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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3576**

March 9, 2010

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The bill was read for the first time and referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to transportation; establishing a transportation economic development
1.3 assistance program; establishing accounts and appropriating funds; amending
1.4 the petroleum tank release cleanup fee; requiring legislative reporting; amending
1.5 Minnesota Statutes 2008, sections 115C.07, by adding a subdivision; 115C.08,
1.6 as amended; 446A.085, subdivisions 1, 2, by adding a subdivision; proposing
1.7 coding for new law in Minnesota Statutes, chapter 446A.

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

1.9 ARTICLE 1

1.10 TRANSPORTATION ECONOMIC DEVELOPMENT

1.11 Section 1. Minnesota Statutes 2008, section 446A.085, subdivision 1, is amended to
1.12 read:

1.13 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
1.14 this subdivision have the meanings given them.

1.15 (b) "Act" means the National Highway System Designation Act of 1995, Public
1.16 Law 104-59, as amended.

1.17 (c) "Borrower" means the state, counties, cities, and other governmental entities
1.18 eligible ~~under the act and state law~~ as provided in this section to apply for and receive
1.19 loans from the transportation revolving loan fund.

1.20 (d) "Loan" means financial assistance provided for all or part of the cost of a
1.21 project including money disbursed in anticipation of reimbursement or repayment, loan
1.22 guarantees, lines of credit, credit enhancements, equipment financing leases, bond
1.23 insurance, or other forms of financial assistance.

1.24 Sec. 2. Minnesota Statutes 2008, section 446A.085, subdivision 2, is amended to read:

2.1 Subd. 2. **Purpose; use of funds.** (a) The purpose of the transportation revolving
 2.2 loan fund is to provide loans for public transportation projects eligible for financing or aid
 2.3 under any federal act or program or state law, ~~including.~~

2.4 (b) Public transportation projects include, without limitation, the study of the
 2.5 feasibility of construction, reconstruction, resurfacing, restoring, rehabilitation, or
 2.6 replacement of transportation facilities; acquisition of right-of-way; and maintenance,
 2.7 repair, improvement, or construction of city, town, county, or state highways, roads,
 2.8 streets, rights-of-way, bridges, tunnels, railroad-highway crossings, drainage structures,
 2.9 signs, maintenance and operation facilities, guardrails, and protective structures used in
 2.10 connection with highways or transit projects. Enhancement items, including without
 2.11 limitation bicycle paths, ornamental lighting, and landscaping, are eligible for financing
 2.12 provided they are an integral part of overall project design and construction of a federal-aid
 2.13 highway.

2.14 (c) Money in the fund may not be used for any toll facilities project or
 2.15 congestion-pricing project.

2.16 Sec. 3. Minnesota Statutes 2008, section 446A.085, is amended by adding a
 2.17 subdivision to read:

2.18 Subd. 3a. **Economic development loan account.** (a) An economic development
 2.19 loan account is established in the transportation revolving loan fund. The account consists
 2.20 of funds as provided under section 446A.0855, subdivision 3, paragraph (c), and any other
 2.21 money donated, allotted, transferred, or otherwise provided to the account.

2.22 (b) Money in the account is annually appropriated to the authority and does not lapse.

2.23 (c) Money in the account may be used to make loans for economic development
 2.24 purposes and as provided in this section. The authority may make loans from the account
 2.25 for projects that are not eligible under any federal act or program.

2.26 (d) Repayments of principal and interest on loans from and investment income
 2.27 earned on the economic development loan account must be deposited in that account.

2.28 The authority may set and collect fees as provided under section 446A.04, subdivisions
 2.29 5 and 15.

2.30 (e) Notwithstanding paragraph (a), the account may not contain money transferred
 2.31 or otherwise provided from the trunk highway fund.

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

2.33 Sec. 4. **[446A.0855] TRANSPORTATION ECONOMIC DEVELOPMENT**
 2.34 **ASSISTANCE PROGRAM.**

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

3.3 (1) "council" means the transportation economic development assistance council
3.4 established under subdivision 8;

3.5 (2) "metropolitan county" has the meaning given in section 473.121, subdivision
3.6 4; and

3.7 (3) "program" means the transportation economic development assistance program
3.8 created in this section.

3.9 Subd. 2. **Program established.** (a) The authority shall develop and implement a
3.10 transportation economic development assistance program as provided in this section, for
3.11 providing financial assistance on a geographically balanced basis through competitive
3.12 grants for projects in all modes of transportation that provide measurable local, regional,
3.13 or statewide economic benefit.

3.14 (b) The authority may provide financial assistance for a transportation project at its
3.15 discretion, subject to the requirements of this section.

3.16 Subd. 3. **Transportation economic development account.** (a) A transportation
3.17 economic development account is established in the special revenue fund under the
3.18 budgetary jurisdiction of the senate and house of representatives committees having
3.19 jurisdiction over transportation finance. The account consists of funds as provided under
3.20 section 115C.08, subdivision 5, and any other money donated, allotted, transferred, or
3.21 otherwise provided to the account.

3.22 (b) Except as provided in paragraph (c), money in the account may be expended
3.23 only as appropriated by law.

3.24 (c) Upon request by the authority and with the consent of the commissioner
3.25 of transportation, the commissioner of management and budget shall transfer, from
3.26 the transportation economic development account to the economic development loan
3.27 account under section 446A.085, subdivision 3a, up to ten percent of the sum of any
3.28 appropriations made by law in a fiscal year to the authority from the transportation
3.29 economic development account.

3.30 (d) Notwithstanding paragraph (a), the account may not contain money transferred
3.31 or otherwise provided from the trunk highway fund.

3.32 Subd. 4. **Program administration.** (a) In implementing the transportation
3.33 economic development assistance program, the authority shall consult as appropriate
3.34 with the commissioners of transportation and employment and economic development,
3.35 and with the transportation economic development assistance council as specified
3.36 in subdivision 10. In meeting the requirements of this section, the commissioner of

4.1 transportation shall consult as appropriate with the authority, the commissioner of
4.2 employment and economic development, and the council. In meeting the requirements of
4.3 this section, the commissioner of employment and economic development shall consult as
4.4 appropriate with the authority, the commissioner of transportation, and the council.

4.5 (b) The authority and the commissioners of transportation and employment and
4.6 economic development shall make reasonable efforts to (1) publicize each solicitation for
4.7 applications among all eligible recipients, and (2) provide technical and informational
4.8 assistance in creating and submitting applications.

4.9 (c) By January 1, 2012, the commissioner of transportation shall publish and
4.10 maintain a manual on the transportation economic development program that assists
4.11 eligible and actual recipients of financial assistance and explains the application process,
4.12 identifies program requirements, explains the methodology for determining geographic
4.13 balance, and summarizes criteria for evaluation of projects.

4.14 (d) The authority may expend for program administration up to one percent of
4.15 the sum of any appropriations made by law in a fiscal year to the authority from the
4.16 transportation economic development account.

4.17 Subd. 5. **Economic impact performance measures.** The commissioner of
4.18 employment and economic development shall develop economic impact performance
4.19 measures to analyze projects for which financial assistance under this section is being
4.20 applied for or has been previously provided. At a minimum, the measures must:

4.21 (1) define economic benefit;

4.22 (2) include consideration of the number of net new jobs created, average annual
4.23 wages from new jobs, and return on investment;

4.24 (3) provide for estimating and observing the economic impact or return on
4.25 investment of a funded project;

4.26 (4) provide for comparing relative impacts of funded projects;

4.27 (5) be objective; and

4.28 (6) be consistent with the accountability measurement requirements under section
4.29 116J.997.

4.30 Subd. 6. **Financial assistance; general requirements.** (a) The commissioner of
4.31 transportation shall establish requirements for financial assistance under this section.
4.32 The requirements must include:

4.33 (1) establishment of grant recipient eligibility, which must require an eligible
4.34 recipient to be a government entity, as defined in section 13.02, subdivision 7a; and

4.35 (2) establishment of project eligibility, which must at a minimum include:

5.1 (i) restricting eligibility to transportation projects and public infrastructure projects
5.2 that include transportation as a key component;

5.3 (ii) rejecting as ineligible those projects that have full funding committed from other
5.4 sources or are programmed, including but not limited to identification of the project in the
5.5 statewide transportation improvement program;

5.6 (iii) allowing as eligible those projects related to any mode of transportation,
5.7 including but not limited to streets and highways, transit, passenger and commuter rail,
5.8 freight rail, ports, aeronautics, bicycles, and pedestrians;

5.9 (iv) allowing as eligible capital expenses for a project; and

5.10 (v) allowing as eligible project components and activities as specified in section
5.11 446A.085, subdivision 2, paragraph (b).

5.12 (b) The authority shall establish solicitation and application processes for financial
5.13 assistance, including a schedule for solicitation, review, and award of financial assistance,
5.14 and procedures for payment of financial assistance awards.

5.15 Subd. 7. **Financial assistance; criteria.** The commissioners of transportation and
5.16 employment and economic development shall establish criteria for evaluating projects
5.17 for financial assistance under this section. At a minimum, the criteria must provide an
5.18 objective method to prioritize and select projects on the basis of:

5.19 (1) the extent to which the project provides measurable economic benefit based on
5.20 the economic impact performance measures as provided in subdivision 5;

5.21 (2) consistency with relevant state and local transportation plans;

5.22 (3) the availability and commitment of funding or in-kind assistance for the project
5.23 from nonpublic sources;

5.24 (4) the need for the project as part of the overall transportation system;

5.25 (5) the extent to which completion of the project will improve the movement of
5.26 people and freight; and

5.27 (6) geographic balance as required under subdivision 9, paragraph (c).

5.28 Subd. 8. **Financial assistance; project evaluation process.** (a) Following the
5.29 criteria established under subdivision 7, the commissioner of employment and economic
5.30 development shall evaluate projects, certify projects that may receive financial assistance,
5.31 and submit a prioritized list of certified projects and amounts of financial assistance to
5.32 the authority.

5.33 (b) As part of the project evaluation process, the commissioner of transportation
5.34 shall certify that a project constitutes an eligible and appropriate transportation project.

5.35 Subd. 9. **Financial assistance; awards.** (a) The authority may not provide financial
5.36 assistance for a project under this section unless the commissioners of transportation and

6.1 employment and economic development have certified to the authority that the project
 6.2 may receive the assistance. The authority may not provide financial assistance for a
 6.3 project in an amount that exceeds the amount of assistance that the commissioner of
 6.4 employment and economic development has certified to the authority for the project.

6.5 (b) The authority may not provide financial assistance for a project in an amount that
 6.6 exceeds 50 percent of the total project costs.

6.7 (c) The authority shall ensure that financial assistance is provided in a manner that
 6.8 is balanced throughout the state, including with respect to (1) the number of projects
 6.9 receiving funding in a particular geographic location or region of the state, and (2) the
 6.10 total amount of financial assistance provided for projects in a particular geographic
 6.11 location or region of the state.

6.12 Subd. 10. **Council; establishment and duties.** The commissioner of transportation
 6.13 shall establish a transportation economic development assistance council. The council
 6.14 shall advise the authority and the commissioners of transportation and employment and
 6.15 economic development, as appropriate on:

6.16 (1) establishment of the program, including:

6.17 (i) grant recipient eligibility requirements;

6.18 (ii) project eligibility requirements;

6.19 (iii) solicitation and application processes;

6.20 (iv) criteria for evaluating, prioritizing, and selecting projects; and

6.21 (v) a methodology for determining geographic balance; and

6.22 (2) preparation of the report required under subdivision 14.

6.23 Subd. 11. **Council; membership.** (a) The transportation economic development
 6.24 assistance council consists of the following members:

6.25 (1) the commissioner of transportation, or a designee;

6.26 (2) the commissioner of employment and economic development, or a designee;

6.27 (3) the executive director of the authority, or a designee;

6.28 (4) two persons appointed by the Association of Minnesota Counties who must be
 6.29 county engineers, one of whom must be from a metropolitan county and one of whom
 6.30 must not be from a metropolitan county;

6.31 (5) two persons appointed by the League of Minnesota Cities, who must be city
 6.32 engineers, one of whom must be from a city in a metropolitan county and one of whom
 6.33 must be from a city that is not in a metropolitan county;

6.34 (6) one person appointed by the Minnesota Association of Townships;

6.35 (7) one person appointed by the Metropolitan Council Transportation Committee;

7.1 (8) one person appointed by the Minnesota Public Transit Association, who must be
 7.2 from a transit agency that provides services outside of a metropolitan county;

7.3 (9) one person appointed by the Metropolitan Airports Commission;

7.4 (10) one person appointed by the Minnesota Council of Airports;

7.5 (11) one person appointed by the Minnesota Transportation Alliance;

7.6 (12) one person appointed by the National Association of Industrial and Office
 7.7 Properties;

7.8 (13) one person appointed by the Minnesota Chamber of Commerce;

7.9 (14) one person appointed by the Minnesota Regional Railroads Association; and

7.10 (15) two persons appointed by the commissioner of transportation, one of whom
 7.11 must represent ports and one of whom must represent nonmotorized transportation.

7.12 (b) The appointments authorized under this subdivision are subject to section
 7.13 15.059, subdivisions 2 and 4.

7.14 (c) The appointments and designations authorized under this subdivision must be
 7.15 made by September 1, 2010.

7.16 Subd. 12. **Council; administrative provisions.** (a) The commissioner of
 7.17 transportation or the commissioner's designee shall convene the first meeting of the
 7.18 Transportation Economic Development Assistance Council by October 1, 2010. The
 7.19 council must elect a chair or cochairs from its membership at the initial meeting.
 7.20 The council must establish a publicly accessible meeting schedule and voting or
 7.21 decision-making procedures. The council must meet at least annually.

7.22 (b) Members of the council may not receive compensation.

7.23 (c) Upon request of the council, the commissioner of transportation must provide
 7.24 meeting space, administrative services, and staffing support for the council.

7.25 (d) The council may accept gifts and grants, which are accepted on behalf of the
 7.26 state and constitute donations to the state. Funds received under this paragraph must be
 7.27 expended for a project receiving financial assistance under this section, or deposited in the
 7.28 transportation economic development account.

7.29 Subd. 13. **Council; expiration.** Notwithstanding section 15.059, subdivision 5, the
 7.30 Transportation Economic Development Assistance Council expires June 30, 2014.

7.31 Subd. 14. **Legislative report.** (a) By February 1 of each odd-numbered year, the
 7.32 commissioner of transportation, with assistance from the authority and the commissioner
 7.33 of employment and economic development, shall submit a report on the transportation
 7.34 economic development assistance program to the chairs and ranking minority members of
 7.35 the house of representatives and senate committees with jurisdiction over transportation
 7.36 policy and finance.

8.1 (b) At a minimum, the report must:

8.2 (1) summarize the requirements and implementation of the transportation economic
8.3 development assistance program established in this section;

8.4 (2) review the criteria and economic impact performance measures used for
8.5 evaluation, prioritization, and selection of projects;

8.6 (3) provide a brief overview of each project that received financial assistance under
8.7 the program, which must at a minimum identify:

8.8 (i) basic project characteristics, such as funding recipient, geographic location,
8.9 and type of transportation modes served;

8.10 (ii) sources and respective amounts of project funding; and

8.11 (iii) the degree of economic benefit anticipated or observed, following the economic
8.12 impact performance measures established under subdivision 5;

8.13 (4) identify the allocation of funds, including but not limited to a breakdown of total
8.14 project funds by transportation mode, the amount expended for administrative costs, and
8.15 the amount transferred to the transportation economic development assistance account;

8.16 (5) evaluate the overall economic impact of the program consistent with the
8.17 accountability measurement requirements under section 116J.997; and

8.18 (6) provide recommendations for any legislative changes related to the program.

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

8.20 **ARTICLE 2**

8.21 **PETROLEUM TANK RELEASE FUND**

8.22 Section 1. Minnesota Statutes 2008, section 115C.07, is amended by adding a
8.23 subdivision to read:

8.24 Subd. 4. **Annual report.** Annually by November 1, the board shall submit a report
8.25 on petroleum tank release cleanup to the chairs and ranking minority members of the
8.26 house of representatives and senate committees with jurisdiction over (1) environment and
8.27 natural resource policy and finance, (2) economic development, and (3) transportation
8.28 policy and finance. At a minimum, the report must:

8.29 (1) summarize the petroleum tank release cleanup program established in this
8.30 chapter;

8.31 (2) identify revenues, by source, for the petroleum tank fund;

8.32 (3) identify the allocation of petroleum tank fund revenues to programs and specific
8.33 uses;

9.1 (4) provide an analysis of petroleum storage tanks in the state, including but not
 9.2 limited to:

9.3 (i) a review of tank release and cleanup trends for the previous ten years; and

9.4 (ii) predictions or estimates of tank releases and cleanup costs for the ensuing
 9.5 five years; and

9.6 (5) review the performance of the petroleum tank release cleanup program, including
 9.7 any recommendations for legislative changes.

9.8 Sec. 2. Minnesota Statutes 2008, section 115C.08, as amended by Laws 2009, chapter
 9.9 78, article 6, section 7, and chapter 101, article 2, section 109, is amended to read:

9.10 **115C.08 PETROLEUM TANK FUND.**

9.11 Subdivision 1. **Revenue sources.** Revenue from the following sources must be
 9.12 deposited in the state treasury and credited to a petroleum tank fund:

9.13 (1) the proceeds of the fee imposed by subdivision 3;

9.14 (2) money recovered by the state under sections 115C.04, 115C.05, and 116.491,
 9.15 including administrative expenses, civil penalties, and money paid under an agreement,
 9.16 stipulation, or settlement;

9.17 (3) interest attributable to investment of money in the fund;

9.18 (4) money received by the board and agency in the form of gifts, grants other than
 9.19 federal grants, reimbursements, or appropriations from any source intended to be used for
 9.20 the purposes of the fund;

9.21 (5) fees charged for the operation of the tank installer certification program
 9.22 established under section 116.491; and

9.23 (6) money obtained from the return of reimbursements, civil penalties, or other
 9.24 board action under this chapter.

9.25 ~~Subd. 2. **Imposition of fee.** The board shall notify the commissioner of revenue~~
 9.26 ~~if the unencumbered balance of the fund falls below \$4,000,000, and within 60 days~~
 9.27 ~~after receiving notice from the board, the commissioner of revenue shall impose the fee~~
 9.28 ~~established in subdivision 3 on the use of a tank for four calendar months, with payment~~
 9.29 ~~to be submitted with each monthly distributor tax return.~~

9.30 Subd. 3. **Petroleum tank release cleanup fee.** A petroleum tank release cleanup
 9.31 fee is imposed on the use of tanks that contain petroleum products defined in section
 9.32 296A.01. On products other than gasoline, the fee must be paid in the manner provided
 9.33 in section 296A.15 by the first licensed distributor receiving the product in Minnesota,
 9.34 as defined in section 296A.01. When the product is gasoline, the distributor responsible
 9.35 for payment of the gasoline tax is also responsible for payment of the petroleum tank

10.1 cleanup fee. ~~The fee must be imposed as required under subdivision 2.~~ The commissioner
 10.2 of revenue shall impose the fee at a rate of \$20 per 1,000 gallons of petroleum products,
 10.3 rounded to the nearest 1,000 gallons. A distributor who fails to pay the fee imposed under
 10.4 this section is subject to the penalties provided in section 296A.22.

10.5 Subd. 4. **Expenditures; appropriations.** (a) Money in the fund may only be spent:

10.6 (1) to administer the petroleum tank release cleanup program established in this
 10.7 chapter;

10.8 (2) for agency administrative costs under sections 116.46 to 116.50, sections
 10.9 115C.03 to 115C.06, and costs of corrective action taken by the agency under section
 10.10 115C.03, including investigations;

10.11 (3) for costs of recovering expenses of corrective actions under section 115C.04;

10.12 (4) for training, certification, and rulemaking under sections 116.46 to 116.50;

10.13 (5) for agency administrative costs of enforcing rules governing the construction,
 10.14 installation, operation, and closure of aboveground and underground petroleum storage
 10.15 tanks;

10.16 (6) for reimbursement of the environmental response, compensation, and compliance
 10.17 account under subdivision 5 and section 115B.26, subdivision 4;

10.18 (7) for administrative and staff costs as set by the board to administer the petroleum
 10.19 tank release program established in this chapter;

10.20 (8) for corrective action performance audits under section 115C.093;

10.21 (9) for contamination cleanup grants, as provided in paragraph ~~(e)~~ (d); ~~and~~

10.22 (10) to assess and remove abandoned underground storage tanks under section
 10.23 115C.094 and, if a release is discovered, to pay for the specific consultant and contractor
 10.24 services costs necessary to complete the tank removal project, including, but not limited
 10.25 to, excavation soil sampling, groundwater sampling, soil disposal, and completion of an
 10.26 excavation report;

10.27 (11) for creation of the report required under section 115C.07, subdivision 4; and

10.28 (12) for the transportation and economic development assistance program under
 10.29 section 446A.0855.

10.30 (b) Annually after June 30 and by September 1, the board shall identify a "tank
 10.31 release funding total," which is calculated as an amount equal to:

10.32 (1) \$26,000,000; plus

10.33 (2) the total revenue in the petroleum tank fund, less (i) revenue in the fund attributed
 10.34 to the petroleum tank release cleanup fee under subdivision 3, and (ii) revenue in the
 10.35 fund attributed to investment income; plus

11.1 (3) for fiscal year 2011 only, the fund balance in the petroleum tank fund on June
 11.2 30, 2010.

11.3 ~~Except as provided in paragraph (e), money in the fund~~ (c) The tank release funding
 11.4 total, less the amount appropriated under paragraph (d), is appropriated to the board to
 11.5 make reimbursements or payments under this section.

11.6 ~~(e)~~ (d) \$6,200,000 is annually appropriated from the fund to the commissioner of
 11.7 employment and economic development for contamination cleanup grants under section
 11.8 116J.554. Of this amount, the commissioner may spend up to \$225,000 annually for
 11.9 administration of the contamination cleanup grant program. The appropriation does not
 11.10 cancel and is available until expended. The appropriation shall not be withdrawn from
 11.11 the fund nor the fund balance reduced until the funds are requested by the commissioner
 11.12 of employment and economic development. ~~The commissioner shall schedule requests~~
 11.13 ~~for withdrawals from the fund to minimize the necessity to impose the fee authorized by~~
 11.14 ~~subdivision 2.~~ Unless otherwise provided, the appropriation in this paragraph may be
 11.15 used for:

11.16 (1) project costs at a qualifying site if a portion of the cleanup costs are attributable
 11.17 to petroleum contamination or new and used tar and tar-like substances, including but not
 11.18 limited to bitumen and asphalt, but excluding bituminous or asphalt pavement, that consist
 11.19 primarily of hydrocarbons and are found in natural deposits in the earth or are distillates,
 11.20 fractions, or residues from the processing of petroleum crude or petroleum products as
 11.21 defined in section 296A.01; and

11.22 (2) the costs of performing contamination investigation if there is a reasonable basis
 11.23 to suspect the contamination is attributable to petroleum or new and used tar and tar-like
 11.24 substances, including but not limited to bitumen and asphalt, but excluding bituminous or
 11.25 asphalt pavement, that consist primarily of hydrocarbons and are found in natural deposits
 11.26 in the earth or are distillates, fractions, or residues from the processing of petroleum crude
 11.27 or petroleum products as defined in section 296A.01.

11.28 **Subd. 5. Account transfer transfers.** (a) From the appropriation under subdivision
 11.29 4, paragraph (c), the board shall authorize the commissioner of management and budget
 11.30 to transfer to the environmental response, compensation, and compliance account the
 11.31 amount requested by the Pollution Control Agency under section 115B.26, subdivision
 11.32 4. Transfer of the amount must be made at the earliest practical date after authorization
 11.33 by the board. If the unencumbered balance in the account is less than \$2,000,000, the
 11.34 transfer must be made at the earliest practical date after the unencumbered balance in
 11.35 the account exceeds that amount.

12.1 (b) The commissioner of management and budget shall transfer the amount
12.2 remaining in the petroleum tank fund after the appropriations under subdivision 4 to the
12.3 transportation economic development account under section 446A.0855, subdivision 3.

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