

**CHAPTER 36—H.F.No. 1309**

*An act relating to transportation; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers, contingent appropriations, and tort claims; modifying previous appropriations; authorizing sale of trunk highway bonds; modifying various provisions related to transportation finance and policy; providing for and modifying disposition of various fees, revenues, and accounts; clarifying appropriate uses of trunk highway fund; providing for mitigation of transportation construction impacts on business; increasing set-aside from municipal state-aid fund for administrative costs; establishing Stillwater lift bridge endowment account; regulating records of commercial drivers; modifying provisions related to transit services, fracture-critical bridges, passenger rail, and motor vehicle sales tax revenue allocations; establishing discount transit passes pilot program; authorizing Metropolitan Council to convey certain real property including the Apple Valley Transit Station; establishing Design-Build Project Selection Council and pilot program; adding provisions relating to bus purchases and a Mississippi River crossing near St. Cloud; requiring reports; amending Minnesota Statutes 2008, sections 16A.152, subdivision 2; 161.20, subdivision 3; 162.12, subdivision 2; 168.017, subdivision 5; 168.021, subdivision 4; 168.10, subdivision 1i; 168.29; 168.62, subdivision 3; 174.24, subdivisions 1a, 5, by adding a subdivision; 174.50, by adding a subdivision; 297B.09, subdivision 1; 473.408, by adding a subdivision; Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended; Laws 2008, chapter 152, article 1, sections 3, subdivision 2; 5; proposing coding for new law in Minnesota Statutes, chapters 160; 165; 171; 174.*

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

**ARTICLE 1**

**TRANSPORTATION APPROPRIATIONS**

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	<u>98,385,000</u>	\$	<u>95,885,000</u>	<u>\$ 194,270,000</u>
<u>Airports</u>		<u>21,909,000</u>		<u>19,659,000</u>	<u>41,568,000</u>
<u>C.S.A.H.</u>		<u>496,786,000</u>		<u>524,478,000</u>	<u>1,021,264,000</u>
<u>M.S.A.S.</u>		<u>134,003,000</u>		<u>141,400,000</u>	<u>275,403,000</u>

<u>Special Revenue</u>	<u>49,038,000</u>	<u>49,038,000</u>	<u>98,076,000</u>
<u>H.U.T.D.</u>	<u>9,538,000</u>	<u>9,838,000</u>	<u>19,376,000</u>
<u>Trunk Highway</u>	<u>1,264,921,000</u>	<u>1,372,687,000</u>	<u>2,637,608,000</u>
<b><u>Total</u></b>	<b><u>\$ 2,074,580,000</u></b>	<b><u>\$ 2,212,985,000</u></b>	<b><u>\$ 4,287,565,000</u></b>

Sec. 2. **TRANSPORTATION APPROPRIATIONS.**

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

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
2010                      2011

Sec. 3. **DEPARTMENT OF TRANSPORTATION**

**Subdivision 1. Total Appropriation**                      **\$ 1,848,892,000**                      **\$ 1,987,197,000**

	<u>Appropriations by Fund</u>	
	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>18,191,000</u>	<u>15,691,000</u>
<u>Airports</u>	<u>21,859,000</u>	<u>19,609,000</u>
<u>C.S.A.H.</u>	<u>496,786,000</u>	<u>524,478,000</u>
<u>M.S.A.S.</u>	<u>134,003,000</u>	<u>141,400,000</u>
<u>Trunk Highway</u>	<u>1,178,053,000</u>	<u>1,286,019,000</u>

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

Subd. 2. **Multimodal Systems**

(a) **Aeronautics**

**(1) Airport Development and Assistance**                      **16,548,000**                      **14,298,000**

This appropriation is from the state airports fund and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

Notwithstanding Minnesota Statutes, section 360.305, subdivision 4, paragraph (c), of the appropriation in fiscal year 2010, the commissioner may provide a local contribution for aeronautics project elements if:

(1) federal funds are made available for the project in federal fiscal year 2009 by the United States Department of Transportation, Federal Aviation Administration from the airport improvement program under United States Code, title 49, section 47101, et seq.;

(2) the project requires a five percent match from nonfederal sources; and

(3) the airport is not classified as a key system airport, as provided in Minnesota Statutes, section 360.305, subdivision 3.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for five years after appropriation. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

If the appropriation for either year does not exhaust the balance in the state airports fund, the commissioner of finance, upon request of the commissioner of transportation, shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated for the purpose of airport development and assistance and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

**(2) Aviation Support and Services**

6,123,000

6,123,000

Appropriations by Fund

<u>Airports</u>	<u>5,286,000</u>	<u>5,286,000</u>
<u>Trunk Highway</u>	<u>837,000</u>	<u>837,000</u>

\$65,000 the first year and \$65,000 the second year from the state airports fund are for the Civil Air Patrol.

**(b) Transit** 18,036,000 15,536,000

Appropriations by Fund

<u>General</u>	<u>17,261,000</u>	<u>14,761,000</u>
<u>Trunk Highway</u>	<u>775,000</u>	<u>775,000</u>

The base appropriation from the general fund for fiscal years 2012 and 2013 is \$17,261,000 for each year.

Of these appropriations from the general fund, \$19,300 in each year is for the administrative expenses of the Minnesota Council on Transportation Access, and for other costs relating to the preparation of required reports, including the costs of hiring a consultant, if the council is created.

**(c) Commuter and Passenger Rail** 500,000 500,000

This appropriation is from the general fund for (1) development of the comprehensive statewide freight and passenger rail plan under Minnesota Statutes, section 174.03, subdivision 1b, and (2) passenger rail system planning, alternatives analysis, environmental analysis, design, preliminary engineering, and land acquisition under Minnesota Statutes, sections 174.632 to 174.636.

**(d) Freight** 5,262,000 5,262,000

Appropriations by Fund

<u>General</u>	<u>365,000</u>	<u>365,000</u>
<u>Trunk Highway</u>	<u>4,897,000</u>	<u>4,897,000</u>

The commissioner of transportation shall enter into an agreement to either forgive any money due (approximately \$2,851,118)

on loan agreements 65572 and 67106 or convert the loans to grants. The loans were made to the Buffalo Ridge Regional Railroad Authority, which was established by Rock and Nobles Counties, to enable the counties to purchase and rehabilitate 41.4 miles of rail line providing transportation service to the counties. The agreement must ensure that all terms, provisions, and conditions of the loan agreements are deemed to be fully satisfied and performed on the part of the railroad authority and counties. If the railroad authority sells all or any part of the rail line that has been rehabilitated with either of the loans, the railroad authority must pay the net proceeds to the commissioner, up to the amount loaned.

**Subd. 3. State Roads**

**(a) Infrastructure Operations and Maintenance**

251,643,000

245,892,000

The base appropriation for fiscal years 2012 and 2013 is \$257,395,000 for each year.

**(b) Infrastructure Investment and Planning**

**(1) Infrastructure Investment Support**

201,461,000

196,935,000

The base appropriation for fiscal years 2012 and 2013 is \$205,988,000 for each year.

\$266,000 the first year and \$266,000 the second year are available for grants to metropolitan planning organizations outside the seven-county metropolitan area.

\$75,000 the first year and \$75,000 the second year are for a transportation research contingent account to finance research projects that are reimbursable from the federal government or from other sources. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$600,000 the first year and \$600,000 the second year are available for grants for transportation studies outside the metropolitan area to identify critical concerns, problems, and issues. These

grants are available (1) to regional development commissions; (2) in regions where no regional development commission is functioning, to joint powers boards established under agreement of two or more political subdivisions in the region to exercise the planning functions of a regional development commission; and (3) in regions where no regional development commission or joint powers board is functioning, to the department's district office for that region.

**(2) State Road Construction**

551,300,000

598,700,000

The base appropriation for fiscal years 2012 and 2013 is \$635,000,000 for each year.

It is estimated that these appropriations will be funded as follows:

Appropriations by Fund

Federal Highway

<u>Aid</u>	<u>301,100,000</u>	<u>388,500,000</u>
<u>Highway User Taxes</u>	<u>250,200,000</u>	<u>210,200,000</u>

The commissioner of transportation shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of any significant events that should cause these estimates to change.

This appropriation is for the actual construction, reconstruction, and improvement of trunk highways, including design-build contracts and consultant usage to support these activities. This includes the cost of actual payment to landowners for lands acquired for highway rights-of-way, payment to lessees, interest subsidies, and relocation expenses.

The commissioner shall expend up to one-half of one percent of the federal appropriations under this paragraph as grants to opportunity industrialization centers and other nonprofit job training centers for job training programs related to highway construction.

The commissioner may transfer up to \$15,000,000 each year to the transportation revolving loan fund.

The commissioner may receive money covering other shares of the cost of partnership projects. These receipts are appropriated to the commissioner for these projects.

**(3) Highway Debt Service**

101,170,000

173,400,000

\$86,517,000 the first year and \$157,304,000 the second year are for transfer to the state bond fund. If this appropriation is insufficient to make all transfers required in the year for which it is made, the commissioner of finance shall notify the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives of the amount of the deficiency and shall then transfer that amount under the statutory open appropriation. Any excess appropriation cancels to the trunk highway fund.

**(c) Electronic Communications**

5,177,000

5,177,000

Appropriations by Fund

<u>General</u>	<u>9,000</u>	<u>9,000</u>
<u>Trunk Highway</u>	<u>5,168,000</u>	<u>5,168,000</u>

The general fund appropriation is to equip and operate the Roosevelt signal tower for Lake of the Woods weather broadcasting.

**Subd. 4. Local Roads**

**(a) County State Aids**

496,786,000

524,478,000

This appropriation is from the county state-aid highway fund and is available until spent.

**(b) Municipal State Aids**

134,003,000

141,400,000

This appropriation is from the municipal state-aid street fund and is available until spent.

**(c) State Aid Appropriation Adjustments**

If an appropriation for either county state aids or municipal state aids does not exhaust the balance in the fund from which it is made in the year for which it is made, the commissioner of finance, upon request of the commissioner of transportation, shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated for the purposes of county state aids or municipal state aids, as appropriate.

If the appropriation for either county state aids or municipal state aids does exhaust the balance in the fund from which it is made in the year for which it is made, the commissioner of finance shall notify the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance of the amount by which the appropriation exceeds the balance and shall then reduce that amount from the appropriation.

**Subd. 5. General Support and Services**

**(a) Department Support** 43,440,000 42,449,000

Appropriations by Fund

<u>Airports</u>	<u>25,000</u>	<u>25,000</u>
<u>Trunk Highway</u>	<u>43,415,000</u>	<u>42,424,000</u>

The base appropriation from the trunk highway fund in fiscal years 2012 and 2013 is \$41,907,000 for each year.

**(b) Buildings** 17,443,000 17,047,000

Appropriations by Fund

<u>General</u>	<u>56,000</u>	<u>56,000</u>
<u>Trunk Highway</u>	<u>17,387,000</u>	<u>16,991,000</u>

The base appropriation from the trunk highway fund in fiscal years 2012 and 2013 is \$17,784,000 for each year.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

#### **Subd. 6. Transfers**

(a) With the approval of the commissioner of finance, the commissioner of transportation may transfer unencumbered balances among the appropriations from the trunk highway fund and the state airports fund made in this section. No transfer may be made from the appropriation for state road construction. No transfer may be made from the appropriations for debt service to any other appropriation. Transfers under this paragraph may not be made between funds. Transfers between programs must be reported immediately to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over transportation finance.

(b) The commissioner of finance shall transfer from the flexible account in the county state-aid highway fund \$8,440,000 the first year and \$1,550,000 the second year to the municipal turnback account in the municipal state-aid street fund; and the remainder in each year to the county turnback account in the county state-aid highway fund.

#### **Subd. 7. Use of State Road Construction Appropriations**

Any money appropriated to the commissioner of transportation for state road construction for any fiscal year before fiscal year 2010 is available to the commissioner during the biennium to the extent that the commissioner spends the money on the state road construction project for which the money was originally encumbered during the fiscal year for which it was appropriated. The commissioner of transportation shall report to the commissioner of finance by August 1, 2009, and August 1, 2010, on a form

the commissioner of finance provides, on expenditures made during the previous fiscal year that are authorized by this subdivision.

The commissioner must allocate money appropriated in this section so as to maximize the use of all available federal money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and to the extent possible, any other federal funding.

#### **Subd. 8. Contingent Appropriation**

The commissioner of transportation, with the approval of the governor and the written approval of at least five members of a group consisting of: (1) the members of the Legislative Advisory Commission under Minnesota Statutes, section 3.30; and (2) the ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance, may transfer all or part of the unappropriated balance in the trunk highway fund to an appropriation (1) for trunk highway design, construction, or inspection in order to take advantage of an unanticipated receipt of income to the trunk highway fund or to take advantage of federal advanced construction funding, (2) for trunk highway maintenance in order to meet an emergency, or (3) to pay tort or environmental claims. Nothing in this subdivision authorizes the commissioner to increase the use of federal advanced construction funding beyond amounts specifically authorized. Any transfer as a result of the use of federal advanced construction funding must include an analysis of the effects on the long-term trunk highway fund balance. The amount transferred is appropriated for the purpose of the account to which it is transferred.

#### **Subd. 9. Appropriations Carryforward**

Notwithstanding Minnesota Statutes, section 16A.28, or any other law to the contrary, the commissioner may carry forward to fiscal years 2010 and 2011 any unexpended and unencumbered operating balances from trunk highway appropriations for fiscal year 2009.



Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>7,959,000</u>	<u>7,959,000</u>
<u>Special Revenue</u>	<u>49,038,000</u>	<u>49,038,000</u>
<u>H.U.T.D.</u>	<u>9,413,000</u>	<u>9,713,000</u>
<u>Trunk Highway</u>	<u>86,068,000</u>	<u>85,868,000</u>

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

Subd. 2. Administration and Related Services

(a) Office of Communications 434,000 434,000

Appropriations by Fund

<u>General</u>	<u>41,000</u>	<u>41,000</u>
<u>Trunk Highway</u>	<u>393,000</u>	<u>393,000</u>

(b) Public Safety Support 8,168,000 8,168,000

Appropriations by Fund

<u>General</u>	<u>3,296,000</u>	<u>3,296,000</u>
<u>H.U.T.D.</u>	<u>1,366,000</u>	<u>1,366,000</u>
<u>Trunk Highway</u>	<u>3,506,000</u>	<u>3,506,000</u>

\$380,000 the first year and \$380,000 the second year are appropriated from the general fund for payment of public safety officer survivor benefits under Minnesota Statutes, section 299A.44. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$1,367,000 the first year and \$1,367,000 the second year are appropriated from the general fund to be deposited in the public safety officer's benefit account. This money is available for reimbursements under Minnesota Statutes, section 299A.465.

\$508,000 the first year and \$508,000 the second year are appropriated from the general fund for soft body armor reimbursements under Minnesota Statutes, section 299A.38.

\$792,000 the first year and \$792,000 the second year are appropriated from the general fund for transfer by the commissioner of finance to the trunk highway fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for general fund purposes in the administration and related services program.

\$610,000 the first year and \$610,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the trunk highway fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for highway user tax distribution fund purposes in the administration and related services program.

\$716,000 the first year and \$716,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the general fund on December 31, 2009, and December 31, 2010, respectively, in order to reimburse the general fund for expenses not related to the fund. These represent amounts appropriated out of the general fund for operation of the criminal justice data network related to driver and motor vehicle licensing.

**(c) Technical Support Services** 3,835,000 3,835,000

Appropriations by Fund

<u>General</u>	<u>1,472,000</u>	<u>1,472,000</u>
<u>H.U.T.D.</u>	<u>19,000</u>	<u>19,000</u>
<u>Trunk Highway</u>	<u>2,344,000</u>	<u>2,344,000</u>

**Subd. 3. State Patrol**

**(a) Patrolling Highways** 71,522,000 71,522,000

<u>Appropriations by Fund</u>		
<u>General</u>	<u>37,000</u>	<u>37,000</u>
<u>H.U.T.D.</u>	<u>92,000</u>	<u>92,000</u>
<u>Trunk Highway</u>	<u>71,393,000</u>	<u>71,393,000</u>
<b><u>(b) Commercial Vehicle Enforcement</u></b>	<b><u>7,996,000</u></b>	<b><u>7,796,000</u></b>

This appropriation is from the trunk highway fund.

\$800,000 the first year and \$600,000 the second year are for the Office of Pupil Transportation Safety.

<b><u>(c) Capitol Security</u></b>	<b><u>3,113,000</u></b>	<b><u>3,113,000</u></b>
------------------------------------	-------------------------	-------------------------

This appropriation is from the general fund.

The commissioner may not: (1) spend any money from the trunk highway fund for capitol security; or (2) permanently transfer any state trooper from the patrolling highways activity to capitol security.

The commissioner may not transfer any money: (1) appropriated for Department of Public Safety administration, the patrolling of highways, commercial vehicle enforcement, or driver and vehicle services to capitol security; or (2) from capitol security.

#### **Subd. 4. Driver and Vehicle Services**

<b><u>(a) Vehicle Services</u></b>	<b><u>26,909,000</u></b>	<b><u>27,209,000</u></b>
------------------------------------	--------------------------	--------------------------

<u>Appropriations by Fund</u>		
<u>Special Revenue</u>	<u>18,973,000</u>	<u>18,973,000</u>
<u>H.U.T.D.</u>	<u>7,936,000</u>	<u>8,236,000</u>

The special revenue fund appropriation is from the vehicle services operating account.

<b><u>(b) Driver Services</u></b>	<b><u>28,712,000</u></b>	<b><u>28,712,000</u></b>
-----------------------------------	--------------------------	--------------------------

<u>Appropriations by Fund</u>		
<u>Special Revenue</u>	<u>28,711,000</u>	<u>28,711,000</u>
<u>Trunk Highway</u>	<u>1,000</u>	<u>1,000</u>

The special revenue fund appropriation is from the driver services operating account.

**Subd. 5. Traffic Safety** 435,000 435,000

The commissioner of public safety shall spend 50 percent of the money available to the state under Public Law 105-206, section 164, and the remaining 50 percent must be transferred to the commissioner of transportation for hazard elimination activities under United States Code, title 23, section 152.

**Subd. 6. Pipeline Safety** 1,354,000 1,354,000

This appropriation is from the pipeline safety account in the special revenue fund.

**Subd. 7. Use of Trunk Highway Fund**

No transfer or expenditure of trunk highway funds may be made for the purpose of paying personnel costs incurred on behalf of the Governor's Office.

**Sec. 6. GENERAL CONTINGENT ACCOUNTS** **\$ 375,000 \$ 375,000**

	<u>Appropriations by Fund</u>	
<u>Trunk Highway</u>	<u>200,000</u>	<u>200,000</u>
<u>H.U.T.D.</u>	<u>125,000</u>	<u>125,000</u>
<u>Airports</u>	<u>50,000</u>	<u>50,000</u>

The appropriations in this section may only be spent with the approval of the governor and the written approval of at least five members of a group consisting of (1) the members of the Legislative Advisory Commission under Minnesota Statutes, section 3.30, and (2) the ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 7. **TORT CLAIMS** \$ **600,000** \$ **600,000**

This appropriation is to the commissioner of finance.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 8. Laws 2007, chapter 143, article 1, section 3, subdivision 2, as amended by Laws 2008, chapter 363, article 11, section 10, is amended to read:

**Subd. 2. Multimodal Systems**

**(a) Aeronautics**

**(1) Airport Development and Assistance** 20,298,000 5,298,000

This appropriation is from the state airports fund and must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

\$6,000,000 the first year is a onetime appropriation and does not add to the base appropriations. The base for this appropriation for fiscal year 2010 is \$14,298,000.

Of this appropriation \$200,000 the first year is to the Legislative Coordinating Commission for the administrative expenses of the Airport Funding Advisory Task Force and for other costs relating to the preparation of the task force report, including the costs of hiring a consultant, if needed. Any remaining amount of this appropriation shall revert to the state airports fund.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for five years after appropriation.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

**(2) Aviation Support and Services**

## Appropriations by Fund

Airports	5,184,000	5,286,000
Trunk Highway	852,000	866,000

\$65,000 the first year and \$65,000 the second year from the state airports fund are for the Civil Air Patrol.

**(b) Transit**

## Appropriations by Fund

General	18,813,000	<del>18,816,000</del> <u>21,316,000</u>
Trunk Highway	740,000	761,000

Of the appropriation in fiscal year 2009, \$2,500,000 may be expended for financial assistance under Minnesota Statutes, section 174.24, notwithstanding the payment schedule under Minnesota Statutes, section 174.24, subdivision 5.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, this appropriation is available for fiscal years 2010 and 2011.

**(c) Freight**

## Appropriations by Fund

General	357,000	367,000
Trunk Highway	5,028,000	5,158,000

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

Sec. 9. Laws 2008, chapter 152, article 1, section 5, is amended to read:

Sec. 5. **APPROPRIATION; TRANSPORTATION EMERGENCY RELIEF.**

\$55,000,000 in fiscal year 2008 and ~~\$77,000,000~~ \$33,000,000 in fiscal year 2009 are appropriated to the commissioner of transportation from the trunk highway fund for the purposes specified in the federal grants and aids related to the I-35W bridge collapse on marked Interstate Highway I-35W in Minneapolis. The appropriation in fiscal year 2009 is available for other trunk highway construction projects. This appropriation is in addition to appropriations under Laws 2007, chapter 143, article 1, section 3, and Laws 2007, First Special Session chapter 2, article 2, section 2.

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

Sec. 10. **METROPOLITAN LIVABLE COMMUNITIES FUND; TRANSFERS.**

Notwithstanding Minnesota Statutes, sections 473.25 to 473.255, or any other law, the Metropolitan Council may transfer to its transit operating budget in 2009, 2010, and 2011 money that is not committed to grant or loan awards made by the council as follows:

(1) up to 50 percent of the revenues and amounts credited, transferred, or distributed to the tax base revitalization account in 2009, 2010, and 2011, pursuant to Minnesota Statutes, section 473.252;

(2) up to 50 percent of the revenues and amounts credited, transferred, or distributed to the metropolitan livable communities demonstration account in 2009, 2010, and 2011 pursuant to Minnesota Statutes, section 473.253; and

(3) balances in the metropolitan livable communities fund accounts in 2009, 2010, and 2011.

The council shall use the amounts transferred to cover operating deficits for the transit, paratransit, and light rail and commuter rail services provided or assisted by the council under Minnesota Statutes, sections 473.371 to 473.449. If the council transfers funds pursuant to this section, the council shall amend the annual distribution plan described in Minnesota Statutes, section 473.25, paragraph (d), and include information about the transfer in the annual report required under Minnesota Statutes, section 473.25, paragraph (e).

#### Sec. 11. **RIGHT-OF-WAY ACQUISITION LOAN FUND; TRANSFERS.**

Notwithstanding Minnesota Statutes, section 473.167, or any other law, the Metropolitan Council may transfer to its transit operating budget in 2009, 2010, and 2011 up to 75 percent of the amounts levied and collected in 2009, 2010, and 2011 under Minnesota Statutes, section 473.167, subdivision 3. The council shall use the amounts transferred to cover operating deficits for the transit, paratransit, and light rail and commuter rail services provided or assisted by the council under Minnesota Statutes, sections 473.371 to 473.449.

## ARTICLE 2

### TRUNK HIGHWAY BONDS

#### Section 1. **HIGHWAY APPROPRIATION AND BOND SALE.**

Subdivision 1. **Appropriation.** \$40,000,000 is appropriated from the bond proceeds account in the trunk highway fund to the commissioner of transportation for (1) construction of interchanges involving a trunk highway, where the interchange will promote economic development, increase employment, relieve growing traffic congestion, and promote traffic safety; and (2) local match for any federal grants made available to the state. The amount under this paragraph must be allocated 50 percent to the department's metropolitan district, and 50 percent to districts in greater Minnesota. At least \$20,000,000 of this appropriation must be expended as provided under clause (1). This amount is in addition to existing appropriations for this purpose.

Subd. 2. **Bond sale.** To provide the money appropriated in subdivision 1 from the bond proceeds account in the trunk highway fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$40,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 167.50 to 167.52, and by the Minnesota Constitution, article XIV, section 11, at the times and in the amounts

requested by the commissioner of transportation. The proceeds of the bonds, except accrued interest and any premium received from the sale of the bonds, must be deposited in the bond proceeds account in the trunk highway fund.

Sec. 2. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

**ARTICLE 3**

**TRANSPORTATION FINANCE AND POLICY**

Section 1. Minnesota Statutes 2008, section 16A.152, subdivision 2, is amended to read:

Subd. 2. **Additional revenues; priority.** (a) If on the basis of a forecast of general fund revenues and expenditures, the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the following accounts and purposes in priority order:

(1) the cash flow account established in subdivision 1 until that account reaches \$350,000,000;

(2) the budget reserve account established in subdivision 1a until that account reaches \$653,000,000;

(3) the amount necessary to increase the aid payment schedule for school district aids and credits payments in section 127A.45 to not more than 90 percent rounded to the nearest tenth of a percent without exceeding the amount available and with any remaining funds deposited in the budget reserve; ~~and~~

(4) the amount necessary to restore all or a portion of the net aid reductions under section 127A.441 and to reduce the property tax revenue recognition shift under section 123B.75, subdivision 5, paragraph (b), and Laws 2003, First Special Session chapter 9, article 5, section 34, as amended by Laws 2003, First Special Session chapter 23, section 20, by the same amount; and

(5) to the state airports fund, the amount necessary to restore the amount transferred from the state airports fund under Laws 2008, chapter 363, article 11, section 3, subdivision 5.

(b) The amounts necessary to meet the requirements of this section are appropriated from the general fund within two weeks after the forecast is released or, in the case of transfers under paragraph (a), clauses (3) and (4), as necessary to meet the appropriations schedules otherwise established in statute.

(c) To the extent that a positive unrestricted budgetary general fund balance is projected, appropriations under this section must be made before section 16A.1522 takes effect.

(d) The commissioner of finance shall certify the total dollar amount of the reductions under paragraph (a), clauses (3) and (4), to the commissioner of education. The commissioner of education shall increase the aid payment percentage and reduce the property tax shift percentage by these amounts and apply those reductions to the current fiscal year and thereafter.

Sec. 2. **[160.165] MITIGATION OF TRANSPORTATION CONSTRUCTION IMPACTS ON BUSINESS.**

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

(1) "project" means construction work to maintain, construct, reconstruct, or improve a street or highway;

(2) "substantial business impacts" means impairment of road access, parking, or visibility for one or more business establishments as a result of a project, for a minimum period of one month; and

(3) "transportation authority" means the commissioner, as to trunk highways; the county board, as to county state-aid highways and county highways; the town board, as to town roads; and statutory or home rule charter cities, as to city streets.

Subd. 2. Business liaison. (a) Before beginning construction work on a project, a transportation authority shall identify whether the project is anticipated to include substantial business impacts. For such projects, the transportation authority shall designate an individual to serve as business liaison between the transportation authority and affected businesses.

(b) The business liaison shall consult with affected businesses before and during construction to investigate means of mitigating project impacts to businesses. The mitigation considered must include signage. The business liaison shall provide information to the identified businesses before and during construction, concerning project duration and timetables, lane and road closures, detours, access impacts, customer parking impacts, visibility, noise, dust, vibration, and public participation opportunities.

Sec. 3. Minnesota Statutes 2008, section 161.20, subdivision 3, is amended to read:

Subd. 3. Trunk highway fund appropriations. The commissioner may expend trunk highway funds only for trunk highway purposes. Payment of expenses related to Bureau of Criminal Apprehension laboratory, Explore Minnesota Tourism kiosks, Minnesota Safety Council, tort claims, driver education programs, Emergency Medical Services Board, and Mississippi River Parkway Commission, and personnel costs incurred on behalf of the Governor's Office do not further a highway purpose and do not aid in the construction, improvement, or maintenance of the highway system.

Sec. 4. Minnesota Statutes 2008, section 162.12, subdivision 2, is amended to read:

Subd. 2. Administrative costs. A sum of ~~1-1/2~~ two percent shall be deducted from the total available in the municipal state-aid street fund, set aside in a separate account, and used for administration costs incurred by the state Transportation Department in carrying out the provisions relating to the municipal state-aid street system.

Sec. 5. **[165.15] STILLWATER LIFT BRIDGE ENDOWMENT ACCOUNT.**

Subdivision 1. Account established. The Stillwater lift bridge endowment account is established in the state treasury. The account may consist of appropriations made by the state of Minnesota or Wisconsin and may include federal funds. The account may also receive private contributions, gifts, or grants under section 16A.013. Any interest or profit accruing from investment of these sums is credited to the account.

Subd. 2. **Use of funds.** (a) Income derived from the investment of principal in the account may be used by the commissioner of transportation for operations and routine maintenance of the Stillwater lift bridge. No money from this account may be used for any purposes except those described in this section, and no money from this account may be transferred to any other account in the state treasury without specific legislative authorization. Any money transferred from the trunk highway fund may only be used for trunk highway purposes. For the purposes of this section:

(1) "Income" is the amount of interest on debt securities and dividends on equity securities. Any gains or losses from the sale of securities must be added to the principal of the account.

(2) "Routine maintenance" means activities that are predictable and repetitive, but not activities that would constitute major repairs or rehabilitation.

(b) Investment management fees incurred by the State Board of Investment are eligible expenses for reimbursement from the account.

(c) The commissioner of transportation has authority to approve or deny expenditures of funds in the account.

Subd. 3. **Appropriation.** Income derived from the investment of principal in the account is appropriated annually to the commissioner of transportation for the purposes described in this section.

Subd. 4. **Financial compliance.** The commissioner of transportation shall ensure that the account complies with the regulations in OMB circulars A87, Cost Principles for State, Local and Indian Tribal Governments, and A122, Cost Principles for Non-Profit Organizations, of the United States Office of Management and Budget (OMB).

Subd. 5. **Investment.** The State Board of Investment, in consultation with the commissioner of transportation, shall invest money in the account under section 11A.24.

Subd. 6. **Demolition.** If the commissioner determines, in consultation with the State Historic Preservation Office, that it is necessary to demolish the Stillwater lift bridge, the principal in the account may be spent to pay for demolition of the bridge, and is appropriated to the commissioner of transportation only for that purpose, except that only funds originally contributed by the state or federal government can be used to pay for demolition. Any money remaining in the account after demolition must be used to pay for the preservation of other historic bridges in consultation with the State Historic Preservation Office.

Subd. 7. **Audits.** The account is subject to audit by the legislative auditor.

Subd. 8. **Reports required.** The commissioner of transportation shall report annually to the chair and ranking minority member of each legislative committee with jurisdiction over transportation on the endowment account. At a minimum, the report must include detailed revenue and expenditure information.

Sec. 6. Minnesota Statutes 2008, section 168.017, subdivision 5, is amended to read:

**Subd. 5. Registration period extension for leased vehicle.** (a) Notwithstanding subdivisions 3 and 4, a person leasing for at least one year a vehicle registered under this section may obtain an extension of the motor vehicle's registration period for the unexpired portion of the lease period, for a period not to exceed 11 months beyond the expiration of the registration period.

(b) In order to obtain an extension under this subdivision a lessee must

(1) apply to the registrar on a form the registrar prescribes;

(2) submit to the registrar a copy of the lease;

(3) pay an administrative fee of \$5; and

(4) pay a tax of 1/12 of the tax for the registration period being extended for each month of the extension.

(c) On an applicant's compliance with paragraph (b) the registrar shall issue the applicant a license plate tab or sticker designating the new month of expiration of the registration. The extended registration expires on the tenth day of the month following the month designated on the tab or sticker.

(d) All fees collected under paragraph (b), clause (3), must be deposited in the vehicle services operating account under section 299A.705, subdivision 1. Taxes collected under paragraph (b), clause (4), must be deposited in the highway user tax distribution fund.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 7. Minnesota Statutes 2008, section 168.021, subdivision 4, is amended to read:

Subd. 4. **Fees; disposition.** All fees collected from the sale of disability plates under this section must be deposited in the state treasury to the credit of the highway user tax distribution fund vehicle services operating account under section 299A.705, subdivision 1.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 8. Minnesota Statutes 2008, section 168.10, subdivision 1i, is amended to read:

Subd. 1i. **Collector plate transfer.** Notwithstanding section 168.12, subdivision 1, on payment of a transfer fee of \$5, plates issued under this section may be transferred to another vehicle owned or jointly owned by the person to whom the special plates were issued or the plate may be assigned to another owner. In addition to the transfer fee a new owner must pay the \$25 tax and any fee required by section 168.12, subdivision 2a. The \$5 fee must be paid into the state treasury and credited to the highway user tax distribution fund vehicle services operating account under section 299A.705, subdivision 1. License plates issued under this section may not be transferred to a vehicle not eligible for the collector's vehicle license plates.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 9. Minnesota Statutes 2008, section 168.29, is amended to read:

**168.29 REPLACEMENT PLATES.**

(a) In the event of the defacement, loss or destruction of any number plates or validation stickers, the registrar, upon receiving and filing a sworn statement of the vehicle owner, setting forth the circumstances of the defacement, loss, destruction or theft of

the number plates or validation stickers, together with any defaced plates or stickers and the payment of a fee calculated to cover the cost of replacement, shall issue a new set of plates or stickers.

(b) The registrar shall then note on the registrar's records the issue of new number plates and shall proceed in such manner as the registrar may deem advisable to cancel and call in the original plates so as to insure against their use on another motor vehicle.

(c) Duplicate registration certificates plainly marked as duplicates may be issued in like cases upon the payment of a \$1 fee. Fees collected under this section must be paid into the state treasury and credited to the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 10. Minnesota Statutes 2008, section 168.62, subdivision 3, is amended to read:

Subd. 3. **Special plates or certificate; fee; proceeds to highway user fund.** At the same time that an owner or operator of intercity buses registers them in Minnesota and obtains number plates therefor, the owner or operator shall apply for special identification plates or certificates for the remainder of that fleet of intercity buses. The registrar of motor vehicles shall design an appropriate plate or identification certificate for this purpose which shall be issued upon the payment of a fee of \$10 covering each intercity bus so identified. The proceeds of such fees shall be deposited to the credit of the ~~highway user tax distribution fund~~ vehicle services operating account under section 299A.705, subdivision 1. No intercity bus shall at any time be operated in the state of Minnesota without either Minnesota number plates or special identification plates or certificates issued as herein provided.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005, for fees collected on or after that date.

Sec. 11. **[171.163] COMMERCIAL DRIVER'S LICENSE RECORD KEEPING.**

An agency, court, or public official in Minnesota shall not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a conviction for a violation of a state or local traffic control law, except a parking violation, from appearing on the driving record of a holder of a commercial driver's license, when the violation is committed in any type of motor vehicle, or on the driving record of an individual who committed the violation in a commercial motor vehicle.

Sec. 12. Minnesota Statutes 2008, section 174.24, subdivision 1a, is amended to read:

Subd. 1a. **Transit service needs implementation plan.** The commissioner shall develop a transit service needs implementation plan that contains a goal of meeting at least 80 percent of unmet transit service needs in greater Minnesota by July 1, 2015, and meeting at least 90 percent of unmet transit service needs in greater Minnesota by July 1, 2025. The plan must include, but is not limited to, the following: an analysis of ridership and transit service needs throughout greater Minnesota; a calculation of unmet needs; an assessment of the level and type of service required to meet unmet needs; an analysis of costs and revenue options; and, a plan to reduce unmet transit service needs as specified in this subdivision. The plan must specifically address special transportation service

ridership and needs. The plan must also provide that recipients of operating assistance under this section provide fixed route public transit service without charge for disabled veterans in accordance with subdivision 7. The commissioner may amend the plan as necessary, and may use all or part of the 2001 greater Minnesota public transportation plan created by the Minnesota Department of Transportation.

Sec. 13. Minnesota Statutes 2008, section 174.24, subdivision 5, is amended to read:

Subd. 5. **Method of payment, operating assistance.** Payments for operating assistance under this section must be made in the following manner:

(a) For payments made from the general fund:

- (1) 50 percent of the total contract amount in or before the first month of operation;
- (2) 40 percent of the total contract amount in or before the seventh month of operation;
- (3) 9 percent of the total contract amount in or before the 12th month of operation; and
- (4) 1 percent of the total contract amount after the final audit.

(b) For payments made from the greater Minnesota transit account:

- (1) 50 percent of the total contract amount in or before the seventh month of operation; and
- (2) 50 percent of the total contract amount in or before the 11th month of operation.

Sec. 14. Minnesota Statutes 2008, section 174.24, is amended by adding a subdivision to read:

Subd. 7. **Transit service for disabled veterans.** On and after July 1, 2009, an eligible recipient of operating assistance under this section, who contracts or has contracted to provide fixed route public transit, shall provide fixed route public transit service free of charge for veterans, as defined in section 197.447, certified as disabled. For purposes of this section, "certified as disabled" means certified in writing by the United States Department of Veterans Affairs or the state commissioner of veterans affairs as having a permanent service-connected disability.

Sec. 15. Minnesota Statutes 2008, section 174.50, is amended by adding a subdivision to read:

Subd. 6c. **Fracture-critical bridges.** (a) The commissioner may make a grant to any political subdivision for replacement or rehabilitation of a fracture-critical bridge. To be eligible for a grant under this subdivision, the project must produce a bridge structure:

- (1) that is no longer classified as fracture critical, by having alternate load paths; and
- (2) whose failure of a main component will not result in the collapse of the bridge.

(b) A grant under this subdivision is subject to the procedures and criteria established under subdivisions 5 and 6.

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

Sec. 16. **[174.632] PASSENGER RAIL; COMMISSIONER'S DUTIES.**

(a) The planning, design, development, construction, operation, and maintenance of passenger rail track, facilities, and services are governmental functions, serve a public purpose, and are a matter of public necessity.

(b) The commissioner is responsible for all aspects of planning, designing, developing, constructing, equipping, operating, and maintaining passenger rail, including system planning, alternatives analysis, environmental studies, preliminary engineering, final design, construction, negotiating with railroads, and developing financial and operating plans.

(c) The commissioner may enter into a memorandum of understanding or agreement with a public or private entity, including a regional railroad authority, a joint powers board, and a railroad, to carry out these activities.

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

Sec. 17. **[174.634] PASSENGER RAIL; FUNDING.**

(a) The commissioner may apply for funding from federal, state, regional, local, and private sources to carry out the commissioner's duties in section 174.632.

(b) Section 174.88, subdivision 2, does not apply to the commissioner's performance of duties and exercise of powers under sections 174.632 to 174.636.

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

Sec. 18. **[174.636] PASSENGER RAIL; EXERCISE OF POWER.**

(a) The commissioner has all powers necessary to carry out the duties specified in section 174.632. In the exercise of those powers, the commissioner may:

(1) acquire by purchase, gift, or by eminent domain proceedings as provided by law, all land and property necessary to preserve future passenger rail corridors or to construct, maintain, and improve passenger rail corridors;

(2) let all necessary contracts as provided by law; and

(3) make agreements with and cooperate with any governmental authority or private entity to carry out statutory duties related to passenger rail.

(b) The commissioner shall consult with metropolitan planning organizations and regional rail authorities in areas where passenger rail corridors are under consideration to ensure that passenger rail services are integrated with existing rail and transit services and other transportation facilities to provide as nearly as possible connected, efficient, and integrated services.

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

Sec. 19. Minnesota Statutes 2008, section 297B.09, subdivision 1, is amended to read:

Subdivision 1. **Deposit of revenues.** (a) Money collected and received under this chapter must be deposited as provided in this subdivision.

(b) From July 1, 2007, through June 30, 2008, 38.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 24 percent must be deposited in the metropolitan area transit account under section 16A.88, and 1.5 percent must be deposited in the greater Minnesota transit account under section 16A.88. The remaining money must be deposited in the general fund.

(c) From July 1, 2008, through June 30, 2009, 44.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 27.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 1.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.

~~(d) From July 1, 2009, through June 30, 2010, 50.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 30 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.5 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.~~

(d) From July 1, 2009, through June 30, 2010, 47.5 percent of the money collected and received must be deposited in the highway user tax distribution fund, 30 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.5 percent must be deposited in the greater Minnesota transit account under section 16A.88, and 16.25 percent must be deposited in the general fund. The remaining amount must be deposited as follows:

(1) 1.5 percent in the metropolitan area transit account, except that any amount in excess of \$6,000,000 must be deposited in the highway user tax distribution fund; and

(2) 1.25 percent in the greater Minnesota transit account, except that any amount in excess of \$5,000,000 must be deposited in the highway user tax distribution fund.

~~(e) From July 1, 2010, through June 30, 2011, 56.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 33.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.~~

(e) From July 1, 2010, through June 30, 2011, 54.5 percent of the money collected and received must be deposited in the highway user tax distribution fund, 33.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and 6.25 percent must be deposited in the general fund. The remaining amount must be deposited as follows:

(1) 1.5 percent in the metropolitan area transit account, except that any amount in excess of \$6,750,000 must be deposited in the highway user tax distribution fund; and

(2) 0.25 percent in the greater Minnesota transit account, except that any amount in excess of \$1,250,000 must be deposited in the highway user tax distribution fund.

(f) On and after July 1, 2011, 60 percent of the money collected and received must be deposited in the highway user tax distribution fund, 36 percent must be deposited in the metropolitan area transit account under section 16A.88, and four percent must be deposited in the greater Minnesota transit account under section 16A.88.

(g) It is the intent of the legislature that the allocations under paragraph (f) remain unchanged for fiscal year 2012 and all subsequent fiscal years.

Sec. 20. Minnesota Statutes 2008, section 473.408, is amended by adding a subdivision to read:

Subd. 10. **Transit service for disabled veterans.** (a) On and after the effective date of this section, the council shall provide regular route transit, as defined in section 473.385, subdivision 1, free of charge for veterans, as defined in section 197.447, certified as disabled. For purposes of this section, "certified as disabled" means certified in writing by the United States Department of Veterans Affairs or the state commissioner of veterans affairs as having a permanent service-connected disability.

(b) The requirements under this subdivision apply to operators of regular route transit (1) receiving financial assistance under section 473.388, or (2) operating under section 473.405, subdivision 12.

Sec. 21. Laws 2008, chapter 152, article 1, section 3, subdivision 2, is amended to read:

**Subd. 2. Multimodal Systems**

<b>(a) Transit</b>	0	1,700,000
--------------------	---	-----------

This appropriation is from the general fund.  
This is a onetime appropriation.

<b>(b) Rail</b>	0	250,000
-----------------	---	---------

This appropriation is from the general fund for a grant to the Northstar Corridor Development Authority to fund advanced preliminary engineering, updated environmental documentation, property appraisals, park-and-ride lot construction, and negotiations with the railroad to extend commuter rail service on the Burlington Northern Santa Fe rail line between Big Lake and Rice. This is a onetime appropriation and is available until spent.

<b>(c) Port Development Assistance</b>	0	500,000
--	---	---------

This appropriation is from the general fund for grants under Minnesota Statutes, chapter 457A. Any improvements made with the proceeds of these grants must be publicly owned. This is a onetime appropriation.

**Sec. 22. LAND USE AND PLANNING RESOURCES REPORT.**

(a) By January 15, 2011, the Metropolitan Council shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees with

jurisdiction over transportation policy and finance. The report must identify and assess the effectiveness of local level and regional level land use and transportation planning strategies and processes for:

- (1) reducing air pollution;
- (2) mitigating congestion; and
- (3) reducing costs for operation, maintenance, or improvement of infrastructure.

(b) The report must emphasize approaches that reduce or manage travel demand through land use and access to transportation options.

(c) The Metropolitan Council shall (1) identify and adapt existing information and resources that are found to be applicable to Minnesota, taking into account travel and demographic trends specific to the Twin Cities metropolitan area; and (2) collaborate with local units of government and other stakeholders interested in development and refinement of the resources.

(d) The Metropolitan Council shall submit progress reports on development and application of the land use and planning resources report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation policy and finance by October 15, 2009; April 15, 2010; and October 15, 2010.

(e) The Metropolitan Council may enter into a contract for up to \$375,000 with the Board of Regents of the University of Minnesota for the Center for Transportation Studies to assist in creation of the report required under this section.

#### **Sec. 23. PASSENGER RAIL REPORT.**

By February 1, 2010, the commissioner of transportation shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation policy and finance concerning the status of passenger rail in this state. The report must be made electronically and made available in print only upon request. The report must include a summary of the current status of passenger rail projects and recommend:

- (1) a public participation process for intercity passenger rail planning;
- (2) appropriate participation and levels of review by local units of government;
- (3) future sources of funding for capital costs and operations;
- (4) definitions to distinguish passenger rail from commuter rail;
- (5) legislative changes to facilitate and improve the passenger rail planning processes and operation; and
- (6) state operating subsidy mechanisms designed to create local tax equity between communities served by passenger rail and communities served by commuter rail.

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

#### **Sec. 24. [473.3925] BUS PURCHASES.**

The Metropolitan Council, in preparing bid specifications for bus purchases, shall ensure that the specifications conform, to the greatest extent practicable, with products that are manufactured in this state.

**Sec. 25. ST. CLOUD BRIDGE SITE.**

The commissioner of transportation shall ensure that the economic impact on existing area communities is evaluated and considered in analyzing potential alternative sites and selecting potential and preferred sites for a Mississippi River crossing near St. Cloud metropolitan area.

**Sec. 26. CONVEYANCE OF LAND AND BUILDINGS.**

Notwithstanding Minnesota Statutes, section 16A.695, subdivision 3, or any other law to the contrary, the Metropolitan Council shall convey the Apple Valley Transit Station and the real property on which it is situated, located in Dakota County, to the Minnesota Valley Transit Authority for nominal consideration, in order to carry out the governmental program and public purpose for which the Apple Valley Transit Station was constructed. Any subsequent conveyance of this property by the Minnesota Valley Transit Authority is subject to Minnesota Statutes, section 16A.695, subdivision 3.

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

**Sec. 27. DISCOUNT TRANSIT PASSES PILOT PROGRAM.**

(a) The Metropolitan Council shall establish a pilot program and policies to sell transit fare media at a 50 percent discount to eligible charitable organizations for use by homeless individuals. For the purposes of this section, "eligible charitable organization" means a charitable organization described in section 501(c)(3) of the Internal Revenue Code that provides services for homeless individuals, and "homeless individuals" means homeless individuals or persons as defined in Minnesota Statutes, section 116L.361, subdivision 5. The pilot program must include: (1) an organization located in Minneapolis that provides a homeless shelter, a homeless street outreach program, and sober housing to American Indian women recovering from chemical dependency; and (2) an organization located in Minneapolis that provides transitional apartments for homeless families as well as walk-in services for single adults, including meals and a food shelf. The pilot program shall terminate March 15, 2011.

(b) By January 15, 2011, the chair of the Metropolitan Council shall prepare and submit a report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over transportation. The chair shall prepare and submit the report with existing agency staff and resources. The report must be made electronically and available in print only upon request. The report on the pilot program must include a list of sales made under this subdivision, including organization name and the volume of fare media purchased, and costs of providing the discounted service and revenue impacts in the council's transit system. The report must be prepared in consultation with representatives from the charitable organizations participating in the pilot program.

(c) Paragraphs (a) and (b) apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

**EFFECTIVE DATE.** This section is effective September 1, 2009.

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

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

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

(1) review applications for participation received by the commissioner from counties and cities;

(2) select for participation in the pilot program a maximum of 15 projects on the state-aid system, no more than ten of which may be on the county state-aid highway system, and no more than ten of which may be on the municipal state-aid street system;

(3) determine that the use of design-build in the selected projects would serve the public interest, after considering, at a minimum:

(i) the extent to which the municipality can adequately define the project requirements in a proposed scope of the design and construction desired;

(ii) the time constraints for delivery of the project;

(iii) the capability of potential contractors with the design-build method of project delivery;

(iv) the suitability of the project for use of the design-build method of project delivery with respect to time, schedule, costs, and quality factors;

(v) the capability of the municipality to manage the project, including the employment of experienced personnel or outside consultants; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) "commissioner" means the commissioner of transportation;

(2) "municipality" means a county or statutory or home rule charter city;

(3) "design-build contract" means a single contract between a municipality and a design-build company or firm to furnish the architectural or engineering and related design services as well as the labor, material, supplies, equipment, and construction services for the transportation project;

(4) "design-build firm" means a proprietorship, partnership, limited liability partnership, joint venture, corporation, any type of limited liability company, professional corporation, or any legal entity;

(5) "design professional" means a person who holds a license under Minnesota Statutes, chapter 326B, that is required to be registered under Minnesota law;

(6) "design-build transportation project" means the procurement of both the design and construction of a transportation project in a single contract with a company or companies capable of providing the necessary engineering services and construction;

(7) "design-builder" means the design-build firm that proposes to design and build a transportation project governed by the procedures of this section;

(8) "request for proposals" or "RFP" means the document by which the municipality solicits proposals from qualified design-build firms to design and construct the transportation project;

(9) "request for qualifications" or "RFQ" means a document to qualify potential design-build firms; and

(10) "responsive proposal" means a technical proposal of which no major component (i) contradicts the goals of the project, (ii) materially violates an RFP requirement so as to give the proposer a competitive advantage, or (iii) places conditions on a proposal inconsistent with the requirements of the RFP.

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

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

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

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

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

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

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

Subd. 5. **Technical Review Committee.** During the phase one RFQ and before solicitation, the municipality shall appoint a Technical Review Committee of at least five individuals. The Technical Review Committee must include an individual whose name and qualifications are submitted to the municipality by the Minnesota chapter of the Associated General Contractors, after consultation with other commercial contractor associations in the state. Members of the Technical Review Committee who are not state employees are subject to the Minnesota Government Data Practices Act and Minnesota Statutes, section 16C.06, to the same extent that state agencies are subject to those provisions. A Technical Review Committee member may not participate in the review or discussion of responses to the RFQ or RFP when a design-build firm in which the member

has a financial interest has responded to the RFQ or RFP. "Financial interest" includes, but is not limited to, being or serving as an owner, employee, partner, limited liability partner, shareholder, joint venturer, family member, officer, or director of a design-build firm responding to an RFQ or RFP for a specific project, or having any other economic interest in that design-build firm. The members of the Technical Review Committee must be treated as municipal employees in the event of litigation resulting from any action arising out of their service on the committee.

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

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

(2) a scope of work statement and schedule;

(3) documents defining the project requirements;

(4) the form of contract to be awarded;

(5) the weighted selection criteria for compiling a short list and the number of firms to be included in the short list, which must be at least two but not more than five;

(6) a description of the request for proposals (RFP) requirements;

(7) the maximum time allowed for design and construction;

(8) the municipality's estimated cost of design and construction;

(9) requirements for construction experience, design experience, financial, personnel, and equipment resources available from potential design-builders for the project and experience in other design-build transportation projects or similar projects, provided that these requirements may not unduly restrict competition; and

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

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

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

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

(1) the scope of work, including (i) performance and technical requirements, (ii) conceptual design, (iii) specifications consistent with state standards and specifications,

and (iv) functional and operational elements for the delivery of the completed project, all of which must be prepared by a registered or licensed professional engineer;

(2) copies of the contract documents that the successful proposer will be expected to sign;

(3) the maximum time allowable for design and construction;

(4) the road authority's estimated cost of design and construction;

(5) the requirement that a submitted proposal be segmented into two parts, a technical proposal and a price proposal;

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

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

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

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

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

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

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

(13) other information relevant to the project; and

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

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

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

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

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

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

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

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

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

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

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

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

(1) the first step is the review of the technical proposal by the Technical Review Committee as provided in subdivision 5. The Technical Review Committee must open the technical proposal first and must determine if it complies with the requirements of the

RFP and is responsive. The Technical Review Committee may not perform any ranking or scoring of the technical proposals; and

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

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

(e) A stipulated fee may be paid for unsuccessful bids on low-bid, design-build projects only when the municipality has required an RFQ and short-listed the most highly qualified responsive bidders.

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

Presented to the governor May 4, 2009

Signed by the governor May 7, 2009, 3:32 p.m.