121.33 (i) for breach of loyalty to the company or its members;

121.34 (ii) for acts or omissions made in bad faith or with intentional misconduct or  
121.35 knowing violation of law;

122.1 (iii) for transactions from which the director derived an improper personal benefit; or  
122.2 (iv) for acts or omissions occurring before the date that the provisions in the articles  
122.3 eliminating or limiting liability become effective.

122.4 Sec. 20. Minnesota Statutes 2008, section 67A.07, is amended to read:

122.5 **67A.07 PRINCIPAL OFFICE.**

122.6 The principal office of a township mutual fire insurance company shall be located in  
122.7 ~~a township or in a city in a township~~ county in which the company is authorized to do  
122.8 business.

122.9 Sec. 21. Minnesota Statutes 2008, section 67A.14, subdivision 1, is amended to read:

122.10 Subdivision 1. **Kinds of property; property outside authorized territory.** (a)  
122.11 Township mutual fire insurance companies may insure qualified property. Qualified  
122.12 property means dwellings, household goods, appurtenant structures, farm buildings, farm  
122.13 personal property, churches, church personal property, county fair buildings, community  
122.14 and township meeting halls and their usual contents.

122.15 (b) Township mutual fire insurance companies may extend coverage to include  
122.16 an insured's secondary property if the township mutual fire insurance company covers  
122.17 qualified property belonging to the insured. Secondary property means any real or  
122.18 personal property that is not considered qualified property for a township mutual fire  
122.19 insurance company to cover under this chapter. The maximum amount of coverage that a  
122.20 township mutual fire insurance company may write for secondary property is 25 percent of  
122.21 the total limit of liability of the policy issued to an insured covering the qualified property.

122.22 (c) A township mutual fire insurance company may insure any real or personal  
122.23 property, including qualified or secondary property, subject to the limitations in  
122.24 subdivision 1, paragraph (b), located outside the limits of the territory in which the  
122.25 company is authorized by its certificate or articles of incorporation to transact business, if  
122.26 the company is already covering qualified property belonging to the insured, inside the  
122.27 limits of the company's territory.

122.28 (d) A township mutual fire insurance company may insure property temporarily  
122.29 outside of the authorized territory of the township mutual fire insurance company.

122.30 Sec. 22. Minnesota Statutes 2008, section 67A.14, subdivision 7, is amended to read:

122.31 Subd. 7. **Amount of insurable risk.** No township mutual fire insurance company  
122.32 shall insure or reinsure a single risk or hazard in a larger sum than the greater of \$3,000, or  
122.33 one tenth of its net assets plus two tenths of a mill of its insurance in force; provided that

123.1 no portion of any such risk or hazard which shall have been reinsured, as authorized by  
123.2 the laws of this state, shall be included in determining the limitation of risk prescribed  
123.3 by this subdivision.

123.4 Sec. 23. **[67A.175] SURPLUS REQUIREMENTS.**

123.5 Subdivision 1. **Minimum.** Township mutual fire insurance companies shall maintain  
123.6 a minimum policyholders' surplus of \$300,000 at all times.

123.7 Subd. 2. **Corrective action plan; filing.** A township mutual fire insurance company  
123.8 that falls below the \$300,000 minimum surplus requirement must file a corrective action  
123.9 plan with the commissioner. The plan shall state how the company will correct its surplus  
123.10 deficiency. The plan must be submitted within 45 days of the company falling below the  
123.11 minimum surplus level.

123.12 Subd. 3. **Corrective action plan; commissioner's notification.** Within 30 days  
123.13 after the submission by a township mutual fire insurance company of a corrective action  
123.14 plan, the commissioner shall notify the insurer whether the plan may be implemented or  
123.15 is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines  
123.16 the plan is unsatisfactory, the notification to the company must set forth the reasons for the  
123.17 determination, and may set forth proposed revisions that will render the plan satisfactory  
123.18 in the judgment of the commissioner. Upon notification from the commissioner, the  
123.19 insurer shall prepare a revised corrective action plan that may incorporate by reference  
123.20 any revisions proposed by the commissioner, and shall submit the revised plan to the  
123.21 commissioner within 45 days.

123.22 Sec. 24. Minnesota Statutes 2008, section 67A.18, subdivision 1, is amended to read:

123.23 Subdivision 1. **By member.** Any member may terminate membership in the  
123.24 company by giving written notice or returning the member's policy to the secretary ~~and~~  
123.25 ~~paying the withdrawing member's share of all existing claims.~~

123.26 Sec. 25. **REPEALER.**

123.27 Subdivision 1. **Annual audits.** Minnesota Statutes 2008, section 60A.129, is  
123.28 repealed.

123.29 Subd. 2. **Township mutual insured properties, joint or partial risks, and**  
123.30 **assessments.** Minnesota Statutes 2008, sections 67A.14, subdivision 5; 67A.17; and  
123.31 67A.19, are repealed.

124.1 Subd. 3. **Banking procedures; real estate tax records.** Minnesota Rules, part  
124.2 2675.2180, is repealed.

124.3 Subd. 4. **Debt prorating companies.** Minnesota Rules, parts 2675.7100;  
124.4 2675.7110; 2675.7120; 2675.7130; and 2675.7140, are repealed.

124.5 Subd. 5. **Guaranty association; inflation indexing.** Minnesota Statutes 2008,  
124.6 section 61B.19, subdivision 6, is repealed.

## 124.7 ARTICLE 4

### 124.8 DEBT MANAGEMENT SERVICES

124.9 Section 1. Minnesota Statutes 2008, section 45.011, subdivision 1, is amended to read:

124.10 Subdivision 1. **Scope.** As used in chapters 45 to 83, 155A, 332, 332A, 332B,  
124.11 345, and 359, and sections 325D.30 to 325D.42, 326B.802 to 326B.885, and 386.61 to  
124.12 386.78, unless the context indicates otherwise, the terms defined in this section have  
124.13 the meanings given them.

124.14 Sec. 2. Minnesota Statutes 2008, section 46.04, subdivision 1, is amended to read:

124.15 Subdivision 1. **General.** The commissioner of commerce, referred to in chapters 46  
124.16 to 59A, ~~and chapter 332A~~, and 332B as the commissioner, is vested with all the powers,  
124.17 authority, and privileges which, prior to the enactment of Laws 1909, chapter 201, were  
124.18 conferred by law upon the public examiner, and shall take over all duties in relation to  
124.19 state banks, savings banks, trust companies, savings associations, and other financial  
124.20 institutions within the state which, prior to the enactment of chapter 201, were imposed  
124.21 upon the public examiner. The commissioner of commerce shall exercise a constant  
124.22 supervision, either personally or through the examiners herein provided for, over the  
124.23 books and affairs of all state banks, savings banks, trust companies, savings associations,  
124.24 credit unions, industrial loan and thrift companies, and other financial institutions doing  
124.25 business within this state; and shall, through examiners, examine each financial institution  
124.26 at least once every 24 calendar months. In satisfying this examination requirement, the  
124.27 commissioner may accept reports of examination prepared by a federal agency having  
124.28 comparable supervisory powers and examination procedures. With the exception of  
124.29 industrial loan and thrift companies which do not have deposit liabilities and licensed  
124.30 regulated lenders, it shall be the principal purpose of these examinations to inspect and  
124.31 verify the assets and liabilities of each and so far investigate the character and value of  
124.32 the assets of each institution as to determine with reasonable certainty that the values are  
124.33 correctly carried on its books. Assets and liabilities shall be verified in accordance with  
124.34 methods of procedure which the commissioner may determine to be adequate to carry out

125.1 the intentions of this section. It shall be the further purpose of these examinations to  
 125.2 assess the adequacy of capital protection and the capacity of the institution to meet usual  
 125.3 and reasonably anticipated deposit withdrawals and other cash commitments without  
 125.4 resorting to excessive borrowing or sale of assets at a significant loss, and to investigate  
 125.5 each institution's compliance with applicable laws and rules. Based on the examination  
 125.6 findings, the commissioner shall make a determination as to whether the institution  
 125.7 is being operated in a safe and sound manner. None of the above provisions limits the  
 125.8 commissioner in making additional examinations as deemed necessary or advisable. The  
 125.9 commissioner shall investigate the methods of operation and conduct of these institutions  
 125.10 and their systems of accounting, to ascertain whether these methods and systems are  
 125.11 in accordance with law and sound banking principles. The commissioner may make  
 125.12 requirements as to records as deemed necessary to facilitate the carrying out of the  
 125.13 commissioner's duties and to properly protect the public interest. The commissioner may  
 125.14 examine, or cause to be examined by these examiners, on oath, any officer, director,  
 125.15 trustee, owner, agent, clerk, customer, or depositor of any financial institution touching  
 125.16 the affairs and business thereof, and may issue, or cause to be issued by the examiners,  
 125.17 subpoenas, and administer, or cause to be administered by the examiners, oaths. In  
 125.18 case of any refusal to obey any subpoena issued under the commissioner's direction,  
 125.19 the refusal may at once be reported to the district court of the district in which the bank  
 125.20 or other financial institution is located, and this court shall enforce obedience to these  
 125.21 subpoenas in the manner provided by law for enforcing obedience to subpoenas of the  
 125.22 court. In all matters relating to official duties, the commissioner of commerce has the  
 125.23 power possessed by courts of law to issue subpoenas and cause them to be served and  
 125.24 enforced, and all officers, directors, trustees, and employees of state banks, savings banks,  
 125.25 trust companies, savings associations, and other financial institutions within the state,  
 125.26 and all persons having dealings with or knowledge of the affairs or methods of these  
 125.27 institutions, shall afford reasonable facilities for these examinations, make returns and  
 125.28 reports to the commissioner of commerce as the commissioner may require; attend and  
 125.29 answer, under oath, the commissioner's lawful inquiries; produce and exhibit any books,  
 125.30 accounts, documents, and property as the commissioner may desire to inspect, and in all  
 125.31 things aid the commissioner in the performance of duties.

125.32 Sec. 3. Minnesota Statutes 2008, section 46.05, is amended to read:

125.33 **46.05 SUPERVISION OVER FINANCIAL INSTITUTIONS.**

125.34 Every state bank, savings bank, trust company, savings association, debt management  
 125.35 services provider, debt settlement services provider, and other financial institutions shall

126.1 be at all times under the supervision and subject to the control of the commissioner  
126.2 of commerce. If, and whenever in the performance of duties, the commissioner finds  
126.3 it necessary to make a special investigation of any financial institution under the  
126.4 commissioner's supervision, and other than a complete examination, the commissioner  
126.5 shall make a charge therefor to include only the necessary costs thereof. Such a fee shall  
126.6 be payable to the commissioner on the commissioner's making a request for payment.

126.7 Sec. 4. Minnesota Statutes 2008, section 46.131, subdivision 2, is amended to read:

126.8 Subd. 2. **Assessment authority.** Each bank, trust company, savings bank, savings  
126.9 association, regulated lender, industrial loan and thrift company, credit union, motor  
126.10 vehicle sales finance company, debt management services provider, debt settlement  
126.11 services provider, and insurance premium finance company organized under the laws of  
126.12 this state or required to be administered by the commissioner of commerce shall pay  
126.13 into the state treasury its proportionate share of the cost of maintaining the Department  
126.14 of Commerce.

126.15 Sec. 5. Minnesota Statutes 2008, section 325E.311, subdivision 6, is amended to read:

126.16 Subd. 6. **Telephone solicitation.** "Telephone solicitation" means any voice  
126.17 communication over a telephone line for the purpose of encouraging the purchase or  
126.18 rental of, or investment in, property, goods, or services, whether the communication is  
126.19 made by a live operator, through the use of an automatic dialing-announcing device as  
126.20 defined in section 325E.26, subdivision 2, or by other means. Telephone solicitation  
126.21 does not include communications:

126.22 (1) to any residential subscriber with that subscriber's prior express invitation or  
126.23 permission; or

126.24 (2) by or on behalf of any person or entity with whom a residential subscriber has a  
126.25 prior or current business or personal relationship.

126.26 Telephone solicitation also does not include communications if the caller is identified by a  
126.27 caller identification service and the call is:

126.28 (i) by or on behalf of an organization that is identified as a nonprofit organization  
126.29 under state or federal law, unless the organization is a debt management services provider  
126.30 defined in section 332A.02 or a debt settlement services provider defined in section  
126.31 332B.02;

126.32 (ii) by a person soliciting without the intent to complete, and who does not in  
126.33 fact complete, the sales presentation during the call, but who will complete the sales

127.1 presentation at a later face-to-face meeting between the solicitor who makes the call  
127.2 and the prospective purchaser; or  
127.3 (iii) by a political party as defined under section 200.02, subdivision 6.

127.4 Sec. 6. Minnesota Statutes 2008, section 332A.02, is amended by adding a subdivision  
127.5 to read:

127.6 Subd. 2a. **Advertise.** "Advertise" means to solicit business through any means or  
127.7 medium.

127.8 Sec. 7. Minnesota Statutes 2008, section 332A.02, subdivision 5, is amended to read:

127.9 Subd. 5. **Controlling or affiliated party.** "Controlling or affiliated party" means  
127.10 any person or entity that controls or is controlled, directly or indirectly ~~controlling,~~  
127.11 ~~controlled by,~~ or is under common control with another person. Controlling or affiliated  
127.12 party includes, but is not limited to, employees, officers, independent contractors,  
127.13 corporations, partnerships, and limited liability corporations.

127.14 Sec. 8. Minnesota Statutes 2008, section 332A.02, is amended by adding a subdivision  
127.15 to read:

127.16 Subd. 5a. **Creditor.** "Creditor" means any party:

127.17 (1) named by the debtor as a creditor in the debt management services plan or debt  
127.18 management services agreement;

127.19 (2) that acquires or holds the debt; or

127.20 (3) to whom interactions with the debt management services is assigned in relation  
127.21 to the debt listed in the debt management services plan or debt management services  
127.22 agreement.

127.23 Sec. 9. Minnesota Statutes 2008, section 332A.02, subdivision 8, is amended to read:

127.24 Subd. 8. **Debt management services provider.** "Debt management services  
127.25 provider" means any person offering or providing debt management services to a debtor  
127.26 domiciled in this state, regardless of whether or not a fee is charged for the services and  
127.27 regardless of whether the person maintains a physical presence in the state. This term  
127.28 includes any person to whom debt management services are delegated, and does not  
127.29 include services performed by the following when engaged in the regular course of their  
127.30 respective businesses and professions:

127.31 (1) attorneys at law, escrow agents, accountants, broker-dealers in securities;

- 128.1 (2) state or national banks, credit unions, trust companies, savings associations,  
128.2 title insurance companies, insurance companies, and all other lending institutions duly  
128.3 authorized to transact business in Minnesota, ~~provided no fee is charged for the service;~~  
128.4 (3) persons who, as employees on a regular salary or wage of an employer not  
128.5 engaged in the business of debt management, perform credit services for their employer;  
128.6 (4) public officers acting in their official capacities and persons acting as a debt  
128.7 management services provider pursuant to court order;  
128.8 (5) any person while performing services incidental to the dissolution, winding up,  
128.9 or liquidation of a partnership, corporation, or other business enterprise;  
128.10 (6) the state, its political subdivisions, public agencies, and their employees;  
128.11 (7) ~~credit unions and~~ collection agencies, ~~provided no fee is charged for the service~~  
128.12 that the services are provided to a creditor;  
128.13 (8) "qualified organizations" designated as representative payees for purposes of the  
128.14 Social Security and Supplemental Security Income Representative Payee System and the  
128.15 federal Omnibus Budget Reconciliation Act of 1990, Public Law 101-508;  
128.16 (9) accelerated mortgage payment providers. "Accelerated mortgage payment  
128.17 providers" are persons who, after satisfying the requirements of sections 332.30 to  
128.18 332.303, receive funds to make mortgage payments to a lender or lenders, on behalf  
128.19 of mortgagors, in order to exceed regularly scheduled minimum payment obligations  
128.20 under the terms of the indebtedness. The term does not include: (i) persons or entities  
128.21 described in clauses (1) to (8); (ii) mortgage lenders or servicers, industrial loan and  
128.22 thrift companies, or regulated lenders under chapter 56; or (iii) persons authorized to  
128.23 make loans under section 47.20, subdivision 1. For purposes of this clause and sections  
128.24 332.30 to 332.303, "lender" means the original lender or that lender's assignee, whichever  
128.25 is the current mortgage holder;  
128.26 (10) trustees, guardians, and conservators; and  
128.27 (11) debt settlement services providers.

128.28 Sec. 10. Minnesota Statutes 2008, section 332A.02, subdivision 9, is amended to read:

128.29 Subd. 9. **Debt management services.** "Debt management services" means the  
128.30 provision of any ~~one or more of the following services in connection with debt incurred~~  
128.31 ~~primarily for personal, family, or household services:~~

128.32 (1) ~~managing the financial affairs of an individual by distributing income or money~~  
128.33 ~~to the individual's creditors;~~

128.34 (2) ~~receiving funds for the purpose of distributing the funds among creditors in~~  
128.35 ~~payment or partial payment of obligations of a debtor; or~~

129.1 ~~(3) adjusting, prorating, pooling, or liquidating the indebtedness of a debtor whereby~~  
129.2 a debt management services provider assists in managing the financial affairs of a debtor  
129.3 by distributing periodic payments to the debtor's creditors from funds that the debt  
129.4 management services provider receives from the debtor and where the primary purpose of  
129.5 the services is to effect full repayment of debt incurred primarily for personal, family, or  
129.6 household services.

129.7 Any person so engaged or holding out as so engaged is deemed to be engaged in the  
129.8 provision of debt management services regardless of whether or not a fee is charged for  
129.9 such services.

129.10 Sec. 11. Minnesota Statutes 2008, section 332A.02, subdivision 10, is amended to read:

129.11 Subd. 10. **Debtor.** "Debtor" means the person for whom the debt ~~prorating service~~  
129.12 is management services are performed.

129.13 Sec. 12. Minnesota Statutes 2008, section 332A.02, subdivision 13, is amended to read:

129.14 Subd. 13. **Debt settlement services provider.** "Debt settlement services provider"  
129.15 ~~means any person engaging in or holding out as engaging in the business of negotiating,~~  
129.16 ~~adjusting, or settling debt incurred primarily for personal, family, or household purposes~~  
129.17 ~~without holding or receiving the debtor's funds or personal property and without paying~~  
129.18 ~~the debtor's funds to, or distributing the debtor's property among, creditors~~ has the  
129.19 meaning given in section 332B.02, subdivision 11. The term shall not include persons  
129.20 ~~listed in subdivision 8, clauses (1) to (10).~~

129.21 Sec. 13. Minnesota Statutes 2008, section 332A.04, subdivision 6, is amended to read:

129.22 Subd. 6. **Right of action on bond.** If the registrant has failed to account to a debtor  
129.23 or distribute to the debtor's creditors the amounts required by this chapter ~~and, or has~~  
129.24 failed to perform any of the services promised in the debt management services agreement  
129.25 ~~between the debtor and registrant,~~ the registrant is in default. The debtor or the debtor's  
129.26 legal representative or receiver, the commissioner, or the attorney general, shall have, in  
129.27 addition to all other legal remedies, a right of action in the name of the debtor on the bond  
129.28 or the security given under this section, for loss suffered by the debtor, not exceeding the  
129.29 face amount of the bond or security, and without the necessity of joining the registrant  
129.30 in the suit or action based on the default.

129.31 Sec. 14. Minnesota Statutes 2008, section 332A.08, is amended to read:

129.32 **332A.08 DENIAL OF REGISTRATION.**

130.1 The commissioner, with notice to the applicant by certified mail sent to the address  
130.2 listed on the application, may deny an application for a registration upon finding that  
130.3 the applicant:

130.4 (1) has submitted an application required under section 332A.04 that contains  
130.5 incorrect, misleading, incomplete, or materially untrue information. An application is  
130.6 incomplete if it does not include all the information required in section 332A.04;

130.7 (2) has failed to pay any fee or pay or maintain any bond required by this chapter,  
130.8 or failed to comply with any order, decision, or finding of the commissioner made under  
130.9 and within the authority of this chapter;

130.10 (3) has violated any provision of this chapter or any rule or direction lawfully made  
130.11 by the commissioner under and within the authority of this chapter;

130.12 (4) or any controlling or affiliated party has ever been convicted of a crime or found  
130.13 civilly liable for an offense involving moral turpitude, including forgery, embezzlement,  
130.14 obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any  
130.15 other similar offense or violation, or any violation of a federal or state law or regulation  
130.16 in connection with activities relating to the rendition of debt management services or  
130.17 any consumer fraud, false advertising, deceptive trade practices, or similar consumer  
130.18 protection law;

130.19 (5) has had a registration or license previously revoked or suspended in this state or  
130.20 any other state or the applicant or licensee has been permanently or temporarily enjoined  
130.21 by any court of competent jurisdiction from engaging in or continuing any conduct or  
130.22 practice involving any aspect of the debt management services provider business; or  
130.23 any controlling or affiliated party has been an officer, director, manager, or shareholder  
130.24 owning more than a ten percent interest in a debt management services provider whose  
130.25 registration has previously been revoked or suspended in this state or any other state, or  
130.26 who has been permanently or temporarily enjoined by any court of competent jurisdiction  
130.27 from engaging in or continuing any conduct or practice involving any aspect of the debt  
130.28 management services provider business;

130.29 (6) has made any false statement or representation to the commissioner;

130.30 (7) is insolvent;

130.31 (8) refuses to fully comply with an investigation or examination of the debt  
130.32 management services provider by the commissioner;

130.33 (9) has improperly withheld, misappropriated, or converted any money or properties  
130.34 received in the course of doing business;

130.35 (10) has failed to have a trust account with an actual cash balance equal to or greater  
130.36 than the sum of the escrow balances of each debtor's account;

131.1 (11) has defaulted in making payments to creditors on behalf of debtors as required  
131.2 by agreements between the provider and debtor; ~~or~~  
131.3 (12) has used fraudulent, coercive, or dishonest practices, or demonstrated  
131.4 incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere; or  
131.5 (13) has been shown to have engaged in a pattern of failing to perform the services  
131.6 promised.

131.7 Sec. 15. Minnesota Statutes 2008, section 332A.10, is amended to read:

131.8 **332A.10 WRITTEN DEBT MANAGEMENT SERVICES AGREEMENT.**

131.9 Subdivision 1. **Written agreement required.** (a) A debt management services  
131.10 provider may not perform any debt management services or receive any money related  
131.11 to a debt management services plan until the provider has obtained a debt management  
131.12 services agreement that contains all terms of the agreement between the debt management  
131.13 services provider and the debtor.

131.14 (b) A debt management services agreement must:

131.15 (1) be in writing, dated, and signed by the debt management services provider and  
131.16 the debtor;

131.17 (2) conspicuously indicate whether or not the debt management services provider  
131.18 is registered with the Minnesota Department of Commerce and include any registration  
131.19 number; and

131.20 (3) be written in the debtor's primary language if the debt management services  
131.21 provider advertised in that language.

131.22 (c) The registrant must furnish the debtor with a copy of the signed contract upon  
131.23 execution.

131.24 Subd. 2. **Actions prior to written agreement.** No person may provide debt  
131.25 management services for a debtor or execute a debt management services agreement  
131.26 unless the person first has:

131.27 (1) provided the debtor individualized counseling and educational information  
131.28 that, at a minimum, addresses managing household finances, managing credit and debt,  
131.29 budgeting, and personal savings strategies;

131.30 (2) prepared in writing and provided to the debtor, in a form that the debtor may  
131.31 keep, an individualized financial analysis and a proposed debt management services  
131.32 plan listing the debtor's known debts with specific recommendations regarding actions  
131.33 the debtor should take to reduce or eliminate the amount of the debts, including written  
131.34 disclosure that debt management services are not suitable for all debtors and that there are  
131.35 other ways, including bankruptcy, to deal with indebtedness;

132.1 (3) made a determination supported by an individualized financial analysis that the  
132.2 debtor can reasonably meet the requirements of the proposed debt management services  
132.3 plan and that there is a net tangible benefit to the debtor of entering into the proposed debt  
132.4 management services plan; ~~and~~

132.5 (4) prepared, in a form the debtor may keep, a written list identifying all known  
132.6 creditors of the debtor that the provider reasonably expects to participate in the plan  
132.7 and the creditors, including secured creditors, that the provider reasonably expects not  
132.8 to participate; and

132.9 (5) disclosed, in addition to the written disclosure on the agreement required under  
132.10 subdivision 1, whether or not the debt management services provider is registered with the  
132.11 Minnesota Department of Commerce and any registration number.

132.12 Subd. 3. **Required terms.** (a) Each debt management services agreement must  
132.13 contain the following terms, which must be disclosed prominently and clearly in bold print  
132.14 on the front page of the agreement, segregated by bold lines from all other information on  
132.15 the page:

132.16 (1) the origination fee amount to be paid by the debtor and whether all or a portion  
132.17 of the ~~initial~~ origination fee amount is refundable or nonrefundable;

132.18 (2) the monthly fee amount or percentage to be paid by the debtor; and

132.19 (3) the total amount of fees reasonably anticipated to be paid by the debtor over  
132.20 the term of the agreement.

132.21 (b) Each debt management services agreement must also contain the following:

132.22 (1) a disclosure that if the amount of debt owed is increased by interest, late fees,  
132.23 over the limit fees, and other amounts imposed by the creditors, the length of the debt  
132.24 management services agreement will be extended and remain in force and that the total  
132.25 dollar charges agreed upon may increase at the rate agreed upon in the original contract  
132.26 agreement;

132.27 (2) a prominent statement describing the terms upon which the debtor may cancel  
132.28 the contract as set forth in section 332A.11;

132.29 (3) a detailed description of all services to be performed by the debt management  
132.30 services provider for the debtor;

132.31 (4) the debt management services provider's refund policy; and

132.32 (5) the debt management services provider's principal business address and the name  
132.33 and address of its agent in this state authorized to receive service of process.

132.34 Subd. 4. **Prohibited terms.** The following terms shall not be included in the debt  
132.35 management services agreement:

132.36 (1) a hold harmless clause;

133.1 (2) a confession of judgment, or a power of attorney to confess judgment against the  
133.2 debtor or appear as the debtor in any judicial proceeding;

133.3 (3) a waiver of the right to a jury trial, if applicable, in any action brought by  
133.4 or against a debtor;

133.5 (4) an assignment of or an order for payment of wages or other compensation for  
133.6 services;

133.7 (5) a provision in which the debtor agrees not to assert any claim or defense arising  
133.8 out of the debt management services agreement;

133.9 (6) a waiver of any provision of this chapter or a release of any obligation required  
133.10 to be performed on the part of the debt management services provider; or

133.11 (7) a mandatory arbitration clause or a clause selecting a law other than the laws of  
133.12 Minnesota under which the debt management services agreement or any other dispute  
133.13 involving the provision of debt management services is governed or enforced.

133.14 Subd. 5. **New debt management services agreements; modification of existing**  
133.15 **agreements.** (a) Separate and additional debt management services agreements that  
133.16 comply with this chapter may be entered into by the debt management services provider  
133.17 and the debtor provided that no additional ~~initial~~ origination fee may be charged by the  
133.18 debt management services provider.

133.19 (b) Any modification of an existing debt management services agreement, including  
133.20 any increase in the number or amount of debts included in the debt management ~~service~~  
133.21 services agreement, must be in writing and signed by both parties, except that the signature  
133.22 of the debtor is not required if:

133.23 (1) a creditor is added to or deleted from a debt management services agreement  
133.24 at the request of the debtor or a debtor voluntarily increases the amount of a payment,  
133.25 provided the debt management services provider must provide an updated payment  
133.26 schedule to the debtor within seven days; or

133.27 (2) the payment amount to a creditor in the agreement increases by \$10 or less  
133.28 and the total payment amount to all creditors increases a total of \$20 or less as a result  
133.29 of incorrect or incomplete information provided by the debtor regarding the amount of  
133.30 debt owed a creditor, provided the debt management services provider must notify the  
133.31 debtor of the increase within seven days.

133.32 No fees, charges, or other consideration may be demanded from the debtor for  
133.33 the modification, other than an increase in the amount of the monthly maintenance fee  
133.34 established in the original debt management services agreement.

133.35 Sec. 16. Minnesota Statutes 2008, section 332A.11, subdivision 2, is amended to read:

134.1 Subd. 2. **Notice of debtor's right to cancel.** A debt management services  
134.2 agreement must contain, on its face, in an easily readable ~~typeface~~ type immediately  
134.3 adjacent to the space for signature by the debtor, the following notice: "Right To Cancel:  
134.4 You have the right to cancel this contract at any time on ten days' written notice."

134.5 Sec. 17. Minnesota Statutes 2008, section 332A.14, is amended to read:

134.6 **332A.14 PROHIBITIONS.**

134.7 ~~A registrant~~ No debt management services provider shall not:

134.8 (1) purchase from a creditor any obligation of a debtor;

134.9 (2) use, threaten to use, seek to have used, or seek to have threatened the use of any  
134.10 legal process, including but not limited to garnishment and repossession of personal  
134.11 property, against any debtor while the debt management services agreement between the  
134.12 registrant and the debtor remains executory;

134.13 (3) advise, counsel, or encourage a debtor to stop paying a creditor ~~until a debt~~  
134.14 ~~management services plan is in place~~, or imply, infer, encourage, or in any other way  
134.15 indicate, that it is advisable to stop paying a creditor;

134.16 (4) sanction or condone the act by a debtor of ceasing payments or imply, infer,  
134.17 or in any manner indicate that the act of ceasing payments is advisable or beneficial to  
134.18 the debtor;

134.19 ~~(4)~~ (5) require as a condition of performing debt management services the purchase  
134.20 of any services, stock, insurance, commodity, or other property or any interest therein  
134.21 either by the debtor or the registrant;

134.22 ~~(5)~~ (6) compromise any debts unless the prior written or contractual approval of the  
134.23 debtor has been obtained to such compromise and unless such compromise inures solely  
134.24 to the benefit of the debtor;

134.25 ~~(6)~~ (7) receive from any debtor as security or in payment of any fee a promissory  
134.26 note or other promise to pay or any mortgage or other security, whether as to real or  
134.27 personal property;

134.28 ~~(7)~~ (8) lend money or provide credit to any debtor if any interest or fee is charged,  
134.29 or directly or indirectly collect any fee for referring, advising, procuring, arranging, or  
134.30 assisting a consumer in obtaining any extension of credit or other debtor service from a  
134.31 lender or debt management services provider;

134.32 ~~(8)~~ (9) structure a debt management services agreement that would result in negative  
134.33 amortization of any debt in the plan;

134.34 ~~(9)~~ (10) engage in any unfair, deceptive, or unconscionable act or practice in  
134.35 connection with any service provided to any debtor;

135.1 ~~(10)~~ (11) offer, pay, or give any material cash fee, gift, bonus, premium, reward, or  
135.2 other compensation to any person for referring any prospective customer to the registrant  
135.3 or for enrolling a debtor in a debt management services plan, or provide any other  
135.4 incentives for employees or agents of the debt management services provider to induce  
135.5 debtors to enter into a debt management services plan;

135.6 ~~(11)~~ (12) receive any cash, fee, gift, bonus, premium, reward, or other compensation  
135.7 from any person other than the debtor or a person on the debtor's behalf in connection  
135.8 with activities as a registrant, provided that this paragraph does not apply to a registrant  
135.9 which is a bona fide nonprofit corporation duly organized under chapter 317A or under  
135.10 the similar laws of another state;

135.11 ~~(12)~~ (13) enter into a contract with a debtor unless a thorough written budget analysis  
135.12 indicates that the debtor can reasonably meet the requirements of the financial adjustment  
135.13 plan and will be benefited by the plan;

135.14 ~~(13)~~ (14) in any way charge or purport to charge or provide any debtor credit  
135.15 insurance in conjunction with any contract or agreement involved in the debt management  
135.16 services plan;

135.17 ~~(14)~~ (15) operate or employ a person who is an employee or owner of a collection  
135.18 agency or process-serving business; or

135.19 ~~(15)~~ (16) solicit, demand, collect, require, or attempt to require payment of a sum  
135.20 that the registrant states, discloses, or advertises to be a voluntary contribution to a debt  
135.21 management services provider or designee from the debtor.

135.22 Sec. 18. Minnesota Statutes 2008, section 332A.16, is amended to read:

135.23 **332A.16 ADVERTISEMENT OF DEBT MANAGEMENT SERVICES PLANS.**

135.24 No debt management services provider may make false, deceptive, or misleading  
135.25 statements or omissions about the rates, terms, or conditions of an actual or proposed  
135.26 debt management services plan or its debt management services, or create the likelihood  
135.27 of consumer confusion or misunderstanding regarding its services, including but not  
135.28 limited to the following:

135.29 (1) represent that the debt management services provider is a nonprofit,  
135.30 not-for-profit, or has similar status or characteristics if some or all of the debt management  
135.31 services will be provided by a for-profit company that is a controlling or affiliated party to  
135.32 the debt management services provider; or

135.33 (2) make any communication that gives the impression that the debt management  
135.34 services provider is acting on behalf of a government agency.

136.1 Sec. 19. **[332B.02] DEFINITIONS.**

136.2 **Subdivision 1. Scope.** Unless a different meaning is clearly indicated by the context,  
136.3 for the purposes of this chapter, the terms defined in this section have the meanings given  
136.4 them.

136.5 **Subd. 2. Accreditation.** "Accreditation" means certification as an accredited credit  
136.6 counseling provider by the Council on Accreditation, the Bureau Veritas Certification  
136.7 North America, Inc., or BSI Management Systems America, Inc.

136.8 **Subd. 3. Advertise.** "Advertise" means to solicit business through any means or  
136.9 medium.

136.10 **Subd. 4. Aggregate debt.** "Aggregate debt" means the total of principal and interest  
136.11 that is owed by the debtor to the creditors at the time of execution of the debt settlement  
136.12 agreement.

136.13 **Subd. 5. Attorney general.** "Attorney general" means the attorney general of the  
136.14 state of Minnesota.

136.15 **Subd. 6. Commissioner.** "Commissioner" means the commissioner of commerce.

136.16 **Subd. 7. Controlling or affiliated party.** "Controlling or affiliated party" means  
136.17 any person or entity that controls or is controlled, directly or indirectly, or is under  
136.18 common control with another person. Controlling or affiliated party includes, but is not  
136.19 limited to, employees, officers, independent contractors, corporations, partnerships, and  
136.20 limited liability corporations.

136.21 **Subd. 8. Credit counseling.** "Credit counseling" means the provision of counseling  
136.22 and advice on managing household finances, including but not limited to, managing credit  
136.23 and debt, budgeting, and personal savings.

136.24 **Subd. 9. Creditor.** "Creditor" means any party:

136.25 (1) named by the debtor as a creditor in the debt settlement services plan or debt  
136.26 settlement services agreement;

136.27 (2) that acquires or holds the debt; or

136.28 (3) to whom interactions with the debt settlement services is assigned in relation to  
136.29 the debt listed in the debt settlement services plan or debt settlement services agreement.

136.30 **Subd. 10. Debt settlement services.** "Debt settlement services" means any one or  
136.31 more of the following activities:

136.32 (1) offering to provide advice, or offering to act or acting as an intermediary between  
136.33 a debtor and one or more of the debtor's creditors, where the primary purpose of the  
136.34 advice or action is to obtain a settlement for less than the full amount of debt, whether

137.1 in principal, interest, fees, or other charges, incurred primarily for personal, family, or  
137.2 household purposes including, but not limited to, offering debt negotiation, debt reduction,  
137.3 or debt relief services; or

137.4 (2) advising, encouraging, assisting, or counseling a debtor to accumulate funds in  
137.5 an account for future payment of a reduced amount of debt to one or more of the debtor's  
137.6 creditors.

137.7 Any person so engaged or holding out as so engaged is deemed to be engaged in  
137.8 the provision of debt settlement services, regardless of whether or not a fee is charged for  
137.9 such services.

137.10 Subd. 11. **Debt settlement services agreement.** "Debt settlement services  
137.11 agreement" means the written contract between the debt settlement services provider  
137.12 and the debtor.

137.13 Subd. 12. **Debt settlement services plan.** "Debt settlement services plan" means  
137.14 the debtor's individualized package of debt settlement services set forth in the debt  
137.15 settlement services agreement.

137.16 Subd. 13. **Debt settlement services provider.** "Debt settlement services provider"  
137.17 means any person offering or providing debt settlement services to a debtor domiciled  
137.18 in this state, regardless of whether or not a fee is charged for the services and regardless  
137.19 of whether the person maintains a physical presence in the state. The term includes  
137.20 any person to whom debt settlement duties are delegated. The term shall not include  
137.21 persons listed in section 332A.02, subdivision 8, clauses (1) to (10), or a debt management  
137.22 services provider.

137.23 Subd. 14. **Lead generator.** "Lead generator" means a person that, without providing  
137.24 debt settlement services: (1) solicits debtors to engage in debt settlement through mail,  
137.25 in person, or electronic Web site-based solicitation or any other means, (2) acts as an  
137.26 intermediary or referral agent between a debtor and an entity actually providing debt  
137.27 settlement services, or (3) obtains a debtor's personally identifiable information and  
137.28 transmits that information to a debt settlement services provider.

137.29 Subd. 15. **Person.** "Person" means an individual, firm, partnership, association,  
137.30 or corporation.

137.31 Subd. 16. **Registrant.** "Registrant" means any person registered by the  
137.32 commissioner pursuant to this chapter and, where used in conjunction with an act or  
137.33 omission required or prohibited by this chapter, shall mean any person performing debt  
137.34 settlement services.

138.1 Sec. 20. [332B.03] REQUIREMENT OF REGISTRATION.

138.2 On or after August 1, 2009, it is unlawful for any person, whether or not located  
138.3 in this state, to operate as a debt settlement services provider or provide debt settlement  
138.4 services including, but not limited to, offering, advertising, or executing or causing to be  
138.5 executed any debt settlement services or debt settlement services agreement, except as  
138.6 authorized by law, without first becoming registered as provided in this chapter. Debt  
138.7 settlement services providers may continue to provide debt settlement services without  
138.8 complying with this chapter to those debtors who entered into a contract to participate  
138.9 in a debt settlement services plan prior to August 1, 2009, but may not enter into a debt  
138.10 settlement services agreement with a debt on or after August 1, 2009, without complying  
138.11 with this chapter.

138.12 Sec. 21. [332B.04] REGISTRATION.

138.13 Subdivision 1. Form. Application for registration to operate as a debt settlement  
138.14 services provider in this state must be made in writing to the commissioner, under oath, in  
138.15 the form prescribed by the commissioner, and must contain:

138.16 (1) the full name of each principal of the entity applying;

138.17 (2) the address, which must not be a post office box, and the telephone number and,  
138.18 if applicable, the e-mail address, of the applicant;

138.19 (3) consent to the jurisdiction of the courts of this state;

138.20 (4) the name and address of the registered agent authorized to accept service of  
138.21 process on behalf of the applicant or appointment of the commissioner as the applicant's  
138.22 agent for purposes of accepting service of process;

138.23 (5) disclosure of:

138.24 (i) whether any controlling or affiliated party has ever been convicted of a crime  
138.25 or found civilly liable for an offense involving moral turpitude, including forgery,  
138.26 embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to  
138.27 defraud, or any other similar offense or violation, or any violation of a federal or state  
138.28 law or regulation in connection with activities relating to the rendition of debt settlement  
138.29 services or involving any consumer fraud, false advertising, deceptive trade practices, or  
138.30 similar consumer protection law;

138.31 (ii) any judgments, private or public litigation, tax liens, written complaints,  
138.32 administrative actions, or investigations by any government agency against the applicant  
138.33 or any officer, director, manager, or shareholder owning more than five percent interest  
138.34 in the applicant, unresolved or otherwise, filed or otherwise commenced within the  
138.35 preceding ten years;

139.1 (iii) whether the applicant or any person employed by the applicant has had a record  
139.2 of having defaulted in the payment of money collected for others, including the discharge  
139.3 of debts through bankruptcy proceedings; and

139.4 (iv) whether the applicant's license or registration to provide debt settlement services  
139.5 in any other state has ever been revoked or suspended;

139.6 (6) a copy of the applicant's standard debt settlement services agreement that the  
139.7 applicant intends to execute with debtors;

139.8 (7) proof of accreditation, unless the applicant submits an affidavit attesting that the  
139.9 applicant does not provide credit counseling services; and

139.10 (8) any other information and material as the commissioner may require.

139.11 The commissioner may, for good cause shown, temporarily waive any requirement  
139.12 of this subdivision.

139.13 Subd. 2. **Term and scope of registration.** A registration is effective until 11:59  
139.14 p.m. on December 31 of the year for which the application for registration is filed or until  
139.15 it is surrendered by the registrant or revoked or suspended by the commissioner. The  
139.16 registration is limited solely to the business of providing debt settlement services.

139.17 Subd. 3. **Fees; bond.** An applicant for registration as a debt settlement services  
139.18 provider must comply with the requirements of section 332A.04, subdivisions 3, 4, and 5.

139.19 Subd. 4. **Right of action on bond.** If the registrant has failed to account to a debtor,  
139.20 or has failed to perform any of the services promised, the registrant is in default. The  
139.21 debtor or the debtor's legal representative or receiver, the commissioner, or the attorney  
139.22 general, shall have, in addition to all other legal remedies, a right of action in the name of  
139.23 the debtor on the bond or the security given under this section, for loss suffered by the  
139.24 debtor, not exceeding the face amount of the bond or security, and without the necessity of  
139.25 joining the registrant in the suit or action based on the default.

139.26 Subd. 5. **Registrant list.** The commissioner must maintain a list of registered debt  
139.27 settlement services providers. The list must be made available to the public in written  
139.28 form upon request and on the Department of Commerce Web site.

139.29 Subd. 6. **Renewal of registration.** Each year, each registrant under the provisions  
139.30 of this chapter must, not more than 60 nor less than 30 days before its registration is to  
139.31 expire, apply to the commissioner for renewal of its registration on a form prescribed by  
139.32 the commissioner. The application must be signed by the registrant under penalty of  
139.33 perjury, contain current information on all matters required in the original application, and  
139.34 be accompanied by a payment of \$250. The registrant must maintain a continuous surety  
139.35 bond that satisfies the requirements of section 332A.04, subdivision 4. The renewal is

140.1 effective for one year. The commissioner may, for good cause shown, temporarily waive  
140.2 any requirement of this section.

140.3       Sec. 22. **[332B.05] DENIAL, SUSPENSION, REVOCATION, OR**  
140.4 **NONRENEWAL OF REGISTRATION.**

140.5       Subdivision 1. **Denial.** The commissioner, with notice to the applicant by certified  
140.6 mail sent to the address listed on the application, may deny an application for a registration  
140.7 for any of the reasons specified under section 332A.08.

140.8       Subd. 2. **Suspension, revocation, or nonrenewal.** The commissioner may suspend,  
140.9 revoke, or refuse to renew any registration issued under this chapter, or may levy a civil  
140.10 penalty under section 45.027, or any combination of actions, if the debt settlement services  
140.11 provider or any controlling or affiliated person has committed any act or omission for  
140.12 which the commissioner could have refused to issue an initial registration.

140.13       Subd. 3. **Procedure.** Suspension, revocation, or nonrenewal must be upon notice  
140.14 and under the conditions prescribed in section 332A.09, subdivision 1. Upon issuance of  
140.15 an order suspending, revoking, or refusing to renew a registration, the commissioner:

- 140.16       (1) shall follow the procedure established in section 332A.09, subdivision 2; and  
140.17       (2) may follow the procedure specified in section 332A.09, subdivision 3, concerning  
140.18 the appointment of a receiver for funds of sanctioned registrants.

140.19       Sec. 23. **[332B.06] WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT;**  
140.20 **DISCLOSURES; TRUST ACCOUNT.**

140.21       Subdivision 1. **Written agreement required.** (a) A debt settlement services  
140.22 provider may not perform, or impose any charges or receive any payment for, any debt  
140.23 settlement services until the provider and the debtor have executed a debt settlement  
140.24 services agreement that contains all terms of the agreement between the debt settlement  
140.25 services provider and the debtor and complies with all the applicable requirements of  
140.26 this chapter.

140.27       (b) A debt settlement services agreement must:

140.28       (1) be in writing, dated, and signed by the debt settlement services provider and  
140.29 the debtor;

140.30       (2) conspicuously indicate whether or not the debt settlement services provider is  
140.31 registered with the Minnesota Department of Commerce and include any registration  
140.32 number; and

140.33       (3) be written in the debtor's primary language if the debt settlement services  
140.34 provider advertises in that language.

141.1 (c) The registrant must furnish the debtor with a copy of the signed contract upon  
141.2 execution.

141.3 Subd. 2. **Actions prior to executing a written agreement.** No person may provide  
141.4 debt settlement services for a debtor or execute a debt settlement services agreement  
141.5 unless the person first has:

141.6 (1) informed the debtor, in writing, that debt settlement is not appropriate for all  
141.7 debtors and that there are other ways to deal with debt, including using credit counseling  
141.8 or debt management services, or filing bankruptcy;

141.9 (2) prepared in writing and provided to the debtor, in a form the debtor may keep,  
141.10 an individualized financial analysis of the debtor's financial circumstances, including  
141.11 income and liabilities, and made a determination supported by the individualized financial  
141.12 analysis that:

141.13 (i) the debt settlement plan proposed for addressing the debt is suitable for the  
141.14 individual debtor;

141.15 (ii) the debtor can reasonably meet the requirements of the proposed debt settlement  
141.16 services plan; and

141.17 (iii) based on the totality of the circumstances, there is a net tangible benefit to the  
141.18 debtor of entering into the proposed debt settlement services plan; and

141.19 (3) provided, on a document separate from any other document, the total amount and  
141.20 an itemization of fees, including any origination fees, monthly fees, and settlement fees  
141.21 reasonably anticipated to be paid by the debtor over the term of the agreement.

141.22 Subd. 3. **Determination concerning creditor participation.** (a) Before executing a  
141.23 debt settlement services agreement or providing any services, a debt settlement services  
141.24 provider must make a determination, supported by sufficient bases, which creditors listed  
141.25 by the debtor are reasonably likely, and which are not reasonably likely, to participate in  
141.26 the debt settlement services plan set forth in the debt settlement services agreement.

141.27 (b) A debt settlement services provider has a defense against a claim that no  
141.28 sufficient basis existed to make a determination that a creditor was likely to participate if  
141.29 the debt settlement services provider can produce:

141.30 (1) written confirmation from the creditor that, at the time the determination was  
141.31 made, the creditor and the debt settlement services provider were engaged in negotiations  
141.32 to settle a debt for another debtor; or

141.33 (2) evidence that the provider and the creditor had entered into a settlement of a debt  
141.34 within the six months prior to the date of the determination.

141.35 (c) The debt settlement services provider must notify the debtor as soon as  
141.36 practicable after the provider has made a determination of the likelihood of participation

142.1 or nonparticipation of all the creditors listed for inclusion in the debt settlement services  
142.2 agreement or debt settlement services plan. If not all creditors listed in the debt settlement  
142.3 services agreement are reasonably likely to participate in the debt settlement services plan,  
142.4 the debt settlement services provider must obtain the written authorization from the debtor  
142.5 to proceed with the debt settlement services agreement without the likely participation of  
142.6 all listed creditors.

142.7 Subd. 4. **Disclosures.** (a) A person offering to provide or providing debt settlement  
142.8 services must disclose both orally and in writing whether or not the person is registered  
142.9 with the Minnesota Department of Commerce and any registration number.

142.10 (b) No person may provide debt settlement services unless the person first has  
142.11 provided, both orally and in writing, on a single sheet of paper, separate from any other  
142.12 document or writing, the following verbatim notice:

142.13 **CAUTION**

142.14 We CANNOT GUARANTEE that you will successfully reduce or eliminate your  
142.15 debt.

142.16 If you stop paying your creditors, there is a strong likelihood some or all of the  
142.17 following may happen:

142.18 • YOUR WAGES OR BANK ACCOUNT MAY STILL BE GARNISHED.

142.19 • YOU MAY STILL BE CONTACTED BY CREDITORS.

142.20 • YOU MAY STILL BE SUED BY CREDITORS for the money you owe.

142.21 • FEES, INTEREST, AND OTHER CHARGES WILL CONTINUE TO MOUNT  
142.22 UP DURING THE (INSERT NUMBER) MONTHS THIS PLAN IS IN EFFECT.

142.23 Even if we do settle your debt, YOU MAY STILL HAVE TO PAY TAXES on  
142.24 the amount forgiven.

142.25 Your credit rating may be adversely affected.

142.26 (c) The heading, "CAUTION," must be in bold, underlined, 28-point type, and the  
142.27 remaining text must be in 14-point type, with a double space between each statement.

142.28 (d) The disclosures and notices required under this subdivision must be provided  
142.29 in the debtor's primary language if the debt settlement services provider advertises in  
142.30 that language.

142.31 Subd. 5. **Required terms.** (a) Each debt settlement services agreement must contain  
142.32 on the front page of the agreement, segregated by bold lines from all other information  
142.33 on the page and disclosed prominently and clearly in bold print, the total amount and an  
142.34 itemization of fees, including any origination fees, monthly fees, and settlement fees  
142.35 reasonably anticipated to be paid by the debtor over the term of the agreement.

142.36 (b) Each debt settlement services agreement must also contain the following:

143.1 (1) a prominent statement describing the terms upon which the debtor may cancel  
143.2 the contract as set forth in section 332B.07;

143.3 (2) a detailed description of all services to be performed by the debt settlement  
143.4 services provider for the debtor;

143.5 (3) the debt settlement services provider's refund policy;

143.6 (4) the debt settlement services provider's principal business address, which must  
143.7 not be a post office box, and the name and address of its agent in this state authorized to  
143.8 receive service of process; and

143.9 (5) the name of each creditor the debtor has listed and the aggregate debt owed to  
143.10 each creditor that will be the subject of settlement.

143.11 Subd. 6. **Prohibited terms.** A debt settlement services agreement may not contain  
143.12 any of the terms prohibited under section 332A.10, subdivision 4.

143.13 Subd. 7. **New debt settlement services agreements; modifications of existing**  
143.14 **agreements.** (a) Separate and additional debt settlement services agreements that comply  
143.15 with this chapter may be entered into by the debt settlement services provider and the  
143.16 debtor, provided that no additional origination fee may be charged by the debt settlement  
143.17 services provider.

143.18 (b) Any modification of an existing debt settlement services agreement, including  
143.19 any increase in the number or amount of debts included in the debt settlement services  
143.20 agreement, must be in writing and signed by both parties. No fee may be charged to  
143.21 modify an existing agreement.

143.22 Subd. 8. **Funds held in trust.** Debtor funds may be held in trust for the purpose  
143.23 of writing exchange checks for no longer than 42 days. If the registrant holds debtor  
143.24 funds, the registrant must maintain a separate trust account, except that the registrant may  
143.25 commingle debtor funds with the registrant's own funds, in the form of an imprest fund,  
143.26 to the extent necessary to ensure maintenance of a minimum balance, if the financial  
143.27 institution at which the trust account is held requires a minimum balance to avoid the  
143.28 assessment of fees or penalties for failure to maintain a minimum balance.

143.29 Sec. 24. **[332B.07] RIGHT TO CANCEL.**

143.30 Subdivision 1. **Debtor's right to cancel.** (a) A debtor has the right to cancel a debt  
143.31 settlement services agreement without cause at any time upon ten days' written notice  
143.32 to the debt settlement services provider.

143.33 (b) In the event of cancellation, the debt settlement services provider must, within  
143.34 ten days of the cancellation, notify the debtor's creditors with whom the debt settlement

144.1 services provider is or has been, under the terms of the debt settlement agreement, in  
144.2 communication, of the cancellation and immediately refund all fees paid by the debtor to  
144.3 the debt settlement services provider that exceed the fees allowed under section 332B.09.

144.4 (c) Upon cancellation, the debt settlement services provider must cease collection of  
144.5 any monthly fees beginning in the month following cancellation.

144.6 Subd. 2. **Notice of debtor's right to cancel.** A debt settlement services agreement  
144.7 must contain, on its face, in an easily readable type immediately adjacent to the space for  
144.8 signature by the debtor, the following notice: "Right to Cancel: You have the right to  
144.9 cancel this contract at any time on ten days' written notice."

144.10 Subd. 3. **Automatic termination.** Upon the payment of all listed or settled debts  
144.11 and fees, the debt settlement services agreement must automatically terminate, and all  
144.12 funds held by the debt settlement services provider that exceed the fees allowed under  
144.13 section 332B.09 must be immediately returned to the debtor.

144.14 Subd. 4. **Debt settlement services provider's right to cancel.** (a) A debt settlement  
144.15 services provider may cancel a debt settlement services agreement with good cause upon  
144.16 30 days' written notice to the debtor.

144.17 (b) Within ten days after the cancellation, the debt settlement services provider  
144.18 must notify the debtor's creditors with whom the debt settlement services provider is or  
144.19 has been, under the terms of the debt settlement services agreement, in communication,  
144.20 of the cancellation.

144.21 (c) Upon cancellation, the debt settlement services provider must cease collection of  
144.22 any monthly fees beginning in the month following cancellation.

144.23 (d) A debt settlement services provider is entitled to the full amount of the fees  
144.24 provided for in the debt settlement services agreement if the provider can show that:

144.25 (1) the provider obtained a settlement offer from the creditor or creditors in  
144.26 accordance with the debt settlement services agreement;

144.27 (2) the debtor rejected the settlement offer; or

144.28 (3) within the period contemplated in the debt settlement services agreement, the  
144.29 debtor entered into a settlement agreement with the same creditor or creditors for an  
144.30 amount equal to or lower than the settlement offer obtained by the provider.

144.31 **Sec. 25. [332B.08] BOOKS, RECORDS, AND INFORMATION.**

144.32 Subdivision 1. **Records retention; annual report.** Every registrant must keep, and  
144.33 use in the registrant's business, such books, accounts, and records, including electronic  
144.34 records, as will enable the commissioner to determine whether the registrant is complying

145.1 with this chapter and the rules, orders, and directives adopted by the commissioner under  
145.2 this chapter. Every registrant must preserve such books, accounts, and records for at least  
145.3 six years after making the final entry on any transaction recorded therein. Examinations  
145.4 of the books, records, and method of operations conducted under the supervision of the  
145.5 commissioner shall be done at the cost of the registrant. The cost must be assessed as  
145.6 determined under section 46.131.

145.7 Subd. 2. **Annual report.** On or before March 15 of each calendar year,  
145.8 each registrant must file a report with the commissioner containing information the  
145.9 commissioner may require about the preceding calendar year. The report must be in a  
145.10 form the commissioner prescribes.

145.11 Subd. 3. **Statements to debtors.** (a) Each registrant must:

145.12 (1) maintain and make available records and accounts that will enable each debtor to  
145.13 ascertain the amounts paid to the creditors, if any. A statement showing amounts received  
145.14 from the debtor, disbursements, if any, to each creditor, amounts that any creditor has  
145.15 agreed to as payment in full for any debt owed the creditor by the debtor, fees deducted by  
145.16 the registrant, and other information the commissioner may prescribe, must be furnished  
145.17 by the registrant to the debtor at least monthly and, in addition, upon any cancellation or  
145.18 termination of the contract;

145.19 (2) include in the statement furnished to debtors a list of all activities conducted  
145.20 pursuant to the contract, including the nature of communications and progress of  
145.21 negotiations with each creditor during the reporting period; and

145.22 (3) prepare and retain in the file of each debtor a written analysis of the debtor's  
145.23 income and expenses to substantiate that the plan of payment is feasible and practicable.

145.24 (b) Each debtor must have reasonable access, without cost, by electronic or other  
145.25 means, to information in the registrant's files applicable to the debtor. These statements,  
145.26 records, and accounts must otherwise remain confidential, except for duly authorized  
145.27 state and government officials, the commissioner, the attorney general, the debtor, and  
145.28 the debtor's representative and designees.

145.29 Sec. 26. **[332B.09] FEES; WITHDRAWAL OF CREDITORS; NOTIFICATION**  
145.30 **TO DEBTOR OF SETTLEMENT OFFER.**

145.31 Subdivision 1. **Choice of fee structure.** A debt settlement services provider may  
145.32 calculate fees on a percentage of debt basis or on a percentage of savings basis. The fee  
145.33 structure shall be clearly disclosed and explained in the debt settlement services agreement.

146.1 Subd. 2. Fees as a percentage of debt. (a) The total amount of the fees claimed,  
146.2 demanded, charged, collected, or received under this subdivision shall be calculated as  
146.3 15 percent of the aggregate debt. A debt settlement services provider that calculates  
146.4 fees as a percentage of debt may:

146.5 (1) charge an origination fee, which may be designated by the debt settlement  
146.6 services provider as nonrefundable, of:

146.7 (i) \$200 on aggregate debt of less than \$20,000; or

146.8 (ii) \$400 on aggregate debt of \$20,000 or more;

146.9 (2) charge a monthly fee of:

146.10 (i) no greater than \$50 per month on aggregate debt of less than \$40,000; and

146.11 (ii) no greater than \$60 per month on aggregate debt of \$40,000 or more; and

146.12 (3) charge a settlement fee for the remainder of the allowable fees, which may be

146.13 demanded and collected no earlier than upon delivery to the debt settlement services  
146.14 provider by a creditor of a bona fide written settlement offer consistent with the terms of  
146.15 the debt settlement services agreement. A settlement fee may be assessed for each debt  
146.16 settled, but the sum total of the origination fee, the monthly fee, and the settlement fee  
146.17 may not exceed 15 percent of the aggregate debt.

146.18 (b) When a settlement offer is obtained by a debt settlement services provider from a  
146.19 creditor, the collection of any monthly fees shall cease beginning the month following the  
146.20 month in which the settlement offer was obtained by the debt settlement services provider.

146.21 (c) In no event may more than 40 percent of the total amount of fees allowable be  
146.22 claimed, demanded, charged, collected, or received by a debt settlement services provider  
146.23 any earlier than upon delivery to the debt settlement services provider by a creditor of  
146.24 a bona fide written settlement offer consistent with the terms of the debt settlement  
146.25 services agreement.

146.26 Subd. 3. Fees as a percentage of savings. (a) The total amount of the fees claimed,  
146.27 demanded, charged, collected, or received under this subdivision shall be calculated as 30  
146.28 percent of the savings actually negotiated by the debt settlement services provider. The  
146.29 savings shall be calculated as the difference between the aggregate debt that is stated  
146.30 in the debt settlement services agreement at the time of its execution and total amount  
146.31 that the debtor actually pays to settle all the debts stated in the debt settlement services  
146.32 agreement, provided that only savings resulting from concessions actually negotiated by  
146.33 the debt settlement services provider may be counted. A debt settlement services provider  
146.34 that calculates fees as a percentage of debt may:

146.35 (1) charge an origination fee, which may be designated by the debt settlement  
146.36 services provider as nonrefundable, of:

147.1 (i) \$300 on aggregate debt of less than \$20,000; or  
147.2 (ii) \$500 on aggregate debt of \$20,000 or more;  
147.3 (2) charge a monthly fee of:  
147.4 (i) no greater than \$65 on aggregate debt of less than \$40,000; and  
147.5 (ii) no greater than \$75 on aggregate debt of \$40,000 or more; and  
147.6 (3) charge a settlement fee for the remainder of the allowable fees, which may be  
147.7 demanded and collected no earlier than upon delivery to the debt settlement services  
147.8 provider by a creditor of a bona fide, final written settlement offer consistent with the  
147.9 terms of the debt settlement services agreement. A settlement fee may be assessed for each  
147.10 debt settled, but the sum total of the origination fee, the monthly fee, and the settlement  
147.11 fee may not exceed 30 percent of the savings, as calculated under paragraph (a).

147.12 (b) The collection of monthly fees shall cease under this subdivision when the  
147.13 total of monthly fees and the origination fee equals 50 percent of the total fees allowable  
147.14 under this subdivision. For the purposes of this subdivision, 50 percent of the total fees  
147.15 allowable shall assume a settlement of 50 cents on the dollar.

147.16 (c) In no event may more than 50 percent of the total amount of fees allowable be  
147.17 claimed, demanded, charged, collected, or received by a debt settlement services provider  
147.18 any earlier than upon delivery to the debt settlement services provider by a creditor of a  
147.19 bona fide, final written settlement offer consistent with the terms of the debt settlement  
147.20 services agreement.

147.21 Subd. 4. **Fees exclusive.** No fees, charges, assessments, or any other compensation  
147.22 may be claimed, demanded, charged, collected, or received other than the fees allowed  
147.23 under this section. Any fees collected in excess of those allowed under this section must  
147.24 be immediately returned to the debtor.

147.25 Subd. 5. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt  
147.26 settlement services plan, the debt settlement services provider must promptly notify the  
147.27 debtor of the withdrawal, identify the creditor, and inform the debtor of the right to modify  
147.28 the debt settlement services agreement, unless at least 50 percent of the listed creditors  
147.29 withdraw, in which case the debt settlement services provider must notify the debtor of the  
147.30 debtor's right to cancel. In no case may this notice be provided more than 15 days after the  
147.31 debt settlement services provider learns of the creditor's decision to withdraw from a plan.

147.32 Subd. 6. **Timely notification of settlement offer.** A debt settlement services  
147.33 provider must make all reasonable efforts to notify the debtor within 24 hours of a  
147.34 settlement offer made by a creditor.

147.35 Sec. 27. **[332B.10] PROHIBITIONS.**

148.1 No debt settlement services provider shall:  
148.2 (1) engage in any activity, act, or omission prohibited under section 332A.14;  
148.3 (2) promise, guarantee, or directly or indirectly imply, infer, or in any manner  
148.4 represent that any debt will be settled prior to the presentation to the debtor of an offer by  
148.5 the creditors participating in the debt settlement plan to settle;  
148.6 (3) misrepresent the timing of negotiations with creditors;  
148.7 (4) imply, infer, or in any manner represent that:  
148.8 (i) fees, interest, and other charges will not continue to accrue prior to the time  
148.9 debts are settled;  
148.10 (ii) wages or bank accounts are not subject to garnishment;  
148.11 (iii) creditors will not continue to contact the debtor;  
148.12 (iv) the debtor is not subject to legal action; and  
148.13 (v) the debtor will not be subject to tax consequences for the portion of any debts  
148.14 forgiven;  
148.15 (5) execute a power of attorney or any other agreement, oral or written, express  
148.16 or implied, that extinguishes or limits the debtor's right at any time to contract or  
148.17 communicate with any creditor or the creditor's right at any time to communicate with  
148.18 the debtor;  
148.19 (6) exercise or attempt to exercise a power of attorney after an individual has  
148.20 terminated an agreement;  
148.21 (7) state, imply, infer, or, in any other manner, indicate that entering into a debt  
148.22 settlement services agreement or settling debts will either have no effect on, or improve,  
148.23 the debtor's credit, credit rating, and credit score;  
148.24 (8) challenge a debt without the written consent of the debtor;  
148.25 (9) make any false or misleading claim regarding a creditor's right to collect a debt;  
148.26 (10) falsely represent that the debt settlement services provider can negotiate better  
148.27 settlement terms with a creditor than the debtor alone can negotiate;  
148.28 (11) provide or offer to provide legal advice or legal services unless the person  
148.29 providing or offering to provide legal advice is licensed to practice law in the state;  
148.30 (12) misrepresent that it is authorized or competent to furnish legal advice or  
148.31 perform legal services; and  
148.32 (13) settle a debt or lead an individual to believe that a payment to a creditor is in  
148.33 settlement of a debt to the creditor unless, at the time of settlement, the individual receives  
148.34 a certification from the creditor that the payment is in full settlement of the debt.

149.1 Sec. 28. **[332B.11] ADVERTISEMENT AND SOLICITATION OF DEBT**  
149.2 **SETTLEMENT SERVICES.**

149.3 Subdivision 1. **Advertisement.** No debt settlement services provider or lead  
149.4 generator may:

149.5 (1) make any false, deceptive, or misleading statements or omissions about the rates,  
149.6 terms, or conditions of an actual or proposed debt settlement services plan, or create the  
149.7 likelihood of consumer confusion or misunderstanding regarding its services;

149.8 (2) represent that the debt settlement services provider is a nonprofit, not-for-profit,  
149.9 or has similar status or characteristics if some or all of the debt settlement services will  
149.10 be provided by a for-profit company that is a controlling or affiliated party to the debt  
149.11 settlement services provider;

149.12 (3) make any communication that gives the impression that the debt settlement  
149.13 services provider is acting on behalf of a government agency; or

149.14 (4) represent, claim, imply, or infer that secured debts may be settled.

149.15 Subd. 2. **Solicitation by lead generators.** (a) In all print, electronic, and nonprint  
149.16 solicitations, including Web sites and radio or television advertising, a lead generator must  
149.17 prominently make the following verbatim disclosure: "This company does not actually  
149.18 provide any debt settlement, debt consolidation, or other credit counseling services. We  
149.19 ONLY refer you to companies that want to provide some or all of those services."

149.20 (b) A lead generator may not, in any advertising or solicitation to debtors:

149.21 (1) represent that any service is guaranteed; or

149.22 (2) misrepresent the benefits of its services or debt settlement or consolidation in  
149.23 comparison to credit counseling, debt management, or bankruptcy.

149.24 Sec. 29. **[332B.12] DEBT SETTLEMENT SERVICES AGREEMENT**  
149.25 **RESCISSION.**

149.26 Any debtor has the right to rescind any debt settlement services agreement with a  
149.27 debt settlement services provider that commits a material violation of this chapter. On  
149.28 rescission, all fees paid to the debt settlement services provider or any other person other  
149.29 than creditors of the debtor must be returned to the debtor entering into the debt settlement  
149.30 services agreement within ten days of rescission of the debt settlement services agreement.

149.31 Sec. 30. **[332B.13] ENFORCEMENT; REMEDIES.**

149.32 Subdivision 1. **Violation as deceptive practice.** A violation of any of the provisions  
149.33 of this chapter is considered an unfair or deceptive trade practice under section 8.31,

150.1 subdivision 1. A private right of action under section 8.31 by an aggrieved debtor is in  
150.2 the public interest.

150.3 Subd. 2. **Private right of action.** (a) A debt settlement provider who fails to  
150.4 comply with any of the provisions of this chapter, or a lead generator who violates section  
150.5 332B.11, is liable under this section in an individual action for the sum of:

150.6 (1) actual, incidental, and consequential damages sustained by the debtor as a result  
150.7 of the failure; and

150.8 (2) statutory damages of up to \$5,000.

150.9 (b) A debt settlement provider who fails to comply with any of the provisions of  
150.10 this chapter, or a lead generator who violates section 332B.11, is liable to the named  
150.11 plaintiffs under this section in a class action for the amount that each named plaintiff  
150.12 could recover under paragraph (a), clause (1), and to the other class members for such  
150.13 amount as the court may allow.

150.14 (c) In determining the amount of statutory damages, the court shall consider, among  
150.15 other relevant factors:

150.16 (1) the frequency, nature, and persistence of noncompliance;

150.17 (2) the extent to which the noncompliance was intentional; and

150.18 (3) in the case of a class action, the number of debtors adversely affected.

150.19 (d) A plaintiff or class successful in a legal or equitable action under this section is  
150.20 entitled to the costs of the action, plus reasonable attorney fees.

150.21 Subd. 3. **Injunctive relief.** (a) A debtor may sue a debt settlement services provider  
150.22 for temporary or permanent injunctive or other appropriate equitable relief to prevent  
150.23 violations of any provision of this chapter. A court must grant injunctive relief on a  
150.24 showing that the debt settlement services provider has violated any provision of this  
150.25 chapter, or in the case of a temporary injunction, on a showing that the debtor is likely to  
150.26 prevail on allegations that the debt settlement services provider violated any provision  
150.27 of this chapter.

150.28 (b) A debtor may sue a lead generator for temporary or permanent injunctive or other  
150.29 appropriate equitable relief to prevent violations of section 332B.11. A court must grant  
150.30 injunctive relief on a showing that the lead generator has violated section 332B.11, or in  
150.31 the case of a temporary injunction, on a showing that the debtor is likely to prevail on  
150.32 allegations that the lead generator violated section 332B.11.

150.33 Subd. 4. **Remedies cumulative.** The remedies provided in this section are  
150.34 cumulative and do not restrict any remedy that is otherwise available. The provisions

151.1 of this chapter are not exclusive and are in addition to any other requirements, rights,  
151.2 remedies, and penalties provided by law.

151.3 Subd. 5. **Public enforcement.** The attorney general shall enforce this chapter  
151.4 under section 8.31.

151.5 Sec. 31. **[332B.14] INVESTIGATIONS.**

151.6 At any reasonable time, the commissioner may examine the books and records of  
151.7 every registrant and of any person engaged in the business of providing debt settlement  
151.8 services. The commissioner, once during any calendar year, may require the submission  
151.9 of an audit prepared by a certified public accountant of the books and records of each  
151.10 registrant. If the registrant has, within one year previous to the commissioner's demand,  
151.11 had an audit prepared for some other purpose, this audit may be submitted to satisfy the  
151.12 requirement of this section. The commissioner may investigate any complaint concerning  
151.13 violations of this chapter and may require the attendance and sworn testimony of witnesses  
151.14 and the production of documents."

151.15 Delete the title and insert:

151.16 "A bill for an act

151.17 relating to state government; appropriating money for environment, natural  
151.18 resources, and energy; authorizing sale of gift cards and certificates; establishing  
151.19 composting competitive grant program; modifying regulation of storm water  
151.20 discharges; modifying waste management reporting requirements; requiring  
151.21 nonresident all-terrain vehicle state trail pass; modifying horse trail and state park  
151.22 pass requirements; extending certain land sale requirements; prohibiting certain  
151.23 sales of outdoor recreation system lands; providing for exchange of riparian land;  
151.24 requiring disclosure of certain chemicals in children's products by manufacturers;  
151.25 requiring plastic yard waste bags to be compostable and establishing labeling  
151.26 standards; modifying feedlot permit and grant provisions; authorizing uses of  
151.27 the Hennepin County solid and hazardous waste fund; modifying greenhouse  
151.28 gas emissions provisions and requiring a registry; establishing, modifying,  
151.29 and authorizing fees and surcharges; providing for disposition of certain fees;  
151.30 modifying and establishing assessments for certain regulatory expenses;  
151.31 modifying prior appropriations; prohibiting certain reorganizations; providing for  
151.32 fish consumption advisories in different languages; limiting use of certain funds;  
151.33 requiring studies and reports; appropriating money to Department of Commerce  
151.34 and Public Utilities Commission to finance activities related to commerce and  
151.35 energy; providing for green enterprise assistance; modifying provisions related to  
151.36 insurance audits, insurers and insurance products, certain financial institutions,  
151.37 regulated activities related to certain mortgage transactions and professionals,  
151.38 and debt management and debt settlement services; providing penalties and  
151.39 remedies; amending Minnesota Statutes 2008, sections 45.011, subdivision 1;  
151.40 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58,  
151.41 subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06,  
151.42 subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60A.14, subdivision  
151.43 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4;  
151.44 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions  
151.45 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision  
151.46 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.922, subdivision 1a;

152.1 84D.15, subdivision 2; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46,  
152.2 subdivisions 3, 4, 7; 92.685; 93.481, subdivisions 1, 3, 5, 7; 94.342, subdivision  
152.3 3; 97A.075, subdivision 1; 103G.271, subdivision 6; 103G.301, subdivisions 2,  
152.4 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision  
152.5 1; 115A.1314, subdivision 2; 115A.557, subdivision 1; 115A.931; 116.0711;  
152.6 116.41, subdivision 2; 116C.834, subdivision 1; 216B.62, subdivisions 3, 4, 5, by  
152.7 adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision  
152.8 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding subdivisions; 332A.04,  
152.9 subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; 332A.16;  
152.10 Laws 2005, chapter 156, article 2, section 45, as amended; Laws 2007, chapter  
152.11 57, article 1, section 4, subdivision 2; Laws 2008, chapter 363, article 5, section  
152.12 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters  
152.13 60A; 61A; 67A; 84; 86A; 93; 115A; 116; 116J; 216H; 325E; 383B; proposing  
152.14 coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota  
152.15 Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5;  
152.16 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules,  
152.17 parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140."

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

153.2 House Conferees: (Signed)

153.3 .....  
153.4 Jean Wagenius Bill Hilty

153.5 .....  
153.6 Kate Knuth Rick Hansen

153.7 .....  
153.8 Jenifer Loon

153.9 Senate Conferees: (Signed)

153.10 .....  
153.11 Ellen Anderson Tom Saxhaug

153.12 .....  
153.13 Satveer Chaudhary Dennis Frederickson

153.14 .....  
153.15 Patricia Torres Ray