MSBA

LEGISLATIVE SUMMARY

2010 LEGISLATION

REGULAR SESSION

CHAPTER 183 – BOILER OPERATORS

This Act provides that a school district shall allow annually at least eight hours of training related to boiler operation to any custodial engineer employed by the school district whose duties include the operation of a boiler and who is licensed to operate the particular class of boiler used in the school. The training must be administered by a licensed first or chief class engineer during the licensed boiler operator's normal working hours. Two hours of the required training shall occur in the boiler room and must include demonstration of tasks associated with operating boilers. The tasks associated with operating boilers acceptable for the training must be from the list of approved tasks supplied by the Chief Boiler Inspector. The administrator of the training shall receive training credit for time spent administering training pursuant to this provision.

This provision is effective August 1, 2010.

CHAPTER 184 – ELECTIONS; CHANGING THE DATE OF THE STATE PRIMARY

This Act is the first of three major election bills adopted during the 2010 Session.

The Act provides that blank application forms for absentee ballots must be mailed to eligible voters who have requested an application at least 60 days before: (1) each regularly scheduled primary for federal, state, county, city, or school board office; and (2) each regularly scheduled general election for city or school board office for which a primary is not held; or at least 45 days before any other primary or other election for which a primary is not held (including a stand alone special election).

The Act provides that an eligible voter may vote by absentee ballot in the office of the county auditor, and at any other polling place designated by the county auditor, during the 46 days before a regularly scheduled election for federal, state, county, city, or school board office and during the 30 days before any other election. The county auditor must make such designations of other polling places where absentee voters may vote at least 14 weeks before the election.

The Act provides that an absentee ballot board may begin the process of examining return envelopes and marking them "accepted" or "rejected" at any time during the 45 days before an election. The requirement under current law was 30 days before an election.

The Act provides that an application for military or overseas absentee ballots shall be valid for any primary, special primary, general election, or special election from the time the application is received through the end of that calendar year. The Act also makes various other changes in processing military and overseas absentee ballots.

The Act changes the date from June 15 to May 15 by which the county auditor must furnish to election judge appointing authorities a list of appropriate names of election judges for each election precinct in the jurisdiction of the appointing authority.

The Act provides that at least 46 days before a regularly scheduled election for federal, state, county, city, or school board office and at least 30 days before any other election, ballots necessary to fill applications of absentee voters shall be prepared and delivered to the officials who administer the provisions of the absentee balloting law.

The Act provides that in the case of a mail ballot election, the auditor or clerk may appoint election judges to examine the return envelopes and mark them accepted or rejected during the 45 days before the election. Current law provides that that appointment shall be during the 30 days before the election.

The Act changes the date of the state primary election from the first Tuesday after the second Monday in September to the second Tuesday in August in each even-numbered year. That date would be August 10 in 2010.

The Act provides that the school board of a school district may, by resolution adopted by April 15 of any year, decide to choose nominees for school board by a primary. Under the prior law the date was June 1. The resolution is effective for all ensuing elections of board members until it is revoked.

The Act provides that the school district primary must be held on the second Tuesday in August in the year in which the school district general election is held. This would only apply to districts that have opted into the primary.

The Act provides that a special election ordered by a school board on its own motion may be canceled by motion of the school board, but not less than 74 days before an election held in conjunction with a regularly scheduled election for federal, state, county, city, or school board office or a special election for federal office, or 46 days before any other election.

The Act changes the dates for filing for school board office. In school districts that have adopted a resolution to choose nominees for school board by a primary election, affidavits of candidacy must be filed with the school district clerk no earlier than the 84th day and no later than the 70th day before the second Tuesday in August in the year in which the school district general election is held. In all other school districts, affidavits of candidacy must be filed no earlier than the 91st day and no later than the 77th day before the school district general election.

The Act provides that at least 74 days before every school district election held in conjunction with a regularly scheduled election for federal, state, county, city, or school board office, or a special election for federal office, and at least 53 days before any other school district election, the school district clerk must provide a written notice to the county auditor of each county in which the school district is located. This time period was 53 days for all elections under the prior law. If the election is canceled, it requires notice to the county auditor not less than 74 days before an election held in conjunction with a regularly scheduled election for federal, state, county, city, or school board office, or 46 days before any other election.

The Act requires notice to the Commissioner of Education at least 74 days before every school district election held in conjunction with a regularly scheduled election for federal, state, county, city, or school board office, or a special election for federal office, and at least 49 days before most other school district elections. The Act also provides for 74 days notice to the Commissioner of cancellation of a school district election held in conjunction with a regularly scheduled election for federal, state, county, city or school board office, and at least 46 days notice of cancellation of any other school district election.

Note that if the election is held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office, or a special election for federal office, Chapter 201 described below changes the 74 day notice period to 67 days.

This Act was effective March 4, 2010.

CHAPTER 194 – ELECTIONS; ABSENTEE BALLOTING

This Act makes a variety of changes related to absentee voting.

The Act provides that before registering an individual to vote at the polling place, the election judge must review any list of absentee election day registrants provided by the county auditor or municipal clerk to see if the person has already voted by absentee ballot. If the person's name appears on the list, the election judge must not allow the individual to register or to vote in the polling place.

The Act makes various changes to the absentee ballot application form. The Act provides that an application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, date of birth, and at least one of the following: (1) the applicant's Minnesota driver's license number; (2) Minnesota state identification card number; (3) the last four digits of the applicant's Social Security number; or (4) a statement that the applicant does not have any of these numbers. To be approved, the application must state that the applicant is eligible to vote by absentee ballot for one of the reasons specified in the law, and must contain an oath that the information contained on the form is accurate, that the applicant is applying on the applicant's own behalf, and that the applicant is signing the form under penalty of perjury. An applicant's full date of birth, Minnesota driver's license number or state identification number, and the last four digits of the applicant's Social Security number must not be made available for public inspection.

The Act makes various changes in how the voter registration system is used and revises the absentee ballot application envelope.

The Act provides that when absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp or initial and date the return envelope and place it in a secure location with other return envelopes received by that office. Within five days after receipt, the county auditor or municipal clerk shall deliver to the ballot board all ballots received, except that during the 14 days immediately preceding an election, the county auditor or municipal clerk shall deliver all ballots received to the ballot board within three days.

The Act provides that the governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots must, by ordinance or resolution, establish a ballot board. The board must consist of a sufficient number of election judges trained in the handling of absentee ballots and appointed as provided by law. The ballot board may include staff trained as election judges. The Act provides that each jurisdiction must pay a reasonable compensation to each member of that jurisdiction's ballot board for services rendered during an election. It also provides that,

except as otherwise provided in this particular section, all provisions of the Minnesota Election Law apply to a ballot board.

The Act provides that the members of the ballot board shall take possession of all return envelopes delivered to them. Upon receipt from the county auditor, municipal clerk, or school district clerk, two or more members of the ballot board shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this provision. Election judges performing these duties for a school district need not be members of different major political parties.

The Act provides that the members of the ballot board shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if a majority of the members of the ballot board examining the envelope are satisfied that: (1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application; (2) the voter signed the certification on the envelope; (3) the voter's Minnesota driver's license number, state identification number, or the last four digits of the voter's Social Security number are the same as the number provided on the voter's application for ballots. If the number does not match the number as submitted on the application, or if a number was not submitted on the application, the election judges must compare the signature provided by the applicant to determine whether the ballots were returned by the same person to whom they were transmitted; (4) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and (5) the voter has not already voted at that election, either in person or, if it is after the close of business on the fourth day before the election, by absentee ballot. The return envelopes from accepted ballots must be preserved and returned to the county auditor.

The Act provides that, if the majority of the members of the ballot board examining a return envelope find that an absentee voter has failed to meet one of the requirements provided above, they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," list the reason for the rejection on the envelope, and return it to the county auditor. There are no other reasons for rejecting an absentee ballot beyond those permitted in this provision. Failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot. If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot. If an envelope is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

The Act provides that the official in charge of the absentee ballot board must mail the voter a written notice of absentee ballot rejection between six and ten weeks following the election. If the official determines that the voter has otherwise cast a ballot in the election, no notice is required. If an absentee ballot arrives after the deadline for submission provided in the absentee ballot law, the notice must be provided between six to ten weeks after receipt of the ballot. A notice of absentee ballot rejection must contain the following information: (1) the date on which the absentee ballot was rejected or, if the ballot was received after the required deadline for submission, the date on which the ballot was received; (2) the reason for rejection; and (3) the name of the appropriate election official to whom the voter may direct further questions, along with appropriate contact information. The Act provides that an absentee ballot return envelope marked "Rejected" may not be opened or be subject to further review except in an election contest filed pursuant to chapter 209.

The Act provides that, when applicable, the county auditor or municipal clerk must immediately record that a voter's absentee ballot has been accepted. After the close of business on the fourth day before the election, a voter whose record indicates that an absentee ballot has been accepted must not be permitted to cast another ballot at that election. In a state primary, general, or state special election for federal or state office, the auditor or clerk must also record this information in the statewide voter registration system.

The Act provides that, the roster must be marked, and a supplemental report of absentee voters who submitted a voter registration application with their ballot must be created, no later than the start of voting on election day, to indicate the voters that have already cast a ballot at the election. The roster may be marked either: (1) by the county auditor or municipal clerk before election day; (2) by the ballot board before election day; or (3) by the election judges at the polling place on election day. The record of a voter whose absentee ballot was received after the close of business on the fourth day before the election is not required to be marked on the roster or contained in a supplemental report.

The Act provides that, after the close of business on the fourth day before the election, the ballots from returned envelopes marked "Accepted" may be opened, duplicated as needed, initialed by the members of the ballot board, and deposited in the appropriate ballot box. If more than one ballot is enclosed in the ballot envelope, the ballots must be returned in the manner provided by law for return of spoiled ballots, and may not be counted.

The Act provides that, on a day on which absentee ballots are inserted into a ballot box, two members of the ballot board must: (1) remove the ballots from the ballot box at the end of the day; (2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters whose absentee ballots

were accepted that day; and (3) seal and secure all voted and unvoted ballots present in that location at the end of the day. After the polls have closed on election day, two members of the ballot board must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count shall be public. No vote totals from ballots may be made public before the close of voting on election day.

The Act provides that, in state primary and state general elections, these vote totals shall be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

In addition to the requirements specified above, the Act provides that if the task has not been completed previously, the members of the ballot board must verify as soon as possible, but no later than 24 hours after the end of the hours for voting, that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day. An absentee ballot submitted by a voter who has voted in person on election day must be rejected. All other accepted absentee ballots must be opened, duplicated if necessary, and counted by members of the ballot board. The vote totals from these ballots must be incorporated into the totals with the other absentee ballots.

The provisions relating to ballot boards have various effective dates. The requirement to establish a ballot board is effective immediately. The provisions requiring the mailings for rejected ballots are effective October 28, 2010. The remainder of the section is effective June 25, 2010 and applies to elections held after that date.

The Act makes various changes to the absentee balloting provisions for overseas and military voters.

The Act changes various provisions relating to mail ballot elections. The Act provides that the auditor or clerk must appoint a ballot board to examine return envelopes and mark them "Accepted" or "Rejected" within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The ballot board may consist of staff trained as election judges. The election judges performing these duties are exempt from the requirement that they be of different major political parties, as are school districts judges. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk must provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of

the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter. If the ballot is accepted, the county auditor or municipal clerk must mark the roster to indicate that the voter has already cast a ballot in that election. After the close of business on the fourth day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed, initialed by the ballot board, and deposited in the appropriate ballot box. After the close of business on the fourth day before the election, a voter whose record indicates that a mail ballot has been accepted must not be permitted to cast another ballot at that election. In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply. No vote totals from ballots may be made public before the close of voting on election day.

The Act also changes the dates on which school boards must canvass elections. The Act provides that the school board must canvass a primary on the third day after the primary. The prior law required the canvass to be conducted within two days after the primary. For all other elections, the election must be canvassed between the third and tenth days after a school district election. The prior law required the canvass to be conducted within seven days after the election. These canvassing provisions are effective June 25, 2010.

CHAPTER 201 – ELECTIONS; ELECTION ADMINISTRATION

This is the third of the major election bills passed during this session. It makes various changes in election laws.

The Act provides that a state or local agency or an individual that accepts completed voter registration applications from a voter must submit the completed applications to the Secretary of State or the appropriate county auditor within ten calendar days after the applications are dated by the voter.

The Act provides that if a municipality administratively changes the number or name of a street address of an existing residence, the municipal clerk shall promptly notify the county auditor and the county auditor shall immediately update the voter records of registered voters in the statewide voter registration system to accurately reflect that change. A municipality must not make a change to the number or name of a street address of an existing residence effective during the 45 days prior to any election in a jurisdiction which includes the affected residence. This was an MSBA initiated provision.

The Act makes various changes in the law relating to voters who have moved either within the state or outside the state and to voters who have died so that the statewide voter registration system may be updated. The Act also makes changes for voters who have changed their names or who are under a guardianship or are judged incompetent. The Act also requires the Commissioner of Corrections and the Commissioner of Public Safety to report to the Secretary of State on voters who are felons and individuals who are not citizens.

The Act provides that a late or rejected absentee or mail ballot must be considered a vote for the purpose of continuing registration under the law but is not considered voting history for the purpose of public information lists. That would keep that person from being dropped from the voter registration list if he or she had not otherwise voted during the preceding four years.

The Act provides that an eligible voter may vote by absentee ballot in the office of the county auditor and at any other polling place designated by the county auditor during the 46 days before: (a) a regularly scheduled election for federal, state, county, city, or school board office; and (b) an election held in conjunction with that election, and during the 30 days before any other election.

The Act clarifies that no municipality or school district may conduct a special election during the 19 weeks before the state primary election in the year ending in two.

The Act provides that local jurisdictions must make accessible voting stations purchased with funds provided from the Help America Vote Act account available to other local jurisdictions holding stand-alone elections. The jurisdiction providing the equipment may require the jurisdiction using the equipment to reimburse any direct actual costs incurred as a result of the equipment's use and any prorated indirect costs of maintaining and storing the equipment. A rental or other similar use fee may not be charged. Any funds received under this clause for expenses incurred by that local jurisdiction as a direct result of making the equipment available that were not paid for in whole or in part with funds from the Help America Vote Act account are not program income under that law. Any funds received by a local jurisdiction making the equipment available as reimbursement for expenses defined as "operating costs" and paid for in whole or in part with funds from the Help America Vote Act account must be treated as program income and deposited into the jurisdiction's Help America Vote Act account in the direct proportion that funds from the Help America Vote Act account were used to pay for those operating costs. This provision was effective immediately and was an MSBA initiated provision.

The Act provides that a minimum of four (rather than three) election judges shall be appointed for each precinct. However, a minimum of three election judges shall be appointed in precincts not using electronic voting equipment. One additional election

judge shall be appointed for each 150 votes cost in that precinct at the last similar election.

The Secretary of State is required to prepare and publish a volume containing all state general laws relating to elections. This Act requires that volume to be furnished to the county auditors and municipal clerks on or before August 1 of every odd-numbered year. The Secretary of State is also required to make that compilation available on or before July 1 of each even-numbered year on the office's WEB site. This provision was effective immediately.

The Act provides that the county auditor or municipal clerk must certify the number of ballots being provided to each precinct and provide this number to the election judges for inclusion on the summary statement. The auditor or clerk must not open prepackaged ballots, but must count the ballots, presuming that the total count for each package is correct.

The Act provides that when the similarity of both the first and last names of two or more candidates for the same office at the same election may cause confusion to voters, up to three additional words may be printed on the ballot after each surname to indicate the candidate's occupation, office, residence or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy. This provision was effective immediately.

The Act provides that an individual who is unable to write the individual's name must sign election-related documents in the manner provided in Chapter 645. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided in this law.

Under current law, an employee has the right to be absent from work for the purpose of voting during the morning on the day of that election. This Act provides that every employee who is eligible to vote in an election has the right to be absent from work for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election, without penalty or deduction from salary or wages because of the absence. This provision is effective immediately.

The Act provides that no one except an election official or an individual who is waiting to register or to vote or an individual who is conducting exit polling shall stand within 100 fee of the building in which a polling place is located. The term "exit polling" is defined as approaching voters in a predetermined pattern as they leave the polling place after they have voted and asking voters to fill out an anonymous, written questionnaire.

The Act provides that the election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open, the election judges shall compare the ballots used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for that purpose. The certification must be filed with the election returns.

The Act makes a revision in the Voter's Bill of Rights to make it clear that all persons residing in this state who meet federal voting eligibility requirements have a right to be absent from work for the purpose of voting without reduction to pay, personal leave, or vacation time on election day for the time necessary to appear at the voter's polling place, cast a ballot, and return to work.

The Act provides that at least two sample ballots must be posted in a conspicuous location in the polling place and must remain open to inspection by the voters throughout election day. The sample ballots must accurately reflect the offices, candidates, and rotation sequence on the ballots used in that polling place. The sample ballots may be either in full or reduced size.

The Act provides that before the voting begins, at least two election judges must certify the number of ballots delivered to the precinct. Election judges may conduct this count, presuming that the total count provided for prepackaged ballots is correct. As each package is opened, two judges must count the ballots in the package to ensure that the total count provided for the package is correct. Any discrepancy must be noted on the incident log.

The Act provides that once a voter is provided with a ballot, the voter shall retire alone to an unoccupied voting booth or, at the voter's discretion, the voter may choose to use another writing surface.

The Act makes various changes to the precinct summary statement.

The Act provides that when municipal returns are returned to the county auditor, the county auditor must make a record of all materials delivered, the time of delivery, and the names of the municipal clerk or election judges who made delivery. The record must include the number of ballots delivered to the precinct and the total number of ballots returned. A discrepancy between the number of ballots delivered to the precinct and the number of total ballots returned by election judges that cannot be reconciled by taking into account the adjustments made by the election judge counts and any unofficial ballots must be noted, but does not necessarily require disqualification of the votes from that precinct or invalidation of the election.

If a losing candidate requests a discretionary candidate recount, that person is responsible for certain specified expenses. The Act provides that that person is no longer responsible for the costs of computer operations or preparation of ballot counting equipment.

The Act provides that in a recount, original ballots that have been duplicated under the law are not within the scope of a recount and must not be examined except as provided by a court in an election contest.

The Act provides that upon receipt of a written request for a recount of a question that is within the required difference between votes in favor and votes against (.005% of the total votes cast), the school board of the school district shall recount the votes for a school district question at the expense of the school district. If the recount is discretionary because it does not come within the required difference, the expenses that the requester is responsible for do not include the costs of computer operations or the preparation of ballot counting equipment.

Under current law, if a contract to print ballots exceeds $1,000, the printer must furnish a sufficient bond, letter of credit, or certified check, conditioned on printing the ballots in conformity with the Minnesota Election Law and the instructions delivered. This Act provides that the printer is only responsible to provide that bond, letter of credit, or certified check if requested by the appropriate official.

The Act provides that the date of a school district primary held in an odd-numbered year may be postponed for inclement weather. The Act also provides that a school district general election held in an odd-numbered year may be postponed for inclement weather.

The Act provides that in the event of severe or inclement weather, the school district clerk may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction. A decision to postpone an election must be made no later than 6:00 o'clock p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice on the jurisdiction's Web site, if practicable. A postponed election must be rescheduled for the next Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes

of absentee voting. An election that is postponed due to weather may be postponed again if necessary.

The Act clarifies that the terms of all school board members expire on the first Monday in January of the year in which they expire.

The Act amends the notice period for calling an election, as amended in Chapter 184 described above, to provide that the district must provide notice to the county auditor at least 67 days before every school district election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office. It also changes the cancellation time to 67 days before that election held in conjunction with that regularly scheduled primary. It also changes the notice period to the Commissioner to 67 days before every school district election held in conjunction with a regularly scheduled primary.

The Act provides that the designation of a combined polling place for a school district remains effective until a different polling place is designated. It specifies that no designation of a new or different polling place becomes effective less than 90 days prior to an election, except that a new polling place may be designated to replace a polling place that has become unavailable for use.

This Act is generally effective August 1, 2010 unless a specific section has an immediate effective date.

CHAPTER 216 – JOBS AND ECONOMIC DEVELOPMENT OMNIBUS

This Act provides that property that is leased or rented to a charter school formed and operated under the charter school law is exempt from taxation if it meets all of the following requirements: (1) the lease is for a period of at least 12 consecutive months; (2) the property is owned by (i) a nonprofit corporation or association exempt from federal income tax under section 501(c)(2) or (3) of the Internal Revenue Code; (ii) a public school district, college, or university; (iii) a private academy, college, university, or seminary of learning; (iv) a church; or (v) the state or a political subdivision of the state; (3) the charter school must use the property to provide (i) direct instruction in any grade from kindergarten through grade 12; (ii) special education for disabled children; or (iii) administrative services directly related to the educational program at that site; and (4) except for lease provisions that allow for the shared use of the property by (i) the charter school and another public or private school; (ii) the charter school and a church; or (iii) the charter school and the state or a political subdivision of the state, the lease must provide that the charter school has the exclusive right to use the property during the lease period. This provision is effective for assessment year 2010 and thereafter, for taxes payable in 2011 and thereafter.

The Commissioner of Revenue distributes certain taconite taxes to school districts. This Act provides that if there are insufficient tax proceeds to make the distribution provided under this law in any year, money must be transferred from the taconite property tax relief account to the extent of the shortfall in the distribution.

CHAPTER 234 – SECURITIES LENDING AGREEMENTS; SAFEKEEPING

This Act amends the securities lending law applicable to political subdivisions and allows a school district to enter into a securities lending agreement with a qualified financial institution which has a bank office located in Minnesota. Under the prior law, the financial institution had to have its principal executive office located in Minnesota. The reference to "bank office" was later changed to "office" in Chapter 385.

The Act also provides that investments, contracts, and agreements could be held in safekeeping with a securities broker-dealer that meets the following requirements: (1) it is registered as a broker-dealer under chapter 80A or is exempt from the registration requirements; (2) it is regulated by the Securities and Exchange Commission; and (3) it maintains insurance through the Securities Investor Protection Corporation or excess insurance coverage in an amount equal to or greater than the value of the securities held.

CHAPTER 249 – CIVIL ACTIONS; EXEMPTION OF POLITICAL SUBDIVISIONS FROM INCREASED INTEREST RATES ON JUDGMENTS AND AWARDS

This Act provides that for a judgment or award of $50,000 or less or a judgment award for or against the state or a political subdivision of the state, regardless of the amount, the interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States Treasury bills, calculated on a bank discount basis. The Act also provides that for a judgment or award over $50,000, other than a judgment or award for or against the state or a political subdivision of the state, the interest rate shall be ten percent per year until paid. Previously that rate would have been ten percent per year against the school district. The Act specifically provides that the term "political subdivision" includes a school district.

This Act is effective the day following final enactment and applies to judgments and awards finally entered on or after that date.

CHAPTER 268 – DANGEROUS WEAPONS ON SCHOOL PROPERTY

This Act provides that whoever possesses, stores, or keeps a dangerous weapon while knowingly on school property is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. Under the prior law, the penalty was imprisonment for not more than two years and a fine of not more than $5,000.

The Act provides that whoever uses or brandishes a replica firearm or a BB gun while knowingly on school property is guilty of a gross misdemeanor. This was previously a felony.

The Act provides that whoever possesses, stores, or keeps a replica firearm or a BB gun while knowingly on school property is guilty of a misdemeanor.

This Act is effective August 1, 2010 and applies to crimes committed on or after that date.

CHAPTER 271 – PUBLIC RECORDS AND CONTINUING EDUCATION; ACCESSIBILITY

This Act provides that all records must be available to persons with disabilities in a manner consistent with state and federal laws prohibiting discrimination against persons with disabilities. Reasonable modifications must be made in any policies, practices and procedures that might otherwise deny equal access to records to individuals with disabilities. As used in this provision, the term “records” means any recorded information that is collected, created, received, maintained or disseminated by the executive, judicial or legislative branches of the state, MnSCU, the University of Minnesota, cities, towns, counties, school districts and all other political subdivisions of the state, regardless of physical form or method of storage.

The Act provides that violation of this records provision is subject to a penalty of $500 per violation, plus attorney fees, costs and disbursements, payable to a qualified disabled person by the public entity in violation of this provision. This provision is effective January 1, 2013.

The Act also provides that any continuing education or professional development course, offering, material or activity approved or administered by the state, political subdivisions of the state, the University of Minnesota or MnSCU must be available to persons with disabilities in a manner consistent with state and federal laws prohibiting discrimination against persons with disabilities. Reasonable modifications must be made

in any policies, practices and procedures that might otherwise deny equal access to continuing education or professional development to individuals with disabilities.

The Act provides that violation of this provision relating to continuing education is subject to a penalty of $500 per violation, plus attorney fees, costs and disbursements, payable to a qualified disabled person by the public entity or the entity offering the course, material, or activity under a contract with a public entity.

This provision is effective January 1, 2013.

SEE CHAPTER 347 below for amendments to this Act.

CHAPTER 276 — PARENT NOTIFICATION OF CHILD MALTREATMENT IN A SCHOOL FACILITY

This Act amends the maltreatment of minors act. This Act provides that the Commissioner of Education must inform the parent, guardian, or legal custodian of a child who is the subject of a report of alleged maltreatment in a school facility within ten days of receiving the report, either orally or in writing, whether the Commissioner is assessing or investigating the report of alleged maltreatment.

The Act also provides that in the case of maltreatment within a school facility, the Commissioner of Education need not provide notification to parents, guardians, or legal custodians of each child in the facility, but shall, within ten days after the investigation is completed, provide written notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated. It also provides that the Commissioner may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

These provisions are effective August 1, 2010.

CHAPTER 285 — SCHOOL CONCESSION STANDS

This Act defines a school concession stand to mean a food and beverage service establishment located in a school, on school grounds, or within a school-owned athletic complex, that is operated in conjunction with school-sponsored events.

The Act provided that school concession stands shall not pay any fee in addition to the annual base fee of $150. It specifies that the additional food service fee does not apply to school concession stands.

This Act is effective August 1, 2010.

CHAPTER 291 – COERSION OF POTENTIAL CANDIDATES VETOED

CHAPTER 297 – ADMINISTRATIVE REMEDY FOR DATA PRACTICES VIOLATIONS

This Act provides that an action to compel compliance with the Minnesota Government Data Practices Act may be brought either in an action in district court or in an administrative action under the new procedures specified in this Act.

This Act establishes a new administrative remedy to compel compliance with the Data Practices Act. The Act provides that a complaint alleging a violation of Chapter 13 (the Minnesota Government Data Practices Act) for which an order to compel compliance is requested may be filed with the Office of Administrative Hearings (OAH). The complaint must be filed with OAH within two years after the occurrence of the act or the failure to act that is the subject of the complaint, except that if the act or failure to act involves concealment or misrepresentation by the government entity that could not be discovered within that period, the complaint may be filed with OAH within one year after the concealment or misrepresentation is discovered.

The Act provides that the complaint must be made in writing, submitted under oath, and detail the factual basis for the claim that a violation of law has occurred. OAH may prescribe a standard form for the complaint. The complaint must be accompanied by a filing fee of $1,000 or a bond to guarantee the payment of this fee. If the complaint is against a school district, the district will be the party referred to as the "respondent".

The Act provides that, upon receipt of a filed complaint, OAH must immediately notify the respondent and, if known, the applicable responsible authority for the government entity, if the responsible authority is not otherwise named as the respondent. OAH must provide the respondent with a copy of the complaint by the most expeditious means available. Notice to a responsible authority must be delivered by certified mail. OAH must also notify, to the extent practicable, any individual or entity that is the subject of all or part of the data in dispute.

The Act provides that OAH must notify the Commissioner of Administration of an action filed under this law. Proceedings under this law must be dismissed if a request for an opinion from the Commissioner of Administration was accepted on that matter before the complaint was filed, and the complainant's filing fee must be refunded.

The Act provides that the respondent must file a response to the complaint within 15 business days of receipt of the notice. For good cause shown, OAH may extend the time for filing a response.

The Act provides that the Chief Administrative Law Judge must assign an administrative law judge to review each complaint. Within 20 business days after a response is filed, or the respondent's time to file the response, including any extension, has expired, the administrative law judge must make a preliminary determination for its disposition as follows: (1) if the administrative law judge determines that the complaint and any timely response of the respondent agency do not present sufficient facts to believe that a violation of Chapter 13 has occurred, the complaint must be dismissed; or (2) if the administrative law judge determines that the complaint and any timely response of the respondent agency do present sufficient facts to believe that a violation of Chapter 13 has occurred, the judge must schedule a hearing as provided below.

The Act provides that OAH must notify all parties of the determination of the administrative law judge. The notice must provide as follows: (1) if the complaint is scheduled for a hearing, the notice must identify the time and place of the hearing and inform all parties that they may submit evidence, affidavits, documentation, and argument for consideration by the administrative law judge; or (2) if the complaint is dismissed for failure to present sufficient facts to believe that a violation of Chapter 13 has occurred, the notice must inform the parties of the right of the complainant to seek reconsideration of the decision on the record by the Chief Administrative Law Judge.

The Act provides that a petition for reconsideration may be filed no later than five business days after a complaint is dismissed for failure to present sufficient facts to believe that a violation of Chapter 13 has occurred. The Chief Administrative Law Judge must review the petition and make a final ruling within ten business days after its receipt. If the Chief Administrative Law Judge determines that the assigned administrative law judge made a clear material error, the Chief Administrative Law Judge must schedule the matter for a hearing as provided below.

The Act provides that a hearing on a complaint must be held within 30 business days after the parties are notified that a hearing will be held. An oral hearing to resolve questions of law may be waived upon consent of all parties and the presiding administrative law judge. For good cause shown, the administrative law judge may delay the date of the hearing by no more than ten business days. The administrative law judge may continue a hearing to enable the parties to submit additional evidence or testimony.

The Act provides that the administrative law judge must consider any evidence and argument submitted until the hearing record is closed, including affidavits and documentation.

The Act provides that all hearings, and any records relating to the hearing, must be open to the public, except that the judge may inspect in camera any government data in dispute. If the hearing record contains information that is not public data, the judge may conduct a closed hearing to consider the information, issue protective orders, and seal all or part of the hearing record. If a party contends, and the administrative law judge concludes, that not public data could be improperly disclosed while that party is presenting its arguments, the judge shall close any portion of the hearing as necessary to prevent the disclosure. A hearing may be conducted by conference telephone call or interactive audio/video system, at the direction of the presiding judge, and upon consent of all parties.

The Act provides that, following a hearing, the judge must determine whether the violation alleged in the complaint occurred and must make at least one of the following dispositions. The judge may:

(1) dismiss the complaint;

(2) find that an act or failure to act constituted a violation of Chapter 13;

(3) impose a civil penalty against the respondent of up to $300;

(4) issue an order compelling the respondent to comply with a provision of law that has been violated, and may establish a deadline for production of data, if necessary; and

(5) refer the complaint to the appropriate prosecuting authorities for consideration of criminal charges.

The Act provides that in determining whether to assess a civil penalty, the OAH must consider whether the government entity has substantially complied with general data practices under Chapter 13, including but not limited to, whether the government entity has: (1) designated a responsible authority; (2) designated a data practices compliance official; (3) prepared the public document that names the responsible authority and describes the records and data on individuals that are maintained by the government entity; (4) developed public access procedures, procedures to guarantee the rights of data subjects, and procedures to ensure that data on individuals are active and complete and to safeguard the data security; (5) acted in conformity with an opinion of the Commissioner of Administration that was sought by a government entity or another person; or (6) provided ongoing training to government entity personnel who respond to requests under Chapter 13.

The Act provides that the Administrative Law Judge must render a decision on the complaint within ten business days after the hearing record closes. The Chief Administrative Law Judge shall provide for public dissemination of orders issued under this provision. If the judge determines that a government entity has violated a provision of law and issues an order to compel compliance, the OAH shall forward a copy of the order to the Commissioner of Administration. Any order issued pursuant to this law is enforceable through the district court for the district in which the

respondent is located.

The Act provides that a party aggrieved by a final decision on a complaint filed under this law is entitled to judicial review as provided in sections 14.63 to 14.69. Proceedings on a complaint are not a contested case within the meaning of Chapter 14 and are not otherwise governed by Chapter 14.

The Act provides that a decision of OAH under this section is not controlling in any subsequent action brought in district court alleging the same violation and seeking damages.

The Act provides that a government entity or person that releases not public data pursuant to an order under this law is immune from civil and criminal liability for that release. A government entity or person that acts in conformity with an order issued under this law to the government entity or to any other person is not liable for compensatory or exemplary damage or awards of attorney fees for acting in conformity with that order in an actions brought under this law or under section 13.08, or for a penalty under section 13.09. Note that this immunity from state law, not from actions brought under federal law or under FERPA.

The Act provides that a rebuttable presumption shall exist that a complainant who substantially prevails on the merits in an action brought under this law is entitled to an award of reasonable attorney fees, not to exceed $5,000. An award of attorney fees may be denied if the administrative law judge determines that the violation is merely technical or that there is genuine uncertainty about the meaning of the governing law.

The Act provides that reasonable attorney fees, not to exceed $5,000, must be awarded to a substantially prevailing complainant if the government entity that is the respondent in the action was also the subject of a written opinion issued by the Commissioner of Administration and the administrative law judge finds that the opinion is directly related to the matter in dispute and that the government entity did not act in conformity with the opinion.

The Act provides that OAH shall refund the filing fee of a substantially prevailing complainant in full, less $50, and OAH's costs in conducting the matter shall be billed to the respondent, not to exceed $1,000.

The Act provides that a complainant that does not substantially prevail on the merits shall be entitled to a refund of the filing fee, less any costs incurred by OAH in conducting the matter.

The Act provides that if the administrative law judge determines that a

complaint is frivolous, or brought for purposes of harassment, the administrative law judge must order that the complainant pay the respondent's reasonable attorney fees, not to exceed $5,000. The complainant in this situation shall not be entitled to a refund of the filing fee.

The Act provides that the court shall award the complainant costs and attorney fees incurred in bringing an action in district court to enforce an order of the OAH under this section.

The Act provides that proceeds collected by OAH from filing fees and bonds submitted shall be deposited into the State Administrative Hearings Account and are appropriated to OAH for use in administering the requirements of this law.

The Act provides that an opinion of the Commissioner of Administration on a data practices matter under section 13.072 must be given deference by a court or other tribunal, including OAH.

The Act provides that a government entity, members of the school board or a person that acts in conformity with a written opinion of the Commissioner of Administration issued to the government entity, those members, that person or to another party is not liable for compensatory or exemplary damages or awards of attorney's fees or for penalties unless that government entity was the subject of that opinion and the government entity failed to comply with the opinion.

The Act also provides that the Board of Teaching and the Department of Education may enter into data sharing agreements to share educational data for the limited purpose of program approval and improvement for teacher education programs. Similarly the Board of School Administrators and the Department of Education must enter into data sharing agreements for the purpose of program approval and improvement of education administration programs. For the purposes of the data sharing agreements, those two boards and the Department of Education may share private data on teachers and on school administrators. The data sharing agreements must not include educational data, but may include summary data.

CHAPTER 314 – AFFIDAVITS OF CANDIDACY

This Act provides that an affidavit of candidacy for elective office, including office as a school board member, must state a telephone number where the candidate can be contacted. An affidavit must also state the candidate's address of residence, or at the candidate's request, the candidate's campaign contact address. The form for the affidavit of candidacy must allow the candidate to request, if eligible, that the candidate's address

of residence be classified as private data, and to provide the certification required for classification of that address.

The Act provides that, for an office whose residency requirement must be satisfied by the close of the filing period, a registered voter may request in writing that the filing officer receiving the affidavit of candidacy review the address as provided, at any time up to one day after the last day for filing for office. If requested, the filing officer must determine whether the address provided in the affidavit of candidacy is within the area represented by the office the candidate is seeking. If the filing officer determines that the address is not within the area represented by the office, the filing officer must immediately notify the candidate and the candidate's name must be removed from the ballot for that office. A determination made by a filing officer under this provision is subject to judicial review under the errors and omissions statute.

The Act provides that, if the candidate requests that the candidate's address of residence be classified as private data, the candidate must list the candidate's address of residence on a separate form to be attached to the affidavit. The candidate must also certify on the affidavit that a police report has been submitted or an order for protection has been issued in regard to the safety of the candidate or the candidate's family. The address of residence provided by a candidate who makes a request for classification on the candidate's affidavit of candidacy and provides the certification required is classified as private data, but may be reviewed by the filing officer. This provision is effective on May 18, 2010.

The Act provides that it is unlawful for a person, either directly or indirectly, to deny access to an apartment house, dormitory, nursing home, manufactured home park, or other multiple unit facility used as a residence, or an area in which two or more single-family dwellings are located on private roadways, to a candidate who has: (1) organized a campaign committee under applicable federal or state law; (2) filed a financial report as required by section 211A.02; or (3) filed an affidavit of candidacy for elected office. A candidate granted access under this section must be allowed to be accompanied by campaign volunteers.

The Act provides that access to a facility or area is only required if it is located within the district or territory that will be represented by the office to which the candidate seeks election, and the candidate and any accompanying campaign volunteers seek access exclusively for the purpose of campaigning for a candidate or registering voters. The candidate must be seeking election to office at the next general or special election to be held for that office.

The Act provides that a candidate and any accompanying campaign volunteers granted access under this section must be permitted to leave campaign materials for residents at their doors, except that the manager of a nursing home may direct that the

campaign materials be left at a central location within the facility. The campaign materials must be left in an orderly manner.

The Act provides that if a facility or area contains multiple buildings, a candidate and accompanying volunteers must be permitted to access more than one building on a single visit, but access is limited to only one building at a time. If multiple candidates are traveling together, each candidate and that candidate's accompanying volunteers is limited to one building at a time, but all of the candidates and accompanying volunteers traveling together must not be restricted to accessing the same building at the same time. A violation of these provisions is a petty misdemeanor.

The Act amends the duties of the ballot board required to be established under Chapter 194 and provides that the members of the ballot board shall mark a return envelope "Accepted" if a majority of the members of the ballot board examining the envelope are satisfied that the certificate has been completed as prescribed in the directions for casting an absentee ballot. This provision is effective June 25, 2010, the date that the ballot board provisions go into effect.

CHAPTER 319 – COLLABORATIVE GOVERNANCE COUNCIL

This Act creates a Collaborative Governance Council that includes major statewide governmental entities and nongovernmental statewide organizations. The council has nine members, including the State Auditor. The eight appointing entities must complete their initial appointments no later than July 1, 2010. The council must seek input from nonmember organizations whose expertise can help inform the council's work. In conjunction with the State Auditor's duty to recommend best practices for delivery of local governmental services, the State Auditor shall serve as chair of the council and shall convene the first meeting by July 31, 2010. The council must meet at least quarterly and provide notice of its meetings to the public and to the members of the appropriate legislative committees. Meetings of the council shall be open to the public. Members do not receive compensation or reimbursement of expenses from the council for services on the council.

The Act provides that the council shall develop recommendations for the Governor and the Legislature designed to increase collaboration in government. These recommendations may include, but are not limited to, strategies, policies, or other actions focused on the followings: (1) the review of statutes, laws, and rules that slow or prevent collaboration efforts; (2) the use of collaboration to improve the delivery of governmental services; (3) the use of technology to connect entities and share information, including broadband access; (4) the modernization of financial transactions and their oversight by facilitating credit and debit card transactions, electronic funds, transfers, and electronic data interchange; and (5) the creation of model forms for joint power agreements.

The Act provides that by February 1 of each year, the council shall submit its recommendations, including any draft legislation necessary to implement its recommendations, to the Governor and to the appropriate legislative committees.

This Act is effective June 1, 2010 and expires June 30, 2015.

CHAPTER 322 – EDUCATION MINNESOTA SCHOOL EMPLOYEE HEALTH INSURANCE POOL VETOED

CHAPTER 327 – CAMPAIGN FINANCE

The Act provides that a campaign finance report to be filed by a candidate or committee must specify the total cash on hand at the time of the report. This provision will not be effective until June 1, 2012.

The Act provides that if a candidate or committee has filed an initial report, but fails to file a subsequent report on the day that it is due, the filing officer shall immediately notify the candidate or committee of the failure to file. The Act allows charitable contributions to charities organized under 501C(3) by campaigns, but the contribution is not limited to the $100 state limit if it is contributed by either a principal campaign committee or the campaign fund of a candidate for a political subdivision office that dissolves within one year after the contribution is made.

This Act is generally effective August 1, 2010.

CHAPTER 333 – AGRICULTURE AND VETERAN'S OMNIBUS; VETERANS PREFERENCE REVISIONS

This Act provides that a school board may waive any deposit or fee for any pupil whose parent is serving in, or within the past year has served in, active military service as defined under law. Arguably under the prior law, the board could only waive a deposit or fee if the pupil or the pupil's parent or guardian was unable to pay for it. This provision is effective the day following final enactment.

In 2009, the Legislature amended the veterans preference law to make it applicable to teachers, both for purposes of hiring and for purposes of discharge. This Act amends the hiring provisions to provide that any public school that chooses at any time to use a 100-point hiring method to evaluate applicants for teaching positions is subject to the requirements of the veterans preference law for determining veterans

preference points. However, any public school opting at any time not to use a 100-point hiring method to evaluate applicants for teaching positions is exempt from the veterans preference provisions for determining veterans preference points, but must instead grant to any veteran who applies for a teaching position and who has proper licensure for that position an interview for that position. This section is effective immediately.

The Act also amends the veterans preference act as it applies to discharges of veterans and makes it clear that nothing in that law shall be construed to apply to the position of teacher. This provision is effective immediately.

The Act provides that if a veteran is denied rights authorized by the veterans preference law by the state or any political subdivision, he or she may petition the Commissioner of Veterans Affairs for an order directing the agency to grant the veteran such relief as the Commissioner finds justified by such laws. This Act amends the requirements for such a petition to the Commissioner. It provides that the petition must be submitted by United States mail, it must contain the telephone number and notarized original signature of the veteran, it must contain the telephone numbers of all agencies and persons that will be directly affected if the petition is granted, and it must contain a copy of the veteran's form DD214 (Separation or Discharge from Active Duty). The Act provides that the Commissioner will not serve a copy of the petition on the agencies and persons named therein until it has verified the complete petition. The Act further provides that the Commissioner shall schedule a hearing on the petition of any party to be held within 120 days of serving or, or being served with the authorized and complete petition. Under the prior law, the hearing had to be held within 20 days of the Commissioner being served with petition. At the hearing, all parties have the right to be heard. The Commissioner must notify all parties by certified mail of the date, time and place of the hearing.

The Act also amends the effective date of certain provisions of the 2009 law. The staff summarizing the amendment specified that the Act will now apply to both veterans who are employed by the state and veterans who are municipal or school district employees, and that in each case, the veteran must irrevocably elect whether to be governed by the arbitration provisions in the event of a discharge or to be governed by the veterans preference hearing provisions. This section was effective immediately.

CHAPTER 340 – BUDGET/TAX INCREASE BILL **VETOED**

CHAPTER 347 – ECONOMIC DEVELOPMENT OMNIBUS

This Act amends the provisions of Chapter 271 summarized above. It makes it clear that the records that are covered by that Act are only publicly available records. It

also specifies that those records must be made available, upon request by an individual, within a reasonable period of time. The Act also provides that this section does not apply to technology procured or developed prior to January 1, 2013, unless substantially modified or substantially enhanced after January 1, 2013, or records that cannot be reasonably modified to be accessible without an undue burden to the public entity.

The Act amends the penalty provisions of Chapter 271 to allow for grants of reasonable attorney's fees payable to the disabled person who sought the accessible record. It further specifies that the total amount of penalties payable to any individual or class regardless of the number of violations is limited to $15,000. In any class action or series of class actions which arise from a violation of this provision, the amount of attorney's fees awarded against the violating public entity may not exceed $15,000. Any action must be commenced within one year of the occurrence of the alleged violation.

The Act also amends the continuing education accessibility provisions of Chapter 271 to require that it only applies upon request by an individual and that the course, offering, material or activity must be made available within a reasonable time period to persons with disabilities. The Act makes similar changes to the penalty provisions and provides that they only allow for reasonable attorney's fees and that the total amount of penalties payable to any individual or class regardless of the number of violations is limited to $15,000. In any class action or series of class actions which arise from a violation of this provision, the amount of attorney's fees awarded against the violating public entity may not exceed $15,000. Any action must be commenced within one year of the occurrence of the alleged violation.

This Act also amends provisions of the joint powers act relating to agreements between governmental units who do not have commonality of powers. It provides that if the joint powers agreement between governmental entities that do not have commonality of powers has the effect of eliminating or replacing a public employee who is part of a collective bargaining agreement represented by an exclusive representative, and there is no provision in the collective bargaining agreement detailing the effect of the action on the affected public employee, negotiations on the effects to the employee of the job elimination or restructuring must be conducted between the exclusive representative and the employer. This provision is effective July 1, 2010. Please note for future constitutional challenges of this provision, there is no reference in the title to this bill of any changes in bargaining laws that apply to entities that have entered into joint powers agreements.

This Act also makes various miscellaneous changes in the unemployment compensation laws.

CHAPTER 351 — OMNIBUS TRANSPORTATION; TYPE III VEHICLE OPERATORS

This Act makes another set of amendments to the laws applicable to Type III vehicle operators.

The Act amends the training requirements for Type III vehicle operators to require annual training of the operator in escorting a pupil across the road. It provides that the driver may escort the pupil only after the motor is stopped, the ignition key is removed, the brakes are set, and the vehicle is otherwise rendered immobile.

Among other requirements, the current law allows the holder of a Class A, B, C, or D driver's license, without a school bus endorsement, to operate a Type III vehicle if the operator's employer requires preemployment drug and alcohol testing of applicants for operator positions. The Act amends that provision to make it provide that the employer must only require preemployment drug testing. However, it also states that notwithstanding any law to the contrary, the operator's employer may use a breathalyzer or similar device to fulfill random alcohol testing requirements.

The Act requires that the operator's driver's license be verified annually by the entity that owns, leases or contracts for the Type III vehicle as required by law. These provisions are effective July 1, 2010.

The Act also amends the rulemaking authority of the Commissioner of Public Safety to make rules governing the physical qualifications of Type III vehicle drivers. The Act specifies that the Commissioner of Public Safety may exempt a Type III vehicle driver from the physical qualifications required to operate a Type III vehicle upon receiving evidence of the driver having been medically examined and certified within the preceding 24 months as physically qualified to operate a commercial motor vehicle as provided for applicants for a regular school bus endorsement. The Act further provides that the actions of the Commissioner of Public Safety in establishing physical qualifications for Type III vehicle drivers are not rulemaking for purposes of Minnesota Statutes, Chapter 14, are not subject to the Administrative Procedure Act, and are not subject to or the procedures of Chapter 14 for adopting exempt rules.

CHAPTER 356 — BOOSTER SEATS

The current booster seat law makes it a crime to operate a motor vehicle without booster seats. That law has certain exceptions. This Act includes exceptions that make it not applicable to (i) a person operating a school bus and (ii) a person operating a Type III vehicle if that vehicle meets the seating and crash protection requirements of the Federal regulations. This provision is effective the day following final enactment.

CHAPTER 359 – OMNIBUS PENSION

This Act is intended to stabilize the various pension systems by increasing employer and employee contributions to eventually eliminate deficits in those pension funds. Please note that there are no provisions in this legislation or any other legislation passed this session that provides a revenue source to pay for these increased employer contributions. The Act also makes changes in the laws applicable to all the pension funds. Because this is an over 200 page bill, we would suggest reviewing specific questions with the particular retirement fund. The summary prepared by the staff of the Legislative Commission on Pensions and Retirement can be found at the following link: http://www.commissions.leg.state.mn.us/1cpr/documents/omnibus/2010/s2918_cc_report_summary.pdf

The Act increases the coordinated member contribution rate for PERA from 6.0 percent to 6.25 percent effective for contributions made after December 31, 2010. The total employer contribution rate for coordinated members of PERA (including the employer contribution and additional employer contribution) is also increased from 7.0 percent to 7.25 percent effective for contributions made after December 31, 2010. The automatic PERA adjustment provisions enacted in 2006 is modified to cover larger potential contribution increases in the future in the event of large contribution deficiencies.

The Act increases the TRA member contribution rates on a phase-in basis by 2.0 percent of covered salary over four years, with 0.5 percent increases occurring every July 1 beginning July 1, 2011. District contribution rates for TRA are also increased by 2.0 percent of covered salary on a phase-in basis over four years, with 0.5% increases occurring every July 1 beginning July 1, 2011. After July 1, 2015, if the TRA actuarial valuation indicates a contribution rate deficiency of at least 0.5 percent of covered payroll, the member contribution rate will increase by 0.25 percent of covered salary and the employer contribution rate will increase by 0.25 percent of covered salary, with a downward adjustment if there is a contribution sufficiency.

The Act increases the Duluth Teachers Retirement Fund Association (DTRFA) member contribution rate from 5.5 percent to 6.5 percent and the employer contribution rate is increased from 5.79 percent to 6.79 percent, both in two annual steps.

The Act increases the St. Paul Teachers Retirement Fund Association (STPRFA) basic program member contribution from 8.0 percent to 9.0 percent and the coordinated program member contribution from 5.5 percent to 6.5 percent in four annual steps. The basic program employer contribution is increased from 8.0 percent to 9.0 percent and the coordinated program employer contribution is increased from 4.5 percent to 5.5 percent

in four steps. Direct state aid to the fund and supplemental contributions terminate upon full funding of the plan.

The Act includes postretirement increase rate reductions or suspensions. Until the PERA administered retirement plan achieves a 90 percent funding ratio on a market value of assets basis, the annual postretirement adjustment rate is reduced from 2.5 percent to 1.0 percent.

The Act provides that the automatic 2.5 percent annual postretirement adjustment is suspended for TRA for 2011 and 2012, followed by a 2.0 percent increase until the plan becomes 90 percent funded based on market value of assets. The DTRFA automatic 2.0 percent postretirement increase plus additional adjustments are replaced by a transitional provision providing no postretirement adjustment if the funding ratio based on market value of assets is less than 80 percent, a 1.0 percent increase if the funding ratio is at least 80 percent but less than 90 percent, and a 2.0 percent increase if the ratio is at least 90 percent. The STPRFA annual post-retirement adjustment is suspended for January 1, 2011.

The Act provides that a retiree or other benefit recipient of a retirement plan administered by TRA would be required to be in receipt of the annuity or benefit for at least six months before qualifying for an initial postretirement adjustment.

The Act provides that the rate of interest on refunds paid from PERA, TRA or the Duluth Teacher Retirement Fund Association is reduced from six percent to four percent annually.

The Act provides that, for PERA plans, the rate of compound increase during a deferral period on deferred retirement annuities is reduced from the current rates of three percent before age 55 and five percent after age 54 for pre-2006 hires and 2.5 percent at any age for post-2005 hires, to 1 percent after December 31, 2010, with no augmentation for any member terminating after December 31, 2011.

The Act provides that the current TRA deferred annuity augmentation rates of three percent per year until age 55 and five percent per year after age 55 for pre-July 1, 2006 hires and 2.5 percent for post-June 30, 2006 hires, are reduced to two percent per year.

The Act provides that the DTRFA deferred annuity augmentation rate is reduced to two percent for all periods occurring after July 1, 2010.

The Act provides that the interest rate payable on the deferred benefit account for reemployed retirees who exceed the earnings limitation, set at a six percent compound rate, is eliminated for PERA, TRA and DTRFA.

For post-June 30, 2010 hires covered by PERA, the Act provides that the vesting period for retirement annuities and other benefit entitlements is increased from the current three years to five years of allowable service. Also, for DTRFA post-June 30, 2010 hires, the vesting requirement will be five years rather than three years.

The Act provides that the executive directors of PERA and TRA are directed to study defined contribution retirement coverage and other alternatives to the current defined benefit plans and to report to the Legislative Commission on Pensions and Retirement on this issue by June 1, 2011.

The Act amends various administrative provisions relating to PERA.

The Act provides that the TRA K-12 teacher service credit is modified to be a function of the teacher's salary relative to the base salary being in the district rather than being based on hours of service, with the district base salary being the salary paid in the prior year for the lowest BA contract position, and service credit will be computed monthly according to a specified formula. Annual service credit is calculated by adding the monthly service credit amounts for the months in the applicable fiscal year and a teacher may not earn more than one year of service credit in a fiscal year. The changes are effective for teaching service performed after June 30, 2012.

The Act consolidates the Minneapolis Employees Retirement Fund (MERF) into PERA effective June 30, 2010 and makes various related changes. As stated above, more detail is found in the detail summary prepared by the staff of the Legislative Commission on Pensions and Retirement.

CHAPTER 361 – OMNIBUS ENVIRONMENT AND ENERGY

Current law provides that while skiing on cross-country ski trails, a person age 16 or over shall carry in his or her immediate possession a valid, signed cross-country ski pass. This Act provides that unless otherwise exempted, students, teachers, and supervising adults engaged in school-sanctioned activities or youth activities sponsored by a nonprofit organization are exempt from these pass requirements.

The Act also provides that by July 15, 2010, the Commissioner of Natural Resources shall provides to the appropriate legislative committees and the Permanent School Fund Advisory Committee information necessary to evaluate the effectiveness of the Commissioner of Natural Resources in managing school trust lands to successfully meet the goals specified in Minnesota law. The information to be provided shall include, but is not limited to: (1) an accurate description of the school trust lands and their land classification; (2) policies and procedures in place designed to meet the requirements of

the fiduciary responsibility of the Commissioner of Natural Resources in management of the school trust lands; and (3) financial information identifying the current revenues from the land classifications and the potential for future maximization of those revenues. The Act provides that by January 15, 2011, the Commissioner of Natural Resources shall provide an analysis to those same persons on the advantages and disadvantages of having a funding mechanism for compensating the Permanent School Fund for private and public use of school trust lands.

CHAPTER 365 – OMNIBUS DATA PRACTICES

Prior law provided that a responsible authority could require a person requesting copies of data to pay the actual costs of making, certifying and compiling the copies. This Act allows the responsible authority to only charge for the actual costs of making and certifying the copies.

The Act amends the law relating to informed consent for insurance purposes. It specifies that informed consent for insurance purposes is not considered to have been given by an individual subject of data by the signing of a statement authorizing a government entity to disclose information about the individual to an insurer or its authorized representative, unless the statement is: (1) in plain language; (2) dated; (3) specific in designating the government entity the data subject is authorizing to disclose information about the data subject; (4) specific as to the nature of the information the data subject is authorizing to be disclosed; (5) specific as to the persons to whom the data subject is authorizing information to be disclosed; (6) specific as to the purpose or purposes for which the information may be used by any of the persons to whom it may be disclosed, both at the time of the disclosure and at any time in the future; and (7) specific as to its expiration date, which must be within a reasonable period of time, not to exceed one year. Notwithstanding that one year expiration period, in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance that is so identified, the expiration date must not exceed two years after the date of the policy. An authorization in connection with medical assistance or MinnesotaCare, or for individual education plan health-related services provided by a school district under the special education laws, is valid during all terms of eligibility.

The Act amends the definition of "personnel data" to be all government data on individuals that is maintained (rather than collected) because the individual is or was an employee or an applicant for employment. The Act also amends the personnel data items which are public to include the terms and conditions of the employment relationship between the employer and the employee. The Act also makes data on work-related continuing education public data.

The Act also amends the provisions related to when a final disposition of a disciplinary action occurs. It provides that in the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. It specifies that a disciplinary action does not become public data if an arbitrator sustains a grievance and reverses all aspects of any disciplinary action.

Under current law, the Commissioner of BMS is required to receive, catalog, file and make available to the public all grievance arbitration decisions. This Act provides that the Commissioner shall make all grievance arbitration decisions available to the extent the decision is public under the definition of personnel data specified above.

The Act also makes various changes to the provisions of law authorizing the Commissioner of Administration to grant temporary classifications of data.

CHAPTER 389 – OMNIBUS TAX BILL **VETOED**

CHAPTER 392 – STATE GOVERNMENT OMNIBUS; COMMISSION ON SERVICE INNOVATION

This Act creates a Commission on Service Innovation to provide the Legislature with a strategic plan to reengineer the delivery of state and local government services, including the realignment of service delivery by region and proximity, the use of new technologies, shared facilities, centralized information technologies, and other means of improving efficiency. The commission consists of 19 members including one representative of MASA. By January 15 of each year, the commission must report to the appropriate legislative committees with a strategic plan containing findings and recommendations to improve state and local government delivery of public services. This provision expires June 30, 2012.

CHAPTER 395 – METRO DEAF CHARTER SCHOOL; DEBT SERVICE EQUALIZATION

This Act increases the appropriations for debt service equalization. This provision is also included in the Special Session Budget Bill.

This Act also provides that the board of directors of the Metro Deaf Charter School may request that the Commissioner of Education accelerate the school's cash flow. The Commissioner must approve a properly submitted request within thirty days of

its receipt. The Commissioner must accelerate the school's cash flow payments for all state aid according to the schedule in the school's request. The Commissioner must delay the special education aid payments to all other school districts and charter schools in proportion to each district or charter school's total share of regular special education aid such that the overall aid payment savings from the aid payment shift remains unchanged for any fiscal year. This provision is effective immediately.

CHAPTER 396 – HEALTH AND WELLNESS; PE STANDARDS

This Act makes physical education standards state standards rather than locally developed academic standards and makes them applicable to all school districts and charter schools beginning in the 2012-2013 school year.

The Act encourages MDE to develop guidelines that school districts can adopt that promote quality recess practices and behaviors that engage all students, increase their activity levels, build social skills, and decrease behavioral issues.

The Act also encourages MDE to include all physical education classes, district physical education standards, and local physical education graduation requirements that districts offer as part of the Minnesota common course catalogue.

The Act provides that notwithstanding other law, any statutory criteria required when reviewing or revising standards or benchmarks and any requirements governing the content of statewide standards or any other law to the contrary, the Commissioner of Education shall initially adopt the most recent standards developed by the National Association for Sport and Physical Education for physical education in grades kindergarten through 12.

The Act provides that a school district must post its current local school wellness policy on its Web site if it maintains a Web site. This paragraph is effective August 1, 2010.

The Act also establishes the Healthy Kids Awards Program to reward kindergarten through grade 12 schools that implement policies and practices that create opportunities for students to be physically active and make healthy food choices throughout the day. School Districts may submit letters of intent to participate in the Healthy Kids Awards Program to the Commissioner of Education by September 15 of each school year. Schools that report to the Commissioner of Education and meet the program criteria developed by the Commissioner will have a "Healthy Kids Award" indicator placed on the school report card. This provision applies to the 2010-2011 school year and later.

CHAPTER 397 — REPORTING REQUIREMENTS ON POLITICAL EXPENDITURES AND CONTRIBUTIONS

In January of 2010, the United States Supreme Court decided in Citizens United v Federal Election Commission that certain limitations on independent political spending by corporations are unconstitutional. This Act reflects that ruling but increases reporting requirements.

The Act provides that the provisions of law requiring campaign literature to include a disclaimer does not apply to an individual or association who acts independently of any candidate, candidate's committee, political committee, or political fund and spends only from the individual's or association's own resources a sum that is less than $2,000 in the aggregate to produce or distribute campaign material that is distributed at least seven days before the election to which the campaign material relates. Under prior law, that $2,000 limit was $500.

The Act amends the statute prohibiting contributions by a corporation to specify that the prohibition does not include an independent expenditure authorized by law. The Act then specifies that a corporation may not make an expenditure or offer to make an expenditure to promote or defeat the candidacy of an individual for nomination. election, or appointment to a political office unless the expenditure is an independent expenditure. The term "independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. An independent expenditure does not include the act of announcing a formal public endorsement of a candidate for public office, unless the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure under the law.

The Act establishes civil penalties for certain expenditures by independent expenditure political committees or independent expenditure political funds. If that committee or fund is subject to a civil penalty under this provision, it is not subject to a penalty under the prohibited expenditure provisions relating to corporations in Chapter 211B.

This Act is generally effective June 1, 2010.

CHAPTER 398 — MINNOVATION COUNCIL VETOED

2010 LEGISLATION

FIRST SPECIAL SESSION

CHAPTER 1 – BUDGET BILL

SEE SEPARATE SUMMARY PREPARED BY MINNESOTA DEPARTMENT OF EDUCATION.