

House Research Act Summary

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TOPIC: Environment, Natural Resources, Energy, and Commerce Finance Omnibus

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Section

Article 1: Environment and Natural Resources Finance

Overview

This article contains the biennial appropriations for the Pollution Control Agency (PCA), Department of Natural Resources (DNR), Board of Water and Soil Resources (BWSR), Metropolitan Council parks and trails, the Minnesota Conservation Corps, the Zoological Board, and the Science Museum of Minnesota, and includes related policy and other statutory changes.

1 Summary of appropriations. Summarizes the total appropriations by fund.

2 Environment and natural resources appropriations. Technical.

3 Pollution Control Agency.

Subd. 1. Total appropriation. Provides the total appropriation for the PCA. Requires the agency's budget to be displayed on its Web site and requires the agency to have air, water, and solid waste accounts to track revenues and expenditures. Requires the agency to submit a report on environmental assessment worksheets. States that rules adopted by the agency regarding fees are effective retroactively on July 1, 2009. Requires grant recipients to provide information on the expenditure of grant funds on their Web site and provide information to the agency to be displayed on the agency's Web site.

Subd. 2. Water. Provides appropriations for water related activities. Requires the commissioner to submit a report on the effectiveness of enforcement actions in preventing water pollution. Requires the commissioner to continue rulemaking to better align water permit fee revenue with the cost of issuing the permits in the coming fiscal years.

Subd. 3. Air. Provides appropriations for air program activities and requires the agency to report the level of fine particulate matter in the state's air compared to the standards recommended by the Particulate Matter Review Panel of the Environmental Protection Agency's Clean Air Scientific Advisory Committee in June of 2005. Requires the commissioner to continue rulemaking to better align air quality permit fee revenue with the cost of issuing the permits in the coming fiscal years.

Subd. 4. Land. Provides appropriations for land program activities. Requires the commissioner to report on activities related to the new composting competitive grant program established in this article.

Subd. 5. Environmental Assistance and Cross-Media. Provides appropriations for the environmental assistance and cross-media activities.

Subd. 6. Administrative support. Provides appropriations for administrative support of the agency.

4 **Natural Resources.**

Subd. 1. Total appropriation. Provides the total appropriation for the DNR. Requires people conducting restorations to use vegetation or sow seed only of ecotypes native to the state. Requires the department's budget to be displayed on its Web site. Requires grant recipients to provide information on the expenditure of grant funds on their Web site and provide information to the department to be displayed on the department's Web site.

Subd. 2. Land and mineral resources management. Provides appropriations for the lands and minerals division.

Subd. 3. Water resources management. Provides appropriations for the waters division, requires the commissioner to submit a report on the long-term protection of the state's surface water and groundwater, and requires the commissioner to design a groundwater monitoring network.

Subd. 4. Forest management. Provides appropriations for the forestry division.

Subd. 5. Parks and trails management. Provides appropriations for the parks and trails division.

Subd. 6. Fish and wildlife management. Provides appropriations for fish and wildlife management.

Subd. 7. Ecological services. Provides appropriations for ecological services. Requires the commissioner to submit a report on the expected outcomes and goals for merging the ecological services and waters divisions and prohibits the commissioner from merging the divisions until the commissioner presents the report to the legislature.

Subd. 8. Enforcement. Provides appropriations for the enforcement division and requires the commissioner to publicize opportunities for conservation officer employment and recruit officers from biological sciences departments.

Subd. 9. Operations support. Provides appropriations for administrative support of the department and an appropriation for zoos from the lottery-in-lieu funds.

- 5 Board of Water and Soil Resources.** Provides appropriations for BWSR. Requires people conducting restorations to use vegetation or sow seed only of ecotypes native to the state. Requires grant recipients to provide information on the expenditure of grant funds on their Web site and provide information to the board to be displayed on the board's Web site.
- 6 Metropolitan Council.** Provides appropriations for metropolitan regional parks and trails.
- 7 Minnesota Conservation Corps.** Provides appropriations for the Minnesota Conservation Corps through an agreement with the commissioner of natural resources.
- 8 Zoological Board.** Provides an appropriation for the Zoological Board.
- 9 Science Museum of Minnesota.** Provides an appropriation for the Science Museum of Minnesota.
- 10 Citation authority.** Amends § 84.0835, subd. 3. Allows a citation to be issued for violations of the new nonresident ATV trail pass requirements established under this article.
- 11 Gift card and certificate sales; receipts, transfers; appropriation.** Adds § 84.0854. Permits the DNR to sell gift cards and certificates and advertise their availability. Provides for the disposition of the revenue collected.
- 12 Fees; disposition.** Amends § 84.415, subd. 5. States that application fees collected by the DNR for licenses for utility crossings over public lands and waters must be deposited in the general fund, and that the new supplemental application and monitoring fee established in the next section is to be deposited in the land management account and appropriated to the commissioner to cover the costs of issuing and monitoring utility licenses.
- 13 Supplemental application fee and monitoring fee.** Adds § 84.415, subd. 6. Establishes a supplemental application fee for utility crossing licenses of \$1,500 for a public water crossing license and \$4,500 for a public lands crossing license.
- 14 Conveyance of interests in lands to state and federal governments.** Amends § 84.63. Establishes an application fee of \$2,000 and a monitoring fee for certain easements in order to cover the costs for reviewing and preparing the easements and for monitoring the easement.
- 15 Road easements across state lands.** Amends § 84.631. Establishes an additional monitoring fee for road easements in order to cover the costs for reviewing and preparing the easements and for monitoring the easement.
- 16 Conveyance of unneeded state easements.** Amends § 84.632. Establishes an application fee for an easement release in order to cover the costs for reviewing and preparing for the release of the easement.

- 17 Exemptions.** Amends § 84.922, subd. 1a. Exempts ATVs with a new nonresident all-terrain vehicle pass from the registration requirements that apply if the vehicle is operated on state and grant-in-aid trails.
- 18 Nonresident all-terrain vehicle state trail pass.** Adds § 84.9275.
- Subd. 1. Pass required; fee.** Prohibits a nonresident from operating an ATV on a state or grant-in-aid trail unless carrying an ATV state trail pass. Establishes a \$20 annual fee for the pass (valid from April 1 to March 31). Requires the proceeds from the fee to be deposited in the ATV account, except for the commission received by the commissioner from the electronic licensing system which must be used for grants-in-aid to counties and municipalities for ATV organizations to construct and maintain ATV trails and use areas. Provides an exception from the trail pass requirements for federal, state, or other ATVs, or those being operated only on a portion of a trail that is owned by the person operating the ATV or that person's spouse, child, or parent.
- Subd. 2. License agents.** Allows the commissioner to appoint agents to issue the trail passes and allows the commissioner to revoke the appointment and adopt additional rules for accounting and handling the passes. Requires an agent to observe those rules and promptly deposit and remit all money to the commissioner.
- Subd. 3. Issuance of passes.** Requires the commissioner and the agents to issue the passes and requires that the passes be available through the electronic licensing system.
- Subd. 4. Agents fee.** Allows an issuing fee of \$1 to be charged and allows the seller of the pass to retain the issuing fee. Requires issuing fees collected by the commissioner to be deposited in the ATV account and retained for operation of the electronic licensing system.
- Subd. 5. Duplicate passes.** Requires the commissioner and agents to issue replacement passes for lost or destroyed passes for a fee of \$2 and an issuing fee of \$.50.
- 19 Receipts.** Amends § 84D.15, subd. 2. Requires the commissioner of finance to transfer \$725,000 from the water recreation account to the invasive species account in fiscal years 2010 and 2011.
- 20 Easements for ingress and egress.** Amends § 85.015, subd. 1b. Establishes an application fee for easements over trail right of ways in order to cover the costs for reviewing and preparing the easement.
- 21 Free entrance; totally and permanently disabled veterans.** Amends § 85.053, subd. 10. Allows free entrance to state parks to any veteran with a total and permanent service-connected disability. Currently, this is available to residents only.
- 22 Issuance.** Amends § 85.46, subd. 3. Technical clarifications as a result of the new commercial annual horse trail pass established in the next section. States that the section is effective January 1, 2010.
- 23 Pass fees.** Amends § 85.46, subd. 4. Establishes a commercial annual horse trail pass that may be purchased for \$200 which includes 15 passes. Allows the purchase of additional or

individual passes for \$20. The pass may be used in lieu of the existing horse trail pass that is required of a person leading, riding, or driving a horse on state trails and other areas. States that the section is effective January 1, 2010.

- 24 Duplicate horse trail passes.** Amends § 85.46, subd. 7. Technical clarification as a result of the new commercial annual horse trail pass established in the previous section. States that the section is effective January 1, 2010.
- 25 Prohibition on sales of outdoor recreation system lands for certain purposes.** Adds § 86A.055. Prohibits a state agency from selling land that is classified as a unit of the outdoor recreation system for anticipated savings to the general fund.
- 26 Land management account.** Amends § 92.685. Technical additions necessary as part of the new easement fees established in this article.
- 27 Prohibition against mining without permit; application for permit.** Amends § 93.481, subd. 1. Establishes the following application fees for new permits to mine: \$25,000 for a taconite mining operation; \$50,000 for a nonferrous metallic minerals operation; \$10,000 for a scam mining operation; and \$5,000 for a peat operation.
- 28 Term of permit; amendment.** Amends § 93.481, subd. 3. Establishes a permit amendment application fee that is ten percent of the applicable application fee for a new permit.
- 29 Assignment.** Amends § 93.481, subd. 5. Establishes a permit assignment/transfer application fee that is ten percent of the applicable application fee for a new permit.
- 30 Mining administration account.** Amends § 93.481, subd. 7. Makes technical changes in response to the new mining fees established in the next section and states that interest accrued in the account used for mining fee revenues stays in the account until appropriated.
- 31 Reclamation fees.** Amends § 93.482.
- Subd. 1. Annual permit to mine fee.** Establishes the following annual permit to mine fees: \$60,000 for a taconite mining operation; \$75,000 for a nonferrous metallic minerals mining; \$5,000 for a scam mining operation; and \$1,000 for a peat mine. The amount of the fee is half the applicable amount if the mine had no production in the previous calendar year.
- Subd. 2. Supplemental application fee for taconite and nonferrous metallic minerals mining operation.** Establishes a supplemental application fee for taconite and nonferrous mining operations to cover the costs of reviewing the application and preparing the permit.
- Subd. 3. Reclamation fee on taconite iron ore produced.** Establishes a reclamation fee to be paid by owners of taconite mined in the state of \$.0075 per ton of taconite iron ore mined.
- 32 Additional restrictions on riparian land.** Amends § 94.342, subd. 3. Allows for exchanges of riparian state-administered (Class A) land for other state-administered (Class A) land without regard as to whether the second parcel of land is riparian.
- 33 Deer, bear, and lifetime licenses.** Amends § 97A.075, subd. 1. Modifies statutory appropriation language for emergency deer and wild cervidae health management to remove

an obsolete provision.

- 34 Water use permit processing fee. Amends § 103G.271, subd. 6.** Increases the water use permit processing fee for large water users and increases the summer water surcharge from \$20 to \$30 per million gallons.
- 35 Permit application fees.** Amends § 103G.301, subd. 2. Clarifies that water permit fees are subject to the requirements of § 16A.1285 (which requires fees and other charges to neither significantly over recover nor under recover costs, including overhead costs, involved in providing the services). Makes permanent a temporary statutory appropriation of the fees collected for large volumes (more than 100 million gallons a year).
- 36 Field inspection fees.** Amends § 103G.301, subd. 3. States that field inspection fees for water permits must be credited to an account in the natural resources fund and are appropriated to the commissioner.
- 37 Regulation of storm water discharges.** Amends § 115.03, subd. 5c. Requires the PCA to develop standards or other tools to enable and promote low impact development and other storm water management techniques and provides a definition of “low impact development” for purposes of the section.
- 38 Enforcement funding.** Amends § 115.073. Removes a cap on the amount of money that must be deposited in the environmental fund that is recovered by the state through the enforcement of chapters 115, 115A, and 116.
- 39 License fee.** Amends § 115.56, subd. 4. Raises the license fee for licenses to install or service individual sewage treatment systems from \$100 to \$200 and caps the annual fee at \$400 for businesses with multiple licenses.
- 40 Fees.** Amends § 115.77, subd. 1. Removes statutory fee amounts for water supply system operator and wastewater operator examinations and certifications and requires the commissioner to collect fees in amounts necessary to cover the reasonable costs of reviewing applications and issuing certifications.
- 41 Creation of account; appropriations.** Amends § 115A.1314, subd. 2. Allows the PCA commissioner to determine refund amounts to manufacturers participating in the electronic waste recycling program (rather than the commissioner of revenue) and extends the statutory appropriation of the funds collected under the program to the commissioner of the PCA from 2009 to 2011.
- 42 Distribution; formula.** Amends § 115A.557, subd. 1. Provides that when statewide Select Committee on Recycling and the Environment (SCORE) grant funding increases above 2001 levels, the increase is allocated to individual counties based on population. SCORE grants support recycling and waste reduction programs.
- 43 Composting competitive grant program.** Adds § 115A.559.
- Subd. 1. Grant program established.** Establishes a program to provide grants to political subdivisions to compost waste. Requires the commissioner to actively recruit participants and requires each grant to have an educational component.
- Subd. 2. Application.** Requires the PCA commissioner to develop an application form and procedures; grant awards are determined by the commissioner.
- Subd. 3. Priorities.** Requires grants to be awarded to projects that provide the

highest public benefits if applications exceed available funds and requires projects to be locally administered, have measured outcomes and include at least one of three listed priority elements.

Subd. 4. Cancellation of grant. States that grants awarded that are not used within four years must be cancelled.

- 44 Yard waste prohibition.** Amends § 115A.931. As of January 1, 2010, prohibits placing yard waste or source-separated compostable materials generated in a metropolitan county in a plastic bag delivered to a transfer station or compost facility, unless the plastic bag is compostable based on specified standards stated in the bill. Exempts plastic bags that are used to deliver waste, but are immediately emptied and removed. Exempts residents of cities of the first class that have an organized collection system for source separated compostable materials from compliance with this provision until January 2013.
- 45 Feedlot permits; conditions; county grants.** Amends § 116.0711. Codifies the language for the county feedlot grants from 2005 law (Minnesota Laws 2005, First Special Session chapter 1, article 2, section 2, subdivision 2).
- 46 Training and certification programs.** Amends § 116.41, subd. 2. Requires the PCA to collect fees in amounts necessary to cover the costs of training programs.
- 47 Definitions.** Adds § 116.9401. (e) "Chemical of high concern" means a chemical identified by an authoritative governmental entity on the basis of credible scientific evidence as being known or suspected with a high degree of probability to:
- (1) harm the normal development of a fetus or child or cause other developmental toxicity;
 - (2) cause cancer, genetic damage, or reproductive harm;
 - (3) disrupt the endocrine or hormone system;
 - (4) damage the nervous or immune system, or organs, or cause other systemic toxicity; or
 - (5) be persistent, bioaccumulative, and toxic.
- (m) "Priority chemical" means a chemical of high concern that is contained in a product offered for sale in Minnesota and that meets the requirements established in section 49.
- 48 Identification of chemicals of high concern.** Adds § 116.9402. Requires the Department of Health ("department"), after consulting with the PCA, to identify chemicals of high concern by July 1, 2010. Allows the department to add or remove chemicals from the list. Specifies lists of chemicals from several sources that the department must consider. Chemicals listed by another state as harmful to human health may also be considered for inclusion as chemicals of high concern.
- 49 Identification of priority chemicals.** Adds § 116.9403. Requires the department to publish a list of priority chemicals by February 1, 2011, and establishes criteria for designating a chemical of high concern a priority chemical, including that the chemical:
- has been identified by the federal Environmental Protection Agency as a high-production volume chemical (1 million pounds annually); and
 - has been found in humans, indoor air, drinking water, or elsewhere in the home environment.
- 50 Applicability.** Adds § 116.9405. Exempts certain products and actors from the provisions of this article, including:

- used products, motor vehicles or watercraft or their parts, except for detachable car seats;
- priority chemicals present in combustible fuels or generated solely as combustion by-products;
- consumer electronics products; and
- retailers, unless acting knowingly to sell a prohibited product.

51 **Donations to the state.** Adds § 116.9406. Allows the commissioner to accept donations or grants to carry out activities of sections 47 to 50.

52 **Participation in interstate chemicals clearinghouse.** Adds § 116.9407. Authorizes the agency to participate in an interstate chemicals clearinghouse to promote safer chemicals in consumer products.

53 **Costs.** Amends § 116C.834, subd. 1. Strikes language exempting fees charged to generators of low-level radioactive waste to support the cost of activities of the state under the Midwest Interstate Low-Level Radioactive Waste Compact from the requirements of section 16A.1285, thus making the fees subject to the prohibition on undercollection or overcollection.

54 **Greenhouse gas emissions reporting.** Adds § 216H.021.

Subd. 1. Commissioner to establish reporting system and maintain inventory.

Requires the commissioner of the Pollution Control Agency to establish a system for reporting and maintaining an inventory of greenhouse gas emissions. Current Minnesota Statutes, section 216H.02 establishes goals for reducing these emissions.

Subd. 2. Reporting system design. Requires that a reporting system be designed to coordinate with other regional or federal reporting and inventory systems, to the extent practicable. Specifies sources that must report emissions, including those whose annual CO₂ equivalent emissions exceed a threshold established by the commissioner at a level between 10,000 and 25,000 tons. Requires that the commissioner consider requiring reporting of greenhouse gas emissions from transportation fuels and from natural gas combustion that are not included in reporting from stationary sources. Directs that if the commissioner determines these should not be included in the initial reporting system, the reasons for that decision be reported to chairs of legislative committees with jurisdiction over energy and environmental policy. Requires a facility reporting emissions under this section to maintain data used to create the reports for at least five years.

Subd. 3. Rules. Authorizes the commissioner to adopt rules for purposes of this section.

55 **High-GWP greenhouse gas.** Amends § 216H.10, subd. 7. Modifies the definition of “high GWP greenhouse gas to include nitrous trifluoride and any other gas the PCA determines, by rule, to have a high global warming potential.

56 **High-GWP greenhouse gas reporting.** Amends § 216H.11. Raises the threshold for high-GWP greenhouse gas reporting requirements from 500 to 10,000 metric tons, and specifies that it applies to a person who purchases such an amount for use or retail sale in the state. Authorizes the commissioner to adopt rules to establish different reporting requirements. Specifies that joining a regional or national greenhouse gas registry that includes verification of the emission data satisfies the reporting requirement under this section.

- 57 Standards for labeling plastic bags.** Amends § 325E.046.
- Subd. 1. Biodegradable label.** Prohibits, after January 1, 2010, the manufacture or sale in Minnesota of a plastic bag labeled “biodegradable,” “degradable,” or labeled in any way that implies that the plastic bag will decompose, unless a scientifically based standard for biodegradability is developed and the plastic bag is certified as meeting that standard.
- Subd. 2. Compostable label.** Similar to previous subdivision, but applies to items labeled as “compostable.” Requires that the bag meet a specified American Society for Testing and Materials standard and be so labeled.
- Subd. 3. Enforcement; civil penalty; injunctive relief.** Provides that a manufacturer, distributor, or wholesaler who willfully violates this section is subject to a civil penalty of \$100 per violation, up to \$5,000, and may be enjoined from such violations. Permits the attorney general to enforce subdivision 1, including acceptance of an assurance of discontinuance, as permitted in section 8.31, subdivision 2b.
- 58 Waste management by Hennepin County.** Amends § 383B.236. Permits Hennepin County to use money in the county solid and hazardous waste fund received from the sale of energy and recovered materials for program expenses of the Department of Environmental Services or its successor.
- 59 Sale of state land.** Amends Laws 2005, ch. 156, art. 2, § 45, as amended. Extends the deadline until the end of the next biennium the requirement for selling state land for anticipated savings to the general fund.
- 60 Land and mineral resources management.** Amends Laws 2007, ch. 57, art. 1, § 4, subd. 2. Extends the availability of an appropriation from 2007 for the DNR’s land records management system.
- 61 Fish and Wildlife Management.** Amends Laws 2008, ch. 363, art. 5, § 4, subd. 7. Removes a requirement that funds for a shooting sports facility be used for a facility at the Vermillion Highlands WMA, and requires the funds to be used for a facility in the seven county metropolitan area.
- 62 SCORE reporting.** Authorizes an abbreviated SCORE report due on April 1, 2010. Establishes a working group to re-examine SCORE reporting requirements and recommend changes that ensure consistent estimation methods are used and that reduce the cost of reporting, including, possibly, the use of multicounty reporting. Recommendations are to be made to the legislature by January 15, 2010.
- 63 Priority chemicals reports.** Requires the agency to report to the legislature by January 15, 2010, regarding its plans to implement sections 47 to 52 and the progress being made in other jurisdictions to identify and reduce the use of high priority chemicals in children’s products. Requires the agency to report to the legislature by December 15, 2010, on mechanisms used in other jurisdictions to reduce and phase out the use of high priority chemicals in children’s products and to promote the use of safer alternatives. The report must also recommend incentives for firms to design products using the principles of green chemistry and life-cycle analysis.
- 64 Reorganization prohibition; Environmental Quality Board.** Prohibits the commissioner of administration from reorganizing the Environmental Quality Board within another

agency before July 1, 2011.

- 65 Environmental review streamlining report.** Requires the commissioner of the PCA to submit a report to the legislature on options to streamline the environmental review process by January 15, 2010. Requires the commissioner to consult with state agencies, local government units, and business, agriculture and environmental advocacy organizations with an interest in environmental review. Requires the report to include options that reduce the amount of time required and the costs of environmental review, while maintaining air, land, and water quality standards.
- 66 Compensation of governor's staff.** Prohibits the DNR, PCA, and BWSR from using funds appropriated in this article or statutory or open appropriations to directly or indirectly pay for the compensation of staff in the governor's office.
- 67 Fish consumption advisories.** Requires the commissioner of natural resources to work in cooperation with the commissioner of health to ensure that fish consumption advisories are displayed in at least four different languages.
- 68 Carbon sequestration forestry report.** Requires the Minnesota Forest Resources Council to review the Minnesota Climate Change Advisory Group's recommendation to increase carbon sequestration in forests by planting one million trees and submit a report to the legislature by January 15, 2010. Requires the report to include recommendations on implementation and analysis of the number of acres available for tree planting, the types of native species best suited, the availability of planting stock, and the costs.
- 69 Repealer.** Repeals Laws 2008, ch. 363, art. 5, § 30 (existing mining fees to be replaced by fees established in this article).

Article 2: Energy Finance

- 1 Summary of Appropriations.** Summarizes appropriations by fund and year.
- 2 Energy finance appropriation.** Technical explanation of terms.
- 3 Department of Commerce.** Specifies general purposes for which the appropriations may be used.
- 4 Public Utilities Commission.** Summarizes appropriations by year.
- 5 General powers.** Amends § 45.027, subdivision 1. Permits the commissioner of commerce to assess entities the department regulates for the costs of investigations ordered by the commissioner. Specifies how the costs of the investigation are to be determined. Requires the commissioner to deposit the money collected into the general fund. This section applies to the department's regulation of insurance companies, financial institutions, and various related occupations, but does not apply to the energy-related duties of the department. Does not apply to individuals licensed as insurance agents or real estate brokers or sales persons if the investigation results in no finding of a violation of law.
- 6 Fees other than examination fees.** Amends § 60A.14, subdivision 1. Increases the filing fees charged by the commerce department to insurance companies for filing property and casualty insurance policy forms, premium rates, and compliance certifications with the department for review. This includes auto and homeowner's policy forms. The reference to

compliance certifications involves a procedure permitted since 2005 for auto and homeowner's insurance, in which an insurer or rate service organization files a certification with the department certifying that a specific new policy form or premium rate complies with all Minnesota laws, and the insurer may then use the policy form or premium rate immediately upon filing the certification. This section of the bill does not affect the use of this "file-and-use" system; it just increases the filing fee for using it. These filing fees are deposited in the general fund.

- 7 **Minnesota Green Enterprise Assistance.** Adds § 116J.438. Directs the commissioner of employment and economic development, in consultation with the commissioner of commerce, to coordinate state agency collaboration on green enterprise and green economy projects in order to expedite the delivery of grants, awarding of licenses and permits, etc.
- 8 **Assessing all public utilities.** Amends § 216B.62, subdivision 3. Strikes language regarding assessments for the alternative engineering activity (which provides technical assistance to further conservation and renewable energy projects), which are assessed as specified under section 11, below.
- 9 **Objections.** Amends § 216B.62, subdivision 4. Provides that the current administrative treatment for utility objections regarding assessments applies to the newly codified assessments in section 11, below.
- 10 **Assessing cooperatives and municipals.** Amends § 216B.62, subdivision 5. Strikes language regarding assessments for the alternative engineering activity (which provides technical assistance to further conservation and renewable energy projects) for cooperatives and municipal utilities.
- 11 **Assessing all utilities.** Adds § 216B.62, subdivision 7. Authorizes the department of commerce to assess public and municipal utilities and cooperative electric associations for all activities under chapter 216C.
- 12 **Bulk installation of solar photovoltaic panels on school buildings; feasibility study and report.** Requires the director of the Office of Energy Security, in conjunction with the commissioner of education, to study the technical and economic feasibility of installing solar photovoltaic panels on school buildings, and report the results to the legislature by January 15, 2010.
- 13 **Appropriations; cancellations.** Cancels and re-appropriates money from several funds for green enterprise assistance and renewable energy purposes.

Article 3: Department of Commerce; Other Regulatory Provisions

Overview

This article incorporates H.F. 2029/S.F. 1849. It comes mostly from the department of commerce and deals with regulation of banks, mortgage lenders, insurance companies, and other financial institutions by the department. Many of the changes are technical. Sections 18 to 24 and 25 (subdivision 2) deal with township mutual fire insurance companies.

Sections 15 to 17 and 25 (subdivision 5) of this article involve the Minnesota Life and Health Insurance Guaranty Association, which is governed by laws enacted in 1977 and substantially amended in 1993. The association is administered by the insurance industry, and all insurers doing health or life insurance business in MN are required by law to be members. The association's role is to compensate MN residents who have health or life insurance (including annuities) with an insurance company that has become insolvent and unable to pay claims. The association steps in and pays claims that the insurance company cannot pay, up to specified dollar limits on various types of policies. The association does not accumulate funds in advance to pay these claims, but instead assesses its own members (insurance companies) at the time an insolvency occurs, in proportion to each company's share of the relevant Minnesota market. All other states have somewhat similar laws.

- 1** **Definitions.** Updates the definition of “lender” in a law regulating reverse mortgage loans to include the non-bank mortgage originators (such as mortgage companies and mortgage brokers) that have become a big part of the mortgage lending industry and are now regulated for other types of mortgage loans under the new chapter 58 enacted several years ago to regulate that type of lender. This will clarify that these lenders must comply with state laws regulating reverse mortgage loans, such as a law requiring counseling.
- 2** **Definitions.** Substitutes “business entity” for “person” in the definition of consumer small loan lenders (commonly referred to as “payday lenders”).
- 3** **Filing.** Makes a change conforming to section 2. Also specifies that the small consumer loan law applies only to loans made to Minnesota residents, but does include loans made to Minnesota residents over the internet by lenders who do not have a physical presence in Minnesota.
- 4** **Penalties for violation.** Conforms to section 2 on the person/business entity language change.
- 5** **Real estate; restrictions on holding.** This change involves how long a state-chartered bank is allowed to hold onto real estate it acquired through a mortgage foreclosure or other debt collection process. Under current law, a bank may keep that real estate for no more than five years. This section would allow keeping it for an additional period not to exceed five more years, with the approval of the commissioner of commerce, if the bank has not been able to sell it or if disposing of it within the first five years would be detrimental to the bank. With this change, Minnesota law for its state banks on this issue would be the same

as the federal law for national banks.

- 6 Certificate of exemption.** Corrects a cross-reference.
- 7 Application contents.** Clarifies that certain license application requirements are relevant only for mortgage originator license applicants, and not for mortgage servicing license applicants. Adds language in paragraph (c) conforming to the following section, which adds continuing education and testing requirements for licensure as a mortgage originator.
- 8 Education and testing requirement.** Increases the initial education requirement and adds continuing education and testing to the requirements to obtain and maintain an individual license as a mortgage originator. Authorizes the commissioner of commerce to establish the testing requirements by rule. This section is effective for license applications and renewals made on or after September 1, 2009.
- 9 Generally.** Adds laws regulating reverse mortgage loans to the laws mortgage originators must follow. This is consistent with section 1.
- 10 to 11 New auditing requirements for insurance companies.** These two sections (section 11 is very long) involve adoption of new and very detailed auditing requirements as tools to regulate the financial solvency of insurance companies, as required by the National Association of Insurance Commissioners (NAIC). Some requirements are less demanding for smaller companies. States are required to adopt this law to become effective for calendar year 2010. Even the effective date language for section 11 is a whole page long.
- 12 Insolvency.** Eliminates a reference to a law repealed in this article, relating to insolvency of township mutual fire insurance companies.
- 13 Additional requirements.** Technical cross-reference change to conform to the new law on insurance company audits in section 11.
- 14 Preneed insurance products.** This section deals with “preneed insurance products.” They are small life insurance policies purchased to pay funeral, burial, and related expenses. This section enacts a law recommended by the National Association of Insurance Commissioners for valuation of the reserves insurance companies should have to cover future payouts on those policies.
- 15 Limitation of benefits.** Increases all of the dollar limits of guaranty association coverage of life insurance and annuity products. (See overview of this article for background.) An existing law (repealed in section 25 of this article) requires the commissioner to make adjustments for inflation each year by publishing them in the State Register. Those do not automatically get shown in statute, and can get there only if the legislature amends the statutes, so the limits shown in the current law are lower than the actual adjusted amounts. This section increases the stated limits, and section 25 repeals future automatic inflation increases.
- 16 Prohibited sales practice.** Provides that insurance companies and insurance agents may fully inform customers of the existence of the guaranty association when selling an insurance product covered by the guaranty association. Eliminates doing so as a misdemeanor offense.
- 17 Form.** This section amends the notice that insurance companies are required to give to

policyholders when they have bought a life or health policy, giving them information about the guaranty association. The changes update the notice to match the new dollar limits in section 15, so it is purely technical.

- 18** **Number of members required, property and territory.** Sections 18 to 24 substantially rewrite the statutes governing township mutual fire insurance companies, usually referred to just as “township mutuals.” These are small mutual companies that now provide fire insurance in rural areas consisting of authorized adjoining townships. They are owned by their policyholders, sort of like cooperatives, rather than by stockholders. They are regulated by the commissioner of commerce. This section changes the requirement of township mutual authorized territories to require that the territories consist of adjoining counties, rather than adjoining townships. Under this new law, a township mutual can operate in up to 9 adjoining counties, or in up to 20 adjoining counties if it meets the higher financial reserves requirements shown in subdivision 2. Permits township mutuals to write insurance in cities of less than 25,000, but if a city in which it is writing insurance grows to exceed 25,000, it may continue to write both new and renewal insurance there. Also permits writing new and renewal insurance in cities of up to 150,000, with the approval of the commissioner of commerce. Also allows a township mutual that had insurance in force as of the end of 2007 in a city of between 25,000 and 150,000 within its authorized territory, to continue to write insurance there by simply filing amended articles of incorporation naming that city as part of its territory, without the need to get approval of the commissioner.
- 19** **Powers of corporation.** Permits the articles of incorporation of a township mutual to eliminate or limit the liability of a member of the board of directors to the company or its members for breach of fiduciary duty, subject to exceptions stated in the section. The purpose is to allow a township mutual to reduce its cost of liability insurance that covers its directors.
- 20** **Principal office.** Conforms to section 18 by requiring a township mutual to have its principal office in a county, rather than a township, in which it does business.
- 21** **Kinds of property; property outside authorized territory.** Permits a township mutual to write insurance to cover any other real estate or personal property owned by a person whose property it insures within its authorized territory, even if that other property is outside its authorized territory, subject to some limits.
- 22** **Amounts of insurable risk.** Makes a technical correction in a term.
- 23** **Surplus requirement.** Changes surplus requirements for township mutuals. Requires a minimum surplus of \$300,000 at all times. (Surplus is an amount in excess of its required reserves estimated as necessary to meet its expected liabilities for insurance claims.) Specifies a procedure to follow to correct a surplus deficiency, involving a plan of correction agreed to by the township mutual and the commissioner.
- 24** **By member.** Eliminates a current requirement that a member who terminates membership in a township mutual (terminates insurance coverage) must pay the member’s share of all existing claims.
- 25** **Repealer.**

Subd. 1. Annual audits. Repeals the statute replaced by section 11.

Subd. 2. Township mutual insured properties, joint or partial risks, and assessments. Repeals township mutual statutes replaced by sections 18 to 24.

Subd. 3. Banking procedures; real estate tax records. Repeals an obsolete department of commerce banking rule.

Subd. 4. Debt prorating companies. Repeals obsolete department of commerce rules relating to “debt prorate companies,” now called debt management companies.

Subd. 5. Guaranty association; inflation indexing. Repeals a law related to sections 15 to 17 of this article, relating to the Minnesota Life and Health Insurance Guaranty Association. That law provides inflation indexing for the dollar limits of guaranty association coverage of life, annuities, and health insurance policies owned by policyholders of insurance companies that become insolvent.

Article 4: Debt Management and Debt Settlement Services Providers

Overview

This article incorporates H.F. 549/S.F. 2081. It updates and clarifies legislation enacted in 2007 to regulate debt management services providers and also includes new legislation to regulate debt settlement services providers. Debt management services providers manage a debtor’s payments on debts by distributing regular (often partial) payments to creditors from funds provided by the debtor, where the primary purpose is to repay the debts in full over a longer period of time. Debt settlement services providers primarily try to negotiate with creditors to get the debts reduced, so that debts may eventually be paid in full satisfaction of the (reduced) debts. Sections 1 to 5 and 19 to 31 apply to debt settlement services providers. Sections 6 to 18 apply to debt management services providers. Certain sections of this article were later amended in Laws 2009, chapter 178 (H.F. 1853); sections affected are noted in this summary.

- 1** **Scope.** Technical change to add debt settlement services providers to a list of entities to which the commerce department’s enforcement authority applies.
- 2** **General.** Same as section 1, but specific to financial institutions.
- 3** **Supervision over financial institutions.** Technical change consistent with section 2.
- 4** **Assessment authority.** Requires debt settlement services providers to pay the cost to the commerce department of regulating them, on the same basis as other types of businesses.
- 5** **Telephone solicitation.** Makes nonprofit debt settlement services providers subject to the state’s “do not call list,” regardless of the exemption for other types of nonprofit organizations.
- 6** **Advertise.** Defines “advertising” for purposes of debt management services providers as

soliciting business through any means or medium,

- 7 Controlling or affiliated party.** Amends the existing definition to more completely cover relationships between individuals and entities, in which one of them controls the other or in which both are under the common control of another individual or entity.
- 8 Creditor.** Defines “creditor” for purposes of section 9 below.
- 9 Debt management services provider.** Expands this existing definition to include a person to whom duties under a debt management services agreement or debt management services plan are delegated. Changes an exemption from regulation for debt management services provided by financial institutions, credit unions, and collection agencies, to eliminate making it conditional on not charging a fee. Exempts debt collection agencies if they perform the services for a “creditor,” as defined in section 8 above. Also makes a technical change in clause (11) and moves credit unions from clause (7) to clause (2).
- 10 Debt management services.** Revises the existing definition of this term to better describe the services as a comprehensive package of related activities.
- 11 Debtor.** Replaces archaic language (“debt prorating”) with the more modern term redefined in section 10.
- 12 Debt settlement services provider.** Amends this definition for purposes of section 9 to conform to the new definition provided in section 19. This section of this act was later amended in Laws 2009, chapter 178, article 1, section 62.
- 13 Right of action on bond.** Rewords existing law on when a debt management services provider is in default of its agreement with its customer, which permits the customer to sue on the bond or other security provided by the debt management services provider.
- 14 Denial of registration.** Adds a pattern of failing to provide the services promised as an additional reason permitting the commissioner of commerce to deny registration to an applicant for registration as a debt management services provider.
- 15 Written debt management services agreement.**

Subd. 1. Written agreement required. Requires that a debt management services agreement show whether the provider is registered with the commerce department, show the registration number, and be written in the customer’s native language if the debt management services provider advertised in that language.

Subd. 2. Actions prior to written agreement. Makes requirements that apply to providing debt management services also apply to signing a contract to provide them. Also requires a person who seeks to provide debt management services to disclose to the customer, prior to entering into the contract, whether the provider is registered with the commerce department and, if so, the provider’s registration number.

Subd. 3. Required provisions. Clarifies language on origination fees.

Subd. 4. Prohibited terms. Prohibits a choice of law clause that specifies that the contract will be governed by the laws of a state other than Minnesota. (A choice of law clause is a provision in a contract specifying which state’s laws apply to the

contract.)

Subd. 5. New debt management services agreements; modification of existing agreements. Purely technical clarifications.

- 16** **Notice of debtor’s right to cancel.** Makes a technical clarification.
- 17** **Prohibitions.** Prohibits a debt management services provider from advising or otherwise attempting to influence a debtor to stop paying a creditor. This section of this act was later amended in Laws 2009, chapter 178, article 1, section 63.
- 18** **Advertisement of debt management services.** Technical change in the headnote.
- 19** **Definitions.** This section begins the part of the bill that creates a new chapter of law to regulate debt settlement services providers. This section defines 15 terms used in this new chapter of law. This section of this act was later amended in Laws 2009, chapter 178, article 1, section 64.
- 20** **Requirement of registration.** Requires debt settlement services providers to register with the commissioner of commerce. This section of this act was later amended in Laws 2009, chapter 178, article 1, section 65.
- 21** **Registration.** Specifies the process for registering as a debt settlement services provider, including the registration form, fees and bond requirements, provision of a list of registrants on the Commerce Department website, and registration renewal requirements.
- 22** **Denial, suspension, revocation, or nonrenewal of registration.** Permits denial, suspension, revocation, or nonrenewal of a debt settlement services provider registration on the same basis now used for debt management services providers under chapter 332A.
- 23** **Written debt settlement services agreement; disclosures; trust account.** Specifies what must to be (and must not be) in a debt settlement services contract and what has to happen prior to entering into the contract. Requires the debt settlement provider to make an initial determination, prior to entering into an agreement with the debtor, as to which creditors are likely to cooperate and which are not. Also requires certain disclosures to the debtor. Requires that the debtor’s funds advanced to the provider be held in a separate trust account until earned by the provider or disbursed to a creditor or to the debtor. This section of this act was later amended in Laws 2009, chapter 178, article 1, section 66.
- 24** **Right to cancel.** Specifies the rights of both sides to terminate the contract.
- 25** **Books, records, and information.** Requires a debt settlement services provider to keep records of its activities and provide them to the commissioner or the debtor as required in this section.
- 26** **Fees, payments, and consent of creditors.** Limits the amount and types of fees charged to the debtor. Specifies permitted alternative methods of determining the fees. Provides fee-based incentives for the debt settlement services provider to try to get consent from creditors for the plan proposed by the provider for the debtor to (usually partially) pay off the debts over time. This section of this act was later amended in Laws 2009, chapter 178, article 1, section 67.
- 27** **Prohibitions.** Lists 13 things a debt settlement services provider must not do.

- 28** **Advertisement of debt settlement services plan.** Prohibits various misleading statements in advertising by debt settlement services providers, including falsely claiming nonprofit status. Prohibits debt settlement services providers from claiming that debts secured by collateral may be settled for less than the amount owing. Regulates advertising by “lead generators.” (Lead generators are businesses that locate possible customers for debt settlement services providers.)
- 29** **Debt settlement services agreement rescission.** Permits a debtor to rescind a debt settlement services contract if the provider has materially violated this chapter of laws.
- 30** **Enforcement; remedies.** Specifies how this chapter of law may be enforced, including a private cause of action by debtors and enforcement by the attorney general.
- 31** **Investigations.** Permits the commissioner of commerce to investigate the activities of a debt settlement services provider, including by requiring a financial audit.