

STATE OF MINNESOTA

EIGHTY-SEVENTH SESSION — 2011

 FORTY-FOURTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, APRIL 27, 2011

The House of Representatives convened at 4:30 p.m. and was called to order by Kurt Zellers, Speaker of the House.

Prayer was offered by the Reverend Grady St. Dennis, House Chaplain.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abeler	Dean	Hansen	Laine	Mullery	Schomacker
Anderson, B.	Dettmer	Hausman	Lanning	Murdock	Scott
Anderson, D.	Dill	Hayden	Leidiger	Murphy, E.	Shimanski
Anderson, P.	Dittrich	Hilstrom	LeMieur	Murphy, M.	Simon
Anderson, S.	Doepke	Hilty	Lenczewski	Murray	Slawik
Anzelc	Downey	Holberg	Lesch	Myhra	Slocum
Atkins	Drazkowski	Hoppe	Liebling	Nelson	Stensrud
Banaian	Eken	Hornstein	Lillie	Nornes	Swedzinski
Barrett	Erickson	Hortman	Loeffler	Norton	Thissen
Beard	Fabian	Hosch	Lohmer	O'Driscoll	Tillberry
Benson, J.	Falk	Howes	Loon	Paymar	Torkelson
Benson, M.	Franson	Huntley	Mack	Pelowski	Urdahl
Bills	Fritz	Johnson	Mahoney	Peppin	Vogel
Brynaert	Garofalo	Kahn	Mariani	Persell	Wagenius
Buesgens	Gauthier	Kath	Marquart	Petersen, B.	Ward
Carlson	Gottwalt	Kelly	Mazorol	Peterson, S.	Wardlow
Champion	Greene	Kieffer	McElfrick	Poppe	Westrom
Cornish	Greiling	Kiel	McFarlane	Quam	Winkler
Crawford	Gruenhagen	Kiffmeyer	McNamara	Rukavina	Woodard
Daudt	Hackbarth	Knuth	Melin	Runbeck	Spk. Zellers
Davids	Hamilton	Koenen	Moran	Sanders	
Davnie	Hancock	Kriesel	Morrow	Scalze	

A quorum was present.

Clark, Gunther and McDonald were excused.

Smith was excused until 5:45 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. There being no objection, further reading of the Journal was dispensed with and the Journal was approved as corrected by the Chief Clerk.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 56, A bill for an act relating to veterans; providing a waiver of immunity for veterans to sue the state of Minnesota as an employer in federal or other courts for violation of the Uniformed Services Employment and Reemployment Rights Act; amending Minnesota Statutes 2010, section 1.05, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Civil Law.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 89, A bill for an act relating to elections; requiring voters to provide picture identification before receiving a ballot; providing for the issuance of voter identification cards at no charge; changing certain canvassing deadlines; requiring certain notice; establishing a procedure for provisional balloting; amending Minnesota Statutes 2010, sections 201.12, subdivision 1; 204C.10; 204C.32; 204C.33, subdivision 1; 204C.37; 205.065, subdivision 5; 205.185, subdivision 3; 205A.03, subdivision 4; 205A.10, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 201; 204C.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 171.07, is amended by adding a subdivision to read:

Subd. 3b. **Voter identification cards.** (a) The Department of Public Safety shall provide a Minnesota voter identification card to any applicant who is eligible to vote in Minnesota and who does not possess a valid Minnesota driver's license or state identification card. The department may not require the applicant to pay a fee for issuance of a card. A state-subsidized voter identification card may only be applied for at a driver's licensing facility operated by the Division of Driver and Vehicle Services. Upon application for a state-subsidized voter identification card, including upon application for a renewal, duplicate card, or when a new card is required as a result of a change of address, an applicant must present verification that the applicant is at least 18 years of age, is a citizen of the United States, and will have maintained residence in Minnesota for at least 20 days immediately preceding the next election.

(b) A voter identification card must bear a distinguishing number assigned to the applicant, a color photograph or an electronically produced image of the applicant, the applicant's full name and date of birth, the applicant's address of residence, a description of the applicant in the manner the commissioner deems necessary, and the usual signature of the applicant.

(c) A voter identification card shall not be valid identification for purposes unrelated to voting in Minnesota.

(d) A voter identification card must be of a different color scheme than a Minnesota driver's license or state identification card, but must incorporate the same information and security features as provided in subdivision 9.

(e) Each voter identification card must be plainly marked: "Voter Identification – Not a drivers license. Valid Identification Only for Voting."

Sec. 2. Minnesota Statutes 2010, section 171.07, subdivision 4, is amended to read:

Subd. 4. **Expiration.** (a) Except as otherwise provided in this subdivision, the expiration date of Minnesota identification cards and voter identification cards of applicants under the age of 65 shall be the birthday of the applicant in the fourth year following the date of issuance of the card.

(b) Minnesota identification cards and voter identification cards issued to applicants age 65 or over shall be valid for the lifetime of the applicant.

(c) The expiration date for an Under-21 identification card is the cardholder's 21st birthday. The commissioner shall issue an identification card to a holder of an Under-21 identification card who applies for the card, pays the required fee, and presents proof of identity and age, unless the commissioner determines that the applicant is not qualified for the identification card.

Sec. 3. Minnesota Statutes 2010, section 171.07, subdivision 9, is amended to read:

Subd. 9. **Improved security.** ~~The commissioner shall develop new Drivers' licenses and, identification cards, to be issued beginning January 1, 1994, that~~ and voter identification cards must be as impervious to alteration as is reasonably practicable in their design and quality of material and technology. The driver's license security laminate shall be made from materials not readily available to the general public. The design and technology employed must enable the driver's license and identification card to be subject to two or more methods of visual verification capable of clearly indicating the presence of tampering or counterfeiting. The driver's license and identification card must not be susceptible to reproduction by photocopying or simulation and must be highly resistant to data or photograph substitution and other tampering.

Sec. 4. **[200.035] DOCUMENTATION OF IDENTITY AND RESIDENCE.**

The following are sufficient proof of identity and residence for purposes of election day voter registration under section 201.061, subdivision 3, and for determining whether to count a provisional ballot under section 204C.135, subdivision 2:

(1) a current, valid driver's license, state identification card, or voter identification card issued to the voter by the Department of Public Safety that contains the voter's current address of residence in the precinct;

(2) an identification card issued to the voter by the tribal government of a tribe recognized by the Bureau of Indian Affairs that contains a photograph of the voter, the voter's current address of residence in the precinct, and any other items of data required to be contained on a Minnesota identification card, as provided in section 171.07, subdivision 3, paragraphs (a) and (b);

(3) an original receipt for a new, renewed, or updated driver's license, state identification card, or voter identification card issued to the voter under section 171.07 that contains the voter's current address of residence in the precinct along with one of the following documents, provided that it contains a photograph of the voter:

(i) a driver's license or identification card that is expired, invalidated, or does not contain the voter's current address of residence, issued to the voter by the state of Minnesota or any other state or territory of the United States;

(ii) a United States passport issued to the voter;

(iii) an identification card issued by a branch, department, agency, entity, or subdivision of Minnesota or the federal government;

(iv) an identification card issued by an accredited postsecondary institution with a campus located within Minnesota, if a list of students from that institution has been prepared under section 135A.17 and certified to the county auditor in the manner provided in rules of the secretary of state; or

(v) an identification card issued to the voter by the tribal government of a tribe recognized by the Bureau of Indian Affairs;

(4) if the voter resides in a shelter facility designated for battered women, as defined in section 611A.37, subdivision 4, a driver's license or identification card issued to the voter by the Department of Public Safety that contains the voter's photograph and address of residence prior to seeking the services of the shelter facility, along with a certification of residence in the facility, signed by the facility's administrator on a form prescribed by the secretary of state; or

(5) a driver's license or identification card issued by Minnesota or any other state or territory of the United States that does not contain the voter's current address of residence, if the voter is a student and either:

(i) the voter's name and address of residence is included on a residential housing list certified to the county auditor for use in that precinct under section 135A.17, subdivision 2; or

(ii) the voter presents a current student fee statement, issued to the voter, that contains the voter's valid address of residence in the precinct.

Sec. 5. **[201.017] STATE-SUBSIDIZED VOTER IDENTIFICATION CARD ACCOUNT.**

A state-subsidized voter identification card account is established in the special revenue fund. Money in the account is appropriated to the Department of Public Safety for purposes of reimbursing the department for administrative costs providing state-subsidized voter identification cards to individuals qualifying under section 171.07, subdivision 3b, provided that the department may not be reimbursed more than \$9.85 for each card issued. The commissioner of public safety must report to the legislature at least monthly by county on expenditure of funds from this account. A report of the total expenditures by county must be submitted to the majority and minority members of the house of representatives and senate committees with oversight in elections by January 31 of each year.

Sec. 6. Minnesota Statutes 2010, section 201.061, subdivision 3, is amended to read:

Subd. 3. **Election day registration.** (a) An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of identity and residence. An individual may prove identity and residence for purposes of registering by: presenting documentation as permitted by section 200.035.

~~(1) presenting a driver's license or Minnesota identification card issued pursuant to section 171.07;~~

~~(2) presenting any document approved by the secretary of state as proper identification;~~

~~(3) presenting one of the following:~~

~~(i) a current valid student identification card from a postsecondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.17 and certified to the county auditor in the manner provided in rules of the secretary of state; or~~

~~(ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or~~

~~(4) having a voter who is registered to vote in the precinct, or who is an employee employed by and working in a residential facility in the precinct and vouching for a resident in the facility, sign an oath in the presence of the election judge vouching that the voter or employee personally knows that the individual is a resident of the precinct. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day. A voter who is registered to vote in the precinct may sign up to 15 proof of residence oaths on any election day. This limitation does not apply to an employee of a residential facility described in this clause. The secretary of state shall provide a form for election judges to use in recording the number of individuals for whom a voter signs proof of residence oaths on election day. The form must include space for the maximum number of individuals for whom a voter may sign proof of residence oaths. For each proof of residence oath, the form must include a statement that the voter is registered to vote in the precinct, personally knows that the individual is a resident of the precinct, and is making the statement on oath. The form must include a space for the voter's printed name, signature, telephone number, and address.~~

~~The oath required by this subdivision and Minnesota Rules, part 8200.9939, must be attached to the voter registration application.~~

~~(b) The operator of a residential facility shall prepare a list of the names of its employees currently working in the residential facility and the address of the residential facility. The operator shall certify the list and provide it to the appropriate county auditor no less than 20 days before each election for use in election day registration.~~

~~(c) "Residential facility" means transitional housing as defined in section 256E.33, subdivision 1; a supervised living facility licensed by the commissioner of health under section 144.50, subdivision 6; a nursing home as defined in section 144A.01, subdivision 5; a residence registered with the commissioner of health as a housing with services establishment as defined in section 144D.01, subdivision 4; a veterans home operated by the board of directors of the Minnesota Veterans Homes under chapter 198; a residence licensed by the commissioner of human services to provide a residential program as defined in section 245A.02, subdivision 14; a residential facility for persons with a developmental disability licensed by the commissioner of human services under section 252.28; group residential housing as defined in section 256I.03, subdivision 3; a shelter for battered women as defined in section 611A.37, subdivision 4; or a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations for the homeless.~~

~~(d) For tribal band members, an individual may prove residence for purposes of registering by:~~

~~(1) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature, and picture of the individual; or~~

~~(2) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, signature, and picture of the individual and also presenting one of the documents listed in Minnesota Rules, part 8200.5100, subpart 2, item B.~~

~~(e) (b) A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration application.~~

Sec. 7. Minnesota Statutes 2010, section 201.12, subdivision 1, is amended to read:

Subdivision 1. **Notice of registration.** (a) To prevent fraudulent voting and to eliminate excess names, the county auditor may, except where required by paragraph (b), mail to any registered voter a notice stating the voter's name and address as they appear in the registration files. The notice shall request the voter to notify the county auditor if there is any mistake in the information.

(b) The notice provided in paragraph (a) must be sent upon acceptance of a registration application from any voter who has not been previously registered to vote in Minnesota. In addition to the requirements of paragraph (a), the notice sent to a voter under this paragraph must inform the voter of the requirements for voting in the polling place, including the photo identification requirements contained in section 204C.10, and provide information to assist the voter in acquiring a voter identification card, if necessary, under section 201.017.

Sec. 8. Minnesota Statutes 2010, section 201.221, subdivision 3, is amended to read:

Subd. 3. **Procedures for polling place rosters.** The secretary of state shall prescribe the form of polling place rosters that include the voter's name, address, date of birth, school district number, and space for the voter's signature. The address listed on the polling place roster must be the voter's address of residence, unless the voter has requested that the address printed on the roster be the voter's mailing address because the voter is a judge, law enforcement officer, or corrections officer. The secretary of state may prescribe additional election-related information to be placed on the polling place rosters on an experimental basis for one state primary and general election cycle; the same information may not be placed on the polling place roster for a second state primary and general election cycle unless specified in this subdivision. The polling place roster must be used to indicate whether the voter has voted in a given election. The secretary of state shall prescribe procedures for transporting the polling place rosters to the election judges for use on election day. The secretary of state shall prescribe the form for a county or municipality to request the date of birth from currently registered voters. The county or municipality shall not request the date of birth from currently registered voters by any communication other than the prescribed form and the form must clearly indicate that a currently registered voter does not lose registration status by failing to provide the date of birth. In accordance with section 204B.40, the county auditor shall retain the prescribed polling place rosters used on the date of election for 22 months following the election.

Sec. 9. Minnesota Statutes 2010, section 204C.10, is amended to read:

204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.

Subdivision 1. **Polling place roster.** (a) An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, is registered and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both."

(b) ~~A judge may,~~ Before the applicant signs the roster, a judge must: (1) require the voter to present a photo identification document, as described in subdivision 2; and (2) confirm the applicant's name, address, and date of birth. A voter who cannot produce sufficient identification as required by subdivision 2 may not sign the polling place roster, but may cast a provisional ballot as provided in section 204C.135.

(c) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

Subd. 2. **Photo identification.** (a) To satisfy the photo identification requirement in subdivision 1, a voter must present a valid form of one of the following documents or sets of documents issued to the voter:

(1) a Minnesota driver's license, state identification card, or voter identification card issued under section 171.07 that contains the voter's current address of residence in the precinct;

(2)(i) an original receipt for a new, renewed, or updated driver's license, state identification card, or voter identification card issued to the voter under section 171.07 that contains the voter's current address of residence in the precinct; and

(ii) a driver's license or identification card that is expired, invalidated, or does not contain the voter's current address of residence in the precinct, issued to the voter by the state of Minnesota or any other state or territory of the United States;

(3) an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs that contains a photograph of the voter, the voter's current address of residence in the precinct, and any other items of data required to be contained on a Minnesota identification card, as provided in section 171.07, subdivision 3, paragraphs (a) and (b);

(4) if the voter resides in a shelter facility designated for battered women, as defined in section 611A.37, subdivision 4, a driver's license or identification card issued to the voter by the Department of Public Safety that contains the voter's photograph and address of residence prior to seeking the services of the shelter facility, along with a certification of residence in the facility, signed by the facility's administrator on a form prescribed by the secretary of state; or

(5) a driver's license or identification card issued by Minnesota or any other state or territory of the United States that does not contain the voter's current address of residence, if the voter is a student and either:

(i) the voter's name and address of residence is included on a residential housing list certified to the county auditor for use in that precinct under section 135A.17, subdivision 2; or

(ii) the voter presents a current student fee statement, issued to the voter, that contains the voter's valid address of residence in the precinct.

(b) An identification card presented under this section is not deficient for a lack of the voter's current address of residence in the precinct if the identification card contains the mailing address of the voter that matches the address listed on the polling place roster.

Sec. 10. Minnesota Statutes 2010, section 204C.12, subdivision 3, is amended to read:

Subd. 3. **Determination of residence.** In determining the legal residence of a challenged individual, the election judges shall be governed by the principles contained in section 200.031. If the challenged individual's answers to the questions show ineligibility to vote in that precinct, the individual shall not be allowed to vote. If the individual has marked ballots but not yet deposited them in the ballot boxes before the election judges determine ineligibility to vote in that precinct, the marked ballots shall be placed ~~unopened~~ with the spoiled ballots. If the answers to the questions fail to show that the individual is not eligible to vote in that precinct and the challenge is not withdrawn, the election judges shall ~~verbally administer the oath on the voter certificate to the individual. After taking the oath and completing and signing the voter certificate, the challenged individual shall be allowed to vote~~ permit the voter to cast a provisional ballot in the manner provided in section 204C.135.

Sec. 11. [204C.135] PROVISIONAL BALLOTS.

Subdivision 1. Casting of provisional ballots. (a) The following voters seeking to vote are entitled to cast a provisional ballot in the manner provided by this section:

(1) a voter who is unable to provide proper photo identification as required by section 204C.10;

(2) a voter whose registration status is listed as "challenged" on the polling place roster; and

(3) a voter whose eligibility to vote is challenged as permitted by section 204C.12.

(b) A voter seeking to vote a provisional ballot must sign a provisional ballot roster and complete a provisional ballot envelope. The envelope must contain a space for the voter to list the voter's name, address of residence, date of birth, voter identification number, and any other information prescribed by the secretary of state. The voter must also swear or affirm, in writing, that the voter is eligible to vote, has not voted previously in the same election, and meets the criteria for registering to vote in the precinct in which the voter appears.

Once the voter has completed the provisional ballot envelope, the voter must be allowed to cast a provisional ballot. The provisional ballot must be in the same form as the official ballot available in the precinct on election day. A completed provisional ballot shall be sealed in a secrecy envelope. The secrecy envelope shall be sealed inside the voter's provisional ballot envelope and deposited by the voter in a secure, sealed provisional ballot box. Completed provisional ballots may not be combined with other voted ballots in the polling place.

(c) The form of the secrecy and provisional ballot envelopes shall be prescribed by the secretary of state. The provisional ballot envelope must be a color other than that provided for absentee ballot envelopes and must be prominently labeled "Provisional Ballot Envelope."

(d) Provisional ballots and related documentation shall be delivered to and securely maintained by the county auditor or municipal clerk in the same manner as required for other election materials under sections 204C.27 and 204C.28.

Subd. 2. Counting provisional ballots. (a) A voter who casts a provisional ballot in the polling place may personally appear before the county auditor or municipal clerk no later than seven calendar days following the election to prove that the voter's provisional ballot should be counted. The county auditor or municipal clerk must count a provisional ballot in the final certified results from the precinct if:

(1) the statewide voter registration system indicates that the voter is eligible to vote or, if challenged, the voter presents evidence of the voter's eligibility to vote; and

(2) the voter presents proof of identity and residence in the precinct in the manner permitted by section 200.035.

(b) If a voter does not appear before the county auditor or municipal clerk within seven calendar days following the election or otherwise does not satisfy the requirements of paragraph (a), or if the data listed on the items of identification presented by the voter does not match the data submitted by the voter on the provisional ballot envelope, the voter's provisional ballot must not be counted.

(c) The county auditor or municipal clerk must notify, in writing, any provisional voter who does not appear within seven calendar days of the election that the voter's provisional ballot was not counted because of the voter's failure to appear before the county auditor or municipal clerk within the time permitted by law to determine whether the provisional ballot should be counted.

Subd. 3. Provisional ballots; reconciliation. Prior to counting any provisional ballots in the final vote totals from a precinct, the county auditor must verify that the number of signatures appearing on the provisional ballot roster from that precinct is equal to or greater than the number of accepted provisional ballots submitted by voters in the precinct on election day. Any discrepancy must be resolved before the provisional ballots from the precinct may be counted. Excess provisional ballots to be counted must be randomly withdrawn in the manner required by section 204C.20, subdivision 2, after the period for a voter to appear to prove residence and identity has expired and the ballots to be counted have been separated from the provisional ballot envelopes.

Sec. 12. Minnesota Statutes 2010, section 204C.32, is amended to read:

204C.32 CANVASS OF STATE PRIMARIES.

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office on the ~~third~~ eighth day following the state primary. After taking the oath of office, the canvassing board shall publicly canvass the election returns delivered to the county auditor. The board shall complete the canvass on the ~~third~~ eighth day following the state primary and shall promptly prepare and file with the county auditor a report that states:

- (a) the number of individuals voting at the election in the county, and in each precinct;
- (b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;
- (c) for each major political party, the names of the candidates running for each partisan office and the number of votes received by each candidate in the county and in each precinct;
- (d) the names of the candidates of each major political party who are nominated; and
- (e) the number of votes received by each of the candidates for nonpartisan office in each precinct in the county and the names of the candidates nominated for nonpartisan office.

Upon completion of the canvass, the county auditor shall mail or deliver a notice of nomination to each nominee for county office voted for only in that county. The county auditor shall transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass. The secretary of state shall mail a notice of nomination to each nominee for state or federal office.

Subd. 2. **State canvass.** The State Canvassing Board shall meet at the Secretary of State's Office ~~seven~~ 14 days after the state primary to canvass the certified copies of the county canvassing board reports received from the county auditors. Immediately after the canvassing board declares the results, the secretary of state shall certify the names of the nominees to the county auditors. The secretary of state shall mail to each nominee a notice of nomination.

Sec. 13. Minnesota Statutes 2010, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office between the ~~third~~ eighth and ~~tenth~~ 14th days following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

- (a) the number of individuals voting at the election in the county and in each precinct;
- (b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;
- (c) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct;
- (d) the number of votes counted for and against a proposed change of county lines or county seat; and

(e) the number of votes counted for and against a constitutional amendment or other question in the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for federal, state, or county office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reseal the voted ballots at the conclusion of this process. The county auditor must prepare a separate report of votes received by precinct for write-in candidates for federal, state, and county offices who have requested under section 204B.09 that votes for those candidates be tallied.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit a certified copy of the county canvassing board report for state and federal offices to the secretary of state by messenger, express mail, or similar service immediately upon conclusion of the county canvass.

Sec. 14. Minnesota Statutes 2010, section 204C.37, is amended to read:

204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF STATE.

A copy of the report required by sections 204C.32, subdivision 1, and 204C.33, subdivision 1, shall be certified under the official seal of the county auditor. The copy shall be enclosed in an envelope addressed to the secretary of state, with the county auditor's name and official address and the words "Election Returns" endorsed on the envelope. The copy of the canvassing board report and the precinct summary statements must be sent by express mail or delivered to the secretary of state. If the copy is not received by the secretary of state within ten days following ~~the applicable election~~ a primary election, or within 16 days following a general election, the secretary of state shall immediately notify the county auditor, who shall deliver another copy to the secretary of state by special messenger.

Sec. 15. Minnesota Statutes 2010, section 205.065, subdivision 5, is amended to read:

Subd. 5. **Results.** The municipal primary shall be conducted and the returns made in the manner provided for the state primary so far as practicable. On the ~~third~~ eighth day after the primary, the governing body of the municipality shall canvass the returns, and the two candidates for each office who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to the office, who receive the highest number of votes, shall be the nominees for the office named. Their names shall be certified to the municipal clerk who shall place them on the municipal general election ballot without partisan designation and without payment of an additional fee.

Sec. 16. Minnesota Statutes 2010, section 205.185, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** (a) Between the ~~third~~ eighth and ~~tenth~~ 14th days after an election, the governing body of a city conducting any election including a special municipal election, or the governing body of a town conducting the general election in November shall act as the canvassing board, canvass the returns, and declare the results of the election. The governing body of a town conducting the general election in March shall act as the canvassing board, canvass the returns, and declare the results of the election within ~~two~~ ten days after an election.

(b) After the time for contesting elections has passed, the municipal clerk shall issue a certificate of election to each successful candidate. In case of a contest, the certificate shall not be issued until the outcome of the contest has been determined by the proper court.

(c) In case of a tie vote, the canvassing board having jurisdiction over the municipality shall determine the result by lot. The clerk of the canvassing board shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

Sec. 17. Minnesota Statutes 2010, section 205A.03, subdivision 4, is amended to read:

Subd. 4. **Results.** The school district primary must be conducted and the returns made in the manner provided for the state primary as far as practicable. On the ~~third~~ eighth day after the primary, the school board of the school district shall canvass the returns, and the two candidates for each specified school board position who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to at-large school board positions who receive the highest number of votes, are the nominees for the office named. Their names must be certified to the school district clerk who shall place them on the school district general election ballot without partisan designation and without payment of an additional fee.

Sec. 18. Minnesota Statutes 2010, section 205A.10, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** Between the ~~third eighth~~ and ~~tenth~~ 14th days after a school district election other than a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school board shall canvass the returns and declare the results of the election. After the time for contesting elections has passed, the school district clerk shall issue a certificate of election to each successful candidate. If there is a contest, the certificate of election to that office must not be issued until the outcome of the contest has been determined by the proper court. If there is a tie vote, the school board shall determine the result by lot. The clerk shall deliver the certificate of election to the successful candidate by personal service or certified mail. The successful candidate shall file an acceptance and oath of office in writing with the clerk within 30 days of the date of mailing or personal service. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but that filing may be made at any time before action to fill the vacancy has been taken. The school district clerk shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

A school district canvassing board shall perform the duties of the school board according to the requirements of this subdivision for a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59.

Sec. 19. **APPROPRIATION.**

The commissioner of management and budget shall transfer \$354,600 in fiscal year 2012 and \$428,475 in fiscal year 2013 from the general fund to the state-subsidized identification card account for purposes of providing state-subsidized identification cards to individuals qualifying under Minnesota Statutes, section 171.07, subdivision 3b.

Sec. 20. **EFFECTIVE DATE.**

Sections 1 to 19 are effective July 1, 2011, and apply to elections held on or after that date."

Delete the title and insert:

"A bill for an act relating to elections; requiring voters to provide picture identification before receiving a ballot; providing for the issuance of voter identification cards at no charge; changing certain canvassing deadlines; requiring certain notice; establishing a procedure for provisional balloting; appropriating money; amending

Minnesota Statutes 2010, sections 171.07, subdivisions 4, 9, by adding a subdivision; 201.061, subdivision 3; 201.12, subdivision 1; 201.221, subdivision 3; 204C.10; 204C.12, subdivision 3; 204C.32; 204C.33, subdivision 1; 204C.37; 205.065, subdivision 5; 205.185, subdivision 3; 205A.03, subdivision 4; 205A.10, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 200; 201; 204C."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 182, A bill for an act relating to environment; requiring a study on state and local water management.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **WATER RULEMAKING MORATORIUM.**

(a) For purposes of this section, "agency" means the Pollution Control Agency, Department of Natural Resources, Board of Water and Soil Resources, Environmental Quality Board, Department of Agriculture, and Department of Health.

(b) Unless required by federal law or rule, no agency shall adopt rules related to water quality or water resource protection during the period beginning July 1, 2011, and ending June 30, 2012.

(c) Unless the rule is under judicial challenge, this section does not apply to:

(1) proposed rules listed in a notice of intent to adopt rules published under Minnesota Statutes, chapter 14, before July 1, 2011;

(2) rules required by law for which rulemaking was to begin by January 15, 2010;

(3) emergency rules authorized by statute;

(4) rules adopted or amended under Minnesota Statutes, section 14.386; and

(5) rules proposed under Minnesota Statutes, section 14.388, subject to approval of the Office of Administrative Hearings.

Sec. 2. **EVALUATION REQUIRED.**

(a) The commissioner of administration shall evaluate state and local water-related programs, policies, and permits to make recommendations for cost savings, increased productivity, and the elimination of duplication among public agencies.

(b) The evaluation must:

(1) identify current rules relating to surface and groundwater, including those related to storm water, residential, industrial, and agricultural use, shorelands, floodplains, wild and scenic rivers, wetlands, feedlots, and subsurface sewage treatment systems, and for each rule specify:

(i) the statutory authority;

(ii) intended outcomes;

(iii) the cost to state and local government and the private sector; and

(iv) the relationship of the rule to other local, state, and federal rules;

(2) assess the pros and cons of alternative approaches to implementing water-related programs, policies, and permits, including local, state, and regional-based approaches;

(3) identify inconsistencies and redundancy between local, state, and federal rules;

(4) identify means to coordinate rulemaking and implementation so as to achieve intended outcomes more effectively and efficiently;

(5) identify a rule assessment and evaluation process for determining whether each identified rule should be continued or repealed;

(6) rely on scientific, peer-reviewed data, including the studies of the National Academy of Sciences;

(7) evaluate current responsibilities of the Pollution Control Agency, Department of Natural Resources, Board of Water and Soil Resources, Environmental Quality Board, Department of Agriculture, and Department of Health for developing and implementing water-related programs, policies, and permits and make recommendations for reallocating responsibilities among the agencies; and

(8) assess the current role of the clean water fund in supporting water-related programs and policies and make recommendations for allocating resources among the agencies that collaborate and partner in spending the clean water fund consistent with the other recommendations of the study.

(c) The commissioner of administration must submit the study results and make recommendations to agencies listed under section 1, paragraph (a), and to the chairs and ranking minority party members of the senate and house of representatives committees having primary jurisdiction over environment and natural resources policy and finance no later than January 15, 2012."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 210, A bill for an act relating to elections; requiring voters to provide picture identification before receiving a ballot in most situations; providing for the issuance of voter identification cards at no charge; establishing a procedure for provisional balloting; creating challenged voter eligibility list; specifying other election administration procedures; allowing use of electronic polling place rosters; setting standards for use of electronic polling place rosters; creating legislative task force on electronic roster implementation; enacting procedures related to recounts; appropriating money; amending Minnesota Statutes 2010, sections 13.69, subdivision 1; 135A.17, subdivision 2; 171.01, by adding a subdivision; 171.06, subdivisions 1, 2, 3, by adding a subdivision; 171.061, subdivisions 1, 3, 4; 171.07, subdivisions 1a, 4, 9, 14, by adding a subdivision; 171.071; 171.11; 171.14; 200.02, by adding a subdivision; 201.021; 201.022, subdivision 1; 201.061, subdivisions 3, 4, 7; 201.071, subdivision 3; 201.081; 201.121, subdivisions 1, 3; 201.171; 201.221, subdivision 3; 203B.04, subdivisions 1, 2; 203B.06, subdivision 5; 203B.121, subdivision 1; 204B.14, subdivision 2; 204B.40; 204C.10; 204C.12, subdivisions 3, 4; 204C.14; 204C.20, subdivisions 1, 2, 4, by adding a subdivision; 204C.23; 204C.24, subdivision 1; 204C.32; 204C.33, subdivision 1; 204C.37; 204C.38; 204D.24, subdivision 2; 205.065, subdivision 5; 205.185, subdivision 3; 205A.03, subdivision 4; 205A.10, subdivision 3; 206.86, subdivisions 1, 2; 209.021, subdivision 1; 209.06, subdivision 1; 211B.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 200; 201; 204C; proposing coding for new law as Minnesota Statutes, chapters 204E; 206A; repealing Minnesota Statutes 2010, sections 203B.04, subdivision 3; 204C.34; 204C.35; 204C.36; 204C.361.

Reported the same back with the following amendments:

Page 6, delete line 7 and insert "(i) Social Security number, or (ii) certification that the applicant has not been assigned a Social Security number;"

Page 23, line 5, delete the first "\$....." and insert "\$100,000" and delete the second "\$....." and insert "\$2,700,000"

Page 23, line 14, delete "\$....." and insert "\$880,000"

Page 23, line 15, delete "\$....." and insert "\$110,000" and delete "2013" and insert "2012"

Page 23, line 16, after the period, insert "This appropriation is available until June 30, 2013."

Page 23, delete lines 17 to 22

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 383, A bill for an act relating to health; extending moratorium on radiation therapy facility construction in certain counties; amending Minnesota Statutes 2010, section 144.5509.

Reported the same back with the following amendments:

Page 1, after line 21, insert:

"(c) Paragraph (b) does not apply to any construction necessary to relocate a radiation therapy machine from a community hospital-owned radiation therapy facility in the city of Maplewood to a community hospital campus in the city of Woodbury within the same health system."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "providing an exception to moratorium;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Commerce and Regulatory Reform.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 716, A bill for an act relating to environment; requiring rulemaking for mandatory environmental assessment worksheet categories.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 116D.04, subdivision 2a, as amended by Laws 2011, chapter 4, section 6, is amended to read:

Subd. 2a. **When prepared.** Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision-making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action. No mandatory environmental impact statement may be required for an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), that produces less than 125,000,000 gallons of ethanol annually and is located outside of the seven-county metropolitan area.

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section. A mandatory environmental assessment worksheet shall not be required for the expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), based on the capacity of the expanded facility to produce alcohol fuel, but must be required if the ethanol plant meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared. The responsible governmental unit for an ethanol plant project for which an environmental assessment worksheet is prepared shall be the state agency with the greatest responsibility for supervising or approving the project as a whole.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact

statement may be submitted to the responsible governmental unit during a 30-day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15-day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 25 individuals, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15-day period by not more than 15 additional days upon request of the responsible governmental unit.

(d) Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental review under this chapter and rules of the board, if:

(1) the proposed action is:

(i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

(ii) an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 1,000 animal units;

(2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Pollution Control Agency feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days prior to the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.

(e) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(f) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(g) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(h) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

(i) The proposer of a specific action may include in the information submitted to the responsible governmental unit a preliminary draft environmental impact statement under this section on that action for review, modification, and determination of completeness and adequacy by the responsible governmental unit. A preliminary draft environmental impact statement prepared by the project proposer and submitted to the responsible governmental unit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the preliminary draft environmental impact statement. The responsible governmental unit shall require additional studies, if needed, and obtain from the project proposer all additional studies and information necessary for the responsible governmental unit to perform its responsibility to review, modify, and determine the completeness and adequacy of the environmental impact statement."

Delete the title and insert:

"A bill for an act relating to the environment; modifying environmental review requirements for certain facilities; amending amending Minnesota Statutes 2010, section 116D.04, subdivision 2a, as amended."

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 747, A bill for an act relating to civil actions; providing a factor for determining the amount of attorney fees awarded in certain actions; proposing coding for new law in Minnesota Statutes, chapter 549.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Civil Law.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 763, A bill for an act relating to health; removing expiration date on swimming pond exemption; amending Minnesota Statutes 2010, section 144.1222, subdivision 5.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 770, A bill for an act relating to civil actions; regulating interest on verdicts, awards, and judgments; amending Minnesota Statutes 2010, section 549.09, subdivision 1.

Reported the same back with the following amendments:

Page 2, line 24, after "each" insert "odd-numbered"

Page 2, line 27, after "yield" insert "plus eight percentage points if the judgment or award is over \$50,000"

Page 2, line 28, after "rate" insert "for verdicts entered"

Page 2, line 29, strike "calendar year" and insert "two calendar years"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 908, A bill for an act relating to natural resources; modifying Wetland Conservation Act; amending Minnesota Statutes 2010, sections 103G.005, by adding a subdivision; 103G.2212; 103G.222, subdivision 3; 103G.2242, subdivisions 2a, 6, 7, 9, 12, 14, by adding a subdivision; 103G.2251; proposing coding for new law in Minnesota Statutes, chapter 103G.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 103G.005, subdivision 10e, is amended to read:

Subd. 10e. **Local government unit.** "Local government unit" means:

(1) outside of the seven-county metropolitan area, a city council, county board of commissioners, or a soil and water conservation district or their delegate;

(2) in the seven-county metropolitan area, a city council, a town board under section 368.01, a watershed management organization under section 103B.211, or a soil and water conservation district or their delegate; ~~and~~

(3) on state land, the agency with administrative responsibility for the land; and

(4) for wetland banking projects included in a permit to mine under section 93.481, the commissioner of natural resources.

Sec. 2. Minnesota Statutes 2010, section 103G.005, is amended by adding a subdivision to read:

Subd. 10f. **Electronic transmission.** "Electronic transmission" means the transfer of data or information through an electronic data interchange system consisting of, but not limited to, computer modems and computer networks. Electronic transmission specifically means electronic mail, unless other means of electronic transmission are mutually agreed to by the sender and recipient.

Sec. 3. Minnesota Statutes 2010, section 103G.2212, is amended to read:

103G.2212 CONTRACTOR'S RESPONSIBILITY WHEN WORK DRAINS OR FILLS WETLANDS.

Subdivision 1. **Conditions for employees and agents to drain or fill wetlands.** An agent or employee of another may not drain or fill a wetland, wholly or partially, unless the agent or employee has:

(1) obtained a signed statement from the property owner stating that the wetland replacement plan required for the work has been obtained or that a replacement plan is not required; and

(2) mailed or sent by electronic transmission a copy of the statement to the local government unit with jurisdiction over the wetland.

Subd. 2. **Violation is separate offense.** Violation of this section is a separate and independent offense from other violations of sections 103G.2212 to 103G.237.

Subd. 3. **Form for compliance with this section.** The board shall develop a form to be distributed to contractors' associations, local government units, and soil and water conservation districts to comply with this section. The form must include:

(1) a listing of the activities for which a replacement plan is required;

(2) a description of the penalties for violating sections 103G.2212 to 103G.237;

(3) the telephone number to call for information on the responsible local government unit;

(4) a statement that national wetland inventory maps are on file with the soil and water conservation district office; and

(5) spaces for a description of the work and the names, mailing addresses or other contact information, and telephone numbers of the person authorizing the work and the agent or employee proposing to undertake it.

Sec. 4. Minnesota Statutes 2010, section 103G.222, subdivision 3, is amended to read:

Subd. 3. **Wetland replacement siting.** (a) ~~Siting wetland replacement~~ Impacted wetlands in a 50 to 80 percent area must be replaced in a 50 to 80 percent area or in a less than 50 percent area. Impacted wetlands in a less than 50 percent area must be replaced in a less than 50 percent area. All wetland replacement must follow this priority order:

(1) on site or in the same minor watershed as the ~~affected~~ impacted wetland;

(2) in the same watershed as the ~~affected~~ impacted wetland;

(3) in the same county or wetland bank service area as the ~~affected~~ impacted wetland;

~~(4) for replacement by wetland banking, in the same wetland bank service area as the impacted wetland, except that impacts in a 50 to 80 percent area must be replaced in a 50 to 80 percent area and impacts in a less than 50 percent area must be replaced in a less than 50 percent area;~~

~~(5) for project specific replacement, in an adjacent watershed to the affected wetland, or for replacement by wetland banking, in an adjacent another wetland bank service area, except that impacts in a 50 to 80 percent area must be replaced in a 50 to 80 percent area and impacts in a less than 50 percent area must be replaced in a less than 50 percent area; and~~

~~(6)~~ (5) statewide for public transportation projects, except that wetlands ~~affected~~ impacted in less than 50 percent areas must be replaced in less than 50 percent areas, and wetlands ~~affected~~ impacted in the seven-county metropolitan area must be replaced at a ratio of two to one in: (i) the affected county or, (ii) in another of the seven metropolitan counties, or (iii) in one of the major watersheds that are wholly or partially within the seven-county metropolitan area, but at least one to one must be replaced within the seven-county metropolitan area.

~~(b) Notwithstanding paragraph (a), The board may approve alternatives to the priority order for siting wetland replacement in greater than 80 percent areas may follow the priority order under this paragraph: (1) by wetland banking after evaluating on site replacement and replacement within the watershed; (2) replaced in an adjacent wetland bank service area if wetland bank credits are not reasonably available in the same wetland bank service area as the affected wetland, as determined by as provided in paragraph (a). Board-approved alternatives must be based on a comprehensive inventory approved by the board; and (3) statewide of replacement opportunities or watershed conditions. Prior to adopting any alternative, the board must:~~

~~(1) prepare an assessment of the basis for the proposed alternative and provide opportunities for public input and comment; and~~

~~(2) provide notice to local governments and other interested parties prior to publishing an alternative in the State Register.~~

~~An alternative approved under this paragraph takes effect 30 days after publication in the State Register and shall be in effect for no longer than five years unless renewed through the process provided in this paragraph.~~

~~(c) Notwithstanding paragraph (a), siting wetland replacement in the seven-county metropolitan area must follow the priority order under this paragraph: (1) in the affected county; (2) in another of the seven metropolitan counties; or (3) in one of the major watersheds that are wholly or partially within the seven-county metropolitan area, but at least one to one must be replaced within the seven-county metropolitan area.~~

~~(d) The exception in paragraph (a), clause (6), does not apply to replacement completed using wetland banking credits established by a person who submitted a complete wetland banking application to a local government unit by April 1, 1996.~~

~~(e) When reasonable, practicable, and environmentally beneficial replacement opportunities are not available in siting priorities listed in paragraph (a), the applicant may seek opportunities at the next level.~~

~~(f) For the purposes of this section, "reasonable, practicable, and environmentally beneficial replacement opportunities" are defined as opportunities that:~~

~~(1) take advantage of naturally occurring hydrogeomorphological conditions and require minimal landscape alteration;~~

~~(2) have a high likelihood of becoming a functional wetland that will continue in perpetuity;~~

(3) do not adversely affect other habitat types or ecological communities that are important in maintaining the overall biological diversity of the area; and

(4) are available and capable of being done after taking into consideration cost, existing technology, and logistics consistent with overall project purposes.

(g) Regulatory agencies, local government units, and other entities involved in wetland restoration shall collaborate to identify potential replacement opportunities within their jurisdictional areas.

Sec. 5. Minnesota Statutes 2010, section 103G.2242, subdivision 2a, is amended to read:

Subd. 2a. **Wetland boundary or type determination.** (a) A landowner may apply for a wetland boundary or type determination from the local government unit. The landowner applying for the determination is responsible for submitting proof necessary to make the determination, including, but not limited to, wetland delineation field data, observation well data, topographic mapping, survey mapping, and information regarding soils, vegetation, hydrology, and groundwater both within and outside of the proposed wetland boundary.

(b) A local government unit that receives an application under paragraph (a) may seek the advice of the Technical Evaluation Panel as described in subdivision 2, and, if necessary, expand the Technical Evaluation Panel. The local government unit may delegate the decision authority for wetland boundary or type determinations to designated staff, or establish other procedures it considers appropriate.

(c) The local government unit decision must be made in compliance with section 15.99. Within ten calendar days of the decision, the local government unit decision must be mailed or sent by electronic transmission to the landowner, members of the Technical Evaluation Panel, the watershed district or watershed management organization, if one exists, and individual members of the public who request a copy.

~~(d) Appeals of decisions made by designated local government staff must be made to the local government unit. Notwithstanding any law to the contrary, a ruling on an appeal must be made by the local government unit within 30 days from the date of the filing of the appeal.~~

~~(e) The local government unit decision is valid for ~~three~~ five years unless the Technical Evaluation Panel determines that natural or artificial changes to the hydrology, vegetation, or soils of the area have been sufficient to alter the wetland boundary or type.~~

Sec. 6. Minnesota Statutes 2010, section 103G.2242, subdivision 6, is amended to read:

Subd. 6. **Notice of application.** (a) ~~Except as provided in paragraph (b), within ten days of receiving an~~ Application for approval of a replacement plan under this section; must be reviewed by the local government according to section 15.99, subdivision 3, paragraph (a). Copies of the complete application must be mailed or sent by electronic transmission to the members of the Technical Evaluation Panel, the managers of the watershed district if one exists, and the commissioner of natural resources. Individual members of the public who request a copy shall be provided information to identify the applicant and the location and scope of the project.

~~(b) Within ten days of receiving an application for approval of a replacement plan under this section for an activity affecting less than 10,000 square feet of wetland, a summary of the application must be mailed to the members of the Technical Evaluation Panel, individual members of the public who request a copy, and the commissioner of natural resources.~~

~~(e) For the purpose of this subdivision, "application" includes a revised application for replacement plan approval and an application for a revision to an approved replacement plan if:~~

(1) the wetland area to be drained or filled under the revised replacement plan is at least ten percent larger than the area to be drained or filled under the original replacement plan; or

(2) the wetland area to be drained or filled under the revised replacement is located more than 500 feet from the area to be drained or filled under the original replacement plan.

Sec. 7. Minnesota Statutes 2010, section 103G.2242, subdivision 7, is amended to read:

Subd. 7. **Notice of decision.** Within ten days of the approval or denial of a replacement plan under this section, ~~a summary of the approval or denial~~ notice of the decision must be mailed or sent by electronic transmission to members of the Technical Evaluation Panel, the applicant, individual members of the public who request a copy, the managers of the watershed district, if one exists, and the commissioner of natural resources.

Sec. 8. Minnesota Statutes 2010, section 103G.2242, is amended by adding a subdivision to read:

Subd. 8a. **Local appeals.** Appeals of decisions made by designated local government staff must be made to the local government unit. If appeal is not sought within 30 days, the decision becomes final. A decision on an appeal must be made by the local government unit within 45 days from the date of receipt of the appeal. The time for making a decision on the appeal may be extended by consent of the appellant, the landowner if different than the appellant, and the local government unit. A decision on an appeal by the local government unit consistent with this subdivision shall be considered to be within the periods provided by section 15.99.

Sec. 9. Minnesota Statutes 2010, section 103G.2242, subdivision 9, is amended to read:

Subd. 9. **Appeal Appeals to the board.** (a) Appeal of a replacement plan, sequencing, exemption, wetland banking, wetland boundary or type determination, or no-loss decision, ~~or restoration order~~ may be obtained by mailing a petition and payment of a filing fee, which shall be retained by the board to defray administrative costs, to the board within 30 days after the postmarked date of the mailing or date of sending by electronic transmission specified in subdivision 7. If appeal is not sought within 30 days, the decision becomes final. If the petition for hearing is accepted, the amount posted must be returned to the petitioner. Appeal may be made by:

(1) the wetland owner;

(2) any of those to whom notice is required to be mailed or sent by electronic transmission under subdivision 7; or

(3) 100 residents of the county in which a majority of the wetland is located.

(b) Within 30 days after receiving a petition, the board shall decide whether to grant the petition and hear the appeal. The board shall grant the petition unless the board finds that:

(1) the appeal is ~~meritless~~ without significant merit, trivial, or brought solely for the purposes of delay;

(2) the petitioner has not exhausted all local administrative remedies;

(3) expanded technical review is needed;

(4) the local government unit's record is not adequate; or

(5) the petitioner has not posted a letter of credit, cashier's check, or cash if required by the local government unit.

(c) In determining whether to grant the appeal, the board, executive director, or dispute resolution committee shall also consider the size of the wetland, other factors in controversy, any patterns of similar acts by the local government unit or petitioner, and the consequences of the delay resulting from the appeal.

(d) ~~All appeals~~ If an appeal is granted, the appeal must be heard by the committee for dispute resolution of the board, and a decision must be made by the board within 60 days of filing the local government unit's record and the written briefs submitted for the appeal and the hearing. The decision must be served by mail ~~on~~ or by electronic transmission to the parties to the appeal, and is not subject to the provisions of chapter 14. A decision whether to grant a petition for appeal and a decision on the merits of an appeal must be considered the decision of an agency in a contested case for purposes of judicial review under sections 14.63 to 14.69.

(e) Notwithstanding section 16A.1283, the board shall establish a fee schedule to defray the administrative costs of appeals made to the board under this subdivision. Fees established under this authority shall not exceed \$1,000. Establishment of the fee is not subject to the rulemaking process of chapter 14 and section 14.386 does not apply.

Sec. 10. Minnesota Statutes 2010, section 103G.2242, is amended by adding a subdivision to read:

Subd. 9a. Appeals of restoration or replacement orders. A landowner or other responsible party may appeal the terms and conditions of a restoration or replacement order within 30 days of receipt of written notice of the order. The time frame for the appeal may be extended beyond 30 days by mutual agreement, in writing, between the landowner or responsible party, the local government unit, and the enforcement authority. If the written request is not submitted within 30 days, the order is final. The board's executive director must review the request and supporting evidence and render a decision within 60 days of receipt of a petition. A decision on an appeal must be considered the decision of an agency in a contested case for purposes of judicial review under sections 14.63 to 14.69.

Sec. 11. Minnesota Statutes 2010, section 103G.2242, subdivision 14, is amended to read:

Subd. 14. **Fees established.** (a) Fees must be assessed for managing wetland bank accounts and transactions as follows:

- (1) account maintenance annual fee: one percent of the value of credits not to exceed \$500;
- (2) account establishment, deposit, or transfer: 6.5 percent of the value of credits not to exceed \$1,000 per establishment, deposit, or transfer; and
- (3) withdrawal fee: 6.5 percent of the value of credits withdrawn.

(b) The board may establish fees at or below the amounts in paragraph (a) for single-user or other dedicated wetland banking accounts.

(c) Fees for single-user or other dedicated wetland banking accounts established pursuant to section 103G.005, subdivision 10e, clause (4), are limited to establishment of a wetland banking account and are assessed at the rate of 6.5 percent of the value of the credits not to exceed \$1,000.

Sec. 12. Minnesota Statutes 2010, section 103G.2251, is amended to read:

103G.2251 STATE CONSERVATION EASEMENTS; WETLAND BANK CREDIT.

In greater than 80 percent areas, preservation of wetlands ~~owned by the state or a local unit of government,~~ protected by a permanent conservation easement as defined under section 84C.01 and held by the board, may be eligible for wetland replacement or mitigation credits, according to rules adopted by the board. To be eligible for credit under this section, a conservation easement must be established after May 24, 2008, and approved by the board.

Sec. 13. **[103G.2374] ELECTRONIC TRANSMISSION.**

For purposes of sections 103G.2212 to 103G.2372, notices and other documents may be sent by electronic transmission unless the recipient has provided a mailing address and specified that mailing is preferred."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying Wetland Conservation Act; amending Minnesota Statutes 2010, sections 103G.005, subdivision 10e, by adding a subdivision; 103G.2212; 103G.222, subdivision 3; 103G.2242, subdivisions 2a, 6, 7, 9, 14, by adding subdivisions; 103G.2251; proposing coding for new law in Minnesota Statutes, chapter 103G."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 922, A bill for an act relating to motor vehicles; allowing collector emergency vehicles to display and use nonconforming colored lights; amending Minnesota Statutes 2010, section 169.64, subdivision 2.

Reported the same back with the following amendments:

Page 1, line 7, before "Unless" insert "(a)"

Page 1, line 10, after the period, insert:

"(b)"

Page 1, line 15, after the period, insert "A person may not activate the colored lights authorized under this paragraph on streets or highways except as part of a parade or other special event."

With the recommendation that when so amended the bill pass.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 951, A bill for an act relating to probate; changing, updating, and clarifying certain provisions of the Uniform Disclaimer of Property Interests Act; amending Minnesota Statutes 2010, sections 524.2-1103; 524.2-1104; 524.2-1106; 524.2-1107; 524.2-1114; 524.2-1115; 524.2-1116.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 952, A bill for an act relating to guardianship; clarifying certain compensation provisions; amending Minnesota Statutes 2010, section 524.5-502.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 997, A bill for an act relating to civil actions; regulating the imposition of certain civil penalties by state agencies; awarding fees and expenses to prevailing parties in certain actions involving state agencies and municipalities; amending Minnesota Statutes 2010, sections 15.471, subdivision 6, by adding a subdivision; 15.472; proposing coding for new law in Minnesota Statutes, chapters 15; 471.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **[15.062] PENALTY FACTORS.**

(a) In determining the amount of civil penalty to be proposed or assessed in an administrative or civil action by any state agency, where there is an allegation of a violation of statute, regulation, term, condition, or any enforceable standard, the following factors shall be considered by the state agency, delegated county administering state authority, administrative law judge, or court:

(1) the willfulness of the violation;

(2) the gravity of the violation, including irreparable damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the number of prior contacts with the person where the state agency offered reasonable corrective measures prior to issuing the fine;

(4) the history of past violations;

(5) the number of violations;

(6) the economic benefit gained by the person by allowing or committing the violation;

(7) the costs incurred to correct the violation or otherwise comply;

(8) the person's ability to pay;

(9) other economic factors affecting the feasibility or practicality of compliance;

(10) penalties that similarly situated persons have paid to the state for similar violations;

(11) the cooperation and responsiveness of the person, provided that a penalty shall not be imposed or enhanced because a person has contested a violation or asserted their rights or defenses; and

(12) other factors as justice or other law may require.

(b) For a violation after an initial violation, the state agency, delegated county administering state authority, administrative law judge, or court shall, in determining the amount of a penalty, also consider the following factors:

(1) similarity of the most recent previous violation and the violation to be penalized;

(2) time elapsed since the last violation;

(3) number of previous violations; and

(4) response of the person to the most recent previous violation identified.

(c) In addition to stating the factual and legal basis for each violation, the state agency shall, in its notice, demand, order, or complaint in an administrative or civil proceeding, document the application of these considerations in determining any proposed penalty. The state agency shall provide this documentation to the person subject to the administrative or civil action 30 days before initiating any such action, unless the alleged violation presents an imminent and substantial endangerment to public safety, public health, or the environment.

(d) A penalty or stipulation agreement resulting from a violation of chapters 84, 103G, 115, 115A, or 116, that pollutes, impairs, or destroys the environment may not include expenditures by the violator for purposes that are not directly related to efforts to mitigate or remediate the specific violation.

Sec. 2. Minnesota Statutes 2010, section 15.471, is amended by adding a subdivision to read:

Subd. 3a. **Demand.** "Demand" means the express demand of the agency which led to the civil action or contested case proceeding but does not include a recitation by the agency of the maximum statutory penalty:

(1) in the administrative complaint; or

(2) elsewhere when accompanied by an express demand for a lesser amount.

Sec. 3. Minnesota Statutes 2010, section 15.471, subdivision 6, is amended to read:

Subd. 6. **Party.** (a) Except as modified by paragraph (b), "party" means a person named or admitted as a party, or seeking and entitled to be admitted as a party, in a court action or contested case proceeding, or a person admitted by an administrative law judge for limited purposes, and who is:

(1) an unincorporated business, partnership, corporation, association, or organization, having not more than 500 employees at the time the civil action was filed or the contested case proceeding was initiated; and

(2) an unincorporated business, partnership, corporation, association, or organization whose annual revenues did not exceed ~~\$7,000,000~~ \$30,000,000 at the time the civil action was filed or the contested case proceeding was initiated.

(b) "Party" also includes a partner, officer, shareholder, member, or owner of an entity described in paragraph (a), clauses (1) and (2).

(c) "Party" does not include a person providing services pursuant to licensure or reimbursement on a cost basis by the Department of Health or the Department of Human Services, when that person is named or admitted or seeking to be admitted as a party in a matter which involves the licensing or reimbursement rates, procedures, or methodology applicable to those services.

Sec. 4. Minnesota Statutes 2010, section 15.472, is amended to read:

15.472 FEES AND EXPENSES; CIVIL ACTION OR CONTESTED CASE PROCEEDING INVOLVING STATE.

(a) If a prevailing party other than the state, in a civil action or contested case proceeding other than a tort action, brought by or against the state, shows that the position of the state was not substantially justified, the court or administrative law judge shall award fees and other expenses to the party unless special circumstances make an award unjust.

(b) If, in a civil action or contested case proceeding arising from an agency action to enforce a party's compliance with a statutory or regulatory requirement, the demand by the agency is substantially in excess of the decision of the administrative law judge or court and is unreasonable when compared with such decision under the facts and circumstances of the case, the administrative law judge or court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy, or special circumstances make an award unjust.

~~(b)~~ (c) A party seeking an award of fees and other expenses shall, within 30 days of final judgment in the action, submit to the court or administrative law judge an application of fees and other expenses which shows that the party is a prevailing party and is eligible to receive an award, and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the state was not substantially justified.

~~(c)~~ (d) The court or administrative law judge may reduce the amount to be awarded under this section, or deny an award, to the extent that the prevailing party during the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of an administrative law judge under this section must be made a part of the record containing the final decision of the agency and must include written findings and conclusions.

~~(d)~~ (e) This section does not preclude a party from recovering costs, disbursements, fees, and expenses under other applicable law.

Sec. 5. **TITLE.**

This act may be cited as the "Small Business Bill of Rights - Regulatory Fairness Act."

Sec. 6. **EFFECTIVE DATE; APPLICATION.**

This act is effective August 1, 2011, and applies to administrative or civil actions commenced on or after that date."

Amend the title as follows:

Page 1, line 4, delete "and municipalities"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1097, A bill for an act relating to natural resources; providing for certain acquisition by exchange; modifying peatland protection; modifying enforcement provisions for recreational vehicles; modifying cash match requirement for local recreation grants; modifying Mineral Coordinating Committee; repealing Blakeley State Wayside; appropriating money; amending Minnesota Statutes 2010, sections 84.033, subdivision 1; 84.035, subdivision 6; 84.925, subdivision 1; 85.018, subdivision 5; 85.019, subdivisions 4b, 4c; 86B.106; 86B.121; 93.0015, subdivisions 1, 3; repealing Minnesota Statutes 2010, section 85.013, subdivision 2b.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 1109, A bill for an act relating to public safety; clarifying and conforming provisions regarding driver's license revocation periods for DWI convictions; amending Minnesota Statutes 2010, sections 169A.54, subdivisions 1, 6; 171.30, subdivision 1; 171.306, subdivision 4; repealing Minnesota Statutes 2010, section 169A.54, subdivision 5.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 1119, A bill for an act relating to elections; conforming certain voter eligibility requirements to constitutional requirements; amending Minnesota Statutes 2010, sections 201.014, subdivision 2; 201.071, subdivision 1; 201.15, subdivision 1; 204C.10; 524.5-313; 524.5-316.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1122, A bill for an act relating to agriculture; clarifying the authority for regulating terrestrial pesticide applications; amending Minnesota Statutes 2010, sections 18B.03, subdivision 1; 115.03, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Agriculture and Rural Development Policy and Finance.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 1162, A bill for an act relating to natural resources; modifying nonnative species provisions; modifying requirements for permits to control or harvest aquatic plants; providing criminal penalties and civil penalties; amending Minnesota Statutes 2010, sections 84D.01, subdivisions 8a, 16, 21, by adding subdivisions; 84D.02, subdivision 6; 84D.03, subdivisions 3, 4; 84D.09; 84D.10, subdivisions 1, 3, 4; 84D.11, subdivision 2a; 84D.13, subdivisions 3, 4, 5, 6, 7; 84D.15, subdivision 2; 103G.615, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 84D; 86B; repealing Minnesota Statutes 2010, section 84D.02, subdivision 4.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Civil Law.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 1214, A bill for an act relating to public safety; modifying provisions relating to child passenger restraint systems; amending Minnesota Statutes 2010, section 169.685, subdivision 6.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Public Safety and Crime Prevention Policy and Finance.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1238, A bill for an act relating to environment; extending subsurface sewage treatment systems ordinance adoption delay; amending Laws 2010, chapter 361, article 4, section 73.

Reported the same back with the following amendments:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2010, section 115.55, subdivision 2, is amended to read:

Subd. 2. **Local ordinances.** (a) All counties must adopt ordinances that comply with revisions to the subsurface sewage treatment system rules within two years of the final adoption by the agency unless all towns and cities in the county have adopted such ordinances. County ordinances must apply to all areas of the county other than cities or towns that have adopted ordinances that comply with this section and are as strict as the applicable county ordinances.

(b) A copy of each ordinance adopted under this subdivision must be submitted to the commissioner upon adoption.

(c) A local unit of government must make available to the public upon request a written list of any differences between its ordinances and rules adopted under this section."

Page 1, line 6, delete "Section 1." and insert "Sec. 2."

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "modifying local ordinance requirements;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1245, A bill for an act relating to public safety; including unlawful possession of a firearm by a minor for purposes of orders to enjoin gang activity; amending Minnesota Statutes 2010, section 617.91, subdivision 4.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1303, A bill for an act relating to investment securities; gradually adjusting certain revenue-based filing fees beginning in fiscal year 2014; amending Minnesota Statutes 2010, section 80A.65, subdivision 1.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1331, A bill for an act relating to state government; requiring certain state agencies to enter into contracts to provide consulting services for improvements to certain state-operated systems and services.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1332, A bill for an act relating to state government; modifying provisions governing the legislative auditor; amending Minnesota Statutes 2010, section 37.06; Laws 2010, chapter 361, article 3, section 8.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1359, A bill for an act relating to public safety; adding certain stimulants and hallucinogens as Schedule I controlled substances; providing for penalties; amending Minnesota Statutes 2010, section 152.02, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 152.01, is amended by adding a subdivision to read:

Subd. 23. **Analogue.** (a) Except as provided in paragraph (b), "analogue" means a substance, the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II:

(1) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

(2) with respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) "Analogue" does not include:

(1) a controlled substance;

(2) any substance for which there is an approved new drug application under the federal Food, Drug, and Cosmetic Act; or

(3) with respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by United States Code, title 21, section 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.

Sec. 2. Minnesota Statutes 2010, section 152.02, is amended to read:

152.02 SCHEDULES OF CONTROLLED SUBSTANCES; ADMINISTRATION OF CHAPTER.

Subdivision 1. **Five schedules.** There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section by whatever official name, common or usual name, chemical name, or trade name designated.

Subd. 2. **Schedule I.** ~~The following items are listed in Schedule I:~~ (a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this subdivision.

~~(1) Any of the following substances, including~~ (b) Opiates. Unless specifically excepted or unless listed in another schedule any of the following opiates and their analogues (including homologues), isomers (whether optical, positional, or geometric), esters, ethers, salts, and salts of isomers, esters, and ethers, ~~unless specifically excepted,~~ whenever the existence of such ~~analogues,~~ isomers, esters, ethers and salts is possible ~~within the specific chemical designation:~~ Acetylmethadol; Allylprodine; Alphacetylmethadol (except levo-alpha-acetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM); Alphameprodine; Alphamethadol; Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; ~~Dextrophan;~~ Diampromide; Diethylambutene; Difenoixin; Dimenoxadol; Dimepheptanol; Dimethylambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxidine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacymorphan; Methyl substituted isomers of Fentanyl; 3-Methylfentanyl, (N-[3-Methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide); Acetyl-alpha-methylfentanyl, (N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide); Alpha-methylthiofentanyl, (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide); Benzylfentanyl, (N-[1-benzyl-4-piperidyl]-N-phenylpropanamide); Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenyl) ethyl-4-piperidyl]-N-phenylpropanamide); Beta-hydroxy-3-methylfentanyl, (N-[1-(2-hydroxy-2-phenylethyl)-3-methyl-4-piperidyl]-N-phenylpropanamide); 3-methylthiofentanyl, (N-[3-methyl-1-(2-thienyl) ethyl-4-piperidyl]-N-phenylpropanamide); Thienylfentanyl, (N-[1-(2-thienyl)Methyl-4-piperidyl]-N-phenylpropanamide); Thiofentanyl, (N-phenyl-N-[1-(2-thienyl) ethyl-4-piperidyl]-propanamide); para-fluorofentanyl, (N-[1-(2-phenylethyl)-4-piperidyl]-N-(4-fluorophenyl)-propanamide); Morpheridine; MPPP; 1-Methyl-4-phenyl-4-Propionoxypiperidine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; PEPAP, (1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine); Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Tilidine; Trimeperidine.

~~(2) (c)~~ Any of the following opium derivatives, their analogues (including homologues), salts, isomers and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of such analogues, salts, isomers and salts of isomers is possible ~~within the specific chemical designation:~~ Acetorphine; Acetyldihydrocodeine; ~~Acetylcodeine;~~ Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Drotebanol; Etorphine (except hydrochloride salt); Heroin; Hydromorphinol; Methyl-desorphanol; ~~Methylhydromorphine~~ Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

~~(3) (d)~~ Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their analogues (including homologues), salts, isomers (whether optical, positional, or geometric), and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of such analogues, salts, isomers, and salts of isomers is possible ~~within the specific chemical designation:~~ 3,4-methylenedioxy amphetamine; 3,4-methylenedioxymethamphetamine; 3,4-Methylenedioxy-N-ethylamphetamine; N-hydroxy-3, 4-Methylenedioxy-amphetamine; 4-bromo-2,5-dimethoxyamphetamine; 2,5-dimethoxyamphetamine; 4-methoxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; Alpha-Ethyltryptamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 3,4,5-trimethoxy amphetamine; 4-methyl-2, 5-dimethoxyamphetamine;

Ibogaine; Lysergic acid diethylamide; marijuana; Mescaline; Parahehexyl; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; 1-(1-(2-thienyl)cyclohexyl)piperidine; naturally contained in a plant of the genus Cannabis (cannabis plant); synthetic equivalents of the substances contained in the cannabis plant or in the resinous extractives of the cannabis plant; synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the cannabis plant; Thiophene analogue of phencyclidine (1-[1-(2-thienyl)cyclohexyl]-piperidine), 2-thienyl analogue of phencyclidine, TPCP, TCP; ethylamine analogue of phencyclidine; (n-ethyl-1-phenyl-cyclohexylamine); (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE; pyrrolidine analogue of phencyclidine (1-(1-phenylcyclohexyl) pyrrolidine); 2-thienyl Pyrrolidine analogue of phencyclidine (1-[1-(2-thienyl)cyclohexyl]-pyrrolidine); 4-Bromo-2,5-dimethoxyphenethylamine, also known as 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane, alpha-desmethyl DOB, 2C-B, or Nexus; 2,5-dimethoxy-4-ethylamphetamine, also known as DOET; 2,5-dimethoxy-4-(n)-propylthiophenethylamine, also known as 2C-T-7; Alpha-methyltryptamine, also known as AMT; 5-methoxy-N,N-diisopropyltryptamine, also known as 5-MeO-DIPT; 2,5-dimethoxy-4-ethylphenethylamine, also known as 2C-E; 2,5-dimethoxy-4-iodophenethylamine, also known as 2C-I; 4-isopropylthio-2,5-dimethoxyphenethylamine (2C-T-4); 4-chloro-2,5-dimethoxyphenethylamine (2C-C); 4-propyl-2,5-dimethoxyphenethylamine (2C-P); 4-chloro-2,5-dimethoxyamphetamine (DOC); 4-iodo-2,5-dimethoxyamphetamine (DOI); 5-methoxy- α -methyltryptamine (5-MeO-AMT); N,N-diisopropyltryptamine (DiPT); 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT); 2,5-dimethoxyamphetamine (2,5-DMA).

(4) (e) Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts, providing the listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(5) (f) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including and its analogues (including homologues), salts, isomers, and salts of isomers whenever the existence of such analogues, salts, isomers, and salts of isomers is possible within the specific chemical designation:

Mecloqualone; Methaqualone; Gamma-hydroxybutyric acid, including its esters and ethers (some other names include GHB, gamma-hydroxybutyrate, 4-hydroxybutanoic acid, sodium oxybate, sodium oxybutyrate);

Flunitrazepam.

(6) (g) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including and its analogues (including homologues), salts, isomers, and salts of isomers whenever the existence of such analogues, salts, isomers, and salts of isomers is possible within the specific chemical designation:

Aminorex, also known as Aminoxaphen, 2-Amino-5-phenyl-2-oxazoline, or 4,5-Dihydro-5-phenyl-2-oxazolamine; Cathinone also known as 2-Amino-1-phenyl-1-propanone, alpha-Aminopropiophenone, 2-Aminopropiophenone or Norephedrone; Fenethylamine;

Methcathinone, also known as 2-(Methylamino)-Propiophenone, alpha-(Methylamino)-propiophenone, 2-(Methylamino)-1-Phenylpropan-1-one, alpha-N-Methylaminopropiophenone, monomethylpropion, ephedrone, N-Methylcathinone or Methylcathinone; (\pm) cis-4-Methylaminorex, also known as (\pm) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine; N-ethylamphetamine; N,N-dimethylamphetamine, also known as N,N-alpha-trimethylbenzene-ethanamine or N,N-alpha-trimethylphenethylamine; N-benzylpioperazine, also known as BZP, 1-benzylpiperazine; methylenedioxypropylamphetamine (MDPV); 4-methylmethcathinone; 3,4-Methylenedioxypropylamphetamine.

(h) A controlled substance analogue, to the extent that it is implicitly or explicitly intended for human consumption, shall be treated, for the purposes of this chapter, as a controlled substance in Schedule I.

Subd. 3. **Schedule II.** The following items are listed in Schedule II:

(4) (a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

~~(a) (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, including the following: raw opium, opium extracts, opium fluid extracts, powdered opium, granulated opium, tincture of opium, apomorphine, codeine, ethylmorphine, hydrocodone, hydromorphone, metopon, morphine, oxycodone, oxymorphone, thebaine excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following: Raw opium; Opium extracts; Opium fluid; Powdered opium, Granulated opium, Tincture of opium, Codeine, Dihydroetorphine, Ethylmorphine, Etorphine hydrochloride, Hydrocodone, Hydromorphone, Metopon, Morphine, Oxycodone, Oxymorphone, Thebaine, Oripavine.~~

~~(b) (2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (a), except that these substances shall not include the isoquinoline alkaloids of opium.~~

(e) (3) Opium poppy and poppy straw.

~~(d) (4) Coca leaves and any salt, cocaine compound, derivative, or preparation of coca leaves, including cocaine and ecgonine, the salts and isomers of cocaine and ecgonine (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives) and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine, and the salts of their isomers.~~

~~(e) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (d), except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine. (5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).~~

~~(2) (b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, or unless listed in another schedule, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Alfentanil; Alphaprodine; Anileridine; Bezitramide; Bulk Dextropropoxyphene (nondosage forms); Carfentanil; Dihydrocodeine; Dihydromorphinone; Diphenoxylate; Fentanyl; Isomethadone; Levo-alpha-acetylmethadol (LAAM); Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane; Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine; Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan; Remifentanil; Sufentanil; Tapentadol.~~

~~(3) (c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:~~

~~(a) (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;~~

~~(b)~~ (2) Methamphetamine, its salts, isomers, and salts of its isomers;

~~(e)~~ (3) Phenmetrazine and its salts;

~~(d)~~ (4) Methylphenidate-;

(5) Lisdexamfetamine.

~~(4)~~ (d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

~~(a)~~ Methaqualone

~~(b)~~ (1) Amobarbital

(2) Glutethimide

~~(e)~~ (3) Secobarbital

~~(d)~~ (4) Pentobarbital

~~(e)~~ (5) Phencyclidine

~~(f)~~ (6) Phencyclidine immediate precursors:

(i) 1-phenylcyclohexylamine

(ii) 1-piperidinocyclohexanecarbonitrile-

(7) Immediate precursors to amphetamine and methamphetamine: phenylacetone.

~~(e)~~ Hallucinogenic substances. Nabilone [another name for Nabilone: (\pm) -trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo [b,d] pyran-9-one].

Subd. 4. **Schedule III.** (a) The following items are listed in Schedule III:

~~(1) Any material, compound, mixture, or preparation which contains any quantity of Amphetamine, its salts, optical isomers, and salts of its optical isomers; Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:~~

~~(i) Phenmetrazine and its salts; Methamphetamine, its salts, isomers, and salts of isomers; Methylphenidate; and which is required by federal law to be labeled with the symbol prescribed by 21 Code of Federal Regulations Section 1302.03 and in effect on February 1, 1976 designating that the drug is listed as a Schedule III controlled substance under federal law.~~

(ii) Benzphetamine;

(iii) Chlorphentermine;

(iv) Clortermine;

(v) Phendimetrazine.

(2) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

~~(a)~~ (i) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

~~(b)~~ (ii) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;

~~(c)~~ (iii) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

(iv) Chlorhexadol; ~~Glutethimide;~~

(v) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug, and Cosmetic Act;

(vi) Ketamine, its salts, isomers and salts of isomers;

(vii) Lysergic acid;

(viii) Lysergic acid amide;

(ix) Methyprylon;

(x) Sulfondiethylmethane;

(xi) Sulfonethylmethane;

(xii) Sulfonmethane;

(xiii) Tiletamine and zolazepam and any salt thereof;

(xiv) Embutramide.

~~(d) Gamma hydroxybutyrate, any salt, compound, derivative, or preparation of gamma hydroxybutyrate, including any isomers, esters, and ethers and salts of isomers, esters, and ethers of gamma hydroxybutyrate whenever the existence of such isomers, esters, and salts is possible within the specific chemical designation.~~

~~(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:~~

~~(a) Benzphetamine~~

~~(b) Chlorphentermine~~

~~(c) Clortermine~~

~~(d) Mazindol~~

~~(e) Phendimetrazine~~

~~(4) (3) Nalorphine.~~

~~(5) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof (4) Narcotic Drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:~~

~~(a) (i) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;~~

~~(b) (ii) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(c) (iii) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;~~

~~(d) (iv) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(e) (v) Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(f) (vi) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(g) (vii) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(h) (viii) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.~~

~~(6) (5) Anabolic steroids,~~

~~— which, "Anabolic steroids," for purposes of this subdivision, means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, and includes: androstenediol; androstenedione; androstenediol; androstenedione; bolasterone; boldenone; calusterone; chlorotestosterone; chorionic gonadotropin; clostebol; dehydrochloromethyltestosterone; (triangle)1 dihydrotestosterone; 4 dihydrotestosterone; drostanolone; ethylestrenol; fluoxymesterone; formebolone; furazabol; human growth hormones; 13b ethyl 17a hydroxygon 4 en 3 one; 4 hydroxytestosterone; 4 hydroxy 19 nortestosterone; mestanolone; mesterolone; methandienone; methandranone; methandriol; methandrostenolone; methenolone; 17a methyl 3b, 17b dihydroxy 5a androstane; 17a methyl 3a, 17b dihydroxy 5a androstane; 17a methyl 3b, 17b dihydroxyandrost 4 ene; 17a methyl 4 hydroxynandrolone; methyldienolone; methyltrienolone; methyltestosterone; mibolerone; 17a methyl (triangle)1 dihydrotestosterone; nandrolone; nandrolone phenpropionate;~~

~~norandrostenediol; norandrostenedione; norbolethone; norclostebol; norethandrolone; normethandrolone; oxandrolone; oxymesterone; oxymetholone; stanolone; stanozolol; stenbolone; testolactone; testosterone; testosterone propionate; tetrahydrogestrinone; trenbolone; and any salt, ester, or ether of a drug or substance described in this paragraph.~~

(i) 3[beta], 17-dihydroxy-5a-androstane;

(ii) 3[alpha],17[beta]-dihydroxy-5a-androstane;

(iii) 5[alpha]-androst-3,17-dione;

(iv) 1-androstenediol (3[beta],17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(v) 1-androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(vi) 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene);

(vii) 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene);

(viii) 1-androstenedione ([5[alpha]]-androst-1-en-3,17-dione);

(ix) 4-androstenedione (androst-4-en-3,17-dione);

(x) 5-androstenedione (androst-5-en-3,17-dione);

(xi) bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(xii) boldenone (17[beta]-hydroxyandrost-1,4,-diene-3-one);

(xiii) boldione (androsta-1,4-diene-3,17-dione);

(xiv) calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(xv) clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one);

(xvi) dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methyl-androst-1,4-dien-3-one);

(xvii) desoxymethyltestosterone (17[alpha]-methyl-5-[alpha]-androst-2-en-17[beta]-ol) (a.k.a., madol);

(xviii) [Delta]1-dihydrotestosterone (a.k.a. '1-testosterone') (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(xix) 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one);

(xx) drostanolone (17[beta]-hydroxy-2-[alpha]-methyl-5[alpha]-androstan-3-one);

(xxi) ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene);

(xxii) fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one);

(xxiii) formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one);

- (xxiv) furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostando[2,3-c]-furazan);
- (xxv) 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;
- (xxvi) 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one);
- (xxvii) 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one);
- (xxviii) mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5-androstan-3-one);
- (xxix) mesterolone (1[alpha]methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);
- (xxx) methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one);
- (xxxi) methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene);
- (xxxii) methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);
- (xxxiii) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxy-5a-androstane;
- (xxxiv) 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5a-androstane;
- (xxxv) 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene;
- (xxxvi) 17[alpha]-methyl-4-hydroxyandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);
- (xxxvii) methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one);
- (xxxviii) methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9- 11-trien-3-one);
- (xxxix) methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one);
- (xl) mibolerone (17[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one);
- (xli) 17[alpha]-methyl-[Delta]1-dihydrotestosterone (17[beta]-hydroxy-17[alpha]-methyl-5(alpha)-androst-1-en-3-one) (a.k.a. '17-[alpha]-methyl-1-testosterone');
- (xlii) nandrolone (17[beta]-hydroxyestr-4-en-3-one);
- (xliii) 19-nor-4-androstenediol (3[beta], 17[beta]-dihydroxyestr-4-ene);
- (xliv) 19-nor-4-androstenediol (3[alpha], 17[beta]-dihydroxyestr-4-ene);
- (xlv) 19-nor-5-androstenediol (3[beta], 17[beta]-dihydroxyestr-5-ene);
- (xlvi) 19-nor-5-androstenediol (3[alpha], 17[beta]-dihydroxyestr-5-ene);
- (xlvii) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
- (xlviii) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

- (xlix) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- (l) norbolethone (13[beta], 17 [alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);
- (li) noclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);
- (lii) norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one);
- (liii) normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);
- (liv) oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-[5[alpha]]-androstan-3-one);
- (lv) oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one);
- (lvi) oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);
- (lvii) stanozolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-en-3-one-[3,2-c]-pyrazole);
- (lviii) stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one);
- (lix) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- (lx) testosterone (17[beta]-hydroxyandrost-4-en-3-one);
- (lxi) tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one);
- (lxii) trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one);
- (lxiii) any salt, ester, or ether of a drug or substance described in this paragraph.

Anabolic steroids are not included if they are:—(i) expressly intended for administration through implants to cattle or other nonhuman species; and (ii) approved by the United States Food and Drug Administration for that use. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

(6) Human growth hormones.

(7) Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration-approved product.

(8) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts: Buprenorphine.

Subd. 5. **Schedule IV.** The following items are listed in Schedule IV: Barbital; Butorphanol; Chloral betaine; Chloral hydrate; Chlordiazepoxide; Clonazepam; Clorazepate; Diazepam; Diethylpropion; Ethchlorvynol; Ethinamate; Fenfluramine; Flurazepam; Mebutamate; Methohexital; Meprobamate except when in combination with the following drugs in the following or lower concentrations: conjugated estrogens, 0.4 mg; tridihexethyl chloride, 25mg; pentaerythritol tetranitrate, 20 mg; Methylphenobarbital; Oxazepam; Paraldehyde; Pemoline; Petrichloral; Phenobarbital; and Phentermine. (a) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(1) Not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;

(2) Barbital;

(3) Bromazepam;

(4) Camazepam;

(5) Chloral betaine;

(6) Chloral hydrate;

(7) Chlordiazepoxide;

(8) Clobazam;

(9) Clonazepam;

(10) Clorazepate;

(11) Clotiazepam;

(12) Cloxazolam;

(13) Delorazepam;

(14) Diazepam;

(15) Dichloralphenazone;

(16) Estazolam;

(17) Ethchlorvynol;

(18) Ethinamate;

(19) Ethyl Loflazepate;

(20) Fludiazepam;

(21) Flurazepam;

(22) Halazepam;

(23) Haloxazolam;

(24) Ketazolam;

(25) Loprazolam;

(26) Lorazepam;

(27) Lormetazepam;

(28) Mebutamate;

(29) Medazepam;

(30) Meprobamate;

(31) Methohexital;

(32) Methylphenobarbital;

(33) Midazolam;

(34) Nimetazepam;

(35) Nitrazepam;

(36) Nordiazepam;

(37) Oxazepam;

(38) Oxazolam;

(39) Paraldehyde;

(40) Petrichloral;

(41) Phenobarbital;

(42) Pinazepam;

(43) Prazepam;

(44) Quazepam;

(45) Temazepam;

(46) Tetrazepam;

(47) Triazolam;

(48) Zaleplon;

(49) Zolpidem;

(50) Zopiclone.

(c) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of fenfluramine, including its salts, isomers (whether optical, positional, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Cathine ((+)-Norpseudoephedrine);

(2) Diethylpropion;

(3) Fencamfamine;

(4) Fenproporex;

(5) Mazindol;

(6) Mefenorex;

(7) Modafinil;

(8) Pemoline (including organometallic complexes and chelates thereof);

(9) Phentermine;

(10) Pipradrol;

(11) Sibutramine;

(12) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

Subd. 6. **Schedule V; restrictions on methamphetamine precursor drugs.** (a) As used in this subdivision, the following terms have the meanings given:

(1) "methamphetamine precursor drug" means any compound, mixture, or preparation intended for human consumption containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients; and

(2) "over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(b) The following items are listed in Schedule V:

(1) any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(i) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(ii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(iii) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit; or

(iv) ~~not more than 15 milligrams of anhydrous morphine per 100 milliliters or per 100 grams~~ 100 milligrams of opium per 100 milliliters or per 100 grams; and

(v) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

(3) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(i) Pregabalin;

(ii) Lacosamide ((R)-2-acetoamido-N-benzyl-3-methoxy-propionamide).

(4) any compound, mixture, or preparation containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients.

(c) No person may sell in a single over-the-counter sale more than two packages of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of six grams, calculated as the base.

(d) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base or pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

(e) A business establishment that offers for sale methamphetamine precursor drugs in an over-the-counter sale shall ensure that all packages of the drugs are displayed behind a checkout counter where the public is not permitted and are offered for sale only by a licensed pharmacist, a registered pharmacy technician, or a pharmacy clerk. The establishment shall ensure that the person making the sale requires the buyer:

(1) to provide photographic identification showing the buyer's date of birth; and

(2) to sign a written or electronic document detailing the date of the sale, the name of the buyer, and the amount of the drug sold.

A document described under clause (2) must be retained by the establishment for at least three years and must at all reasonable times be open to the inspection of any law enforcement agency.

Nothing in this paragraph requires the buyer to obtain a prescription for the drug's purchase.

(f) No person may acquire through over-the-counter sales more than six grams of methamphetamine precursor drugs, calculated as the base, within a 30-day period.

(g) No person may sell in an over-the-counter sale a methamphetamine precursor drug to a person under the age of 18 years. It is an affirmative defense to a charge under this paragraph if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

(h) A person who knowingly violates paragraph (c), (d), (e), (f), or (g) is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than \$1,000, or both.

(i) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating paragraph (c), (d), (e), (f), or (g) is not subject to the criminal penalties for violating any of those paragraphs if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal laws and regulations regarding methamphetamine precursor drugs.

(j) Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

(k) Paragraphs (b) to (j) do not apply to:

(1) pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions;

(2) methamphetamine precursor drugs that are certified by the Board of Pharmacy as being manufactured in a manner that prevents the drug from being used to manufacture methamphetamine;

(3) methamphetamine precursor drugs in gel capsule or liquid form; or

(4) compounds, mixtures, or preparations in powder form where pseudoephedrine constitutes less than one percent of its total weight and is not its sole active ingredient.

(l) The Board of Pharmacy, in consultation with the Department of Public Safety, shall certify methamphetamine precursor drugs that meet the requirements of paragraph (k), clause (2), and publish an annual listing of these drugs.

(m) Wholesale drug distributors licensed and regulated by the Board of Pharmacy pursuant to sections 151.42 to 151.51 and registered with and regulated by the United States Drug Enforcement Administration are exempt from the methamphetamine precursor drug storage requirements of this section.

(n) This section preempts all local ordinances or regulations governing the sale by a business establishment of over-the-counter products containing ephedrine or pseudoephedrine. All ordinances enacted prior to the effective date of this act are void.

Subd. 7. Board of Pharmacy; regulation of substances. The Board of Pharmacy is authorized to regulate and define additional substances which contain quantities of a substance possessing abuse potential in accordance with the following criteria:

(1) The Board of Pharmacy shall place a substance in Schedule I if it finds that the substance has: A high potential for abuse, no currently accepted medical use in the United States, and a lack of accepted safety for use under medical supervision.

(2) The Board of Pharmacy shall place a substance in Schedule II if it finds that the substance has: A high potential for abuse, currently accepted medical use in the United States, or currently accepted medical use with severe restrictions, and that abuse may lead to severe psychological or physical dependence.

(3) The Board of Pharmacy shall place a substance in Schedule III if it finds that the substance has: A potential for abuse less than the substances listed in Schedules I and II, currently accepted medical use in treatment in the United States, and that abuse may lead to moderate or low physical dependence or high psychological dependence.

(4) The Board of Pharmacy shall place a substance in Schedule IV if it finds that the substance has: A low potential for abuse relative to the substances in Schedule III, currently accepted medical use in treatment in the United States, and that abuse may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

(5) The Board of Pharmacy shall place a substance in Schedule V if it finds that the substance has: A low potential for abuse relative to the substances listed in Schedule IV, currently accepted medical use in treatment in the United States, and limited physical dependence and/or psychological dependence liability relative to the substances listed in Schedule IV.

Subd. 8. Add, delete, or reschedule substances. The state Board of Pharmacy may, by rule, add substances to or delete or reschedule substances listed in this section. ~~The state Board of Pharmacy, after consulting with the Advisory Council on Controlled Substances, shall annually, on or before May 1 of each year, conduct a review of the placement of controlled substances in the various schedules. The Board of Pharmacy may not delete or reschedule a drug that is in Schedule I, except as provided in subdivision 12.~~

In making a determination regarding a substance, the Board of Pharmacy shall consider the following: The actual or relative potential for abuse, the scientific evidence of its pharmacological effect, if known, the state of current scientific knowledge regarding the substance, the history and current pattern of abuse, the scope, duration, and significance of abuse, the risk to public health, the potential of the substance to produce psychic or physiological dependence liability, and whether the substance is an immediate precursor of a substance already controlled under this section. The state Board of Pharmacy may include any nonnarcotic drug authorized by federal law for medicinal use in a schedule only if such drug must, under either federal or state law or rule, be sold only on prescription.

Subd. 8a. ~~Methamphetamine precursors~~ Board of Pharmacy, expedited scheduling of additional substances. ~~The State Board of Pharmacy may, by order, require that nonprescription ephedrine or pseudoephedrine products sold in gel capsule or liquid form be subject to the sale restrictions established in subdivision 6 for~~

~~methamphetamine precursor drugs, if the board concludes that ephedrine or pseudophedrine products in gel capsule or liquid form can be used to manufacture methamphetamine. In assessing the need for an order under this subdivision, the board shall consult at least annually with the advisory council on controlled substances, the commissioner of public safety, and the commissioner of health. The Board of Pharmacy may, by rule, add a substance to Schedule I when the board finds that the substance has a high potential for abuse, no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and known adverse health effects, and is currently available for use within the state. For the purposes of this subdivision only, the board may use the expedited rulemaking process under section 14.389.~~

Subd. 9. **Except substances by rule.** The state Board of Pharmacy may by rule except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivision 4, clauses (1) and (2) or in subdivisions 5 and 6 from the application of all or any part of this chapter, if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

Subd. 10. **Dextromethorphan.** Dextromethorphan shall not be deemed to be included in any schedule by reason of the enactment of Laws 1971, chapter 937, unless controlled pursuant to the foregoing provisions of this section.

Subd. 12. **Coordination of controlled substance regulation with federal law and state statute.** If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the state Board of Pharmacy, the state Board of Pharmacy shall similarly control the substance under this chapter, after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance. Such order shall be filed with the secretary of state. If within that 30-day period, the state Board of Pharmacy objects to inclusion, rescheduling, or deletion, it shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the state Board of Pharmacy shall publish its decision, which shall be subject to the provisions of chapter 14.

~~In exercising the authority granted by this chapter, the state Board of Pharmacy shall be subject to the provisions of chapter 14. The state Board of Pharmacy shall provide copies of any proposed rule under this chapter to the advisory council on controlled substances at least 30 days prior to any hearing required by section 14.14, subdivision 1. The state Board of Pharmacy shall consider the recommendations of the advisory council on controlled substances, which may be made prior to or at the hearing.~~

The state Board of Pharmacy shall annually submit a report to the legislature on or before December 1 that specifies what changes the board made to the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250, in the preceding 12 months. The report must include specific recommendations for amending the controlled substance schedules contained in subdivisions 2 to 6, so that they conform with the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250.

~~Subd. 13. **Implementation study.** Annually, the state Board of Pharmacy shall study the implementation of this chapter in relation to the problems of drug abuse in Minnesota.~~

Sec. 3. Minnesota Statutes 2010, section 152.11, subdivision 1, is amended to read:

Subdivision 1. **Written General prescription requirement requirements for Schedule II controlled substances.** (a) A written prescription or an oral prescription reduced to writing, when issued for a controlled substance in Schedule II, III, IV, or V, is void unless (1) it is written in ink and contains the name and address of the

person for whose use it is intended; (2) it states the amount of the controlled substance to be compounded or dispensed, with directions for its use; (3) if a written prescription, it contains the handwritten signature, address, and federal registry number of the prescriber and a designation of the branch of the healing art pursued by the prescriber, and if an oral prescription, the name and address of the prescriber and a designation of the prescriber's branch of the healing art; and (4) it shows the date when signed by the prescriber, or the date of acceptance in the pharmacy if an oral prescription.

(b) An electronic prescription for a controlled substance in Schedule II, III, IV, or V is void unless it complies with the standards established pursuant to section 62J.497 and with those portions of Code of Federal Regulations, title 21, parts 1300, 1304, 1306, and 1311, that pertain to electronic prescriptions.

(c) A prescription for a controlled substance in Schedule II, III, IV, or V that is transmitted by facsimile, either computer to facsimile machine or facsimile machine to facsimile machine, is void unless it complies with the applicable requirements of Code of Federal Regulations, title 21, part 1306.

(d) Every licensed pharmacy that dispenses a controlled substance prescription shall retain the original prescription in a file for a period of not less than two years, open to inspection by any officer of the state, county, or municipal government, whose duty it is to aid and assist with the enforcement of this chapter. An original electronic or facsimile prescription may be stored in an electronic database, provided that the database provides a means by which original prescriptions can be retrieved, as transmitted to the pharmacy, for a period of not less than two years.

(e) Every licensed pharmacy shall distinctly label the container in which a controlled substance is dispensed with the directions contained in the prescription for the use thereof.

Subd. 1a. **Prescription requirements for Schedule II controlled substances.** No person may dispense a controlled substance included in Schedule II of section 152.02 without a prescription ~~written~~ issued by a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully licensed to prescribe in this state or by a practitioner licensed to prescribe controlled substances by the state in which the prescription is issued, and having a current federal Drug Enforcement Administration registration number. The prescription must either be printed or written in ink and contain the handwritten signature of the prescriber or be transmitted electronically or by facsimile as permitted under subdivision 1. Provided that in emergency situations, as authorized by federal law, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist. ~~Such prescriptions shall be retained in conformity with section 152.101.~~ No prescription for a Schedule II substance may be refilled.

~~For the purposes of this chapter, a written prescription or oral prescription, which shall be reduced to writing, for a controlled substance in Schedule II, III, IV or V is void unless (1) it is written in ink and contains the name and address of the person for whose use it is intended; (2) it states the amount of the controlled substance to be compounded or dispensed, with directions for its use; (3) if a written prescription, it contains the signature, address and federal registry number of the prescriber and a designation of the branch of the healing art pursued by the prescriber; and if an oral prescription, the name and address of the prescriber and a designation of the prescriber's branch of the healing art; and (4) it shows the date when signed by the prescriber, or the date of acceptance in the pharmacy if an oral prescription. Every licensed pharmacist who compounds any such prescription shall retain such prescription in a file for a period of not less than two years, open to inspection by any officer of the state, county, or municipal government, whose duty it is to aid and assist with the enforcement of this chapter. Every such pharmacist shall distinctly label the container with the directions contained in the prescription for the use thereof.~~

Sec. 4. Minnesota Statutes 2010, section 152.11, subdivision 2, is amended to read:

Subd. 2. ~~Written or oral Prescription requirement~~ **requirements** for Schedule III or IV controlled substances. No person may dispense a controlled substance included in Schedule III or IV of section 152.02 without a ~~written or oral~~ prescription ~~from issued, as permitted under subdivision 1, by~~ a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, a doctor of optometry limited to Schedule IV, or a doctor of veterinary medicine, lawfully licensed to prescribe in this state or from a practitioner licensed to prescribe controlled substances by the state in which the prescription is issued, and having a current federal drug enforcement administration registration number. Such prescription may not be dispensed or refilled except with the ~~written or verbal~~ **documented** consent of the prescriber, and in no event more than six months after the date on which such prescription was issued and no such prescription may be refilled more than five times.

Sec. 5. Minnesota Statutes 2010, section 152.11, subdivision 2d, is amended to read:

Subd. 2d. **Identification requirement for Schedule II or III controlled substance.** ~~(a)~~ No person may dispense a controlled substance ~~included in Schedule II or III~~ without requiring the person purchasing the controlled substance, who need not be the person for whom the controlled substance prescription is written, to present valid photographic identification, unless the person purchasing the controlled substance, ~~or if applicable the person for whom the controlled substance prescription is written,~~ is known to the dispenser.

~~(b)~~ This subdivision applies only to purchases of controlled substances that are not covered, in whole or in part, by a health plan company or other third-party payor. ~~The Board of Pharmacy shall report to the legislature by July 1, 2009, on the effect of this subdivision. The board shall include in the report the incidence of complaints, if any, generated by the requirements of this subdivision and whether this subdivision is creating barriers to pharmaceutical access.~~

Sec. 6. Minnesota Statutes 2010, section 152.11, subdivision 3, is amended to read:

Subd. 3. **Dispensing orphan drugs.** For the purpose of ~~subdivisions 1 and 2~~ **this section**, nothing shall prohibit the dispensing of orphan drugs prescribed by a person practicing in and licensed by another state as a physician, dentist, veterinarian, or podiatrist; who has a current federal drug enforcement administration registration number; and who may legally prescribe Schedule II, III, IV, or V controlled substances in that state."

Delete the title and insert:

"A bill for an act relating to public safety; aligning state controlled substance schedules with federal controlled substance schedules; modifying the authority of the Board of Pharmacy to regulate controlled substances; allowing the electronic prescribing of controlled substances; amending Minnesota Statutes 2010, sections 152.01, by adding a subdivision; 152.02; 152.11, subdivisions 1, 2, 2d, 3."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1360, A bill for an act relating to environment; modifying the Environmental Quality Board and eliminating and reassigning duties; amending Minnesota Statutes 2010, sections 17.114, subdivision 3; 18B.045; 18E.06; 103A.204; 103B.101, subdivision 9; 103B.151; 103B.315, subdivision 5; 103F.751; 103H.151, subdivision 4; 103H.175, subdivision 3; 115B.20, subdivision 6; 116C.24, subdivision 2; 116C.842, subdivisions 1a, 2a; 116C.91, subdivision 2; 116D.11, subdivisions 2, 3; 216C.052, subdivision 1; 216C.18, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 116D; repealing Minnesota Statutes 2010, sections 40A.122; 103A.403; 103A.43; 103F.614; 115A.32; 115A.33; 115A.34; 115A.35; 115A.36; 115A.37; 115A.38; 115A.39; 116C.02; 116C.03, subdivisions 1, 2, 2a, 3a, 4, 5, 6; 116C.04, subdivisions 1, 2, 3, 4, 7, 10, 11; 116C.06; 116C.08; 116C.71, subdivisions 1c, 2a; 116C.721; 116C.722; 116C.724, subdivisions 2, 3; 473H.15.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1363, A bill for an act relating to local government; establishing Metrodome Task Force.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 1378, A bill for an act relating to transportation; providing for alternative financing and investment in transportation projects; amending Minnesota Statutes 2010, section 174.02, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1410, A bill for an act relating to insurance; permitting workers compensation self-insurance groups to substitute an insurance policy for a security deposit to ensure payment of claims; amending Minnesota Statutes 2010, sections 79A.06, subdivision 5; 79A.24, by adding subdivisions.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1422, A bill for an act relating to drug and alcohol testing; modifying provisions related to professional athletes; amending Minnesota Statutes 2010, section 181.955, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 10, delete "or other"

Page 1, line 11, delete "agreement" and insert "between the employer and employees"

Page 1, line 14, after "representative" insert "of the employees"

Page 1, line 15, delete "or other agreement"

With the recommendation that when so amended the bill pass.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1428, A bill for an act relating to public safety; establishing Emily's law; lowering the age of extended jurisdiction juvenile prosecution for violent offenses; amending Minnesota Statutes 2010, sections 242.44; 260B.007, by adding a subdivision; 260B.130; 260B.141, subdivision 4; 260B.193, subdivision 5; 260B.198, subdivision 6; 260B.199; 260B.201, subdivision 2; 609.055.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1440, A bill for an act relating to energy; providing for exception to municipal approval for hydroelectric facility; amending Minnesota Statutes 2010, section 103G.535, subdivision 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 103G.535, subdivision 4, is amended to read:

Subd. 4. **Municipality or town approval.** (a) If the dam, dam site, or power generation plant is located in or contiguous to a municipality or town, other than the lessor political subdivision, the lease or agreement is not effective unless it is approved by the governing body of the municipality or town.

(b) A hydroelectric facility that (1) meets the definition of an eligible energy technology under section 216B.1691, subdivision 1, paragraph (a) clause (3), (2) is located in a city of the first class, and (3) has been granted a license or amended license by the Federal Energy Regulatory Commission under the Federal Power Act, United

States Code, title 16, chapter 12, subchapter 1, does not require any permit, entitlement, license, easement, authorization, or consent of any kind from the city, a municipal board, or any other political subdivision, and municipal or town approval under paragraph (a) is not required. Municipal land use rules, regulations, ordinances, authorizations, or consents do not apply to the hydroelectric facility. If the hydroelectric facility uses property owned by or under the control of a municipal board or political subdivision, that municipal board or political subdivision may impose a reasonable annual fee for use by the facility of the property. The fee must be based on the facility's annual energy production and not exceed four percent of the facility's annual gross revenue. The facility's gross revenue is subject to verification by the municipal board or political subdivision.

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

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 1461, A bill for an act relating to human services; making changes to human services licensing provisions; changing data practices provisions; amending the Maltreatment of Vulnerable Adults Act; amending the Human Services Background Studies Act; amending Minnesota Statutes 2010, sections 13.46, subdivision 4; 245A.02, by adding subdivisions; 245A.04, subdivisions 1, 5, 7, 11; 245A.05; 245A.07, subdivision 3; 245A.08, subdivision 2a; 245A.10, subdivision 5; 245A.14, by adding a subdivision; 245A.22, subdivision 2; 245C.03, subdivision 1; 245C.04, subdivision 1; 245C.05, subdivisions 4, 6, 7; 245C.07; 245C.08, subdivisions 1, 2, 3; 245C.14, subdivision 2; 245C.15; 245C.22, subdivision 5; 245C.28, subdivisions 1, 3; 245C.29, subdivision 2; 256.045, subdivision 3b; 626.557, subdivisions 9c, 12b; 626.5572, subdivisions 8, 11, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1
DATA PRACTICES

Section 1. Minnesota Statutes 2010, section 13.46, subdivision 4, is amended to read:

Subd. 4. **Licensing data.** (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means Social Security numbers, identity of and letters of reference, insurance information, reports from the Bureau of Criminal Apprehension, health examination reports, and social/home studies.

(b)(1) (i) Except as provided in paragraph (c), the following data on applicants, license holders, and former licensees are public: name, address, telephone number of licensees, date of receipt of a completed application, dates of licensure, licensed capacity, type of client preferred, variances granted, record of training and education in child

care and child development, type of dwelling, name and relationship of other family members, previous license history, class of license, the existence and status of complaints, and the number of serious injuries to or deaths of individuals in the licensed program as reported to the commissioner of human services, the local social services agency, or any other county welfare agency. For purposes of this clause, a serious injury is one that is treated by a physician.

(ii) When a correction order, an order to forfeit a fine, an order of license suspension, an order of temporary immediate suspension, an order of license revocation, an order of license denial, or an order of conditional license has been issued, or a complaint is resolved, the following data on current and former licensees and applicants are public: the substance and investigative findings of the licensing or maltreatment complaint, licensing violation, or substantiated maltreatment; the record of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of the final correction order, fine, suspension, temporary immediate suspension, revocation, denial, or conditional license contained in the record of licensing action; whether a fine has been paid; and the status of any appeal of these actions. ~~If a licensing sanction under section 245A.07, or a license denial under section 245A.05, is based on a determination that the license holder or applicant is responsible for maltreatment or is disqualified under chapter 245C, the identity of the license holder or applicant as the individual responsible for maltreatment or as the disqualified individual is public data at the time of the issuance of the licensing sanction or denial.~~

(iii) When a license denial under section 245A.05 or a sanction under section 245A.07 is based on a determination that the license holder or applicant is responsible for maltreatment under section 626.556 or 626.557, the identity of the applicant or license holder as the individual responsible for maltreatment is public data at the time of the issuance of the license denial or sanction.

(iv) When a license denial under section 245A.05 or a sanction under section 245A.07 is based on a determination that the license holder or applicant is disqualified under chapter 245C, the identity of the license holder or applicant as the disqualified individual and the reason for the disqualification are public data at the time of the issuance of the licensing sanction or denial. If the applicant or license holder requests reconsideration of the disqualification and the disqualification is affirmed, the reason for the disqualification and the reason to not set aside the disqualification are public data.

(2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b, when any person subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home is a substantiated perpetrator of maltreatment, and the substantiated maltreatment is a reason for a licensing action, the identity of the substantiated perpetrator of maltreatment is public data. For purposes of this clause, a person is a substantiated perpetrator if the maltreatment determination has been upheld under section 256.045; 626.556, subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or facility has not timely exercised appeal rights under these sections, except as provided under clause (1).

(3) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, and the date of withdrawal of the application.

(4) For applicants who are denied a license, the following data are public: the name and address of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, the record of informal resolution of a denial, orders of hearings, findings of fact, conclusions of law, specifications of the final order of denial, and the status of any appeal of the denial.

(5) The following data on persons subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside the disqualification; the nature of any disqualification for which a variance was granted under sections 245A.04, subdivision 9; and 245C.30, and the reasons for granting any variance under section 245A.04, subdivision 9; and, if applicable, the disclosure that any person subject to a background study under section 245C.03, subdivision 1, has successfully passed a background study. If a licensing sanction under section 245A.07, or a license denial under section 245A.05, is based on a determination that an individual subject to disqualification under chapter 245C is disqualified, the disqualification as a basis for the licensing sanction or denial is public data. As specified in clause (1), item (iv), if the disqualified individual is the license holder or applicant, the identity of the license holder or applicant is and the reason for the disqualification are public data; and, if the license holder or applicant requested reconsideration of the disqualification and the disqualification is affirmed, the reason for the disqualification and the reason to not set aside the disqualification are public data. If the disqualified individual is an individual other than the license holder or applicant, the identity of the disqualified individual shall remain private data.

(6) When maltreatment is substantiated under section 626.556 or 626.557 and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(7) Notwithstanding clause (1), for child foster care, only the name of the license holder and the status of the license are public if the county attorney has requested that data otherwise classified as public data under clause (1) be considered private data based on the best interests of a child in placement in a licensed program.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters of complaints or alleged violations of licensing standards under chapters 245A, 245B, 245C, and applicable rules and alleged maltreatment under sections 626.556 and 626.557, are confidential data and may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning a license which has been suspended, immediately suspended, revoked, or denied.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.556 or 626.557 may be exchanged with the Department of Health for purposes of completing background studies pursuant to section 144.057 and with the Department of Corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, ~~and~~ data on individuals collected by the commissioner of human services according to ~~maltreatment~~ investigations under chapters 245A, 245B, and 245C, and sections 626.556 and 626.557; may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the ombudsman for mental health and developmental disabilities, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated or the information may otherwise be relevant to the board's regulatory jurisdiction. Unless otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or licensing violations may not be disclosed.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

(k) All not public data collected, maintained, used, or disseminated under this subdivision and subdivision 3 may be exchanged between the Department of Human Services, Licensing Division, and the Department of Corrections for purposes of regulating services for which the Department of Human Services and the Department of Corrections have regulatory authority.

ARTICLE 2 LICENSING

Section 1. Minnesota Statutes 2010, section 245A.02, is amended by adding a subdivision to read:

Subd. 3b. **Conservator.** "Conservator" has the meaning given in section 524.5-102, subdivision 3.

Sec. 2. Minnesota Statutes 2010, section 245A.02, is amended by adding a subdivision to read:

Subd. 7c. **Guardian.** "Guardian" has the meaning given in section 524.5-102, subdivision 5.

Sec. 3. Minnesota Statutes 2010, section 245A.02, is amended by adding a subdivision to read:

Subd. 11a. **Primary residence.** "Primary residence" means the location where the license holder physically resides on an ongoing basis and is the address listed on the license holder's Minnesota drivers' license or Minnesota identification card, and voter registration. The license holder must have only one primary residence. The commissioner may require the license holder to submit one or more of the following as evidence:

(1) recent utility bills in the license holder's name;

(2) verification of property insurance in the license holder's name; or

(3) the license holder's current Minnesota drivers' license, Minnesota identification card, or voter's registration.

Sec. 4. Minnesota Statutes 2010, section 245A.04, subdivision 1, is amended to read:

Subdivision 1. **Application for licensure.** (a) An individual, corporation, partnership, voluntary association, other organization or controlling individual that is subject to licensure under section 245A.03 must apply for a license. The application must be made on the forms and in the manner prescribed by the commissioner. The

commissioner shall provide the applicant with instruction in completing the application and provide information about the rules and requirements of other state agencies that affect the applicant. An applicant seeking licensure in Minnesota with headquarters outside of Minnesota must have a program office located within the state.

The commissioner shall act on the application within 90 working days after a complete application and any required reports have been received from other state agencies or departments, counties, municipalities, or other political subdivisions. The commissioner shall not consider an application to be complete until the commissioner receives all of the information required under section 245C.05.

When the commissioner receives an application that is incomplete because the applicant failed to submit required documents or that is substantially deficient because the documents submitted do not meet licensing requirements, the commissioner shall provide the applicant written notice that the application is incomplete or substantially deficient. In the written notice to the applicant the commissioner shall identify documents that are missing or deficient and give the applicant 45 days to resubmit a second application that is substantially complete. An applicant's failure to submit a substantially complete application after receiving notice from the commissioner is a basis for license denial under section 245A.05.

(b) An application for licensure must specify one or more controlling individuals as an agent who is responsible for dealing with the commissioner of human services on all matters provided for in this chapter and on whom service of all notices and orders must be made. The agent must be authorized to accept service on behalf of all of the controlling individuals of the program. Service on the agent is service on all of the controlling individuals of the program. It is not a defense to any action arising under this chapter that service was not made on each controlling individual of the program. The designation of one or more controlling individuals as agents under this paragraph does not affect the legal responsibility of any other controlling individual under this chapter.

(c) An applicant or license holder must have a policy that prohibits license holders, employees, subcontractors, and volunteers, when directly responsible for persons served by the program, from abusing prescription medication or being in any manner under the influence of a chemical that impairs the individual's ability to provide services or care. The license holder must train employees, subcontractors, and volunteers about the program's drug and alcohol policy.

(d) An applicant and license holder must have a program grievance procedure that permits persons served by the program and their authorized representatives to bring a grievance to the highest level of authority in the program.

(e) The applicant must be able to demonstrate competent knowledge of the applicable requirements of this chapter and chapter 245C, and the requirements of other licensing statutes and rules applicable to the program or services for which the applicant is seeking to be licensed. Effective January 1, 2012, the commissioner may require the applicant, except for child foster care, to demonstrate competence in the applicable licensing requirements by successfully completing a written examination. The commissioner may develop a prescribed written examination format.

(f) When an applicant is an individual, the individual must provide the applicant's Social Security number and a photocopy of a Minnesota driver's license, Minnesota identification card, or valid United States passport.

(g) When an applicant is a nonindividual, the applicant must provide the applicant's Minnesota tax identification number, the name, address, and Social Security number of all individuals who will be controlling individuals, including all officers, owners, and managerial officials as defined in section 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant for each controlling individual, and:

(1) if the agent authorized to accept service on behalf of all the controlling individuals resides in Minnesota, the agent must provide a photocopy of the agent's Minnesota driver's license, Minnesota identification card, or United States passport;

(2) if the agent authorized to accept service on behalf of all the controlling individuals resides outside Minnesota, the agent must provide a photocopy of the agent's driver's license or identification card from the state where the agent resides or a photocopy of the agent's United States passport.

Sec. 5. Minnesota Statutes 2010, section 245A.04, subdivision 7, is amended to read:

Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

- (1) the name of the license holder;
- (2) the address of the program;
- (3) the effective date and expiration date of the license;
- (4) the type of license;
- (5) the maximum number and ages of persons that may receive services from the program; and
- (6) any special conditions of licensure.

(b) The commissioner may issue an initial license for a period not to exceed two years if:

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

(3) the applicant complies with applicable laws and rules in all other respects.

(c) A decision by the commissioner to issue a license does not guarantee that any person or persons will be placed or cared for in the licensed program. A license shall not be transferable to another individual, corporation, partnership, voluntary association, other organization, or controlling individual or to another location.

(d) A license holder must notify the commissioner and obtain the commissioner's approval before making any changes that would alter the license information listed under paragraph (a).

(e) Except as provided in paragraphs (g) and (h), the commissioner shall not issue or reissue a license if the applicant, license holder, or controlling individual has:

- (1) been disqualified and the disqualification was not set aside and no variance has been granted;
- (2) ~~has~~ been denied a license within the past two years;
- (3) had a license revoked within the past five years; ~~or~~

(4) ~~has~~ an outstanding debt related to a license fee, licensing fine, or settlement agreement for which payment is delinquent; or

(5) failed to submit the information required of an applicant under section 245A.04, subdivision 1, paragraph (f) or (g), after being requested by the commissioner.

When a license is revoked under clause (1) or (3), the license holder and controlling individual may not hold any license under chapter 245A or 245B for five years following the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.

(f) The commissioner shall not issue or reissue a license if an individual living in the household where the licensed services will be provided as specified under section 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside and no variance has been granted.

(g) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license has been suspended or revoked and the suspension or revocation is under appeal, the program may continue to operate pending a final order from the commissioner. If the license under suspension or revocation will expire before a final order is issued, a temporary provisional license may be issued provided any applicable license fee is paid before the temporary provisional license is issued.

(h) Notwithstanding paragraph (g), when a revocation is based on the disqualification of a controlling individual or license holder, and the controlling individual or license holder is ordered under section 245C.17 to be immediately removed from direct contact with persons receiving services or is ordered to be under continuous, direct supervision when providing direct contact services, the program may continue to operate only if the program complies with the order and submits documentation demonstrating compliance with the order. If the disqualified individual fails to submit a timely request for reconsideration, or if the disqualification is not set aside and no variance is granted, the order to immediately remove the individual from direct contact or to be under continuous, direct supervision remains in effect pending the outcome of a hearing and final order from the commissioner.

(i) For purposes of reimbursement for meals only, under the Child and Adult Care Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226, relocation within the same county by a licensed family day care provider, shall be considered an extension of the license for a period of no more than 30 calendar days or until the new license is issued, whichever occurs first, provided the county agency has determined the family day care provider meets licensure requirements at the new location.

(j) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

(k) The commissioner shall not issue or reissue a license if it has been determined that a tribal licensing authority has established jurisdiction to license the program or service.

Sec. 6. Minnesota Statutes 2010, section 245A.04, subdivision 11, is amended to read:

Subd. 11. Education program; permitted ages, additional requirement. ~~(a) The education program offered in a residential or nonresidential program, except for child care, foster care, or services for adults, must be approved by the commissioner of education before the commissioner of human services may grant a license to the program. Except for foster care, the commissioner of human services may not grant a license to a residential facility for the placement of children before the commissioner has received documentation of approval of the educational program from the commissioner of education according to section 125A.515.~~

~~(b) A residential program licensed by the commissioner of human services under Minnesota Rules, parts 2960.0010 to 2960.0710, may serve persons through the age of 19 when:~~

~~(1) the admission or continued stay is necessary for a person to complete a secondary school program or its equivalent, or it is necessary to facilitate a transition period after completing the secondary school program or its equivalent for up to four months in order for the resident to obtain other living arrangements;~~

~~(2) the facility develops policies, procedures, and plans required under section 245A.65;~~

~~(3) the facility documents an assessment of the 18 or 19 year old person's risk of victimizing children residing in the facility, and develops necessary risk reduction measures, including sleeping arrangements, to minimize any risk of harm to children; and~~

~~(4) notwithstanding the license holder's target population age range, whenever persons age 18 or 19 years old are receiving residential services, the age difference among residents may not exceed five years.~~

~~(e) A child foster care program licensed by the commissioner under Minnesota Rules, chapter 2960, may serve persons who are over the age of 18 but under the age of 21 when the person is:~~

~~(1) completing secondary education or a program leading to an equivalent credential;~~

~~(2) enrolled in an institution which provides postsecondary or vocational education;~~

~~(3) participating in a program or activity designed to promote, or remove barriers to, employment;~~

~~(4) employed for at least 80 hours per month; or~~

~~(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the person.~~

(c) In addition to the requirements in paragraph (b), a residential program licensed by the commissioner of human services under Minnesota Rules, parts 2960.0010 to 2960.0710, may serve persons under the age of 21 provided the facility complies with the following requirements:

(1) for each person age 18 and older served at the program, the program must assess and document the person's risk of victimizing other residents residing in the facility, and based on the assessment, the facility must develop and implement necessary measures to minimize any risk of harm to other residents, including making arrangements for appropriate sleeping arrangements; and

(2) the program must assure that the services and living arrangements provided to all residents are suitable to the age and functioning of the residents, including separation of services, staff supervision, and other program operations as appropriate.

~~(d) Nothing in this paragraph subdivision precludes the license holder from seeking other variances under subdivision 9.~~

Sec. 7. Minnesota Statutes 2010, section 245A.05, is amended to read:

245A.05 DENIAL OF APPLICATION.

(a) The commissioner may deny a license if an applicant or controlling individual:

(1) fails to submit a substantially complete application after receiving notice from the commissioner under section 245A.04, subdivision 1;

~~(1)~~ (2) fails to comply with applicable laws or rules;

~~(2)~~ (3) knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation;

~~(3)~~ (4) has a disqualification that has not been set aside under section 245C.22 and no variance has been granted;

~~(4)~~ (5) has an individual living in the household who received a background study under section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that has not been set aside under section 245C.22, and no variance has been granted; ~~or~~

~~(5)~~ (6) is associated with an individual who received a background study under section 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to children or vulnerable adults, and who has a disqualification that has not been set aside under section 245C.22, and no variance has been granted; or

(7) fails to comply with section 245A.04, subdivision 1, paragraph (f) or (g).

(b) An applicant whose application has been denied by the commissioner must be given notice of the denial. Notice must be given by certified mail or personal service. The notice must state the reasons the application was denied and must inform the applicant of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The applicant may appeal the denial by notifying the commissioner in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within 20 calendar days after the applicant received the notice of denial. If an appeal request is made by personal service, it must be received by the commissioner within 20 calendar days after the applicant received the notice of denial. Section 245A.08 applies to hearings held to appeal the commissioner's denial of an application.

Sec. 8. Minnesota Statutes 2010, section 245A.07, subdivision 3, is amended to read:

Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend or revoke a license, or impose a fine if:

(1) a license holder fails to comply fully with applicable laws or rules; ~~if~~

(2) a license holder, a controlling individual, or an individual living in the household where the licensed services are provided or is otherwise subject to a background study has a disqualification which has not been set aside under section 245C.22; ~~or if~~

(3) a license holder knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, during an investigation, or regarding compliance with applicable laws or rules; or

(4) after July 1, 2012, and upon request by the commissioner, a license holder fails to submit the information required of an applicant under section 245A.04, subdivision 1, paragraph (f) or (g).

A license holder who has had a license suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or a fine was ordered.

(b) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in

writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a timely appeal of an order suspending or revoking a license, the license holder may continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs (g) and (h), until the commissioner issues a final order on the suspension or revocation.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to comply with background study requirements under chapter 245C; and the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order. Fines assessed against a license holder that holds a license to provide the residential-based habilitation services, as defined under section 245B.02, subdivision 20, and a license to provide foster care, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

(d) Except for background study violations involving the failure to comply with an order to immediately remove an individual or an order to provide continuous, direct supervision, the commissioner shall not issue a fine under paragraph (c) relating to a background study violation to a license holder who self-corrects a background study violation before the commissioner discovers the violation. A license holder who has previously exercised the provisions of this paragraph to avoid a fine for a background study violation may not avoid a fine for a subsequent background study violation unless at least 365 days have passed since the license holder self-corrected the earlier background study violation.

Sec. 9. Minnesota Statutes 2010, section 245A.08, subdivision 2a, is amended to read:

Subd. 2a. **Consolidated contested case hearings.** (a) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is based on a disqualification for which reconsideration was requested and which was not set aside under section 245C.22, the scope of the contested case hearing shall include the disqualification and the licensing sanction or denial of a license, unless otherwise specified in this subdivision. When the licensing sanction or denial of a license is based on a determination of maltreatment under section 626.556 or 626.557, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and the licensing sanction or denial of a license, unless otherwise specified in this subdivision. In such cases, a fair hearing under section 256.045 shall not be conducted as provided for in sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

(b) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder is based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction. In these cases, a fair hearing shall not be conducted under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d. The scope of the contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

(c) In consolidated contested case hearings regarding sanctions issued in family child care, child foster care, family adult day services, and adult foster care, the county attorney shall defend the commissioner's orders in accordance with section 245A.16, subdivision 4.

(d) The commissioner's final order under subdivision 5 is the final agency action on the issue of maltreatment and disqualification, including for purposes of subsequent background studies under chapter 245C and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(e) When consolidated hearings under this subdivision involve a licensing sanction based on a previous maltreatment determination for which the commissioner has issued a final order in an appeal of that determination under section 256.045, or the individual failed to exercise the right to appeal the previous maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, the commissioner's order is conclusive on the issue of maltreatment. In such cases, the scope of the administrative law judge's review shall be limited to the disqualification and the licensing sanction or denial of a license. In the case of a denial of a license or

a licensing sanction issued to a facility based on a maltreatment determination regarding an individual who is not the license holder or a household member, the scope of the administrative law judge's review includes the maltreatment determination.

(f) The hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge, if:

(1) a maltreatment determination or disqualification, which was not set aside under section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07;

(2) the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245C.03; and

(3) the individual has a hearing right under section 245C.27.

(g) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07 is based on a disqualification for which reconsideration was requested and was not set aside under section 245C.22, and the individual otherwise has no hearing right under section 245C.27, the scope of the administrative law judge's review shall include the denial or sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

(h) Notwithstanding section 245C.30, subdivision 5, when a licensing sanction under section 245A.07 is based on the termination of a variance under section 245C.30, subdivision 4, the scope of the administrative law judge's review shall include the sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

(i) The scope of the consolidated contested case hearing under this section relating to a disqualification does not include the issue of whether the commissioner was required to seal agency records according to a district court order or other applicable law.

(j) When a license holder that is operating following the appeal of a sanction under section 245A.07 has subsequent substantiated violations of applicable statute or rule before the contested case hearing date, the additional violations will automatically be included in the scope of that hearing.

Sec. 10. Minnesota Statutes 2010, section 245A.10, subdivision 5, is amended to read:

Subd. 5. **License or certification fee for other programs.** (a) Except as provided in paragraphs (b) and (c), a program without a stated licensed capacity shall pay a license or certification fee of \$400.

(b) A mental health center or mental health clinic requesting certification for purposes of insurance and subscriber contract reimbursement under Minnesota Rules, parts 9520.0750 to 9520.0870, shall pay a certification fee of \$1,000 per year. If the mental health center or mental health clinic provides services at a primary location with satellite facilities, the satellite facilities shall be certified with the primary location without an additional charge.

(c) A program licensed to provide residential-based habilitation services under the home and community-based waiver for persons with developmental disabilities shall pay an annual license fee that includes a base rate of \$250 plus \$38 times the number of clients served on the first day of ~~August~~ July of the current license year. State-operated programs are exempt from the license fee under this paragraph.

Sec. 11. Minnesota Statutes 2010, section 245A.22, subdivision 2, is amended to read:

Subd. 2. **Admission.** (a) The license holder shall accept as clients in the independent living assistance program only youth ages 16 to 21 who are in out-of-home placement, leaving out-of-home placement, at risk of becoming homeless, or homeless.

(b) Youth who have current drug or alcohol problems, a recent history of violent behaviors, or a mental health disorder or issue that is not being resolved through counseling or treatment are not eligible to receive the services described in subdivision 1.

(c) Youth who are not employed, participating in employment training, or enrolled in an academic program are not eligible to receive transitional housing or independent living assistance.

(d) The commissioner may grant variances under section 245A.04, subdivision 9, to requirements in this section.

Sec. 12. Minnesota Statutes 2010, section 245C.03, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study on:

(1) the person or persons applying for a license;

(2) an individual age 13 and over living in the household where the licensed program will be provided who is not receiving licensed services from the program;

(3) current or prospective employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;

(4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);

(5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause;

(6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program, when the commissioner has reasonable cause; and

(7) all managerial officials as defined under section 245A.02, subdivision 5a.

(b) For family child foster care settings, a short-term substitute caregiver providing direct contact services for a child for less than 72 hours of continuous care is not required to receive a background study under this chapter.

Sec. 13. Minnesota Statutes 2010, section 245C.04, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at reapplication for a license for family child care.

(c) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services for an adult foster care license holder that is also:

(1) registered under chapter 144D; or

(2) licensed to provide home and community-based services to people with disabilities at the foster care location and the license holder does not reside in the foster care residence; and

(3) the following conditions are met:

(i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(iii) the last study of the individual was conducted on or after October 1, 1995.

(d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall conduct a study of an individual required to be studied under section 245C.03, at the time of reapplication for a child foster care license. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, paragraph (a), clauses (1) to (5), 3, and 4.

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster care license holder. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5. The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, 3, and 4.

(f) From January 1, 2010, to December 31, 2012, unless otherwise specified in paragraph (c), the commissioner shall conduct a study of an individual required to be studied under section 245C.03 at the time of reapplication for an adult foster care or family adult day services license: (1) the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted by the commissioner for all family adult day services and for adult foster care when the adult foster care license holder resides in the adult foster care or family adult day services residence; (2) the license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and (3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), clauses (1) to (5), and subdivisions 3 and 4.

(g) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with an adult foster care or family adult day services license holder: (1) the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted by the commissioner for all family adult day services and for adult foster care when the adult foster care license holder resides in the adult foster care residence; (2) the license holder shall collect and forward to

the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and (3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), and subdivisions 3 and 4.

(h) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study forms to the commissioner before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

(i) A license holder must ~~provide the commissioner notice~~ initiate a new background study through the commissioner's online background study system ~~or through a letter mailed to the commissioner~~ when:

(1) an individual returns to a position requiring a background study following an absence of ~~45~~ 90 or more consecutive days; or

(2) a program that discontinued providing licensed direct contact services for ~~45~~ 90 or more consecutive days begins to provide direct contact licensed services again.

The license holder shall maintain a copy of the notification provided to the commissioner under this paragraph in the program's files. If the individual's disqualification was previously set aside for the license holder's program and the new background study results in no new information that indicates the individual may pose a risk of harm to persons receiving services from the license holder, the previous set-aside shall remain in effect.

(j) For purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results.

(k) For purposes of family child care, substitute caregivers must receive repeat background studies at the time of each license renewal.

Sec. 14. Minnesota Statutes 2010, section 245C.05, is amended by adding a subdivision to read:

Subd. 2c. **Privacy notice to background study subject.** (a) For every background study, the commissioner's notice to the background study subject required under section 13.04, subdivision 2, that is provided through the commissioner's electronic NETStudy system or through the commissioner's background study forms shall include the information in paragraph (b).

(b) The background study subject shall be informed that any previous background studies that received a set-aside will be reviewed, and without further contact with the background study subject, the commissioner may notify the agency that initiated the subsequent background study:

(1) that the individual has a disqualification that has been set aside for the program or agency that initiated the study;

(2) the reason for the disqualification; and

(3) information about the decision to set aside the disqualification will be available to the license holder upon request without the consent of the background study subject.

Sec. 15. Minnesota Statutes 2010, section 245C.05, subdivision 4, is amended to read:

Subd. 4. **Electronic transmission.** (a) For background studies conducted by the Department of Human Services, the commissioner shall implement a system for the electronic transmission of:

- (1) background study information to the commissioner;
- (2) background study results to the license holder;
- (3) background study results to county and private agencies for background studies conducted by the commissioner for child foster care; and
- (4) background study results to county agencies for background studies conducted by the commissioner for adult foster care and family adult day services.

(b) Unless the commissioner has granted a hardship variance under paragraph (c), license holders and applicants must use the electronic transmission system known as NETStudy to submit all requests for background studies to the commissioner as required by this chapter.

(c) A license holder or applicant whose program is located in an area in which high-speed Internet is inaccessible may request the commissioner to grant a variance to the electronic transmission requirement.

Sec. 16. Minnesota Statutes 2010, section 245C.05, subdivision 6, is amended to read:

Subd. 6. **Applicant, license holder, other entities, and agencies.** (a) The applicant, license holder, other entities as provided in this chapter, Bureau of Criminal Apprehension, law enforcement agencies, commissioner of health, and county agencies shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors substantiated under section 626.556.

(b) If a background study is initiated by an applicant, license holder, or other entities as provided in this chapter, and the applicant, license holder, or other entity receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant, license holder, or other entity must immediately provide the information to the commissioner.

(c) The program or county or other agency must provide written notice to the individual who is the subject of the background study of the requirements under this subdivision.

Sec. 17. Minnesota Statutes 2010, section 245C.05, subdivision 7, is amended to read:

Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or corrections agent shall notify the commissioner of an individual's conviction if the individual ~~is~~:

- (1) has been affiliated with a program or facility regulated by the Department of Human Services or Department of Health, a facility serving children or youth licensed by the Department of Corrections, or any type of home care agency or provider of personal care assistance services within the preceding year; and
 - (2) has been convicted of a crime constituting a disqualification under section 245C.14.
- (b) For the purpose of this subdivision, "conviction" has the meaning given it in section 609.02, subdivision 5.

(c) The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this subdivision and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents.

(d) The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system.

(e) A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this subdivision.

(f) Upon receipt of disqualifying information, the commissioner shall provide the notice required under section 245C.17, as appropriate, to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual.

(g) This subdivision does not apply to family child care programs.

Sec. 18. Minnesota Statutes 2010, section 245C.07, is amended to read:

245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.

(a) ~~Except for child foster care and adoption agencies,~~ Subject to the conditions in paragraph (d), when a license holder, applicant, or other entity owns multiple programs or services that are licensed by the Department of Human Services, Department of Health, or Department of Corrections, only one background study is required for an individual who provides direct contact services in one or more of the licensed programs or services if:

(1) the license holder designates one individual with one address and telephone number as the person to receive sensitive background study information for the multiple licensed programs or services that depend on the same background study; and

(2) the individual designated to receive the sensitive background study information is capable of determining, upon request of the department, whether a background study subject is providing direct contact services in one or more of the license holder's programs or services and, if so, at which location or locations.

(b) When a license holder maintains background study compliance for multiple licensed programs according to paragraph (a), and one or more of the licensed programs closes, the license holder shall immediately notify the commissioner which staff must be transferred to an active license so that the background studies can be electronically paired with the license holder's active program.

(c) When a background study is being initiated by a licensed program or service or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed programs or services may attach to the background study form a cover letter indicating the additional names of the programs or services, addresses, and background study identification numbers.

When the commissioner receives a notice, the commissioner shall notify each program or service identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those programs' or services' responsibilities for initiating a background study on that individual.

(d) If a background study was conducted on an individual related to child foster care and the requirements under paragraph (a) are met, the background study is transferable across all licensed programs. If a background study was conducted on an individual under a license other than child foster care and the requirements under paragraph (a) are met, the background study is transferable to all licensed programs except child foster care.

(e) The provisions of this section that allow a single background study in one or more licensed programs or services do not apply to background studies submitted by adoption agencies, supplemental nursing services agencies, personnel agencies, educational programs, professional services agencies, and unlicensed personal care provider organizations.

Sec. 19. Minnesota Statutes 2010, section 245C.08, subdivision 1, is amended to read:

Subdivision 1. **Background studies conducted by Department of Human Services.** (a) For a background study conducted by the Department of Human Services, the commissioner shall review:

(1) information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (j);

(2) the commissioner's records relating to the maltreatment of minors in licensed programs, and from findings of maltreatment of minors as indicated through the social service information system;

(3) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

(4) information from the Bureau of Criminal Apprehension;

(5) except as provided in clause (6), information from the national crime information system when the commissioner has reasonable cause as defined under section 245C.05, subdivision 5; and

(6) for a background study related to a child foster care application for licensure or adoptions, the commissioner shall also review:

(i) information from the child abuse and neglect registry for any state in which the background study subject has resided for the past five years; and

(ii) information from national crime information databases, when the background study subject is 18 years of age or older.

(b) Notwithstanding expungement by a court, the commissioner may consider information obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice of the petition for expungement and the court order for expungement ~~is directed~~ specifically to orders the commissioner to seal the commissioner's records.

(c) When the commissioner has reasonable cause to believe that the identity of a background study subject is uncertain, the commissioner may require the subject to provide a set of classifiable fingerprints and complete a record check with the national crime information databases.

Sec. 20. Minnesota Statutes 2010, section 245C.08, subdivision 2, is amended to read:

Subd. 2. **Background studies conducted by a county agency.** (a) For a background study conducted by a county agency for family child care services, the commissioner shall review:

(1) information from the county agency's record of substantiated maltreatment of adults and the maltreatment of minors;

(2) information from juvenile courts as required in subdivision 4 for:

(i) individuals listed in section 245C.03, subdivision 1, paragraph (a), who are ages 13 through 23 living in the household where the licensed services will be provided; and

(ii) any other individual listed under section 245C.03, subdivision 1, when there is reasonable cause; and

(3) information from the Bureau of Criminal Apprehension.

(b) If the individual has resided in the county for less than five years, the study shall include the records specified under paragraph (a) for the previous county or counties of residence for the past five years.

(c) Notwithstanding expungement by a court, the county agency may consider information obtained under paragraph (a), clause (3), unless the commissioner received notice of the petition for expungement and the court order for expungement is ~~directed~~ specifically to orders the commissioner to seal the commissioner's records.

Sec. 21. Minnesota Statutes 2010, section 245C.08, subdivision 3, is amended to read:

Subd. 3. **Arrest and investigative information.** (a) For any background study completed under this section, if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual, the commissioner shall also ~~may~~ review arrest and investigative information from any of the following pertinent sources:

(1) the Bureau of Criminal Apprehension;

(2) the commissioner of health;

(3) a county attorney;

(4) a county sheriff;

(5) a county agency;

(6) a local chief of police;

(7) other states;

(8) the courts;

(9) the Federal Bureau of Investigation;

(10) the National Criminal Records Repository; ~~and~~ or

(11) criminal records from other states.

(b) The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background study.

Sec. 22. Minnesota Statutes 2010, section 245C.14, subdivision 2, is amended to read:

Subd. 2. **Disqualification from access.** (a) If an individual who is studied under section 245C.03, subdivision 1, paragraph (a), ~~clauses (2), (5), and (6)~~, is disqualified from direct contact under subdivision 1, the commissioner shall also disqualify the individual from access to a person receiving services from the license holder.

(b) No individual who is disqualified following a background study under section 245C.03, subdivision 1, paragraph (a), ~~clauses (2), (5), and (6)~~, or as provided elsewhere in statute who is disqualified as a result of this section, may be allowed access to persons served by the program unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that licensed program or entity identified in section 245C.03 as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

Sec. 23. Minnesota Statutes 2010, section 245C.15, is amended to read:

245C.15 DISQUALIFYING CRIMES OR CONDUCT.

Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) regardless of how much time has passed since the discharge of the sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of the level of the offense, the individual has committed any of the following offenses: sections 243.166 (violation of predatory offender registration law); 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a felony offense under 609.221 or 609.222 (assault in the first or second degree); a felony offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or neglect, or a crime against children; 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.746 (interference with privacy against a minor); 609.749, subdivision 3, 4, or 5 (felony-level stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 617.23, subdivision 2, clause (1), or subdivision 3, clause (1) (indecent exposure involving a minor); 617.246 (use of minors in sexual performance prohibited); or 617.247 (possession of pictorial representations of minors).

(b) An individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14.

(c) An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in paragraph (a), permanently disqualifies the individual under section 245C.14.

(d) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, ~~the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements~~, or the date of the incident, whichever occurs last.

(e) If the individual studied commits one of the offenses listed in paragraph (a) that is specified as a felony-level only offense, but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified, but the disqualification look-back period for the offense is the period applicable to gross misdemeanor or misdemeanor offenses.

Subd. 2. 15-year disqualification. (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); 609.466 (medical assistance fraud); 609.495 (aiding an offender); 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); ~~609.746 (interference with privacy)~~; 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level conviction involving alcohol or drug use.

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than 15 years has passed since the termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or subdivision 3.

(d) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a).

(e) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified but the disqualification look-back period for the offense is the period applicable to the gross misdemeanor or misdemeanor disposition.

(f) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, ~~the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements,~~ or the date of the incident, whichever occurs last.

Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a gross misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the offense is the period applicable to misdemeanors. If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a felony disposition, the individual is disqualified, but the disqualification look-back period for the offense is the period applicable to that felony offense under this section.

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, ~~the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements,~~ or the date of the incident, whichever occurs last.

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293(harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under section 626.556, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, ~~the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements,~~ or the date of the incident, whichever occurs last.

(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

(g) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a gross misdemeanor or felony disposition, the individual is disqualified, but the disqualification look-back period for the offense is the period applicable to that gross misdemeanor or felony offense under this section.

Subd. 5. **Mental illness.** The commissioner may not disqualify an individual subject to a background study under this chapter because that individual has, or has had, a mental illness as defined in section 245.462, subdivision 20.

Sec. 24. Minnesota Statutes 2010, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people receiving services.

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

(1) the recency of the disqualifying characteristic;

(2) the recency of discharge from probation for the crimes;

(3) the number of disqualifying characteristics;

(4) the intrusiveness or violence of the disqualifying characteristic;

(5) the vulnerability of the victim involved in the disqualifying characteristic;

(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact;

(7) whether the individual has a disqualification from a previous background study that has not been set aside; and

(8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section 626.556 or 626.557.

(d) This section does not apply to a background study related to an initial application for a child foster care license.

(e) This section does not apply to background studies that are also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for personal care assistants and qualified professionals as defined in section 256B.0659, subdivision 1.

~~(e)~~ (f) If the commissioner has reason to believe, based on arrest information or an active maltreatment investigation, that an individual poses an imminent risk of harm to persons receiving services, the commissioner may order that the person be continuously supervised or immediately removed pending the conclusion of the maltreatment investigation or criminal proceedings.

Sec. 25. Minnesota Statutes 2010, section 245C.17, subdivision 2, is amended to read:

Subd. 2. **Disqualification notice sent to subject.** (a) If the information in the study indicates the individual is disqualified from direct contact with, or from access to, persons served by the program, the commissioner shall disclose to the individual studied:

(1) the information causing disqualification;

(2) instructions on how to request a reconsideration of the disqualification;

(3) an explanation of any restrictions on the commissioner's discretion to set aside the disqualification under section 245C.24, when applicable to the individual;

(4) a statement that, if the individual's disqualification is set-aside under section 245C.22, the applicant, license holder, or other entity that initiated the background study will be provided with the reason for the individual's disqualification and an explanation that the factors under section 245C.22, subdivision 4, which were the basis of the decision to set aside the disqualification shall be made available to the license holder upon request without the consent of the subject of the background study;

~~(4)~~ (5) a statement indicating that if the individual's disqualification is set aside or the facility is granted a variance under section 245C.30, the individual's identity and the reason for the individual's disqualification will become public data under section 245C.22, subdivision 7, when applicable to the individual; ~~and~~

(6) a statement that when a subsequent background study is initiated on the individual following a set aside of the individual's disqualification, and the commissioner makes a determination under section 245C.22, subdivision 5, paragraph (b), that the previous set-aside applies to the subsequent background study, the applicant, license holder, or other entity that initiated the background study will be informed in the notice under section 245C.22, subdivision 5, paragraph (c):

(i) of the reason for the individual's disqualification;

(ii) that the individual's disqualification is set aside for that program or agency; and

(iii) that information about the factors under section 245C.22, subdivision 4, that were the basis of the decision to set aside the disqualification are available to the license holder upon request without the consent of the background study subject; and

~~(5)~~ (7) the commissioner's determination of the individual's immediate risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual poses an imminent risk of harm to persons served by the program where the individual will have direct contact with, or access to, people receiving services, the commissioner's notice must include an explanation of the basis of this determination.

(c) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires immediate removal, the individual shall be informed of the conditions under which the agency that initiated the background study may allow the individual to have direct contact with, or access to, people receiving services, as provided under subdivision 3.

Sec. 26. Minnesota Statutes 2010, section 245C.22, subdivision 5, is amended to read:

Subd. 5. **Scope of set-aside.** (a) If the commissioner sets aside a disqualification under this section, the disqualified individual remains disqualified, but may hold a license and have direct contact with or access to persons receiving services. Except as provided in paragraph (b), the commissioner's set-aside of a disqualification is limited solely to the licensed program, applicant, or agency specified in the set aside notice under section 245C.23, unless otherwise specified in the notice. For personal care provider organizations, the commissioner's set-aside may further be limited to a specific individual who is receiving services. For new background studies required under section 245C.04, subdivision 1, paragraph (i), if an individual's disqualification was previously set aside for the license holder's program and the new background study results in no new information that indicates the individual may pose a risk of harm to persons receiving services from the license holder, the previous set-aside shall remain in effect.

(b) If the commissioner has previously set aside an individual's disqualification for one or more programs or agencies, and the individual is the subject of a subsequent background study for a different program or agency, the commissioner shall determine whether the disqualification is set aside for the program or agency that initiated the subsequent background study. A notice of a set-aside under paragraph (c) shall be issued within 15 working days if all of the following criteria are met:

(1) the subsequent background study was initiated in connection with a program licensed or regulated under the same provisions of law and rule for at least one program for which the individual's disqualification was previously set aside by the commissioner;

(2) the individual is not disqualified for an offense specified in section 245C.15, subdivision 1 or 2;

(3) the commissioner has received no new information to indicate that the individual may pose a risk of harm to any person served by the program; and

(4) the previous set aside was not limited to a specific person receiving services.

(c) When a disqualification is set aside under paragraph (b), the notice of background study results issued under section 245C.17, in addition to the requirements under section 245C.17, shall state that the disqualification is set aside for the program or agency that initiated the subsequent background study. The notice must inform the individual that the individual may request reconsideration of the disqualification under section 245C.21 on the basis that the information used to disqualify the individual is incorrect.

Sec. 27. Minnesota Statutes 2010, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as otherwise provided in ~~paragraph (b)~~ this section, the commissioner may not set aside the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) For an individual in the chemical dependency or corrections field who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set-aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service.

(c) When a licensed foster care provider adopts an individual who had received foster care services from the provider for over six months, and the adopted individual is required to receive a background study under section 245C.03, subdivision 1, paragraph (a), clause (2) or (6), the commissioner may grant a variance to the license holder

under section 245C.30 to permit the adopted individual with a permanent disqualification to remain affiliated with the license holder under the conditions of the variance when the variance is recommended by the county of responsibility for each of the remaining individuals in placement in the home and the licensing agency for the home.

(d) For background studies related to an application or license to provide child foster care for a specific child or children related to the applicant or license holder, the commissioner shall consider granting a variance under section 245C.30 to an individual with a disqualification under section 245C.15, subdivision 1. The variance shall be limited to the specific child or children related to the applicant or license holder.

(e) When a background study is required on a child foster care provider's former recipient of foster care services because the former recipient of foster care services returns for occasional overnight visits or temporarily resides with the foster parents, the commissioner shall consider granting a variance under section 245C.30 related to the former foster care recipient with a disqualification under section 245C.15, subdivision 1.

Sec. 28. Minnesota Statutes 2010, section 245C.28, subdivision 1, is amended to read:

Subdivision 1. **License holder.** (a) If a maltreatment determination or a disqualification for which reconsideration was requested and which was not set aside is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder must submit the appeal under section 245A.05 or 245A.07, subdivision 3.

(b) As provided under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a disqualification for which reconsideration was requested and was not set aside, the scope of the consolidated contested case hearing must include:

(1) the disqualification, to the extent the license holder otherwise has a hearing right on the disqualification under this chapter; and

(2) the licensing sanction or denial of a license.

(c) As provided for under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a determination of maltreatment under section 626.556 or 626.557, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing must include:

(1) the maltreatment determination, if the maltreatment is not conclusive under section 245C.29;

(2) the disqualification, if the disqualification is not conclusive under section 245C.29; and

(3) the licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted under sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557, subdivision 9d.

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, must not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination, disqualification, and denial of a license or licensing sanction. In such cases a fair hearing under section 256.045 must not be conducted under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

(e) The scope of the consolidated contested case hearing under this section relating to a disqualification does not include the issue of whether the commissioner was required to seal agency records pursuant to a district court order or other applicable law.

Sec. 29. Minnesota Statutes 2010, section 245C.28, subdivision 3, is amended to read:

Subd. 3. **Employees of public employer.** (a) A disqualified individual who is an employee of an employer, as defined in section 179A.03, subdivision 15, may request a contested case hearing under chapter 14 following a reconsideration decision under section 245C.23, unless the disqualification is deemed conclusive under section 245C.29. The request for a contested case hearing must be made in writing and must be postmarked and sent within 30 calendar days after the employee receives notice of the reconsideration decision. If the individual was disqualified based on a conviction or admission to any crimes listed in section 245C.15, the scope of the contested case hearing shall be limited solely to whether the individual poses a risk of harm pursuant to section 245C.22.

(b) When an individual is disqualified based on a maltreatment determination, the scope of the contested case hearing under paragraph (a), must include the maltreatment determination and the disqualification. In such cases, a fair hearing must not be conducted under section 256.045.

(c) Rules adopted under this chapter may not preclude an employee in a contested case hearing for a disqualification from submitting evidence concerning information gathered under this chapter.

(d) When an individual has been disqualified from multiple licensed programs, if at least one of the disqualifications entitles the person to a contested case hearing under this subdivision, the scope of the contested case hearing shall include all disqualifications from licensed programs.

(e) In determining whether the disqualification should be set aside, the administrative law judge shall consider all of the characteristics that cause the individual to be disqualified in order to determine whether the individual poses a risk of harm. The administrative law judge's recommendation and the commissioner's order to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside.

(f) The scope of the consolidated contested case hearing under this section relating to a disqualification does not include the issue of whether the commissioner was required to seal agency records pursuant to a district court order or other applicable law.

Sec. 30. Minnesota Statutes 2010, section 245C.29, subdivision 2, is amended to read:

Subd. 2. **Conclusive disqualification determination.** (a) Unless otherwise specified in statute, a ~~determination that~~ disqualification is conclusive for current and future background studies if the disqualification is based on

~~(1) the information the commissioner relied upon to disqualify an individual under section 245C.14 was correct based on serious or recurring maltreatment; as defined in section 245C.02,~~

~~(2) a preponderance of the evidence shows~~ showing that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; or

~~(3) the individual failed~~ individual's failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, ~~is conclusive if and:~~

~~(i) (1) the commissioner has issued a final order in an appeal of that determination~~ the disqualification under section 245A.08, subdivision 5, or 256.045, or a court has issued a final decision;

~~(ii) (2) the individual did not request reconsideration of the disqualification under section 245C.21~~ on the basis that the information relied upon to disqualify the subject was incorrect; or

~~(iii) (3) the individual did not~~ timely request a hearing on the disqualification under section 256.045 or chapter 14.

(b) When a licensing action under section 245A.05, 245A.06, or 245A.07 is based on the disqualification of an individual in connection with a license to provide family child care, foster care for children in the provider's own home, or foster care services for adults in the provider's own home, that disqualification shall be conclusive for purposes of the licensing action if a request for reconsideration was not submitted within 30 calendar days of the individual's receipt of the notice of disqualification.

(c) If a ~~determination that the information relied upon to disqualify an individual was correct and~~ disqualification is conclusive under this section, ~~and the individual is subsequently disqualified under section 245C.15, the individual has a right to request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding the risk of harm~~ The commissioner's decision on reconsideration shall be made according to section 245C.22 and are not subject to another the final agency decision and not subject to a hearing under section 256.045 or chapter 14.

Sec. 31. Minnesota Statutes 2010, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a) The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

(1) committed maltreatment under section 626.556 or 626.557, which is serious or recurring;

(2) committed an act or acts meeting the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or

(3) failed to make required reports under section 626.556 or 626.557, for incidents in which the final disposition under section 626.556 or 626.557 was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245C.22, and whether the disqualification should be set aside or not set aside. In determining whether the disqualification should be set aside, the human services referee shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside. ~~If a determination that the information relied upon to disqualify an individual was correct and is conclusive under section 245C.29, and the individual is subsequently disqualified under section 245C.14, the individual has a right to again request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding risk of harm are not subject to another hearing under this section.~~

(c) If a disqualification is based solely on a conviction or is conclusive for any reason under section 245C.29, the disqualified individual does not have a hearing right under this section.

(d) The scope of review for disqualification hearings under this section does not include the issue of whether the commissioner was required to seal agency records pursuant to a district court order or other applicable law.

~~(e)~~ (e) The state human services referee shall recommend an order to the commissioner of health, education, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided under section 245C.29.

Sec. 32. **REVISOR'S INSTRUCTION.**

The revisor shall renumber Minnesota Statutes, section 245B.05, subdivision 4, as Minnesota Statutes, section 245A.04, subdivision 2a. The revisor shall make necessary cross-reference changes to effectuate this renumbering.

ARTICLE 3
SOCIAL WORKER LICENSING

Section 1. Minnesota Statutes 2010, section 148E.055, subdivision 1, is amended to read:

Subdivision 1. **License required.** (a) In order to practice social work, an individual must have a social work license under this section or section 148E.060, except when the individual is exempt from licensure according to section 148E.065.

(b) Individuals who teach professional social work knowledge, skills, and values to students and who have a social work degree from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar ~~accreditation~~ accrediting body designated by the board must have a social work license under this section or section 148E.060, except when the individual is exempt from licensure according to section 148E.065.

(c) An individual who is newly employed on or after July 1, 2015, by a city or state agency must be licensed if the individual who provides social work services as those services are defined in section 148E.010, subdivision 11, paragraph (b), is presented to the public by any title incorporating the words "social work" or "social worker."

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 2. **[148E.0555] LICENSE REQUIREMENTS; GRANDFATHERING.**

Subdivision 1. Grandfathering period. (a) The board shall issue a license to an applicant who meets all the requirements in this section and has submitted a completed, signed application and the required fee between January 1, 2012, and December 31, 2013.

(b) If the applicant does not provide all of the information requested by the board by December 31, 2014, the applicant is considered ineligible and the application for licensure is closed.

Subd. 2. Eligible agency personnel. When submitting the application for licensure, the applicant must provide evidence satisfactory to the board that the applicant is currently employed by a:

(1) Minnesota city or state agency, and:

(i) at any time within three years of the date of submitting an application for licensure was presented to the public by any title incorporating the words "social work" or "social worker," while employed by that agency for a minimum of six months; or

(ii) at any time within three years of the date of submitting an application for licensure was engaged in the practice of social work, including clinical social work, as described in section 148E.010, subdivisions 6 and 11, while employed by that agency for a minimum of six months; or

(2) private nonprofit, nontribal agency whose primary service focus addresses ethnic minority populations, and the applicant is a member of an ethnic minority population within the agency, previously exempt from licensure under sections 148D.065, subdivision 5, and 148E.065, subdivision 5, and:

(i) at any time within three years of the date of submitting an application for licensure was presented to the public by any title incorporating the words "social work" or "social worker," while employed by that agency for a minimum of six months; or

(ii) at any time within three years of the date of submitting an application for licensure was engaged in the practice of social work, including clinical social work, as described under section 148E.010, subdivisions 6 and 11, while employed by that agency for a minimum of six months.

Subd. 3. Qualifications during grandfathering for licensure as LSW. (a) To be licensed as a licensed social worker, an applicant for licensure under this section must provide evidence satisfactory to the board that the individual has completed a baccalaureate degree:

(1) in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board; or

(2) in psychology, sociology, human services, or social/behavioral sciences from an accredited college or university; or

(3) with a major in any field from an accredited college or university, and one year of experience in the practice of social work as described in section 148E.010, subdivision 11.

(b) To be licensed as a licensed social worker, an applicant for licensure under this section must provide evidence satisfactory to the board that the individual has:

(1) submitted a completed, signed application and the license fee in section 148E.180;

(2) for applications submitted electronically, provided an attestation as specified by the board;

(3) submitted the criminal background check fee and a form provided by the board authorizing a criminal background check;

(4) paid the applicable license fee in section 148E.180; and

(5) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240 and 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(c) An application that is not completed and signed, or that is not accompanied by the correct license fee, must be returned to the applicant, along with any fee submitted, and is void.

(d) By submitting an application for licensure, an applicant authorizes the board to investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation.

(e) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements and provide all of the information requested by the board according to paragraphs (a) and (b).

(f) Prelicensure supervised practice hours may be applied to meet the requirements of this section. Hours obtained prior to August 1, 2011, must meet the supervised practice requirements in sections 148D.100 to 148D.125, and hours obtained on or after August 1, 2011, must meet the supervised practice requirements in sections 148E.100 to 148E.125.

(g) In addition to the required supervisors listed in sections 148D.120 and 148E.120, an alternate supervisor may include a qualified professional who has a bachelor's or graduate degree, and the authority to direct the practice of the applicant, including but not limited to an agency director, or agency or consulting supervisor, as determined appropriate by the board.

(h) Unless completed at the time of application for licensure, a licensee granted a license by the board under this section must meet the supervised practice requirements in sections 148E.100 to 148E.125. If a licensee does not meet the supervised practice requirements, the board may take action according to sections 148E.255 to 148E.270.

Subd. 4. Qualifications during grandfathering for licensure as LGSW. (a) To be licensed as a licensed graduate social worker, an applicant for licensure under this section must provide evidence satisfactory to the board that the individual has completed a graduate degree:

(1) in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board; or

(2) in psychology, sociology, marriage and family therapy, human services, or social/behavioral sciences from an accredited college or university; or

(3) with a major in any field from an accredited college or university, and one year of experience in the practice of social work as described in section 148E.010, subdivisions 6 and 11.

(b) To be licensed as a licensed graduate social worker, an applicant for licensure under this section must provide evidence satisfactory to the board that the individual has:

- (1) submitted a completed, signed application and the license fee in section 148E.180;
- (2) for applications submitted electronically, provided an attestation as specified by the board;
- (3) submitted the criminal background check fee and a form provided by the board authorizing a criminal background check;
- (4) paid the applicable license fee in section 148E.180; and
- (5) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240 and 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.
- (c) An application that is not completed and signed, or that is not accompanied by the correct license fee, must be returned to the applicant, along with any fee submitted, and is void.
- (d) By submitting an application for licensure, an applicant authorizes the board to investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation.
- (e) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements and provide all of the information requested by the board according to paragraphs (a) and (b).
- (f) Prelicensure supervised practice hours may be applied to meet the requirements of this section. Hours obtained prior to August 1, 2011, must meet the supervised practice requirements in sections 148D.100 to 148D.125, and hours obtained on or after August 1, 2011, must meet the supervised practice requirements in sections 148E.100 to 148E.125.
- (g) In addition to the required supervisors listed in sections 148D.120 and 148E.120, an alternate supervisor of nonclinical practice may include a qualified professional who has a bachelor's or graduate degree, and the authority to direct the practice of the applicant, including but not limited to an agency director, or agency or consulting supervisor, as determined appropriate by the board.
- (h) Unless completed at the time of application for licensure, a licensee granted a license by the board under this section must meet the supervised practice requirements specified in sections 148E.100 to 148E.125. If a licensee does not meet the supervised practice requirements, the board may take action according to sections 148E.255 to 148E.270.

Subd. 5. Qualifications during grandfathering for licensure as LISW. (a) To be licensed as a licensed independent social worker, an applicant for licensure under this section must provide evidence satisfactory to the board that the individual has completed a graduate degree:

- (1) in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board; or
- (2) in psychology, sociology, marriage and family therapy, human services, or social/behavioral sciences from an accredited college or university; or
- (3) with a major in any field from an accredited college or university, and one year of experience in the practice of social work according to section 148E.010, subdivision 11.

(b) To be licensed as a licensed independent social worker, an applicant for licensure under this section must provide evidence satisfactory to the board that the individual has:

(1) practiced social work as defined in section 148E.010, subdivision 11, and has met the supervised practice requirements as follows: (i) for hours obtained prior to August 1, 2011, has met the requirements in sections 148D.100 to 148D.125; (ii) for hours obtained after August 1, 2011, has met the requirements in sections 148E.100 to 148E.125; and (iii) in addition to the supervisors listed in section 148D.120 or 148E.120, an alternate supervisor of nonclinical practice may include a qualified professional who has a bachelor's or graduate degree and the authority to direct the practice of the applicant, including but not limited to an agency director, or agency or consulting supervisor as determined by the board.

(2) submitted a completed, signed application and the license fee in section 148E.180;

(3) for applications submitted electronically, provided an attestation as specified by the board;

(4) submitted the criminal background check fee and a form provided by the board authorizing a criminal background check;

(5) paid the applicable license fee specified in section 148E.180; and

(6) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240 and 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(c) An application that is not completed, signed, and accompanied by the correct license fee, must be returned to the applicant, along with any fee submitted, and is void.

(d) By submitting an application for licensure, an applicant authorizes the board to investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation.

(e) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements and provide all of the information requested by the board according to paragraphs (a) and (b).

(f) Upon licensure, a licensed independent social worker who practices clinical social work must meet the supervised practice requirements specified in sections 148E.100 to 148E.125. If a licensee does not meet the supervised practice requirements, the board may take action according to sections 148E.255 to 148E.270.

Subd. 6. Qualifications during grandfathering for licensure as LICSW. (a) To be licensed as a licensed independent clinical social worker, an applicant for licensure under this section must provide evidence satisfactory to the board that the individual has:

(1) completed a graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board; or

(2) completed a graduate degree and is a mental health professional according to section 245.462, subdivision 18, clauses (1) to (6).

(b) To be licensed as a licensed independent clinical social worker, an applicant for licensure under this section must provide evidence satisfactory to the board that the individual has:

(1) practiced clinical social work as defined in section 148E.010, subdivision 6, including both diagnosis and treatment, and has met the supervised practice requirements specified in sections 148E.100 to 148E.125, excluding the 1,800 hours of direct clinical client contact specified in section 148E.115, subdivision 1, except that supervised practice hours obtained prior to August 1, 2011, must meet the requirements in sections 148D.100 to 148D.125;

(2) submitted a completed, signed application and the license fee in section 148E.180;

(3) for applications submitted electronically, provided an attestation as specified by the board;

(4) submitted the criminal background check fee and a form provided by the board authorizing a criminal background check;

(5) paid the license fee in section 148E.180; and

(6) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.240 and 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(c) An application which is not completed, signed, and accompanied by the correct license fee, must be returned to the applicant, along with any fee submitted, and is void.

(d) By submitting an application for licensure, an applicant authorizes the board to investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation.

(e) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements and provide all of the information requested by the board.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 3. [148E.0556] LISW TRANSITION PERIOD EXCEPTION.

At any time on or after January 1, 2012, until December 31, 2016, to qualify for a licensed independent social worker license, an applicant must submit an application to the board for a licensed independent social worker license and:

(1) hold a current licensed graduate social worker license issued through grandfathering under section 148E.0555, subdivision 4, and:

(i) meet all requirements in effect at the time of application according to section 148E.055, subdivision 4, paragraph (a), excluding clause (1); and

(ii) meet the supervised practice requirements according to section 148E.055, subdivision 4, paragraph (a), clause (2); or

(2) hold a current licensed graduate social worker issued through grandfathering prior to July 1, 1996, and:

(i) meet all requirements in effect at the time of application according to section 148E.055, subdivision 4, paragraph (a), excluding clause (1); and

(ii) meet the supervised practice requirements according to section 148E.055, subdivision 4, paragraph (a), clause (2).

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 4. **[148E.0557] LICSW TRANSITION PERIOD EXCEPTION.**

At any time on or after January 1, 2012, until December 31, 2016, to qualify for a licensed independent clinical social worker license, an applicant must submit an application to the board for a licensed independent clinical social worker license and:

(1) hold a current licensed graduate social worker or licensed independent social worker license issued through grandfathering under section 148E.0555, subdivision 4 or 5, and:

(i) meet all requirements in effect at the time of application according to section 148E.055, subdivision 5, paragraph (a), excluding clause (1); and

(ii) meet the supervised practice requirements according to section 148E.055, subdivision 5, paragraph (a), clause (3); or

(2) hold a current licensed graduate social worker or licensed independent social worker license issued through grandfathering prior to July 1, 1996, and:

(i) meet all requirements in effect at the time of application according to section 148E.055, subdivision 5, paragraph (a), excluding clause (1); and

(ii) meet the supervised practice requirements according to section 148E.055, subdivision 5, paragraph (a), clause (3).

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 5. Minnesota Statutes 2010, section 148E.060, subdivision 1, is amended to read:

Subdivision 1. **Students and other persons not currently licensed in another jurisdiction.** (a) The board may issue a temporary license to practice social work to an applicant who is not licensed or credentialed to practice social work in any jurisdiction but has:

(1) applied for a license under section 148E.055;

(2) applied for a temporary license on a form provided by the board;

(3) submitted a form provided by the board authorizing the board to complete a criminal background check;

(4) passed the applicable licensure examination provided for in section 148E.055;

(5) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar ~~accreditation~~ accrediting body designated by the board, or a doctorate in social work from an accredited university; and

(6) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(b) A temporary license issued under this subdivision expires after six months.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 6. Minnesota Statutes 2010, section 148E.060, subdivision 2, is amended to read:

Subd. 2. **Emergency situations and persons currently licensed in another jurisdiction.** (a) The board may issue a temporary license to practice social work to an applicant who is licensed or credentialed to practice social work in another jurisdiction, may or may not have applied for a license under section 148E.055, and has:

(1) applied for a temporary license on a form provided by the board;

(2) submitted a form provided by the board authorizing the board to complete a criminal background check;

(3) submitted evidence satisfactory to the board that the applicant is currently licensed or credentialed to practice social work in another jurisdiction;

(4) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar ~~accreditation~~ accrediting body designated by the board, or a doctorate in social work from an accredited university; and

(5) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(b) A temporary license issued under this subdivision expires after six months.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 7. Minnesota Statutes 2010, section 148E.060, is amended by adding a subdivision to read:

Subd. 2a. **Programs in candidacy status.** (a) The board may issue a temporary license to practice social work to an applicant who has completed the requirements for a baccalaureate or graduate degree in social work from a program in candidacy status with the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board, and has:

(1) applied for a license under section 148E.055;

(2) applied for a temporary license on a form provided by the board;

(3) submitted a form provided by the board authorizing the board to complete a criminal background check;

(4) passed the applicable licensure examination provided for in section 148E.055; and

(5) not engaged in conduct that is in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has engaged in conduct that is in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(b) A temporary license issued under this subdivision expires after 12 months but may be extended at the board's discretion upon a showing that the social work program remains in good standing with the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board. If the board receives notice from the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board that the social work program is not in good standing, or that the accreditation will not be granted to the social work program, the temporary license is immediately revoked.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 8. Minnesota Statutes 2010, section 148E.060, subdivision 3, is amended to read:

Subd. 3. **Teachers.** (a) The board may issue a temporary license to practice social work to an applicant whose permanent residence is outside the United States, who is teaching social work at an academic institution in Minnesota for a period not to exceed 12 months, who may or may not have applied for a license under section 148E.055, and who has:

(1) applied for a temporary license on a form provided by the board;

(2) submitted a form provided by the board authorizing the board to complete a criminal background check;

(3) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work; and

(4) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(b) A temporary license issued under this subdivision expires after 12 months.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 9. Minnesota Statutes 2010, section 148E.060, subdivision 5, is amended to read:

Subd. 5. **Temporary license term.** (a) A temporary license is valid until expiration, or until the board issues or denies the license according to section 148E.055, or until the board revokes the temporary license, whichever comes first. A temporary license is nonrenewable.

~~(b) A temporary license issued according to subdivision 1 or 2 expires after six months.~~

~~(c) A temporary license issued according to subdivision 3 expires after 12 months.~~

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 10. Minnesota Statutes 2010, section 148E.065, subdivision 2, is amended to read:

Subd. 2. **Students.** An internship, externship, or any other social work experience that is required for the completion of an accredited program of social work does not constitute the practice of social work under this chapter. Students exempted under this section may use the title "social work intern."

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 11. Minnesota Statutes 2010, section 148E.065, subdivision 4, is amended to read:

Subd. 4. **City, county, and state agency social workers.** (a) The licensure of city, county, and state agency social workers is voluntary, except an individual who is newly employed by a city or state agency on or after July 1, 2015, must be licensed if the individual who provides social work services, as those services are defined in section 148E.010, subdivision 11, paragraph (b), is presented to the public by any title incorporating the words "social work" or "social worker."

(b) City, county, and state agencies employing social workers are not required to employ licensed social workers.

EFFECTIVE DATE. This section is effective July 1, 2015.

Sec. 12. Minnesota Statutes 2010, section 148E.065, subdivision 5, is amended to read:

Subd. 5. **Tribes and private nonprofit agencies; voluntary licensure.** (a) The licensure of social workers who are employed by federally recognized tribes, ~~or by private nonprofit agencies~~ is voluntary.

(b) ~~The licensure of private nonprofit nontribal agency social workers~~ whose primary service focus addresses ethnic minority populations, and who are themselves members of ethnic minority populations within those agencies, is voluntary, until July 1, 2015, when individuals who practice social work must be licensed as required under section 148E.055, subdivision 1.

EFFECTIVE DATE. This section is effective July 1, 2015.

Sec. 13. Minnesota Statutes 2010, section 148E.120, is amended to read:

148E.120 REQUIREMENTS OF SUPERVISORS.

Subdivision 1. **Supervisors licensed as social workers.** (a) Except as provided in ~~paragraph (d)~~ subdivision 2, to be eligible to provide supervision under this section, a social worker must:

(1) have completed 30 hours of training in supervision through coursework from an accredited college or university, or through continuing education in compliance with sections 148E.130 to 148E.170;

(2) be competent in the activities being supervised; and

(3) attest, on a form provided by the board, that the social worker has met the applicable requirements specified in this section and sections 148E.100 to 148E.115. The board may audit the information provided to determine compliance with the requirements of this section.

(b) A licensed independent clinical social worker providing clinical licensing supervision to a licensed graduate social worker or a licensed independent social worker must have at least 2,000 hours of experience in authorized social work practice, including 1,000 hours of experience in clinical practice after obtaining a licensed independent clinical social worker license.

(c) A licensed social worker, licensed graduate social worker, licensed independent social worker, or licensed independent clinical social worker providing nonclinical licensing supervision must have completed the supervised practice requirements specified in section 148E.100, 148E.105, 148E.106, 148E.110, or 148E.115, as applicable.

~~(d) If the board determines that supervision is not obtainable from an individual meeting the requirements specified in paragraph (a), the board may approve an alternate supervisor according to subdivision 2.~~

Subd. 2. **Alternate supervisors.** ~~(a) The board may approve an alternate supervisor if:~~ The board may approve an alternate supervisor as determined in this subdivision. The board shall approve up to 25 percent of the required supervision hours by a licensed mental health professional who is competent and qualified to provide supervision according to the mental health professional's respective licensing board, as established by section 245.462, subdivision 18, clauses (1) to (6), or 245.4871, subdivision 27, clauses (1) to (6).

~~(1) the board determines that supervision is not obtainable according to paragraph (b);~~

~~(2) the licensee requests in the supervision plan submitted according to section 148E.125, subdivision 1, that an alternate supervisor conduct the supervision;~~

~~(3) the licensee describes the proposed supervision and the name and qualifications of the proposed alternate supervisor; and~~

~~(4) the requirements of paragraph (d) are met.~~

~~(b) The board may determine that supervision is not obtainable if:~~

~~(1) the licensee provides documentation as an attachment to the supervision plan submitted according to section 148E.125, subdivision 1, that the licensee has conducted a thorough search for a supervisor meeting the applicable licensure requirements specified in sections 148E.100 to 148E.115;~~

~~(2) the licensee demonstrates to the board's satisfaction that the search was unsuccessful; and~~

~~(3) the licensee describes the extent of the search and the names and locations of the persons and organizations contacted.~~

~~(c) The requirements specified in paragraph (b) do not apply to obtaining licensing supervision for social work practice if the board determines that there are five or fewer supervisors meeting the applicable licensure requirements in sections 148E.100 to 148E.115 in the county where the licensee practices social work.~~

~~(d) An alternate supervisor must:~~

~~(1) be an unlicensed social worker who is employed in, and provides the supervision in, a setting exempt from licensure by section 148E.065, and who has qualifications equivalent to the applicable requirements specified in sections 148E.100 to 148E.115;~~

~~(2) be a social worker engaged in authorized practice in Iowa, Manitoba, North Dakota, Ontario, South Dakota, or Wisconsin, and has the qualifications equivalent to the applicable requirements specified in sections 148E.100 to 148E.115; or~~

~~(3) be a licensed marriage and family therapist or a mental health professional as established by section 245.462, subdivision 18, or 245.4871, subdivision 27, or an equivalent mental health professional, as determined by the board, who is licensed or credentialed by a state, territorial, provincial, or foreign licensing agency.~~

~~(e) In order to qualify to provide clinical supervision of a licensed graduate social worker or licensed independent social worker engaged in clinical practice, the alternate supervisor must be a mental health professional as established by section 245.462, subdivision 18, or 245.4871, subdivision 27, or an equivalent mental health professional, as determined by the board, who is licensed or credentialed by a state, territorial, provincial, or foreign licensing agency.~~

~~(b) The board shall approve up to 100 percent of the required supervision hours by an alternate supervisor if the board determines that:~~

~~(1) there are five or fewer supervisors in the county where the licensee practices social work who meet the applicable licensure requirements in subdivision 1;~~

(2) the supervisor is an unlicensed social worker who is employed in, and provides the supervision in, a setting exempt from licensure by section 148E.065, and who has qualifications equivalent to the applicable requirements specified in sections 148E.100 to 148E.115;

(3) the supervisor is a social worker engaged in authorized social work practice in Iowa, Manitoba, North Dakota, Ontario, South Dakota, or Wisconsin, and has the qualifications equivalent to the applicable requirements in sections 148E.100 to 148E.115; or

(4) the applicant or licensee is engaged in nonclinical authorized social work practice outside of Minnesota and the supervisor meets the qualifications equivalent to the applicable requirements in sections 148E.100 to 148E.115, or the supervisor is an equivalent mental health professional, as determined by the board, who is credentialed by a state, territorial, provincial, or foreign licensing agency; or

(5) the applicant or licensee is engaged in clinical authorized social work practice outside of Minnesota and the supervisor meets qualifications equivalent to the applicable requirements in section 148E.115, or the supervisor is an equivalent mental health professional as determined by the board, who is credentialed by a state, territorial, provincial, or foreign licensing agency.

(c) In order for the board to consider an alternate supervisor under this section, the licensee must:

(1) request in the supervision plan and verification submitted according to section 148E.125, that an alternate supervisor conduct the supervision; and

(2) describe the proposed supervision and the name and qualifications of the proposed alternate supervisor. The board may audit the information provided to determine compliance with the requirements of this section.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 14. Minnesota Statutes 2010, section 148E.195, subdivision 2, is amended to read:

Subd. 2. **Representations.** (a) No applicant or other individual may be represented to the public by any title incorporating the words "social work" or "social worker" unless the individual holds a license according to ~~sections 148E.055 and 148E.060 or practices in a setting exempt from licensure according to~~ this section 148E.065.

(b) In all professional use of a social worker's name, the social worker must use the license designation "LSW" or "licensed social worker" for a licensed social worker, "LGSW" or "licensed graduate social worker" for a licensed graduate social worker, "LISW" or "licensed independent social worker" for a licensed independent social worker, or "LICSW" or "licensed independent clinical social worker" for a licensed independent clinical social worker.

(c) Public statements or advertisements must not be untruthful, misleading, false, fraudulent, deceptive, or potentially exploitative of clients, former clients, interns, students, supervisees, or the public.

(d) A social worker must not:

(1) use licensure status as a claim, promise, or guarantee of successful service;

(2) obtain a license by cheating or employing fraud or deception;

(3) make false statements or misrepresentations to the board or in materials submitted to the board; or

(4) engage in conduct that has the potential to deceive or defraud a social work client, intern, student, supervisee, or the public.

EFFECTIVE DATE. This section is effective July 1, 2015.

Sec. 15. Minnesota Statutes 2010, section 148E.280, is amended to read:

148E.280 USE OF TITLES.

No individual may be presented to the public by any title incorporating the words "social work" or "social worker" or in the titles in section 148E.195, unless that individual is employed by a county or holds a license under sections 148E.055 and 148E.060, or practices in a setting exempt from licensure under this section 148E.065.

EFFECTIVE DATE. This section is effective July 1, 2015.

Sec. 16. **REPEALER.**

Minnesota Statutes 2010, section 148E.065, subdivision 3, is repealed August 1, 2011.

ARTICLE 4
ALCOHOL AND DRUG COUNSELOR

Section 1. **[148F.001] SCOPE.**

This chapter applies to all applicants and licensees, all persons who use the title alcohol and drug counselor, and all persons in or out of this state who provide alcohol and drug counseling services to clients who reside in this state unless there are specific applicable exemptions provided by law.

Sec. 2. **[148F.010] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of this chapter, the terms in this section have the meanings given.

Subd. 2. **Abuse.** "Abuse" means a maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by one or more of the following occurring at any time during the same 12-month period:

(1) recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home;

(2) recurrent substance use in situations in which it is physically hazardous;

(3) recurrent substance-related legal problems; and

(4) continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance.

Subd. 3. **Accredited school or educational program.** "Accredited school or educational program" means a school of alcohol and drug counseling, university, college, or other postsecondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Postsecondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of the education, practicum, and core function standards in this chapter.

Subd. 4. **Alcohol and drug counseling practicum.** "Alcohol and drug counseling practicum" means formal experience gained by a student and supervised by a person either licensed under this chapter or exempt under its provisions, as part of an accredited school or educational program of alcohol and drug counseling.

Subd. 5. **Alcohol and drug counselor.** "Alcohol and drug counselor" means a person who holds a valid license issued under this chapter to engage in the practice of alcohol and drug counseling.

Subd. 6. **Applicant.** "Applicant" means a person seeking a license or temporary permit under this chapter.

Subd. 7. **Board.** "Board" means the Board of Behavioral Health and Therapy established in section 148B.51.

Subd. 8. **Client.** "Client" means an individual who is the recipient of any of the alcohol and drug counseling services described in this section. Client also means "patient" as defined in Minnesota Statutes, section 144.291, subdivision 2, paragraph (g).

Subd. 9. **Competence.** "Competence" means the ability to provide services within the practice of alcohol and drug counseling as defined in subdivision 18, that:

- (1) are rendered with reasonable skill and safety;
- (2) meet minimum standards of acceptable and prevailing practice as described in section 148F.120; and
- (3) take into account human diversity.

Subd. 10. **Core functions.** "Core functions" means the following services provided in alcohol and drug treatment:

(1) "screening" means the process by which a client is determined appropriate and eligible for admission to a particular program;

(2) "intake" means the administrative and initial assessment procedures for admission to a program;

(3) "orientation" means describing to the client the general nature and goals of the program; rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program; in a nonresidential program, the hours during which services are available; treatment costs to be borne by the client, if any; and client's rights;

(4) "assessment" means those procedures by which a counselor identifies and evaluates an individual's strengths, weaknesses, problems, and needs to develop a treatment plan or make recommendations for level of care placement;

(5) "treatment planning" means the process by which the counselor and the client identify and rank problems needing resolution; establish agreed upon immediate and long-term goals; and decide on a treatment process and the sources to be utilized;

(6) "counseling" means the utilization of special skills to assist individuals, families, or groups in achieving objectives through exploration of a problem and its ramifications; examination of attitudes and feelings; consideration of alternative solutions; and decision making;

(7) "case management" means activities that bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals;

(8) "crisis intervention" means those services which respond to an alcohol or other drug user's needs during acute emotional or physical distress;

(9) "client education" means the provision of information to clients who are receiving or seeking counseling concerning alcohol and other drug abuse and the available services and resources;

(10) "referral" means identifying the needs of the client which cannot be met by the counselor or agency and assisting the client to utilize the support systems and available community resources;

(11) "reports and record keeping" means charting the results of the assessment and treatment plan and writing reports, progress notes, discharge summaries, and other client-related data; and

(12) "consultation with other professionals regarding client treatment and services" means communicating with other professionals in regard to client treatment and services to assure comprehensive, quality care for the client.

Subd. 11. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in the practice of an occupation in any state or jurisdiction.

Subd. 12. **Dependent on the provider.** "Dependent on the provider" means that the nature of a former client's emotional or cognitive condition and the nature of the services by the provider are such that the provider knows or should have known that the former client is unable to withhold consent to sexually exploitative behavior by the provider.

Subd. 13. **Familial.** "Familial" means of, involving, related to, or common to a family member as defined in subdivision 14.

Subd. 14. **Family member or member of the family.** "Family member" or "member of the family" means a spouse, parent, offspring, sibling, grandparent, grandchild, uncle, aunt, niece, or nephew, or an individual who serves in the role of one of the foregoing.

Subd. 15. **Group clients.** "Group clients" means two or more individuals who are each a corecipient of alcohol and drug counseling services. Group clients may include, but are not limited to, two or more family members, when each is the direct recipient of services, or each client receiving group counseling services.

Subd. 16. **Human diversity.** "Human diversity" means individual client differences that are associated with the client's cultural group, including race, ethnicity, national origin, religious affiliation, language, age, gender, gender identity, physical and mental capabilities, sexual orientation, marital status, or socioeconomic status.

Subd. 17. **Informed consent.** "Informed consent" means an agreement between a provider and a client that authorizes the provider to engage in a professional activity affecting the client. Informed consent requires:

(1) the provider to give the client sufficient information so the client is able to decide knowingly whether to agree to the proposed professional activity;

(2) the provider to discuss the information in language that the client can reasonably be expected to understand; and

(3) the client's consent to be given without undue influence by the provider.

Subd. 18. **Licensee.** "Licensee" means a person who holds a valid license under this chapter.

Subd. 19. **Practice of alcohol and drug counseling.** "Practice of alcohol and drug counseling" means the observation, description, evaluation, interpretation, and modification of human behavior by the application of core functions as it relates to the harmful or pathological use or abuse of alcohol or other drugs. The practice of alcohol and drug counseling includes, but is not limited to, the following activities, regardless of whether the counselor receives compensation for the activities:

- (1) assisting clients who use alcohol or drugs, evaluating that use, and recognizing dependency if it exists;
- (2) assisting clients with alcohol or other drug problems to gain insight and motivation aimed at resolving those problems;
- (3) providing experienced professional guidance, assistance, and support for the client's efforts to develop and maintain a responsible functional lifestyle;
- (4) recognizing problems outside the scope of the counselor's training, skill, or competence and referring the client to other appropriate professional services;
- (5) diagnosing the level of alcohol or other drug use involvement to determine the level of care;
- (6) individual planning to prevent a return to harmful alcohol or chemical use;
- (7) alcohol and other drug abuse education for clients;
- (8) consultation with other professionals;
- (9) gaining diversity awareness through ongoing training and education; and
- (10) providing the above services, as needed, to family members or others who are directly affected by someone using alcohol or other drugs.

Subd. 20. **Practice foundation.** "Practice foundation" means that an alcohol and drug counseling service or continuing education activity is based upon observations, methods, procedures, or theories that are generally accepted by the professional community in alcohol and drug counseling.

Subd. 21. **Private information.** "Private information" means any information, including, but not limited to, client records as defined in section 148F.150, test results, or test interpretations developed during a professional relationship between a provider and a client.

Subd. 22. **Provider.** "Provider" means a licensee, a temporary permit holder, or an applicant.

Subd. 23. **Public statement.** "Public statement" means any statement, communication, or representation, by a provider to the public regarding the provider or the provider's professional services or products. Public statements include, but are not limited to, advertising, representations in reports or letters, descriptions of credentials and qualifications, brochures and other descriptions of services, directory listings, personal resumes or curricula vitae, comments for use in the media, websites, grant and credentialing applications, or product endorsements.

Subd. 24. **Report.** "Report" means any written or oral professional communication, including a letter, regarding a client or subject that includes one or more of the following: historical data, behavioral observations, opinions, diagnostic or evaluative statements, or recommendations. The testimony of a provider as an expert or fact witness in a legal proceeding also constitutes a report. For purposes of this chapter, letters of recommendation for academic or career purposes are not considered reports.

Subd. 25. **Significant risks and benefits.** "Significant risks and benefits" means those risks and benefits that are known or reasonably foreseeable by the provider, including the possible range and likelihood of outcomes, and that are necessary for the client to know in order to decide whether to give consent to proposed services or to reasonable alternative services.

Subd. 26. **Student.** "Student" means an individual who is enrolled in a program in alcohol and drug counseling at an accredited educational institution, or who is taking an alcohol and drug counseling course or practicum for credit.

Subd. 27. **Supervisee.** "Supervisee" means an individual whose supervision is required to obtain credentialing by a licensure board or to comply with a board order.

Subd. 28. **Supervisor.** "Supervisor" means a licensed alcohol and drug counselor licensed under this chapter or other licensed professional practicing alcohol and drug counseling under section 148F.110, who meets the requirements of section 148F.040, subdivision 3, and who provides supervision to persons seeking licensure under section 148F.025, subdivision 3, paragraph (2), clause (ii).

Subd. 29. **Test.** "Test" means any instrument, device, survey, questionnaire, technique, scale, inventory, or other process which is designed or constructed for the purpose of measuring, evaluating, assessing, describing, or predicting personality, behavior, traits, cognitive functioning, aptitudes, attitudes, skills, values, interests, abilities, or other characteristics of individuals.

Subd. 30. **Unprofessional conduct.** "Unprofessional conduct" means any conduct violating sections 148F.001 to 148F.205, or any conduct that fails to conform to the minimum standards of acceptable and prevailing practice necessary for the protection of the public.

Subd. 31. **Variance.** "Variance" means board-authorized permission to comply with a law or rule in a manner other than that generally specified in the law or rule.

Sec. 3. [148F.015] DUTIES OF THE BOARD.

The board shall:

(1) adopt and enforce rules for licensure and regulation of alcohol and drug counselors and temporary permit holders, including a standard disciplinary process and rules of professional conduct;

(2) issue licenses and temporary permits to qualified individuals under sections 148F.001 to 148F.205;

(3) carry out disciplinary actions against licensees and temporary permit holders;

(4) educate the public about the existence and content of the regulations for alcohol and drug counselor licensing to enable consumers to file complaints against licensees who may have violated the rules; and

(5) collect nonrefundable license fees for alcohol and drug counselors.

Sec. 4. [148F.020] DUTY TO MAINTAIN CURRENT INFORMATION.

All individuals licensed as alcohol and drug counselors, all individuals with temporary permits, and all applicants for licensure must notify the board within 30 days of the occurrence of any of the following:

(1) a change of name, address, place of employment, and home or business telephone number; and

(2) a change in any other application information.

Sec. 5. **[148F.025] REQUIREMENTS FOR LICENSURE.**

Subdivision 1. Form; fee. Individuals seeking licensure as a licensed alcohol and drug counselor shall fully complete and submit a notarized written application on forms provided by the board together with the appropriate fee in the amount set by the board. No portion of the fee is refundable.

Subd. 2. Education requirements for licensure. An applicant for licensure must submit evidence satisfactory to the board that the applicant has:

(1) received a bachelor's degree from an accredited school or educational program; and

(2) received 18 semester credits or 270 clock hours of academic course work and 880 clock hours of supervised alcohol and drug counseling practicum from an accredited school or education program. The course work and practicum do not have to be part of the bachelor's degree earned under clause (1). The academic course work must be in the following areas:

(i) an overview of the transdisciplinary foundations of alcohol and drug counseling, including theories of chemical dependency, the continuum of care, and the process of change;

(ii) pharmacology of substance abuse disorders and the dynamics of addiction, including medication-assisted therapy;

(iii) professional and ethical responsibilities;

(iv) multicultural aspects of chemical dependency;

(v) co-occurring disorders; and

(vi) the core functions defined in section 148F.010, subdivision 10.

Subd. 3. Examination requirements for licensure. (a) To be eligible for licensure, the applicant must:

(1) satisfactorily pass the International Certification and Reciprocity Consortium Alcohol and Other Drug Abuse Counselor (IC&RC AODA) written examination adopted June 2008, or other equivalent examination as determined by the board; or

(2) satisfactorily pass a written examination for licensure as an alcohol and drug counselor, as determined by the board, and one of the following:

(i) complete a written case presentation and pass an oral examination that demonstrates competence in the core functions as defined in section 148F.010, subdivision 10; or

(ii) complete 2,000 hours of postdegree supervised professional practice under section 148F.040.

Subd. 4. Background investigation. The applicant must sign a release authorizing the board to obtain information from the Bureau of Criminal Apprehension, the Federal Bureau of Investigation, the Department of Human Services, the Office of Health Facilities Complaints, and other agencies specified by the board. After the board has given written notice to an individual who is the subject of a background investigation, the agencies shall assist the board with the investigation by giving the board criminal conviction data, reports about substantiated maltreatment of minors and vulnerable adults, and other information. The board may contract with the commissioner of human services to obtain criminal history data from the Bureau of Criminal Apprehension.

Sec. 6. **[148F.030] RECIPROCITY.**

(a) An individual who holds a current license or national certification as an alcohol and drug counselor from another jurisdiction must file with the board a completed application for licensure by reciprocity containing the information required in this section.

(b) The applicant must request the credentialing authority of the jurisdiction in which the credential is held to send directly to the board a statement that the credential is current and in good standing, the applicant's qualifications that entitled the applicant to the credential, and a copy of the jurisdiction's credentialing laws and rules that were in effect at the time the applicant obtained the credential.

(c) The board shall issue a license if the board finds that the requirements which the applicant met to obtain the credential from the other jurisdiction were substantially similar to the current requirements for licensure in this chapter and that the applicant is not otherwise disqualified under section 148F.090.

Sec. 7. **[148F.035] TEMPORARY PERMIT.**

(a) The board may issue a temporary permit to practice alcohol and drug counseling to an individual prior to being licensed under this chapter if the person:

(1) received an associate degree, or an equivalent number of credit hours, completed 880 clock hours of supervised alcohol and drug counseling practicum, and 18 semester credits or 270 clock hours of academic course work in alcohol and drug counseling from an accredited school or education program; and

(2) completed academic course work in the following areas:

(i) overview of the transdisciplinary foundations of alcohol and drug counseling, including theories of chemical dependency, the continuum of care, and the process of change;

(ii) pharmacology of substance abuse disorders and the dynamics of addiction, including medication-assisted therapy;

(iii) professional and ethical responsibilities;

(iv) multicultural aspects of chemical dependency;

(v) co-occurring disorders; and

(vi) core functions defined in section 148F.010, subdivision 10.

(b) An individual seeking a temporary permit shall fully complete and submit a notarized written application on forms provided by the board together with the nonrefundable temporary permit fee specified in section 148F.115, subdivision 3, clause (1).

(c) An individual practicing under this section:

(1) must be supervised by a licensed alcohol and drug counselor or other licensed professional practicing alcohol and drug counseling under section 148F.110, subdivision 1;

(2) is subject to all statutes and rules to the same extent as an individual who is licensed under this chapter, except the individual is not subject to the continuing education requirements of section 148F.075; and

(3) must use the title "Alcohol and Drug Counselor-Trainee" or the letters "ADC-T" in professional activities.

(d) (1) An individual practicing with a temporary permit must submit a renewal application annually on forms provided by the board with the renewal fee required in section 148F.115, subdivision 3.

(2) A temporary permit is automatically terminated if not renewed, upon a change in supervision, or upon the granting or denial by the board of the applicant's application for licensure as an alcohol and drug counselor.

(3) A temporary permit may be renewed no more than five times.

Sec. 8. **[148F.040] SUPERVISED POSTDEGREE PROFESSIONAL PRACTICE.**

Subdivision 1. **Supervision.** For the purposes of this section, "supervision" means documented interactive consultation, which, subject to the limitations of subdivision 4, paragraph (b), may be conducted in person, by telephone, or by audio or audiovisual electronic device by a supervisor with a supervisee. The supervision must be adequate to ensure the quality and competence of the activities supervised. Supervisory consultation must include discussions on the nature and content of the practice of the supervisee, including, but not limited to, a review of a representative sample of alcohol and drug counseling services in the supervisee's practice.

Subd. 2. **Postdegree professional practice.** "Postdegree professional practice" means paid or volunteer work experience and training following graduation from an accredited school or educational program that involves professional oversight by a supervisor approved by the board and that satisfies the supervision requirements in subdivision 4.

Subd. 3. **Supervisor requirements.** For the purposes of this section, a supervisor shall:

(1) be a licensed alcohol and drug counselor or other qualified professional as determined by the board;

(2) have three years of experience providing alcohol and drug counseling services; and

(3) have received a minimum of 12 hours of training in clinical and ethical supervision, which may include course work, continuing education courses, workshops, or a combination thereof.

Subd. 4. **Supervised practice requirements for licensure.** (a) The content of supervision must include:

(1) knowledge, skills, values, and ethics with specific application to the practice issues faced by the supervisee, including the core functions in section 148F.010, subdivision 10;

(2) the standards of practice and ethical conduct, with particular emphasis given to the counselor's role and appropriate responsibilities, professional boundaries, and power dynamics; and

(3) the supervisee's permissible scope of practice, as defined in section 148F.010, subdivision 19.

(b) The supervision must be obtained at the rate of one hour of supervision per 40 hours of professional practice, for a total of 50 hours of supervision. The supervision must be evenly distributed over the course of the supervised professional practice. At least 75 percent of the required supervision hours must be received in person. The remaining 25 percent of the required hours may be received by telephone or by audio or audiovisual electronic device. At least 50 percent of the required hours of supervision must be received on an individual basis. The remaining 50 percent may be received in a group setting.

(c) The supervision must be completed in no fewer than 12 consecutive months and no more than 36 consecutive months.

(d) The applicant shall include with an application for licensure a verification of completion of the 2,000 hours of supervised professional practice. Verification must be on a form specified by the board. The supervisor shall verify that the supervisee has completed the required hours of supervision according to this section. The supervised practice required under this section is unacceptable if the supervisor attests that the supervisee's performance, competence, or adherence to the standards of practice and ethical conduct has been unsatisfactory.

Sec. 9. **[148F.045] ALCOHOL AND DRUG COUNSELOR TECHNICIAN.**

An alcohol and drug counselor technician may perform the screening intake and orientation services described in section 148F.010, subdivision 19, clauses (1), (2), and (3), while under the direct supervision of a licensed alcohol and drug counselor.

Sec. 10. **[148F.050] LICENSE RENEWAL REQUIREMENTS.**

Subdivision 1. **Biennial renewal.** A license must be renewed every two years.

Subd. 2. **License renewal notice.** At least 60 calendar days before the renewal deadline date, the board shall mail a renewal notice to the licensee's last known address on file with the board. The notice must include instructions for accessing an online application for license renewal, the renewal deadline, and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for license renewal.

Subd. 3. **Renewal requirements.** (a) To renew a license, a licensee must submit to the board:

(1) a completed, signed, and notarized application for license renewal;

(2) the renewal fee required under section 148F.115, subdivision 2; and

(3) evidence satisfactory to the board that the licensee has completed 40 clock hours of continuing education during the preceding two year renewal period that meet the requirements of section 148F.075.

(b) The application must be postmarked or received by the board by the end of the day on which the license expires or the following business day if the expiration date falls on a Saturday, Sunday, or holiday. An application which is not completed, signed, notarized, or which is not accompanied by the correct fee, is void and must be returned to the licensee.

Subd. 4. **Pending renewal.** If a licensee's application for license renewal is postmarked or received by the board by the end of the business day on the expiration date of the license, the licensee may continue to practice after the expiration date while the application for license renewal is pending with the board.

Subd. 5. **Late renewal fee.** If the application for license renewal is postmarked or received after the expiration date, the licensee shall pay a late fee as specified by section 148F.115, subdivision 5, clause (1), in addition to the renewal fee, before the application for license renewal will be considered by the board.

Sec. 11. **[148F.055] EXPIRED LICENSE.**

Subdivision 1. **Expiration of license.** A licensee who fails to submit an application for license renewal, or whose application for license renewal is not postmarked or received by the board as required, is not authorized to practice after the expiration date and is subject to disciplinary action by the board for any practice after the expiration date.

Subd. 2. **Termination for nonrenewal.** (a) Within 30 days after the renewal date, a licensee who has not renewed the license shall be notified by letter sent to the last known address of the licensee in the board's file that the renewal is overdue and that failure to pay the current fee and current late fee within 60 days after the renewal date will result in termination of the license.

(b) The board shall terminate the license of a licensee whose license renewal is at least 60 days overdue and to whom notification has been sent as provided in paragraph (a). Failure of a licensee to receive notification is not grounds for later challenge of the termination. The former licensee shall be notified of the termination by letter within seven days after the board action, in the same manner as provided in paragraph (a).

Sec. 12. **[148F.060] VOLUNTARY TERMINATION.**

A license may be voluntarily terminated by the licensee at any time upon written notification to the board, unless a complaint is pending against the licensee. The notification must be received by the board prior to termination of the license for failure to renew. A former licensee may be licensed again only after complying with the relicensure following termination requirements under section 148F.065. For purposes of this section, the board retains jurisdiction over any licensee whose license has been voluntarily terminated and against whom the board receives a complaint for conduct occurring during the period of licensure.

Sec. 13. **[148F.065] RELICENSURE FOLLOWING TERMINATION.**

Subdivision 1. **Relicensure.** For a period of two years, a former licensee whose license has been voluntarily terminated or terminated for nonrenewal as provided in section 148F.055, subdivision 2, may be relicensed by completing an application for relicensure, paying the applicable fee, and verifying that the former licensee has not engaged in the practice of alcohol and drug counseling in this state since the date of termination. The verification must be accompanied by a notarized affirmation that the statement is true and correct to the best knowledge and belief of the former licensee.

Subd. 2. **Continuing education for relicensure.** A former licensee seeking relicensure after license termination must provide evidence of having completed at least 20 hours of continuing education activities for each year, or portion thereof, that the former licensee did not hold a license.

Subd. 3. **Cancellation of license.** The board shall not renew, reissue, reinstate, or restore the license of a former licensee which was terminated for nonrenewal, or voluntarily terminated, and for which relicensure was not sought for more than two years from the date the license was terminated for nonrenewal, or voluntarily terminated. A former licensee seeking relicensure after this two-year period must obtain a new license by applying for licensure and fulfilling all requirements then in existence for an initial license to practice alcohol and drug counseling in Minnesota.

Sec. 14. **[148F.070] INACTIVE LICENSE STATUS.**

Subdivision 1. **Request for inactive status.** Unless a complaint is pending against the licensee, a licensee whose license is in good standing may request, in writing, that the license be placed on the inactive list. If a complaint is pending against a licensee, a license may not be placed on the inactive list until action relating to the complaint is concluded. The board must receive the request for inactive status before expiration of the license, or the person must pay the late fee. A licensee may renew a license that is inactive under this subdivision by meeting the renewal requirements of subdivision 2. A licensee must not practice alcohol and drug counseling while the license is inactive.

Subd. 2. **Renewal of inactive license.** A licensee whose license is inactive must renew the inactive status by the inactive status expiration date determined by the board, or the license will expire. An application for renewal of inactive status must include evidence satisfactory to the board that the licensee has completed 40 clock hours of continuing education required in section 148F.075. Late renewal of inactive status must be accompanied by a late fee as required in section 148F.115, subdivision 5, paragraph (2).

Sec. 15. **[148F.075] CONTINUING EDUCATION REQUIREMENTS.**

Subdivision 1. **Purpose.** (a) The purpose of mandatory continuing education is to promote the professional development of alcohol and drug counselors so that the services they provide promote the health and well-being of clients who receive services.

(b) Continued professional growth and maintaining competence in providing alcohol and drug counseling services are the ethical responsibilities of each licensee.

Subd. 2. **Requirement.** Every two years, all licensees must complete a minimum of 40 clock hours of continuing education activities that meet the requirements in this section. The 40 clock hours shall include a minimum of nine clock hours on human diversity, and a minimum of three clock hours on professional ethics. A licensee may be given credit only for activities that directly relate to the practice of alcohol and drug counseling.

Subd. 3. **Standards for approval.** In order to obtain clock hour credit for a continuing education activity, the activity must:

- (1) constitute an organized program of learning;
- (2) reasonably be expected to advance the knowledge and skills of the alcohol and drug counselor;
- (3) pertain to subjects that directly relate to the practice of alcohol and drug counseling;
- (4) be conducted by individuals who have education, training, and experience and are knowledgeable about the subject matter; and
- (5) be presented by a sponsor who has a system to verify participation and maintains attendance records for three years, unless the sponsor provides dated evidence to each participant with the number of clock hours awarded.

Subd. 4. **Qualifying activities.** Clock hours may be earned through the following:

- (1) attendance at educational programs of annual conferences, lectures, panel discussions, workshops, in-service training, seminars, and symposia;
- (2) successful completion of college or university courses offered by a regionally accredited school or education program, if not being taken in order to meet the educational requirements for licensure under this chapter. The licensee must obtain a grade of at least a "C" or its equivalent or a pass in a pass/fail course in order to receive the following continuing education credits:
 - (i) one semester credit equals 15 clock hours;
 - (ii) one trimester credit equals 12 clock hours;
 - (iii) one quarter credit equals 10 clock hours;

(3) successful completion of home study or online courses offered by an accredited school or education program and that require a licensee to demonstrate knowledge following completion of the course;

(4) teaching a course at a regionally accredited institution of higher education. To qualify for continuing education credit, the course must directly relate to the practice of alcohol and drug counseling, as determined by the board. Continuing education hours may be earned only for the first time the licensee teaches the course. Ten continuing education hours may be earned for each semester credit hour taught; or

(5) presentations at workshops, seminars, symposia, meetings of professional organizations, in-service trainings, or postgraduate institutes. The presentation must be related to alcohol and drug counseling. A presenter may claim one hour of continuing education for each hour of presentation time. A presenter may also receive continuing education hours for development time at the rate of three hours for each hour of presentation time. Continuing education hours may be earned only for the licensee's first presentation on the subject developed.

Subd. 5. **Activities not qualifying for continuing education clock hours.** Approval shall not be given for courses that do not do meet the requirements of this section or are limited to the following:

(1) any subject contrary to the rules of professional conduct;

(2) supervision of personnel;

(3) entertainment or recreational activities;

(4) employment orientation sessions;

(5) policy meetings;

(6) marketing;

(7) business;

(8) first aid, CPR, and similar training classes; and

(9) training related to payment systems, including covered services, coding, and billing.

Subd. 6. **Documentation of reporting compliance.** (a) When the licensee applies for renewal of the license, the licensee must complete and submit an affidavit of continuing education compliance showing that the licensee has completed a minimum of 40 approved continuing education clock hours since the last renewal. Failure to submit the affidavit when required makes the licensee's renewal application incomplete and void.

(b) All licensees shall retain original documentation of completion of continuing education hours for a period of five years. For purposes of compliance with this section, a receipt for payment of the fee for the course is not sufficient evidence of completion of the required hours of continuing education. Information retained shall include:

(1) the continuing education activity title;

(2) a brief description of the continuing education activity;

(3) the sponsor, presenter, or author;

(4) the location and the dates attended;

(5) the number of clock hours; and

(6) the certificate of attendance, if applicable.

(c) Only continuing education obtained during the two-year reporting period may be considered at the time of reporting.

Subd. 7. **Continuing education audit.** (a) At the time of renewal, the board may randomly audit a percentage of its licensees for compliance with continuing education requirements.

(b) The board shall mail a notice to a licensee selected for an audit of continuing education hours. The notice must include the reporting periods selected for audit.

(c) Selected licensees shall submit copies of the original documentation of completed continuing education hours. Upon specific request, the licensee shall submit original documentation. Failure to submit required documentation shall result in the renewal application being considered incomplete and void and constitute grounds for nonrenewal of the license and disciplinary action.

Subd. 8. **Variance of continuing education requirements.** (a) If a licensee is unable to meet the continuing education requirements by the renewal date, the licensee may request a time-limited variance to fulfill the requirements after the renewal date. A licensee seeking a variance is considered to be renewing late and is subject to the late renewal fee, regardless of when the request is received or whether the variance is granted.

(b) The licensee shall submit the variance request on a form designated by the board, include the variance fee subject to section 14.056, subdivision 2, and the late fee for license renewal under section 148F.115. The variance request is subject to the criteria for rule variances in section 14.055, subdivision 4, and must include a written plan listing the activities offered to meet the requirement. Hours completed after the renewal date pursuant to the written plan count toward meeting only the requirements of the previous renewal period.

(c) A variance granted under this subdivision expires six months after the license renewal date. A licensee who is granted a variance but fails to complete the required continuing education within the six-month period may apply for a second variance according to this subdivision.

(d) If an initial variance request is denied, the license of the licensee shall not be renewed until the licensee completes the continuing education requirements. If an initial variance is granted, and the licensee fails to complete the required continuing education within the six-month period, the license shall be administratively suspended until the licensee completes the required continuing education, unless the licensee has obtained a second variance according to paragraph (c).

Sec. 16. **[148F.080] SPONSOR'S APPLICATION FOR APPROVAL.**

Subdivision 1. **Content.** Individuals, organizations, associations, corporations, educational institutions, or groups intending to offer continuing education activities for approval must submit to the board the sponsor application fee and a completed application for approval on a form provided by the board. The sponsor must comply with the following to receive and maintain approval:

(1) submit the application for approval at least 60 days before the activity is scheduled to begin; and

(2) include the following information in the application for approval to enable the board to determine whether the activity complies with section 148F.075:

(i) a statement of the objectives of the activity and the knowledge the participants will have gained upon completion of the activity;

(ii) a description of the content and methodology of the activity which will allow the participants to meet the objectives;

(iii) a description of the method the participants will use to evaluate the activity;

(iv) a list of the qualifications of each instructor or developer that shows the instructor's or developer's current knowledge and skill in the activity's subject;

(v) a description of the certificate or other form of verification of attendance distributed to each participant upon successful completion of the activity;

(vi) the sponsor's agreement to retain attendance lists for a period of five years from the date of the activity; and

(vii) a copy of any proposed advertisement or other promotional literature.

Subd. 2. Approval expiration. If the board approves an activity it shall assign the activity a number. The approval remains in effect for one year from the date of initial approval. Upon expiration, a sponsor must submit a new application for activity approval to the board as required by subdivision 1.

Subd. 3. Statement of board approval. Each sponsor of an approved activity shall include in any promotional literature a statement that "This activity has been approved by the Minnesota Board of Behavioral Health and Therapy for ... hours of credit."

Subd. 4. Changes. The activity sponsor must submit proposed changes in an approved activity to the board for its approval.

Subd. 5. Denial of approval. The board shall not approve an activity if it does not meet the continuing education requirements in section 148F.075. The board shall notify the sponsor in writing of its reasons for denial.

Subd. 6. Revocation of approval. The board shall revoke its approval of an activity if a sponsor falsifies information contained in its application for approval, or if a sponsor fails to notify the board of changes to an approved activity as required in subdivision 4.

Sec. 17. [148F.085] NONTRANSFERABILITY OF LICENSES.

An alcohol and drug counselor license is not transferable.

Sec. 18. [148F.090] DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

Subdivision 1. Grounds. The board may impose disciplinary action as described in subdivision 2 against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

(1) has violated a statute, rule, or order that the board issued or is empowered to enforce;

(2) has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of licensed alcohol and drug counseling that adversely affects the person's ability or fitness to practice alcohol and drug counseling;

(3) has engaged in unprofessional conduct or any other conduct which has the potential for causing harm to the public, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;

(4) has been convicted of or has pled guilty or nolo contendere to a felony or other crime, an element of which is dishonesty or fraud, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the applicant's or licensee's ability or fitness to engage in the practice of alcohol and drug counseling;

(5) has employed fraud or deception in obtaining or renewing a license, or in passing an examination;

(6) has had any license, certificate, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, or not renewed for cause in any jurisdiction or has surrendered or voluntarily terminated a license or certificate during a board investigation of a complaint, as part of a disciplinary order, or while under a disciplinary order;

(7) has failed to meet any requirement for the issuance or renewal of the person's license. The burden of proof is on the applicant or licensee to demonstrate the qualifications or satisfy the requirements for a license under chapter 148F;

(8) has failed to cooperate with an investigation by the board;

(9) has demonstrated an inability to practice alcohol and drug counseling with reasonable skill and safety as a result of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition;

(10) has engaged in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning to a client;

(11) has been subject to a corrective action or similar, nondisciplinary action in another jurisdiction or by another regulatory authority;

(12) has been adjudicated as mentally incompetent, mentally ill, or developmentally disabled or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction within this state or an equivalent adjudication from another state. Adjudication automatically suspends a license for the duration thereof unless the board orders otherwise;

(13) fails to comply with a client's request for health records made under sections 144.291 to 144.298, or to furnish a client record or report required by law;

(14) has engaged in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws; or

(15) has engaged in fee splitting. This clause does not apply to the distribution of revenues from a partnership, group practice, nonprofit corporation, or professional corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the licensee or under a licensee's administrative authority. Fee splitting includes, but is not limited to:

(i) dividing fees with another person or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional;

(ii) referring a client to any health care provider as defined in sections 144.291 to 144.298 in which the referring licensee has a significant financial interest, unless the licensee has disclosed in advance to the client the licensee's own financial interest; or

(iii) paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of clients.

Subd. 2. **Forms of disciplinary action.** If grounds for disciplinary action exist under subdivision 1, the board may take one or more of the following actions;

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a licensee's practice of alcohol and drug counseling, including, but not limited to, limiting the scope of practice to designated competencies, imposing retraining or rehabilitation requirements, requiring the licensee to practice under supervision, or conditioning continued practice on the demonstration of knowledge or skill by appropriate examination or other review of skill and competence;

(5) censure or reprimand the licensee;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members; or

(7) any other action justified by the case.

Subd. 3. **Evidence.** In disciplinary actions alleging violations of subdivision 1, clause (4), (12), or (14), a copy of the judgment or proceedings under the seal of the court administrator or of the administrative agency that entered the judgment or proceeding is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.

Subd. 4. **Temporary suspension.** (a) In addition to any other remedy provided by law, the board may issue an order to temporarily suspend the credentials of a licensee after conducting a preliminary inquiry to determine if the board reasonably believes that the licensee has violated a statute or rule that the board is empowered to enforce and whether continued practice by the licensee would create an imminent risk of harm to others.

(b) The order may prohibit the licensee from engaging in the practice of alcohol and drug counseling in whole or in part and may condition the end of a suspension on the licensee's compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) The order shall give notice of the right to a hearing according to this subdivision and shall state the reasons for the entry of the order.

(d) Service of the order is effective when the order is served on the licensee personally or by certified mail, which is complete upon receipt, refusal, or return for nondelivery to the most recent address of the licensee provided to the board.

(e) At the time the board issues a temporary suspension order, the board shall schedule a hearing to be held before its own members. The hearing shall begin no later than 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for hearing by a licensee, on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. The hearing is not subject to chapter 14. Evidence presented by the board or the licensee shall be in affidavit form only. The licensee or counsel of record may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding chapter 14, the administrative law judge shall issue a report within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days of receipt of the administrative law judge's report.

Subd. 5. Automatic suspension. (a) The right to practice is automatically suspended when:

(1) a guardian of an alcohol and drug counselor is appointed by order of a district court under sections 524.5-101 to 524.5-502; or

(2) the counselor is committed by order of a district court under chapter 253B.

(b) The right to practice remains suspended until the counselor is restored to capacity by a court and, upon petition by the counselor, the suspension is terminated by the board after a hearing or upon agreement between the board and the counselor.

Subd. 6. Mental, physical, or chemical health evaluation. (a) If the board has probable cause to believe that an applicant or licensee is unable to practice alcohol and drug counseling with reasonable skill and safety due to a mental or physical illness or condition, the board may direct the individual to submit to a mental, physical, or chemical dependency examination or evaluation.

(1) For the purposes of this section, every licensee and applicant is deemed to have consented to submit to a mental, physical, or chemical dependency examination or evaluation when directed in writing by the board and to have waived all objections to the admissibility of the examining professionals' testimony or examination reports on the grounds that the testimony or examination reports constitute a privileged communication.

(2) Failure of a licensee or applicant to submit to an examination when directed by the board constitutes an admission of the allegations against the person, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence.

(3) A licensee or applicant affected under this subdivision shall at reasonable intervals be given an opportunity to demonstrate that the licensee or applicant can resume the competent practice of licensed alcohol and drug counseling with reasonable skill and safety to the public.

(4) In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against the licensee or applicant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384 or 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that subdivision 1, clause (9), applies to the licensee or applicant. The medical data may be requested from:

(1) a provider, as defined in section 144.291, subdivision 2, paragraph (h);

(2) an insurance company; or

(3) a government agency, including the Department of Human Services.

(c) A provider, insurance company, or government agency must comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false.

(d) Information obtained under this subdivision is classified as private under sections 13.01 to 13.87.

Sec. 19. **[148F.095] ADDITIONAL REMEDIES.**

Subdivision 1. **Cease and desist.** (a) The board may issue a cease and desist order to stop a person from violating or threatening to violate a statute, rule, or order which the board has issued or has authority to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the board and is not reviewable by a court or agency.

(b) A hearing must be initiated by the board not later than 30 days from the date of the board's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, and any written agreement or exceptions filed by the parties, the board shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the board.

(c) When a request for a stay accompanies a timely hearing request, the board may, in the board's discretion, grant the stay. If the board does not grant a requested stay, the board shall refer the request to the Office of Administrative Hearings within three working days of receipt of the request. Within ten days after receiving the request from the board, an administrative law judge shall issue a recommendation to grant or deny the stay. The board shall grant or deny the stay within five working days of receiving the administrative law judge's recommendation.

(d) In the event of noncompliance with a cease and desist order, the board may institute a proceeding in district court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the board, not to exceed \$10,000 for each separate violation.

Subd. 2. **Injunctive relief.** In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, the board may in the board's own name bring an action in district court for injunctive relief to restrain an alcohol and drug counselor from a violation or threatened violation of any statute, rule, or order which the board has authority to administer, enforce, or issue.

Subd. 3. **Additional powers.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a counselor from criminal prosecution by a competent authority or from disciplinary action by the board.

Sec. 20. **[148F.100] COOPERATION.**

An alcohol and drug counselor who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the board, shall cooperate fully with the investigation. Cooperation includes responding fully to any question raised by or on behalf of the board relating to the subject of the investigation, whether tape recorded or not. Challenges to requests of the board may be brought before the appropriate agency or court.

Sec. 21. **[148F.105] PROHIBITED PRACTICE OR USE OF TITLES; PENALTY.**

Subdivision 1. **Practice.** No person shall engage in alcohol and drug counseling without first being licensed under this chapter as an alcohol and drug counselor. For purposes of this chapter, an individual engages in the practice of alcohol and drug counseling if the individual performs or offers to perform alcohol and drug counseling services as defined in section 148F.010, subdivision 18, or if the individual is held out as able to perform those services.

Subd. 2. **Use of titles.** (a) No individual shall present themselves or any other individual to the public by any title incorporating the words "licensed alcohol and drug counselor," "alcohol and drug counselor," or otherwise hold themselves out to the public by any title or description stating or implying that they are licensed or otherwise qualified to practice alcohol and drug counseling, unless that individual holds a valid license.

(b) An individual issued a temporary permit must use titles consistent with section 148F.035, subdivisions 1 and 2, paragraph (c), clause (3).

(c) An individual who is participating in an alcohol and drug counseling practicum for purposes of licensure by the board may be designated an "alcohol and drug counselor intern."

(d) Individuals who are trained in alcohol and drug counseling and employed by an educational institution recognized by a regional accrediting organization, by a federal, state, county, or local government institution, by agencies, or research facilities, may represent themselves by the titles designated by that organization provided the title does not indicate the individual is licensed by the board.

Subd. 3. **Penalty.** A person who violates sections 148F.001 to 148F.205 is guilty of a misdemeanor.

Sec. 22. **[148F.110] EXCEPTIONS TO LICENSE REQUIREMENT.**

Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to: licensed physicians; registered nurses; licensed practical nurses; licensed psychologists and licensed psychological practitioners; members of the clergy provided such services are provided within the scope of regular ministries; American Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed professional clinical counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; Upper Midwest Indian Council on Addictive Disorders (UMICAD) certified counselors when providing services to Native American people; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt from licensure under this section must not use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling, unless that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the use of one of the titles in paragraph (a).

Subd. 2. **Students.** Nothing in sections 148F.001 to 148F.110 shall prevent students enrolled in an accredited school of alcohol and drug counseling from engaging in the practice of alcohol and drug counseling while under qualified supervision in an accredited school of alcohol and drug counseling.

Subd. 3. **Federally recognized tribes.** Alcohol and drug counselors practicing alcohol and drug counseling according to standards established by federally recognized tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals practicing under that authority shall be afforded the same rights, responsibilities, and recognition as persons licensed under this chapter.

Sec. 23. **[148F.115] FEES.**

Subdivision 1. **Application fee.** The application fee is \$295.

Subd. 2. **Biennial renewal fee.** The license renewal fee is \$295. If the board establishes a renewal schedule, and the scheduled renewal date is less than two years, the fee may be prorated.

Subd. 3. **Temporary permit fee.** Temporary permit fees are as follows:

(1) initial application fee is \$100; and

(2) annual renewal fee is \$150. If the initial term is less or more than one year, the fee may be prorated.

Subd. 4. **Inactive license renewal fee.** The inactive license renewal fee is \$150.

Subd. 5. **Late fees.** Late fees are as follows:

(1) biennial renewal late fee is \$74;

(2) inactive license renewal late fee is \$37; and

(3) annual temporary permit late fee is \$37.

Subd. 6. **Fee to renew after expiration of license.** The fee for renewal of a license that has been expired for less than two years is the total of the biennial renewal fee in effect at the time of late renewal and the late fee.

Subd. 7. **Fee for license verification.** The fee for license verification is \$25.

Subd. 8. **Surcharge fee.** Notwithstanding section 16A.1285, subdivision 2, a surcharge of \$99 shall be paid at the time of initial application for or renewal of an alcohol and drug counselor license until June 30, 2013.

Subd. 9. **Sponsor application fee.** The fee for a sponsor application for approval of a continuing education course is \$60.

Subd. 10. **Order or stipulation fee.** The fee for a copy of a board order or stipulation is \$10.

Subd. 11. **Duplicate certificate fee.** The fee for a duplicate certificate is \$25.

Subd. 12. **Supervisor application processing fee.** The fee for licensure supervisor application processing is \$30.

Subd. 13. **Nonrefundable fees.** All fees in this section are nonrefundable.

Sec. 24. **[148F.120] CONDUCT.**

Subdivision 1. **Scope.** Sections 148F.120 to 148F.205 apply to the conduct of all alcohol and drug counselors, licensees, and applicants, including conduct during the period of education, training, and employment that is required for licensure.

Subd. 2. **Purpose.** Sections 148F.120 to 148F.205 constitute the standards by which the professional conduct of alcohol and drug counselors is measured.

Subd. 3. **Violations.** A violation of sections 148F.120 to 148F.205 is unprofessional conduct and constitutes grounds for disciplinary action, corrective action, or denial of licensure.

Subd. 4. **Conflict with organizational demands.** If the organizational policies at the provider's work setting conflict with any provision in sections 148F.120 to 148F.205, the provider shall discuss the nature of the conflict with the employer, make known the requirement to comply with these sections of law, and attempt to resolve the conflict in a manner that does not violate the law.

Sec. 25. **[148F.125] COMPETENT PROVISION OF SERVICES.**

Subdivision 1. **Limits on practice.** Alcohol and drug counselors shall limit their practice to the client populations and services for which they have competence or for which they are developing competence.

Subd. 2. **Developing competence.** When an alcohol and drug counselor is developing competence in a service, method, procedure, or to treat a specific client population, the alcohol and drug counselor shall obtain professional education, training, continuing education, consultation, supervision, or experience, or a combination thereof, necessary to demonstrate competence.

Subd. 3. **Experimental, emerging, or innovative services.** Alcohol and drug counselors may offer experimental services, methods, or procedures competently and in a manner that protects clients from harm. However, when doing so, they have a heightened responsibility to understand and communicate the potential risks to clients, to use reasonable skill and safety, and to undertake appropriate preparation as required in subdivision 2.

Subd. 4. **Limitations.** Alcohol and drug counselors shall recognize the limitations to the scope of practice of alcohol and drug counseling. When the needs of clients appear to be outside their scope of practice, providers shall inform the clients that there may be other professional, technical, community, and administrative resources available to them. Providers shall assist with identifying resources when it is in the best interests of clients to be provided with alternative or complementary services.

Subd. 5. **Burden of proof.** Whenever a complaint is submitted to the board involving a violation of this section, the burden of proof is on the provider to demonstrate that the elements of competence have reasonably been met.

Sec. 26. **[148F.130] PROTECTING CLIENT PRIVACY.**

Subdivision 1. **Protecting private information.** The provider shall safeguard private information obtained in the course of the practice of alcohol and drug counseling. Private information may be disclosed to others only according to section 148F.135, or with certain exceptions as specified in subdivisions 2 to 13.

Subd. 2. **Duty to warn; limitation on liability.** Private information may be disclosed without the consent of the client when a duty to warn arises, or as otherwise provided by law or court order. The duty to warn of, or take reasonable precautions to provide protection from, violent behavior arises only when a client or other person has communicated to the provider a specific, serious threat of physical violence to self or a specific, clearly identified or

identifiable potential victim. If a duty to warn arises, the duty is discharged by the provider if reasonable efforts are made to communicate the threat to law enforcement agencies, the potential victim, the family of the client, or appropriate third parties who are in a position to prevent or avert the harm. No monetary liability and no cause of action or disciplinary action by the board may arise against a provider for disclosure of confidences to third parties, for failure to disclose confidences to third parties, or for erroneous disclosure of confidences to third parties in a good faith effort to warn against or take precautions against a client's violent behavior or threat of suicide.

Subd. 3. **Services to group clients.** Whenever alcohol and drug counseling services are provided to group clients, the provider shall initially inform each client of the provider's responsibility and each client's individual responsibility to treat any information gained in the course of rendering the services as private information, including any limitations to each client's right to privacy.

Subd. 4. **Obtaining collateral information.** Prior to obtaining collateral information about a client from other individuals, the provider shall obtain consent from the client unless the consent is not required by law or court order, and shall inform the other individuals that the information obtained may become part of the client's records and may therefore be accessed or released by the client, unless prohibited by law. For purposes of this subdivision, "other individual" means any individual, except for credentialed health care providers acting in their professional capacities, who participates adjunctively in the provision of services to a client. Examples of other individuals include, but are not limited to, family members, friends, coworkers, day care workers, guardian ad litem, foster parents, or school personnel.

Subd. 5. **Minor clients.** At the beginning of a professional relationship, the provider shall inform a minor client that the law imposes limitations on the right of privacy of the minor with respect to the minor's communications with the provider. This requirement is waived when the minor cannot reasonably be expected to understand the privacy statement.

Subd. 6. **Limited access to client records.** The provider shall limit access to client records. The provider shall make reasonable efforts to inform individuals associated with the provider's agency or facility, such as staff members, students, volunteers, or community aides, that access to client records, regardless of their format, is limited only to the provider with whom the client has a professional relationship, an individual associated with the agency or facility whose duties require access, or individuals authorized to have access by the written informed consent of the client.

Subd. 7. **Billing statements for services.** The provider shall comply with the privacy wishes of clients regarding to whom and where statements for services are to be sent.

Subd. 8. **Case reports.** The identification of the client shall be reasonably disguised in case reports or other clinical materials used in teaching, presentations, professional meetings, or publications.

Subd. 9. **Observation and recording.** Diagnostic interviews or therapeutic sessions with a client may be observed or electronically recorded only with the client's written informed consent.

Subd. 10. **Continued protection of client information.** The provider shall maintain the privacy of client data indefinitely after the professional relationship has ended.

Subd. 11. **Court-ordered or other mandated disclosures.** The proper disclosure of private client data upon a court order or to conform with state or federal law shall not be considered a violation of sections 148F.120 to 148F.205.

Subd. 12. **Abuse or neglect of minor or vulnerable adults.** An applicant or licensee must comply with the reporting of maltreatment of minors established in section 626.556 and the reporting of maltreatment of vulnerable adults established in section 626.557.

Subd. 13. **Initial contacts.** When an individual initially contacts a provider regarding alcohol and drug counseling services, the provider or another individual designated by the provider may, with oral consent from the potential client, contact third parties to determine payment or benefits information, arrange for precertification of services when required by the individual's health plan, or acknowledge a referral from another health care professional.

Sec. 27. **[148F.135] PRIVATE INFORMATION; ACCESS AND RELEASE.**

Subdivision 1. **Client right to access and release private information.** A client has the right to access and release private information maintained by the provider, including client records as provided in Minnesota Statutes, sections 144.291 to 144.298, relating to the provider's counseling services to that client, except as otherwise provided by law or court order.

Subd. 2. **Release of private information.** (a) When a client makes a request for the provider to release the client's private information, the request must be in writing and signed by the client. Informed consent is not required. When the request involves client records, all pertinent information shall be released in compliance with sections 144.291 to 144.298.

(b) If the provider initiates the request to release the client's private information, written authorization for the release of information must be obtained from the client and must include, at a minimum:

- (1) the name of the client;
- (2) the name of the individual or entity providing the information;
- (3) the name of the individual or entity to which the release is made;
- (4) the types of information to be released, such as progress notes, diagnoses, assessment data, or other specific information;
- (5) the purpose of the release, such as whether the release is to coordinate professional care with another provider, to obtain insurance payment for services, or for other specified purposes;
- (6) the time period covered by the consent;
- (7) a statement that the consent is valid for one year, except as otherwise allowed by statute, or for a lesser period that is specified in the consent;
- (8) a declaration that the individual signing the statement has been told of and understands the nature and purpose of the authorized release;
- (9) a statement that the consent may be rescinded, except to the extent that the consent has already been acted upon or that the right to rescind consent has been waived separately in writing;
- (10) the signature of the client or the client's legally authorized representative, whose relationship to the client must be stated; and
- (11) the date on which the consent is signed.

Subd. 3. **Group client records.** Whenever counseling services are provided to group clients, each client has the right to access or release only that information in the records that the client has provided directly or has authorized other sources to provide, unless otherwise directed by law or court order. Upon a request by one client to access or release group client records, that information in the records that has not been provided directly or by authorization of the requesting client must be redacted unless written authorization to disclose this information has been obtained from the other clients.

Subd. 4. **Board investigation.** The board shall be allowed access to any records of a client provided services by an applicant or licensee who is under investigation. If the client has not signed a consent permitting access to the client's records, the applicant or licensee must delete any data that identifies the client before providing them to the board. The board shall maintain any records as investigative data pursuant to chapter 13.

Sec. 28. **[148F.140] INFORMED CONSENT.**

Subdivision 1. **Obtaining informed consent for services.** The provider shall obtain informed consent from the client before initiating services. The informed consent must be in writing, signed by the client, and include the following, at a minimum:

- (1) authorization for the provider to engage in an activity which directly affects the client;
- (2) the goals, purposes, and procedures of the proposed services;
- (3) the factors that may impact the duration of the service;
- (4) the applicable fee schedule;
- (5) the limits to the client's privacy, including but not limited to the provider's duty to warn pursuant to section 148F.130, subdivision 2;
- (6) the provider's responsibilities if the client terminates the service;
- (7) the significant risks and benefits of the service, including whether the service may affect the client's legal or other interests;
- (8) the provider's responsibilities under section 148F.125, subdivision 3, if the proposed service, method, or procedure is of an experimental, emerging, or innovative nature; and
- (9) if applicable, information that the provider is developing competence in the proposed service, method, or procedure, and alternatives to the proposed service, if any.

Subd. 2. **Updating informed consent.** If there is a substantial change in the nature or purpose of a service, the provider must obtain a new informed consent from the client.

Subd. 3. **Emergency or crisis services.** Informed consent is not required when a provider is providing emergency or crisis services. If services continue after the emergency or crisis has abated, informed consent must be obtained.

Sec. 29. **[148F.145] TERMINATION OF SERVICES.**

Subdivision 1. **Right to terminate services.** Either the client or the provider may terminate the professional relationship unless prohibited by law or court order.

Subd. 2. **Mandatory termination of services.** The provider shall promptly terminate services to a client whenever:

(1) the provider's objectivity or effectiveness is impaired, unless a resolution can be achieved as permitted in section 148F.155, subdivision 2; or

(2) the client would be harmed by further services.

Subd. 3. **Notification of termination.** When the provider initiates a termination of professional services, the provider shall inform the client either orally or in writing. This requirement shall not apply when the termination is due to the successful completion of a predefined service such as an assessment, or if the client terminates the professional relationship.

Subd. 4. **Recommendation upon termination.** (a) Upon termination of counseling services, the provider shall make a recommendation for alcohol and drug counseling services if requested by the client or if the provider believes the services are needed by the client.

(b) A recommendation for alcohol and drug counseling services is not required if the professional service provided is limited to an alcohol and drug assessment and a recommendation for continued services is not requested.

Subd. 5. **Absence from practice.** Nothing in this section requires the provider to terminate a client due to an absence from practice that is the result of a period of illness or injury that does not affect the provider's ability to practice with reasonable skill and safety, as long as arrangements have been made for temporary counseling services that may be needed by the client during the provider's absence.

Sec. 30. **[148F.150] RECORD KEEPING.**

Subdivision 1. **Record-keeping requirements.** Providers must maintain accurate and legible client records. Records must include, at a minimum:

(1) an accurate chronological listing of all substantive contacts with the client;

(2) documentation of services, including:

(i) assessment methods, data, and reports;

(ii) an initial treatment plan and any revisions to the plan;

(iii) the name of the individual providing services;

(iv) the name and credentials of the individual who is professionally responsible for the services provided;

(v) case notes for each date of service, including interventions;

(vi) consultations with collateral sources;

(vii) diagnoses or presenting problems; and

(viii) documentation that informed consent was obtained, including written informed consent documents;

(3) copies of all correspondence relevant to the client;

(4) a client personal data sheet;

(5) copies of all client authorizations for release of information;

(6) an accurate chronological listing of all fees charged, if any, to the client or a third party payer; and

(7) any other documents pertaining to the client.

Subd. 2. **Duplicate records.** If the client records containing the documentation required by subdivision 1 are maintained by the agency, clinic, or other facility where the provider renders services, the provider is not required to maintain duplicate records of client information.

Subd. 3. **Record retention.** The provider shall retain a client's record for a minimum of seven years after the date of the provider's last professional service to the client, except as otherwise provided by law. If the client is a minor, the record retention period does not begin until the client reaches the age of 18, except as otherwise provided by law.

Sec. 31. **[148F.155] IMPAIRED OBJECTIVITY OR EFFECTIVENESS.**

Subdivision 1. **Situations involving impaired objectivity or effectiveness.** (a) An alcohol and drug counselor must not provide alcohol and drug counseling services to a client or potential client when the counselor's objectivity or effectiveness is impaired.

(b) The provider shall not provide alcohol and drug counseling services to a client if doing so would create a multiple relationship. For purposes of this section, "multiple relationship" means one that is both professional and:

(1) cohabitational;

(2) familial;

(3) one in which there has been personal involvement with the client or family member of the client that is reasonably likely to adversely affect the client's welfare or ability to benefit from services; or

(4) one in which there is significant financial involvement other than legitimate payment for professional services rendered that is reasonably likely to adversely affect the client's welfare or ability to benefit from services.

If an unforeseen multiple relationship arises after services have been initiated, the provider shall promptly terminate the professional relationship.

(c) The provider shall not provide alcohol and drug counseling services to a client who is also the provider's student or supervisee. If an unforeseen situation arises in which both types of services are required or requested by the client or a third party, the provider shall decline to provide the services.

(d) The provider shall not provide alcohol and drug counseling services to a client when the provider is biased for or against the client for any reason that interferes with the provider's impartial judgment, including where the client is a member of a class legally protected from discrimination. The provider may provide services if the provider is working to resolve the impairment in the manner required under subdivision 2.

(e) The provider shall not provide alcohol and drug counseling services to a client when there is a fundamental divergence or conflict of service goals, interests, values, or attitudes between the client and the provider that adversely affects the professional relationship. The provider may provide services if the provider is working to resolve the impairment in the manner required under subdivision 2.

Subd. 2. **Resolution of impaired objectivity or effectiveness.** (a) When an impairment occurs that is listed in subdivision 1, paragraph (d) or (e), the provider may provide services only if the provider actively pursues resolution of the impairment and is able to do so in a manner that results in minimal adverse effects on the client or potential client.

(b) If the provider attempts to resolve the impairment, it must be by means of professional education, training, continuing education, consultation, psychotherapy, intervention, supervision, or discussion with the client or potential client, or an appropriate combination thereof.

Sec. 32. **[148F.160] PROVIDER IMPAIRMENT.**

The provider shall not provide counseling services to clients when the provider is unable to provide services with reasonable skill and safety as a result of a physical or mental illness or condition, including, but not limited to, substance abuse or dependence. During the period the provider is unable to practice with reasonable skill and safety, the provider shall either promptly terminate the professional relationship with all clients or shall make arrangements for other alcohol and drug counselors to provide temporary services during the provider's absence.

Sec. 33. **[148F.165] CLIENT WELFARE.**

Subdivision 1. **Explanation of procedures.** A client has the right to have, and a counselor has the responsibility to provide, a nontechnical explanation of the nature and purpose of the counseling procedures to be used and the results of tests administered to the client. The counselor shall establish procedures to be followed if the explanation is to be provided by another individual under the direction of the counselor.

Subd. 2. **Clients' bill of rights.** The client bill of rights required by section 144.652, shall be prominently displayed on the premises of the professional practice or provided as a handout to each client. The document must state that consumers of alcohol and drug counseling services have the right to:

- (1) expect that the provider meets the minimum qualifications of training and experience required by state law;
- (2) examine public records maintained by the Board of Behavioral Health and Therapy that contain the credentials of the provider;
- (3) report complaints to the Board of Behavioral Health and Therapy;
- (4) be informed of the cost of professional services before receiving the services;
- (5) privacy as defined and limited by law and rule;
- (6) be free from being the object of unlawful discrimination while receiving counseling services;
- (7) have access to their records as provided in sections 144.92 and 148F.135, subdivision 1, except as otherwise provided by law;
- (8) be free from exploitation for the benefit or advantage of the provider;
- (9) terminate services at any time, except as otherwise provided by law or court order;
- (10) know the intended recipients of assessment results;
- (11) withdraw consent to release assessment results, unless the right is prohibited by law or court order or was waived by prior written agreement;

(12) a nontechnical description of assessment procedures; and

(13) a nontechnical explanation and interpretation of assessment results, unless this right is prohibited by law or court order or was waived by prior written agreement.

Subd. 3. Stereotyping. The provider shall treat the client as an individual and not impose on the client any stereotypes of behavior, values, or roles related to human diversity.

Subd. 4. Misuse of client relationship. The provider shall not misuse the relationship with a client due to a relationship with another individual or entity.

Subd. 5. Exploitation of client. The provider shall not exploit the professional relationship with a client for the provider's emotional, financial, sexual, or personal advantage or benefit. This prohibition extends to former clients who are vulnerable or dependent on the provider.

Subd. 6. Sexual behavior with client. A provider shall not engage in any sexual behavior with a client including:

(1) sexual contact, as defined in section 604.20, subdivision 7; or

(2) any physical, verbal, written, interactive, or electronic communication, conduct, or act that may be reasonably interpreted to be sexually seductive, demeaning, or harassing to the client.

Subd. 7. Sexual behavior with a former client. A provider shall not engage in any sexual behavior as described in subdivision 6 within the two-year period following the date of the last counseling service to a former client. This prohibition applies whether or not the provider has formally terminated the professional relationship. This prohibition extends indefinitely for a former client who is vulnerable or dependent on the provider.

Subd. 8. Preferences and options for treatment. A provider shall disclose to the client the provider's preferences for choice of treatment or outcome and shall present other options for the consideration or choice of the client.

Subd. 9. Referrals. A provider shall make a prompt and appropriate referral of the client to another professional when requested to make a referral by the client.

Sec. 34. [148F.170] WELFARE OF STUDENTS, SUPERVISEES, AND RESEARCH SUBJECTS.

Subdivision 1. General. Due to the evaluative, supervisory, or other authority that providers who teach, evaluate, supervise, or conduct research have over their students, supervisees, or research subjects, they shall protect the welfare of these individuals.

Subd. 2. Student, supervisee, and research subject protections. To protect the welfare of their students, supervisees, or research subjects, providers shall not:

(1) discriminate on the basis of race, ethnicity, national origin, religious affiliation, language, age, gender, physical disabilities, mental capabilities, sexual orientation or identity, marital status, or socioeconomic status;

(2) exploit or misuse the professional relationship for the emotional, financial, sexual, or personal advantage or benefit of the provider or another individual or entity;

(3) engage in any sexual behavior with a current student, supervisee, or research subject, including sexual contact, as defined in section 604.20, subdivision 7, or any physical, verbal, written, interactive, or electronic communication, conduct, or act that may be reasonably interpreted to be sexually seductive, demeaning, or harassing. Nothing in this part shall prohibit a provider from engaging in teaching or research with an individual with whom the provider has a preexisting and ongoing sexual relationship;

(4) engage in any behavior likely to be deceptive or fraudulent;

(5) disclose evaluative information except for legitimate professional or scientific purposes; or

(6) engage in any other unprofessional conduct.

Sec. 35. **[148F.175] MEDICAL AND OTHER HEALTH CARE CONSIDERATIONS.**

Subdivision 1. **Coordinating services with other health care professionals.** Upon initiating services, the provider shall inquire whether the client has a preexisting relationship with another health care professional. If the client has such a relationship, and it is relevant to the provider's services to the client, the provider shall, to the extent possible and consistent with the wishes and best interests of the client, coordinate services for the client with the other health care professional. This requirement does not apply if brief crisis intervention services are provided.

Subd. 2. **Reviewing health care information.** If the provider determines that a client's preexisting relationship with another health care professional is relevant to the provider's services to the client, the provider shall, to the extent possible and consistent with the wishes and best interests of the client, review this information with the treating health care professional.

Subd. 3. **Relevant medical conditions.** If the provider believes that a client's psychological condition may have medical etiology or consequence, the provider shall, within the limits of the provider's competence, discuss this with the client and offer to assist in identifying medical resources for the client.

Sec. 36. **[148F.180] ASSESSMENTS; TESTS; REPORTS.**

Subdivision 1. **Assessments.** Providers who conduct assessments of individuals shall base their assessments on records, information, observations, and techniques sufficient to substantiate their findings. They shall render opinions only after they have conducted an examination of the individual adequate to support their statements or conclusions, unless an examination is not practical despite reasonable efforts. An assessment may be limited to reviewing records or providing testing services when an individual examination is not necessary for the opinion requested.

Subd. 2. **Tests.** Providers may administer and interpret tests within the scope of the counselor's training, skill, and competence.

Subd. 3. **Reports.** Written and oral reports, including testimony as an expert witness and letters to third parties concerning a client, must be based on information and techniques sufficient to substantiate their findings. Reports must include:

(1) a description of all assessments, evaluations, or other procedures, including materials reviewed, which serve as a basis for the provider's conclusions;

(2) reservations or qualifications concerning the validity or reliability of the opinions and conclusions formulated and recommendations made;

(3) a statement concerning any discrepancy, disagreement, or inconsistent or conflicting information regarding the circumstances of the case that may have a bearing on the provider's conclusions;

(4) a statement of the nature of and reason for the use of a test that is administered, recorded, scored, or interpreted in other than a standard and objective manner; and

(5) a statement indicating when test interpretations or report conclusions are not based on direct contact between the client and the provider.

Subd. 4. **Private information.** Test results and interpretations regarding an individual are private information.

Sec. 37. **[148F.185] PUBLIC STATEMENTS.**

Subdivision 1. **Prohibition against false or misleading information.** Public statements by providers must not include false or misleading information. Providers shall not solicit or use testimonials by quotation or implication from current clients or former clients who are vulnerable to undue influence. The provider shall make reasonable efforts to ensure that public statements by others on behalf of the provider are truthful and shall make reasonable remedial efforts to bring a public statement into compliance with sections 148F.120 to 148F.205 when the provider becomes aware of a violation.

Subd. 2. **Misrepresentation.** The provider shall not misrepresent directly or by implication professional qualifications including education, training, experience, competence, credentials, or areas of specialization. The provider shall not misrepresent, directly or by implication, professional affiliations or the purposes and characteristics of institutions and organizations with which the provider is professionally associated.

Subd. 3. **Use of specialty board designation.** Providers may represent themselves as having an area of specialization from a specialty board, such as a designation as a diplomate or fellow, if the specialty board used, at a minimum, the following criteria to award such a designation:

(1) specified educational requirements defined by the specialty board;

(2) specified experience requirements defined by the specialty board;

(3) a work product evaluated by other specialty board members; and

(4) a face-to-face examination by a committee of specialty board members or a comprehensive written examination in the area of specialization.

Sec. 38. **[148F.190] FEES; STATEMENTS.**

Subdivision 1. **Disclosure.** The provider shall disclose the fees for professional services to a client before providing services.

Subd. 2. **Itemized statement.** The provider shall itemize fees for all services for which the client or a third party is billed and make the itemized statement available to the client. The statement shall identify the date the service was provided, the nature of the service, the name of the individual who provided the service, and the name of the individual who is professionally responsible for the service.

Subd. 3. **Representation of billed services.** The provider shall not directly or by implication misrepresent to the client or to a third party billed for services the nature or the extent of the services provided.

Subd. 4. **Claiming fees.** The provider shall not claim a fee for counseling services unless the provider is either the direct provider of the services or is clinically responsible for providing the services and under whose supervision the services were provided.

Subd. 5. **Referrals.** No commission, rebate, or other form of remuneration may be given or received by a provider for the referral of clients for counseling services.

Sec. 39. **[148F.195] AIDING AND ABETTING UNLICENSED PRACTICE.**

A provider shall not aid or abet an unlicensed individual to engage in the practice of alcohol and drug counseling. A provider who supervises a student as part of an alcohol and drug counseling practicum is not in violation of this section. Properly qualified individuals who administer and score testing instruments under the direction of a provider who maintains responsibility for the service are not considered in violation of this section.

Sec. 40. **[148F.200] VIOLATION OF LAW.**

A provider shall not violate any law in which the facts giving rise to the violation involve the practice of alcohol and drug counseling as defined in sections 148F.001 to 148F.205. In any board proceeding alleging a violation of this section, the proof of a conviction of a crime constitutes proof of the underlying factual elements necessary to that conviction.

Sec. 41. **[148F.205] COMPLAINTS TO BOARD.**

Subdivision 1. **Mandatory reporting requirements.** A provider is required to file a complaint when the provider knows or has reason to believe that another provider:

(1) is unable to practice with reasonable skill and safety as a result of a physical or mental illness or condition, including, but not limited to, substance abuse or dependence, except that this mandated reporting requirement is deemed fulfilled by a report made to the Health Professionals Services Program (HPSP) as provided by Minnesota Statutes, section 214.33, subdivision 1;

(2) is engaging in or has engaged in sexual behavior with a client or former client in violation of section 148F.165, subdivision 6 or 7;

(3) has failed to report abuse or neglect of children or vulnerable adults in violation of section 626.556 or 626.557; or

(4) has employed fraud or deception in obtaining or renewing an alcohol and drug counseling license.

Subd. 2. **Optional reporting requirements.** Other than conduct listed in subdivision 1, a provider who has reason to believe that the conduct of another provider appears to be in violation of sections 148F.001 to 148F.205 may file a complaint with the board.

Subd. 3. **Institutions.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an alcohol and drug counselor's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the board under sections 148F.001 to 148F.205. The institution, organization, or governmental entity shall also report the resignation of any alcohol and drug counselors before the conclusion of any disciplinary action proceeding for

conduct that might constitute grounds for disciplinary action under this chapter, or before the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.

Subd. 4. Professional societies. A state or local professional society for alcohol and drug counselors shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against an alcohol and drug counselor. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board.

Subd. 5. Insurers. Each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to alcohol and drug counselors or the Medical Joint Underwriting Association under chapter 62F, shall submit to the board quarterly reports concerning the alcohol and drug counselors against whom malpractice settlements and awards have been made. The report must contain at least the following information:

(1) the total number of malpractice settlements or awards made;

(2) the date the malpractice settlements or awards were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made;

(4) the dollar amount of each settlement or award;

(5) the address of the practice of the alcohol and drug counselor against whom an award was made or with whom a settlement was made; and

(6) the name of the alcohol and drug counselor against whom an award was made or with whom a settlement was made. The insurance company shall, in addition to the above information, submit to the board any information, records, and files, including clients' charts and records, it possesses that tend to substantiate a charge that a licensed alcohol and drug counselor may have engaged in conduct violating this chapter.

Subd. 6. Self-reporting. An alcohol and drug counselor shall report to the board any personal action that would require that a report be filed with the board by any person, health care facility, business, or organization under subdivisions 1 and 3 to 5. The alcohol and drug counselor shall also report the revocation, suspension, restriction, limitation, or other disciplinary action in this state and report the filing of charges regarding the practitioner's license or right of practice in another state or jurisdiction.

Subd. 7. Permission to report. A person who has knowledge of any conduct constituting grounds for disciplinary action relating to the practice of alcohol and drug counseling under this chapter may report the violation to the board.

Subd. 8. Client complaints to the board. A provider shall, upon request, provide information regarding the procedure for filing a complaint with the board and shall, upon request, assist with filing a complaint. A provider shall not attempt to dissuade a client from filing a complaint with the board, or require that the client waive the right to file a complaint with the board as a condition for providing services.

Subd. 9. Deadlines; forms. Reports required by subdivisions 1 and 3 to 6 must be submitted no later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The board may provide forms for the submission of the reports required by this section and may require that reports be submitted on the forms provided.

Sec. 42. **REPORT; BOARD OF BEHAVIORAL HEALTH AND THERAPY.**

(a) The Board of Behavioral Health and Therapy shall convene a working group to evaluate the feasibility of a tiered licensure system for alcohol and drug counselors in Minnesota. This evaluation shall include proposed scopes of practice for each tier, specific degree and other education and examination requirements for each tier, the clinical settings in which each tier of practitioner would be utilized, and any other issues the board deems necessary.

(b) Members of the working group shall include, but not be limited to, members of the board, licensed alcohol and drug counselors, alcohol and drug counselor temporary permit holders, faculty members from two- and four-year education programs, professional organizations, and employers.

(c) The board shall present its written report, including any proposed legislation, to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services no later than December 15, 2014.

(d) The working group is not subject to the provisions of Minnesota Statutes, section 15.059.

Sec. 43. **REPEALER.**

(a) Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030; 4747.0040; 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, and 6; 4747.0200; 4747.0400, subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 2, 4, 5, 6, 7, 8, and 9; 4747.1400; and 4747.1500, are repealed.

(b) Minnesota Statutes 2010, sections 148C.01, subdivisions 1, 1a, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16, 17, and 18; 148C.015; 148C.03, subdivisions 1 and 4; 148C.0351, subdivisions 1, 3, and 4; 148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, and 7; 148C.044; 148C.045; 148C.05; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, and 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions 1, 2, and 3; 148C.11; and 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, are repealed."

Delete the title and insert:

"A bill for an act relating to human services; making changes to human services licensing provisions; changing data practices provisions; amending the Human Services Background Studies Act; making changes to social worker licensing provisions; establishing licensing provisions for alcohol and drug counselors; amending Minnesota Statutes 2010, sections 13.46, subdivision 4; 148E.055, subdivision 1; 148E.060, subdivisions 1, 2, 3, 5, by adding a subdivision; 148E.065, subdivisions 2, 4, 5; 148E.120; 148E.195, subdivision 2; 148E.280; 245A.02, by adding subdivisions; 245A.04, subdivisions 1, 7, 11; 245A.05; 245A.07, subdivision 3; 245A.08, subdivision 2a; 245A.10, subdivision 5; 245A.22, subdivision 2; 245C.03, subdivision 1; 245C.04, subdivision 1; 245C.05, subdivisions 4, 6, 7, by adding a subdivision; 245C.07; 245C.08, subdivisions 1, 2, 3; 245C.14, subdivision 2; 245C.15; 245C.16, subdivision 1; 245C.17, subdivision 2; 245C.22, subdivision 5; 245C.24, subdivision 2; 245C.28, subdivisions 1, 3; 245C.29, subdivision 2; 256.045, subdivision 3b; proposing coding for new law in Minnesota Statutes, chapter 148E; proposing coding for new law as Minnesota Statutes, chapter 148F; repealing Minnesota Statutes 2010, sections 148C.01, subdivisions 1, 1a, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16, 17, 18; 148C.015; 148C.03, subdivisions 1, 4; 148C.0351, subdivisions 1, 3, 4; 148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, 7; 148C.044; 148C.045; 148C.05; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions 1, 2, 3; 148C.11; 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15; 148E.065, subdivision 3; Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030; 4747.0040; 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, 6; 4747.0200; 4747.0400, subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 2, 4, 5, 6, 7, 8, 9; 4747.1400; 4747.1500."

With the recommendation that when so amended the bill pass.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1471, A bill for an act relating to environment; modifying electronic device recycling requirements; amending Minnesota Statutes 2010, sections 115A.1310, subdivisions 7, 20; 115A.1312, subdivision 2; 115A.1314, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 115A.1310, is amended to read:

115A.1310 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 115A.1310 to 115A.1330, the following terms have the meanings given.

Subd. 2. **Cathode-ray tube or CRT.** "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

Subd. 3. **Collection.** "Collection" means the aggregation of ~~covered~~ eligible electronic devices from households and includes all the activities up to the time the ~~covered~~ eligible electronic devices are delivered to a recycler.

Subd. 4. **Collector.** "Collector" means a public or private entity that receives ~~covered~~ eligible electronic devices from households and arranges for the delivery of the devices to a recycler.

Subd. 5. **Computer.** "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, but does not include an automated typewriter or typesetter, a portable handheld calculator or device, or other similar device.

Subd. 6. **Computer monitor.** "Computer monitor" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to display information from a central processing unit or the Internet. Computer monitor includes a laptop computer.

Subd. 7. **Covered electronic device.** "Covered electronic device" means computers, ~~peripherals, facsimile machines, printers, digital video recorders (DVR's), DVD players, video cassette recorders,~~ and video display devices that are sold to a household by means of retail, wholesale, or electronic commerce.

Subd. 8. **Department.** "Department" means the Department of Revenue.

Subd. 9. **Dwelling unit.** "Dwelling unit" has the meaning given in section 238.02, subdivision 21a.

Subd. 9a. **Eligible electronic device.** "Eligible electronic device" means covered electronic devices, peripherals, facsimile machines, and video cassette recorders.

Subd. 10. **Household.** "Household" means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit located in this state who has used a ~~video display~~ covered electronic device at a dwelling unit primarily for personal use.

Subd. 11. **Manufacturer.** "Manufacturer" means a person who:

(1) manufactures ~~video display~~ covered electronic devices to be sold under its own brand as identified by its own brand label; or

(2) sells ~~video display~~ covered electronic devices manufactured by others under its own brand as identified by its own brand label.

Subd. 12. **Peripheral.** "Peripheral" means a keyboard, ~~printer mouse, external hard drive, modems, speakers,~~ or any other device sold exclusively for external use with a computer that provides input or output into or from a computer.

Subd. 12a. **Printer.** "Printer" means a desktop printer or a device that prints and may have other functions, including copying, scanning, or sending facsimiles, and that is designed to be placed on a work surface that is marketed by the manufacturer for use by households.

Subd. 13. **Program year.** "Program year" means the period from July 1 through June 30.

Subd. 14. **Recycler.** "Recycler" means a public or private individual or entity who accepts ~~covered~~ eligible electronic devices from households and collectors for the purpose of recycling. A manufacturer who takes products for refurbishment or repair is not a recycler.

Subd. 15. **Recycling.** "Recycling" means the process of collecting and preparing ~~video display devices or covered electronic~~ eligible electronics devices for use in manufacturing processes or for recovery of usable materials followed by delivery of such materials for use. Recycling does not include the destruction by incineration or other process or land disposal of recyclable materials nor reuse, repair, or any other process through which ~~video display devices or covered~~ eligible electronic devices are returned to use for households in their original form.

Subd. 16. **Recycling credits.** "Recycling credits" means the number of pounds of ~~covered~~ eligible electronic devices recycled by a manufacturer from households during a program year, less the product of the number of pounds of ~~video display~~ covered electronic devices sold to households during the same program year, multiplied by the proportion of sales a manufacturer is required to recycle. The calculation and uses of recycling credits are as specified in section 115A.1314, subdivision 1.

Subd. 17. **Retailer.** "Retailer" means a person who sells, rents, or leases, through sales outlets, catalogs, or the Internet, a ~~video display~~ covered electronic device to a household and not for resale in any form.

Subd. 18. **Sell or sale.** "Sell" or "sale" means any transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means either inside or outside of the state, by a person who conducts the transaction and controls the delivery of a ~~video display~~ covered electronic device to a consumer in the state, but does not include a manufacturer's or distributor's wholesale transaction with a distributor or a retailer.

Subd. 19. **Television.** "Television" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to receive video programming via broadcast, cable, or satellite transmission or video from surveillance or other similar cameras.

Subd. 20. **Video display device.** "Video display device" means a television or computer monitor, including a laptop computer, that contains a cathode-ray tube or a flat panel screen with a screen size that is ~~greater than nine~~ seven inches or greater measured diagonally and that is marketed by manufacturers for use by households. Video display device does not include any of the following:

(1) a video display device that is part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(2) a video display device, including a touch-screen display, that is functionally or physically part of a larger piece of equipment or is designed and intended for use in an industrial; commercial, including retail; library checkout; traffic control; kiosk; security, other than household security; border control; or medical setting, including diagnostic, monitoring, or control equipment;

(3) a video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or

(4) a telephone of any type unless it contains a video display area ~~greater than nine~~ seven inches or greater measured diagonally.

Sec. 2. Minnesota Statutes 2010, section 115A.1312, is amended to read:

115A.1312 REGISTRATION PROGRAM.

Subdivision 1. **Requirements for sale.** (a) On or after September 1, 2007, a manufacturer must not sell or offer for sale or deliver to retailers for subsequent sale a new ~~video display~~ covered electronic device unless:

(1) the ~~video display~~ covered electronic device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and

(2) the manufacturer has filed a registration with the agency, as specified in subdivision 2.

(b) On or after February 1, 2008, a retailer who sells or offers for sale a new ~~video display~~ covered electronic device to a household must, before the initial offer for sale, review the agency Web site specified in subdivision 2, paragraph (g), to determine that all new ~~video display~~ covered electronic devices that the retailer is offering for sale are labeled with the manufacturer's brands that are registered with the agency.

(c) A retailer is not responsible for an unlawful sale under this subdivision if the manufacturer's registration expired or was revoked and the retailer took possession of the ~~video display~~ covered electronic device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

Subd. 2. **Manufacturer's registration.** (a) A manufacturer of ~~video display~~ covered electronic devices sold or offered for sale to households after September 1, 2007, must submit a registration to the agency that includes:

(1) a list of the manufacturer's brands of ~~video display~~ covered electronic devices offered for sale in this state;

(2) the name, address, and contact information of a person responsible for ensuring compliance with this chapter; and

(3) a certification that the manufacturer has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318.

(b) By September 1, 2008, and each year thereafter, a manufacturer of ~~video display~~ covered electronic devices sold or offered for sale to a household must include in the registration submitted under paragraph (a), a statement disclosing whether:

(1) any ~~video display~~ covered electronic devices sold to households exceed the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB's), and polybrominated diphenyl ethers (PBDE's) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) Directive 2002/95/EC of the European Parliament and Council and any amendments thereto; or

(2) the manufacturer has received an exemption from one or more of those maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

(c) A manufacturer who begins to sell or offer for sale ~~video display~~ covered electronic devices to households after September 1, 2007, and has not filed a registration under this subdivision must submit a registration to the agency within ten days of beginning to sell or offer for sale ~~video display~~ covered electronic devices to households.

(d) A registration must be updated within ten days after a change in the manufacturer's brands of ~~video display~~ covered electronic devices sold or offered for sale to households.

(e) A registration is effective upon receipt by the agency and is valid until September 1 of each year.

(f) The agency must review each registration and notify the manufacturer of any information required by this section that is omitted from the registration. Within 30 days of receipt of a notification from the agency, the manufacturer must submit a revised registration providing the information noted by the agency.

(g) The agency must maintain on its Web site the names of manufacturers and the manufacturers' brands listed in registrations filed with the agency. The agency must update the Web site information promptly upon receipt of a new or updated registration. The Web site must contain prominent language stating, in effect, that sections 115A.1310 to 115A.1330 are directed at household equipment and the manufacturers' brands list is, therefore, not a list of manufacturers qualified to sell to industrial, commercial, or other markets identified as exempt from the requirements of sections 115A.1310 to 115A.1330.

Subd. 3. **Collector's registration.** After August 1, 2007, no person may operate as a collector of ~~covered eligible~~ covered eligible electronic devices from households unless that person has submitted a registration with the agency on a form prescribed by the commissioner. Registration information must include the name, address, telephone number, and location of the business and a certification that the collector has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registration is effective upon receipt by the agency and is valid until July 1 of each year.

Subd. 4. **Recycler's registration.** After August 1, 2007, no person may recycle ~~video display eligible~~ video display eligible electronic devices generated by households unless that person has submitted a registration with the agency on a form prescribed by the commissioner. Registration information must include the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive ~~video display eligible~~ video display eligible electronic devices from households and a certification that the recycler has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registered recycler may conduct recycling activities that are consistent with this chapter. A registration is effective upon receipt by the agency and is valid until July 1 of each year.

Sec. 3. Minnesota Statutes 2010, section 115A.1314, subdivision 1, is amended to read:

Subdivision 1. **Registration fee.** (a) Each manufacturer who registers under section 115A.1312 must, by September 1, 2007, and each year thereafter, pay to the commissioner of revenue an annual registration fee. The commissioner of revenue must deposit the fee in the account established in subdivision 2.

(b) The registration fee for the initial program year during which a manufacturer's ~~video-display covered~~ covered electronic devices are sold to households is \$5,000. Each year thereafter, the registration fee is equal to a base fee of \$2,500, plus a variable recycling fee calculated according to the formula:

$((A \times B) - (C + D)) \times E$, where:

(1) A = the number of pounds of a manufacturer's ~~video-display covered~~ covered electronic devices sold to households during the previous program year, as reported to the department under section 115A.1316, subdivision 1;

(2) B = the proportion of sales of ~~video-display covered~~ covered electronic devices required to be recycled, set at 0.6 for the first program year and 0.8 for the second program year and every year thereafter;

(3) C = the number of pounds of ~~covered eligible~~ covered eligible electronic devices recycled by a manufacturer from households during the previous program year, as reported to the department under section 115A.1316, subdivision 1;

(4) D = the number of recycling credits a manufacturer elects to use to calculate the variable recycling fee, as reported to the department under section 115A.1316, subdivision 1; and

(5) E = the estimated per-pound cost of recycling, initially set at \$0.50 per pound for manufacturers who recycle less than 50 percent of the product (A x B); \$0.40 per pound for manufacturers who recycle at least 50 percent but less than 90 percent of the product (A x B); and \$0.30 per pound for manufacturers who recycle at least 90 percent but less than 100 percent of the product (A x B).

(c) If, as specified in paragraph (b), the term C - (A x B) equals a positive number of pounds, that amount is defined as the manufacturer's recycling credits. A manufacturer may retain recycling credits to be added, in whole or in part, to the actual value of C, as reported under section 115A.1316, subdivision 2, ~~during for any of the three~~ during for any of the three succeeding program ~~year~~ years, provided that no more than ~~25~~ 20 percent of a manufacturer's obligation (A x B) for any program year may be met with recycling credits generated in a prior program year. A manufacturer may sell any portion or all of its recycling credits to another manufacturer, at a price negotiated by the parties, who may use the credits in the same manner.

(d) For the purpose of calculating a manufacturer's variable recycling fee under paragraph (b), the weight of ~~covered eligible~~ covered eligible electronic devices collected from households located outside the 11-county metropolitan area, as defined in subdivision 2, paragraph (c), is calculated at 1.5 times their actual weight.

(e) The registration fee for the initial program year and the base registration fee thereafter for a manufacturer who produces fewer than 100 ~~video-display covered~~ covered electronic devices for sale annually to households is \$1,250.

Sec. 4. Minnesota Statutes 2010, section 115A.1316, is amended to read:

115A.1316 REPORTING REQUIREMENTS.

Subdivision 1. **Manufacturer's reporting requirements.** (a) By September 1 of each year, beginning in 2008, each manufacturer must report to the department:

(1) the total weight of each specific model of its ~~video-display covered~~ covered electronic devices sold to households during the previous program year;

(2) the total weight of its ~~video-display covered~~ covered electronic devices sold to households during the previous program year; or

(3) an estimate of the total weight of its ~~video display~~ covered electronic devices sold to households during the previous program year, calculated by multiplying the weight of its ~~video display~~ covered electronic devices sold nationally times the quotient of Minnesota's population divided by the national population.

A manufacturer must submit with the report required under this paragraph a description of how the information or estimate was calculated.

(b) By September 1 of each year, beginning in 2008, each manufacturer must report to the department the total weight of ~~covered eligible~~ covered eligible electronic devices the manufacturer collected from households and recycled or arranged to have collected and recycled during the preceding program year. If a manufacturer wishes to receive the variable recycling rate of 1.5 for ~~covered eligible~~ covered eligible electronic devices it recycles, the manufacturer must report separately the total weight of ~~covered eligible~~ covered eligible electronic devices collected from households located in counties specified in section 115A.1314, subdivision 1, paragraph (d), and those collected from households located outside those counties.

(c) By September 1 of each year, beginning in 2008, each manufacturer must report to the department:

- (1) the number of recycling credits the manufacturer has purchased and sold during the preceding program year;
- (2) the number of recycling credits possessed by the manufacturer that the manufacturer elects to use in the calculation of its variable recycling fee under section 115A.1314, subdivision 1; and
- (3) the number of recycling credits the manufacturer retains at the beginning of the current program year.

Subd. 2. **Recycler's reporting requirements.** By August 1 of each year, beginning in 2008, a recycler of ~~covered eligible~~ covered eligible electronic devices must report to the agency and the department the total weight of ~~covered eligible~~ covered eligible electronic devices recycled during the preceding program year and must certify that the recycler has complied with section 115A.1318, subdivision 2.

Subd. 3. **Collector's reporting requirements.** By August 1 of each year, beginning in 2008, a collector must report separately to the agency the total pounds of ~~covered eligible~~ covered eligible electronic devices collected in the counties specified in section 115A.1314, subdivision 1, paragraph (d), and all other Minnesota counties, and a list of all recyclers to whom collectors delivered covered electronic devices.

Sec. 5. Minnesota Statutes 2010, section 115A.1318, is amended to read:

115A.1318 RESPONSIBILITIES.

Subdivision 1. **Manufacturer's responsibilities.** (a) In addition to fulfilling the requirements of sections 115A.1310 to 115A.1330, a manufacturer must comply with paragraphs (b) to (e).

(b) A manufacturer must annually recycle or arrange for the collection and recycling of an amount of ~~covered eligible~~ covered eligible electronic devices equal to the total weight of its ~~video display~~ covered electronic devices sold to households during the ~~preceding~~ previous program year, multiplied by the proportion of sales of ~~video display~~ covered electronic devices required to be recycled, as established by the agency under section 115A.1320, subdivision 1, paragraph (c).

(c) The obligations of a manufacturer apply only to ~~video eligible electronic~~ video eligible electronic display devices received from households and do not apply to ~~video display~~ eligible electronic devices received from sources other than households.

(d) A manufacturer must conduct and document due diligence assessments of collectors and recyclers it contracts with, including an assessment of items specified under subdivision 2. A manufacturer is responsible for maintaining, for a period of three years, documentation that all ~~video display~~ eligible electronic devices recycled, partially recycled, or sent to downstream recycling operations comply with the requirements of subdivision 2.

(e) A manufacturer must provide the agency with contact information for a person who can be contacted regarding the manufacturer's activities under sections 115A.1310 to 115A.1320.

Subd. 2. **Recycler's responsibilities.** (a) As part of the report submitted under section 115A.1316, subdivision 2, a recycler must certify, except as provided in paragraph (b), that facilities that recycle ~~video display~~ eligible electronic devices, including all downstream recycling operations:

- (1) comply with all applicable health, environmental, safety, and financial responsibility regulations;
- (2) are licensed by all applicable governmental authorities;
- (3) use no prison labor to recycle video display devices; and

(4) possess liability insurance of not less than \$1,000,000 for environmental releases, accidents, and other emergencies.

(b) A nonprofit corporation that contracts with a correctional institution to refurbish and reuse donated computers in schools is exempt from paragraph (a), clauses (3) and (4).

(c) Except to the extent otherwise required by law, a recycler has no responsibility for any data that may be contained in a covered electronic device if an information storage device is included in the covered electronic device.

Subd. 3. **Retailer's responsibilities.** A retailer who sells new ~~video display~~ covered electronic devices shall provide information to households describing where and how they may recycle ~~video display~~ covered electronic devices and advising them of opportunities and locations for the convenient collection of ~~video display~~ covered electronic devices for the purpose of recycling. This requirement may be met by providing to households the agency's toll-free number and Web site address. Retailers selling through catalogs or the Internet may meet this requirement by including the information in a prominent location on the retailer's Web site.

Sec. 6. Minnesota Statutes 2010, section 115A.1320, is amended to read:

115A.1320 AGENCY AND DEPARTMENT DUTIES.

Subdivision 1. **Duties of the agency.** (a) The agency shall administer sections 115A.1310 to 115A.1330.

(b) The agency shall establish procedures for:

(1) receipt and maintenance of the registration statements and certifications filed with the agency under section 115A.1312; and

(2) making the statements and certifications easily available to manufacturers, retailers, and members of the public.

(c) The agency shall annually review the value of the following variables that are part of the formula used to calculate a manufacturer's annual registration fee under section 115A.1314, subdivision 1:

(1) the proportion of sales of ~~video display~~ covered electronic devices sold to households that manufacturers are required to recycle;

(2) the estimated per-pound price of recycling ~~covered~~ eligible electronic devices sold to households;

(3) the base registration fee; and

(4) the multiplier established for the weight of ~~covered~~ eligible electronic devices collected in section 115A.1314, subdivision 1, paragraph (d). If the agency determines that any of these values must be changed in order to improve the efficiency or effectiveness of the activities regulated under sections 115A.1312 to 115A.1330 or if the revenues in the account exceed the amount that the agency determines is necessary, the agency shall submit recommended changes and the reasons for them to the chairs of the senate and house of representatives committees with jurisdiction over solid waste policy.

(d) By January 15 each year, beginning in 2008, the agency shall calculate estimated sales of ~~video display~~ covered electronic devices sold to households by each manufacturer during the preceding program year, based on national sales data, and forward the estimates to the department.

(e) The agency shall manage the account established in section 115A.1314, subdivision 2. If the revenues in the account exceed the amount that the agency determines is necessary for efficient and effective administration of the program, including any amount for contingencies, the agency must recommend to the legislature that the base registration fee, the proportion of sales of ~~video display~~ covered electronic devices required to be recycled, or the estimated per pound cost of recycling established under section 115A.1314, subdivision 1, paragraph (b), or any combination thereof, be lowered in order to reduce revenues collected in the subsequent program year by the estimated amount of the excess.

(f) On or before December 1, 2010, and each year thereafter, the agency shall provide a report to the governor and the legislature on the implementation of sections 115A.1310 to 115A.1330. For each program year, the report must discuss the total weight of ~~covered~~ eligible electronic devices recycled and a summary of information in the reports submitted by manufacturers and recyclers under section 115A.1316. The report must also discuss the various collection programs used by manufacturers to collect ~~covered~~ eligible electronic devices; information regarding ~~covered~~ eligible electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers; and information about ~~covered~~ eligible electronic devices, if any, being disposed of in landfills in this state. The report must include a description of enforcement actions under sections 115A.1310 to 115A.1330. The agency may include in its report other information received by the agency regarding the implementation of sections 115A.1312 to 115A.1330.

(g) The agency shall promote public participation in the activities regulated under sections 115A.1312 to 115A.1330 through public education and outreach efforts.

(h) The agency shall enforce sections 115A.1310 to 115A.1330 in the manner provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072, except for those provisions enforced by the department, as provided in subdivision 2. The agency may revoke a registration of a collector or recycler found to have violated sections 115A.1310 to 115A.1330.

(i) The agency shall facilitate communication between counties, collection and recycling centers, and manufacturers to ensure that manufacturers are aware of ~~video display~~ covered electronic devices available for recycling.

(j) The agency shall develop a form retailers must use to report information to manufacturers under section 115A.1318 and post it on the agency's Web site.

(k) The agency shall post on its Web site the contact information provided by each manufacturer under section 115A.1318, paragraph (e).

Subd. 2. **Duties of the department.** (a) The department must collect the data submitted to it annually by each manufacturer on the total weight of each specific model of ~~video-display~~ covered electronic device sold to households, if provided; the total weight of ~~video-display~~ covered electronic devices sold to households; the total weight of ~~covered eligible~~ covered eligible electronic devices collected from households that are recycled; and data on recycling credits, as required under section 115A.1316. The department must use this data to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately according to the formula in section 115A.1314, subdivision 1.

(b) The department must estimate, for each registered manufacturer, the sales of ~~video-display~~ covered electronic devices to households during the previous program year, based on:

(1) data provided by a manufacturer on sales of ~~video-display~~ covered electronic devices to households, including documentation describing how that amount was calculated and certification that the amount is accurate; or

(2) if a manufacturer does not provide the data specified in clause (1), national data on sales of ~~video-display~~ covered electronic devices.

The department must use the data specified in this subdivision to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately according to the formula in section 115A.1314, subdivision 1.

(c) The department must enforce section 115A.1314, subdivision 1. The audit, assessment, appeal, collection, enforcement, disclosure, and other administrative provisions of chapters 270B, 270C, and 289A that apply to the taxes imposed under chapter 297A apply to the fee imposed under section 115A.1314, subdivision 1. To enforce this subdivision, the commissioner of revenue may grant extensions to pay, and impose and abate penalties and interest on, the fee due under section 115A.1314, subdivision 1, in the manner provided in chapters 270C and 289A as if the fee were a tax imposed under chapter 297A.

(d) The department may disclose nonpublic data to the agency only when necessary for the efficient and effective administration of the activities regulated under sections 115A.1310 to 115A.1330. Any data disclosed by the department to the agency retains the classification it had when in the possession of the department.

Sec. 7. Minnesota Statutes 2010, section 115A.1322, is amended to read:

115A.1322 OTHER RECYCLING PROGRAMS.

A city, county, or other public agency may not require households to use public facilities to recycle their ~~covered eligible~~ covered eligible electronic devices to the exclusion of other lawful programs available. Cities, counties, and other public agencies, including those awarded contracts by the agency under section 115A.1314, subdivision 2, are encouraged to work with manufacturers to assist them in meeting their recycling obligations under section 115A.1318, subdivision 1. Nothing in sections 115A.1310 to 115A.1330 prohibits or restricts the operation of any program recycling covered electronic devices in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or recycling covered electronic devices, provided that those persons are registered under section 115A.1312.

Sec. 8. Minnesota Statutes 2010, section 115A.1324, is amended to read:

115A.1324 REQUIREMENTS FOR PURCHASES BY STATE AGENCIES.

(a) The Department of Administration must ensure that acquisitions of ~~video display~~ covered electronic devices under chapter 16C are in compliance with or not subject to sections 115A.1310 to 115A.1318.

(b) The solicitation documents must specify that the prospective responder is required to cooperate fully in providing reasonable access to its records and documents that evidence compliance with paragraph (a) and sections 115A.1310 to 115A.1318.

(c) Any person awarded a contract under chapter 16C for purchase or lease of video display devices that is found to be in violation of paragraph (a) or sections 115A.1310 to 115A.1318 is subject to the following sanctions:

(1) the contract must be voided if the commissioner of administration determines that the potential adverse impact to the state is exceeded by the benefit obtained from voiding the contract;

(2) the contractor is subject to suspension and disbarment under Minnesota Rules, part 1230.1150; and

(3) if the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating paragraph (a) or sections 115A.1310 to 115A.1318, the court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained money, property, or benefit.

Sec. 9. Minnesota Statutes 2010, section 115A.1326, is amended to read:

115A.1326 REGULATION OF VIDEO DISPLAY DEVICES.

If the United States Environmental Protection Agency adopts regulations under the Resource Conservation and Recovery Act regarding the handling, storage, or treatment of any type of ~~video display~~ eligible electronic device being recycled, those regulations are automatically effective in this state on the same date and supersede any rules previously adopted by the agency regarding the handling, storage, or treatment of all ~~video display~~ eligible electronic devices being recycled.

Sec. 10. Minnesota Statutes 2010, section 115A.1330, is amended to read:

115A.1330 LIMITATIONS.

Sections 115A.1310 to 115A.1330 expire if a federal law, or combination of federal laws, take effect that is applicable to all ~~video display~~ covered electronic devices sold in the United States and establish a program for the collection and recycling or reuse of ~~video display~~ covered electronic devices that is applicable to all ~~video display~~ covered electronic devices discarded by households."

Delete the title and insert:

"A bill for an act relating to environment; modifying electronic device recycling requirements; amending Minnesota Statutes 2010, sections 115A.1310; 115A.1312; 115A.1314, subdivision 1; 115A.1316; 115A.1318; 115A.1320; 115A.1322; 115A.1324; 115A.1326; 115A.1330."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Commerce and Regulatory Reform.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1473, A bill for an act relating to insurance; modifying a definition; regulating life insurance and title insurance reserves; regulating certain accounts and funding agreements; repealing obsolete and conflicting provisions; making conforming changes; amending Minnesota Statutes 2010, sections 60A.60, subdivision 9; 60C.03, subdivision 6; 61A.25, subdivision 4; 61A.282, subdivision 2; 68A.03, subdivision 3; 72A.31, subdivision 1; repealing Minnesota Statutes 2010, sections 61A.275; 61A.276, subdivision 4; 67A.27; 67A.28; 67A.29; 67A.30, subdivisions 1, 3; 67A.31; 67A.32; 67A.34; 67A.35; 67A.36; 67A.37; 67A.38; 67A.39.

Reported the same back with the following amendments:

Page 4, line 30, delete "and"

Page 4, line 31, strike "following items" and insert "total of subitems (A) and (B); and after January 1, 2010, a sum equal to a minimum of 6-1/2 percent of the total of subitems (A) and (B)"

Page 5, lines 1 to 2, delete the new language

Page 7, line 20, before "Minnesota" insert "(a)"

Page 7, after line 22, insert:

"(b) Minnesota Rules, part 2675.2170, item F, is repealed.

EFFECTIVE DATE. Paragraph (b) is effective the day following final enactment."

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1476, A bill for an act relating to labor and employment; modifying prevailing wage provisions; amending Minnesota Statutes 2010, section 177.42, subdivisions 4, 6.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 1478, A bill for an act relating to human services; modifying certain provisions regarding the Minnesota sex offender program; amending Minnesota Statutes 2010, sections 253B.141, subdivision 2; 253B.185, subdivisions 1, 16, by adding subdivisions; 253B.19, subdivision 2; 609.485, subdivision 2.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Public Safety and Crime Prevention Policy and Finance.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1485, A bill for an act relating to gambling; modifying certain rates of tax on lawful gambling; providing for linked bingo and electronic pull-tabs; making clarifying, conforming, and technical changes; amending Minnesota Statutes 2010, sections 297E.02, subdivisions 1, 4, 6; 349.12, subdivisions 5, 9, 12a, 25b, 25c, 25d, 29, 32, 32a; 349.13; 349.151, subdivisions 4b, 4c, by adding a subdivision; 349.161, subdivision 1; 349.163, subdivisions 1, 9; 349.1635, subdivision 2; 349.17, subdivisions 6, 7, 8; 349.1721, by adding a subdivision; 349.18, subdivision 1; 349.211, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 349.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 297E.02, subdivision 1, is amended to read:

Subdivision 1. **Imposition.** A tax is imposed on all lawful gambling other than (1) pull-tab deals or games; (2) tipboard deals or games; and (3) items listed in section 297E.01, subdivision 8, clauses (4) and (5), at the rate of ~~8.5~~ 5.0 percent on the gross receipts as defined in section 297E.01, subdivision 8, less prizes actually paid. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.62 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 8, or a tax authorized under subdivision 5.

The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling.

Sec. 2. Minnesota Statutes 2010, section 297E.02, subdivision 4, is amended to read:

Subd. 4. **Pull-tab and tipboard tax.** (a) A tax is imposed on the sale of each deal of pull-tabs and tipboards sold by a distributor. The rate of the tax is ~~4.7~~ 1.0 percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the distributor is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 8.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer or to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

- (1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;
- (2) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province;
- (3) sales of promotional tickets as defined in section 349.12; and
- (4) pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.166, subdivision 2. A distributor shall require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to the organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(c) A distributor having a liability of \$10,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by electronic means.

(d) Any customer who purchases deals of pull-tabs or tipboards from a distributor may file an annual claim for a refund or credit of taxes paid pursuant to this subdivision for unsold pull-tab and tipboard tickets. The claim must be filed with the commissioner on a form prescribed by the commissioner by March 20 of the year following the calendar year for which the refund is claimed. The refund must be filed as part of the customer's February monthly return. The refund or credit is equal to ~~4.7~~ 1.0 percent of the face value of the unsold pull-tab or tipboard tickets, provided that the refund or credit will be ~~4.75~~ 1.35 percent of the face value of the unsold pull-tab or tipboard tickets for claims for a refund or credit of taxes filed on the February ~~2004~~ 2012 monthly return. The refund claimed will be applied as a credit against tax owing under this chapter on the February monthly return. If the refund claimed exceeds the tax owing on the February monthly return, that amount will be refunded. The amount refunded will bear interest pursuant to section 270C.405 from 90 days after the claim is filed.

Sec. 3. Minnesota Statutes 2010, section 297E.02, subdivision 6, is amended to read:

Subd. 6. **Combined receipts tax.** In addition to the taxes imposed under subdivisions 1 and 4, a tax is imposed on the combined receipts of the organization. As used in this section, "combined receipts" is the sum of the organization's gross receipts from lawful gambling less gross receipts directly derived from the conduct of bingo, raffles, and paddle wheels, as defined in section 297E.01, subdivision 8, for the fiscal year. The combined receipts of an organization are subject to a tax computed according to the following schedule:

If the combined receipts for the fiscal year are:	The tax is:
Not over \$500,000 <u>\$600,000</u>	zero
Over \$500,000 <u>\$600,000</u> , but not over \$700,000 <u>\$800,000</u>	4.7 <u>1.0</u> percent of the amount over \$500,000 <u>\$600,000</u> , but not over \$700,000 <u>\$800,000</u>
Over \$700,000 <u>\$800,000</u> , but not over \$900,000 <u>\$1,000,000</u>	\$3,400 <u>\$2,000</u> plus 3.4 <u>2.0</u> percent of the amount over \$700,000 <u>\$800,000</u> , but not over \$900,000 <u>\$1,000,000</u>
Over \$900,000 <u>\$1,000,000</u>	\$10,200 <u>\$6,000</u> plus 5.4 <u>3.0</u> percent of the amount over \$900,000 <u>\$1,000,000</u>

The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling on a site-by-site basis.

Sec. 4. Minnesota Statutes 2010, section 349.12, subdivision 5, is amended to read:

Subd. 5. **Bingo occasion.** "Bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is played. There is no limit on the number of games conducted during a bingo occasion ~~but~~. A bingo occasion must not last longer than eight consecutive hours, except that linked bingo games played on electronic bingo devices may be played during regular business hours of the permitted premises and all play during this period is considered a bingo occasion for reporting purposes.

Sec. 5. Minnesota Statutes 2010, section 349.12, subdivision 12a, is amended to read:

Subd. 12a. **Electronic bingo device.** "Electronic bingo device" means an electronic bingo device used by a bingo player to (1) monitor bingo paper sheets or a facsimile of a bingo paper sheet when purchased at the time and place of an organization's bingo occasion and which ~~(1) provides a means for bingo players to,~~ (2) activate numbers

announced by a bingo caller; ~~(2) compares or displayed and compare~~ the numbers entered by the player to the bingo faces previously stored in the memory of the device; and ~~(3) identifies~~ identify a winning bingo pattern or game requirement.

Electronic bingo device does not mean any device into which coin, currency, or tokens are inserted to activate play but does allow for activation by coded data entry.

Sec. 6. Minnesota Statutes 2010, section 349.12, subdivision 25b, is amended to read:

Subd. 25b. **Linked bingo game provider.** "Linked bingo game provider" means any person who provides the means to link bingo prizes in a linked bingo game, who provides linked bingo paper sheets to the participating organizations games, who provides linked bingo prize management, and who provides the linked bingo game system.

Sec. 7. Minnesota Statutes 2010, section 349.12, subdivision 25c, is amended to read:

Subd. 25c. **Linked bingo game system.** "Linked bingo game system" means the equipment used by the linked bingo provider to conduct, transmit, and track a linked bingo game. The system must be approved by the board before its use in this state and it must have ~~dial up or other~~ the capability to permit the board to electronically monitor its operation remotely.

Sec. 8. Minnesota Statutes 2010, section 349.12, subdivision 25d, is amended to read:

Subd. 25d. **Linked bingo prize pool.** "Linked bingo prize pool" means the total of all prize money that each participating organization has contributed to a linked bingo game prize and includes any portion of the prize pool that is carried over from one ~~occasion~~ game to another in a progressive linked bingo game.

Sec. 9. Minnesota Statutes 2010, section 349.12, subdivision 29, is amended to read:

Subd. 29. **Paddle wheel.** "Paddle wheel" means a wheel marked off into sections containing one or more numbers, and which, after being turned or spun manually or electronically, uses a pointer or marker to indicate winning chances.

Sec. 10. Minnesota Statutes 2010, section 349.12, subdivision 32, is amended to read:

Subd. 32. **Pull-tab.** "Pull-tab" means a single folded or banded paper ticket ~~or~~, a multi-ply card with perforated break-open tabs, or a facsimile of a paper pull-tab when used in conjunction with a pull-tab dispensing device, the face of which is initially covered to conceal one or more numbers or symbols, where one or more of each set of tickets, ~~or~~ cards, or facsimiles has been designated in advance as a winner.

Sec. 11. Minnesota Statutes 2010, section 349.12, subdivision 32a, is amended to read:

Subd. 32a. **Pull-tab dispensing device.** "Pull-tab dispensing device" means a mechanical or electronic device that dispenses paper pull-tabs ~~and has no additional function as an amusement or gambling device or displays facsimiles of paper pull-tabs~~. A pull-tab dispensing device may have as a component an auditory or visual enhancement to promote or provide information about a game being dispensed or displayed, provided the component does not affect the outcome of a game or display the results of a game ~~or an individual ticket~~. A pull-tab dispensing device that displays facsimiles of paper pull-tabs is not allowed to accept any coin, currency, or tokens, but does allow for activation by coded data entry.

Sec. 12. Minnesota Statutes 2010, section 349.13, is amended to read:

349.13 LAWFUL GAMBLING.

Lawful gambling is not a lottery or gambling within the meaning of sections 609.75 to 609.76 if it is conducted under this chapter. A pull-tab dispensing device permitted by board rule is not a gambling device within the meaning of sections 609.75 to 609.76 and chapter 299L. Electronic game devices authorized under this chapter may be used only in the conduct of lawful gambling permitted under this chapter and may not display or simulate any other form of gambling or entertainment.

Sec. 13. Minnesota Statutes 2010, section 349.151, subdivision 4b, is amended to read:

Subd. 4b. **Pull-tab sales from dispensing devices.** ~~(a)~~ The board may by rule authorize but not require the use of pull-tab dispensing devices.

~~(b) Rules adopted under paragraph (a):~~

~~(1) must limit the number of pull tab dispensing devices on any permitted premises to three; and~~

~~(2) must limit the use of pull tab dispensing devices to a permitted premises which is (i) a licensed premises for on sales of intoxicating liquor or 3.2 percent malt beverages; or (ii) a premises where bingo is conducted and admission is restricted to persons 18 years or older.~~

~~(c) Notwithstanding rules adopted under paragraph (b), pull tab dispensing devices may be used in establishments licensed for the off sale of intoxicating liquor, other than drugstores and general food stores licensed under section 340A.405, subdivision 1.~~

Sec. 14. Minnesota Statutes 2010, section 349.151, subdivision 4c, is amended to read:

Subd. 4c. **Electronic bingo.** (a) The board may by rule authorize but not require the use of electronic bingo devices.

(b) Rules adopted under paragraph (a):

(1) must limit the number of bingo faces that can be played using an electronic bingo device to 36;

(2) must require that an electronic bingo device be used with ~~corresponding bingo paper sheets or~~ a facsimile, ~~printed at the point of sale,~~ of a bingo paper sheet as approved by the board;

(3) must require that the electronic bingo device site system have ~~dial-up~~ the capability to permit the board to remotely monitor the operation of the device and the internal accounting systems; and

(4) must prohibit the price of a face played on an electronic bingo device from being less than the price of a face on a bingo paper sheet sold for the same game at the same occasion.

Sec. 15. Minnesota Statutes 2010, section 349.155, subdivision 3, is amended to read:

Subd. 3. **Mandatory disqualifications.** (a) In the case of licenses for manufacturers, distributors, distributor salespersons, linked bingo game providers, and gambling managers, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, or person in a supervisory or management position of the applicant or licensee:

- (1) has ever been convicted of a felony or a crime involving gambling;
- (2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;
- (3) is or has ever been connected with or engaged in an illegal business;
- (4) owes \$500 or more in delinquent taxes as defined in section 270C.72;
- (5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years; or
- (6) after demand, has not filed tax returns required by the commissioner of revenue. The board may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this paragraph are applicable to an affiliate or direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) In the case of licenses for organizations, the board may not issue a license under this chapter, and shall revoke a license under this chapter, if the organization, or an officer or member of the governing body of the organization:

- (1) has been convicted of a felony or gross misdemeanor involving theft or fraud; or
- (2) has ever been convicted of a crime involving gambling; ~~or.~~
- ~~(3) has had a license issued by the board or director permanently revoked for violation of law or board rule.~~

Sec. 16. Minnesota Statutes 2010, section 349.155, subdivision 4, is amended to read:

Subd. 4. **License revocation, suspension, denial; censure.** (a) The board may by order (i) deny, suspend, revoke, or refuse to renew a license or premises permit, or (ii) censure a licensee or applicant, if it finds that the order is in the public interest and that the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee:

- (1) has violated or failed to comply with any provision of this chapter or chapter 297E or 299L, or any rule adopted or order issued thereunder;
- (2) has filed an application for a license that is incomplete in any material respect, or contains a statement that, in light of the circumstances under which it was made, is false, misleading, fraudulent, or a misrepresentation;
- (3) has made a false statement in a document or report required to be submitted to the board or the commissioner of revenue, or has made a false statement to the board, the compliance review group, or the director;
- (4) has been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;
- (5) is permanently or temporarily enjoined by any gambling regulatory agency from engaging in or continuing any conduct or practice involving any aspect of gambling;
- (6) has had a gambling-related license revoked or suspended, or has paid or been required to pay a monetary penalty of \$2,500 or more, by a gambling regulator in another state or jurisdiction;

(7) has been the subject of any of the following actions by the director of alcohol and gambling enforcement or commissioner of public safety: (i) had a license under chapter 299L denied, suspended, or revoked, (ii) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine, or (iii) has been the subject of any other discipline by the director or commissioner;

(8) has engaged in conduct that is contrary to the public health, welfare, or safety, or to the integrity of gambling; or

(9) based on past activities or criminal record poses a threat to the public interest or to the effective regulation and control of gambling, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gambling or the carrying on of the business and financial arrangements incidental to the conduct of gambling.

(b) The revocation or suspension of an organization license may not exceed a period of ten years, including any revocation or suspension imposed by the board prior to the effective date of this paragraph, except that:

(1) any prohibition placed by the board on who may be involved in the conduct, oversight, or management of the revoked organization's lawful gambling activity is permanent; and

(2) a revocation or suspension will remain in effect until the payment of any taxes, fees, and fines that are delinquent have been paid by the organization to the satisfaction of the board.

Sec. 17. Minnesota Statutes 2010, section 349.161, subdivision 1, is amended to read:

Subdivision 1. **Prohibited acts; licenses required.** (a) No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state other than for lawful gambling exempt or excluded from licensing, except to an organization licensed for lawful gambling;

(2) sell, offer for sale, or furnish gambling equipment for use within the state without having obtained a distributor license or a distributor salesperson license under this section except that an organization authorized to conduct bingo by the board may loan bingo hard cards and devices for selecting bingo numbers to another organization authorized to conduct bingo;

(3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter; or

(4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.

(b) No licensed distributor salesperson may sell, offer for sale, or furnish gambling equipment for use within the state without being employed by a licensed distributor or owning a distributor license.

(c) No distributor or distributor salesperson may also be licensed as a linked bingo game provider under section 349.1635.

Sec. 18. Minnesota Statutes 2010, section 349.163, subdivision 1, is amended to read:

Subdivision 1. **License required.** No manufacturer of gambling equipment may sell any gambling equipment to any person for use or resale within the state, unless the manufacturer has a current and valid license issued by the board under this section and has satisfied other criteria prescribed by the board by rule. A manufacturer licensed under this section may also be licensed as a linked bingo game provider under section 349.1635.

A manufacturer licensed under this section may not also be directly or indirectly licensed as a distributor under section 349.161.

Sec. 19. Minnesota Statutes 2010, section 349.163, subdivision 6, is amended to read:

Subd. 6. **Samples of gambling equipment.** The board shall require each licensed manufacturer to submit to the board one or more samples of each item of gambling equipment the manufacturer manufactures for use or resale in this state. For purposes of this subdivision, a manufacturer is also required to submit the applicable version of any software necessary to operate electronic devices and related systems. The board shall inspect and test all the equipment, including software and software upgrades, it deems necessary to determine the equipment's compliance with law and board rules. Samples required under this subdivision must be approved by the board before the equipment being sampled is shipped into or sold for use or resale in this state. The board shall impose a fee of \$25 for each item of gambling equipment that the manufacturer submits for approval or for which the manufacturer requests approval. The board shall impose a fee of \$100 for each sample of gambling equipment that it tests. The board may require samples of gambling equipment to be tested by an independent testing laboratory prior to submission to the board for approval. All costs of testing by an independent testing laboratory must be borne by the manufacturer. An independent testing laboratory used by a manufacturer to test samples of gambling equipment must be approved by the board before the equipment is submitted to the laboratory for testing. The board may request the assistance of the commissioner of public safety and the director of the State Lottery in performing the tests.

Sec. 20. Minnesota Statutes 2010, section 349.1635, subdivision 2, is amended to read:

Subd. 2. **License application.** The board may issue a license to a linked bingo game provider or to a manufacturer licensed under section 349.163 who meets the qualifications of this chapter and the rules promulgated by the board. The application shall be on a form prescribed by the board. The license is valid for two years and the fee for a linked bingo game provider license is \$5,000 per year.

Sec. 21. Minnesota Statutes 2010, section 349.1635, is amended by adding a subdivision to read:

Subd. 5. **Linked bingo game services requirements.** A linked bingo game provider shall contract with licensed distributors for linked bingo game services including, but not limited to, the solicitation of agreements with licensed organizations, and installation, repair, or maintenance of the linked bingo game system. No linked bingo game provider may contract with any distributor on an exclusive basis. A linked bingo game provider may refuse to contract with a licensed distributor if the linked bingo game provider demonstrates that the licensed distributor is not capable of performing the services under the contract.

Sec. 22. Minnesota Statutes 2010, section 349.165, subdivision 2, is amended to read:

Subd. 2. **Contents of application.** An application for a premises permit must contain:

- (1) the name and address of the applying organization;
- (2) a description of the site for which the permit is sought, including its address and, where applicable, its placement within another premises or establishment;
- (3) if the site is leased, the name and address of the lessor and information about the lease the board requires, including all rents and other charges for the use of the site. The lease term is concurrent with the term of the premises permit. The lease must contain a ~~30-day~~ termination clause. No lease is required for the conduct of a raffle; and
- (4) other information the board deems necessary to carry out its purposes.

An organization holding a premises permit must notify the board in writing within ten days whenever any material change is made in the above information.

Sec. 23. Minnesota Statutes 2010, section 349.17, subdivision 6, is amended to read:

Subd. 6. **Conduct of bingo.** A game of bingo begins with the first letter and number called or displayed. Each player must cover, mark, or activate the numbers when bingo numbers are randomly selected, and announced, ~~and or displayed to the players, either manually or with a flashboard and monitor.~~ The game is won when a player, using bingo paper, bingo hard card, or a facsimile of a bingo paper sheet, has completed, as described in the bingo program, a previously designated pattern or previously determined requirements of the game and declared bingo. The game is completed when a winning card, sheet, or facsimile is verified and a prize awarded pursuant to subdivision 3.

Sec. 24. Minnesota Statutes 2010, section 349.17, subdivision 7, is amended to read:

Subd. 7. **Bar bingo.** An organization may conduct bar bingo subject to the following restrictions:

(1) the bingo is conducted at a site the organization owns or leases and which has a license for the sale of intoxicating beverages on the premises under chapter 340A;

(2) the bingo is conducted using only bingo paper sheets or facsimiles of bingo paper sheets purchased from a licensed distributor or licensed linked bingo game provider; and

(3) no rent may be paid for a bar bingo occasion, except as allowed in section 349.185.

Sec. 25. Minnesota Statutes 2010, section 349.17, subdivision 8, is amended to read:

Subd. 8. **Linked bingo games.** (a) A licensed organization may conduct or participate in ~~not more than two~~ linked bingo games ~~per occasion, one of which may be a~~ including progressive game games in which a portion of the prize is carried over from one ~~occasion game~~ to another until won by a player achieving a bingo within a predetermined amount of bingo numbers called.

(b) ~~Each participating licensed organization shall contribute to each prize awarded in a linked bingo game in an amount not to exceed \$300~~ Linked bingo games may only be conducted by licensed organizations who have a valid agreement with the linked bingo game provider.

(c) An electronic bingo device as defined in section 349.12, subdivision 12a, may be used for a linked bingo game.

(d) Linked bingo games played on an electronic bingo device may be located only at a permitted premises where the organization conducts another form of lawful gambling and the premises is:

(1) a licensed premises for the on-sale or off-sale of intoxicating liquor or 3.2 percent malt beverages, except for a general food store or drug store permitted to sell alcoholic beverages under section 340A.405, subdivision 1; or

(2) where bingo is conducted as the primary business, the premises has a seating capacity of at least 100, and admission is restricted to persons 18 years or older.

(e) For linked bingo games played on an electronic bingo device:

(1) no more than six electronic bingo devices may be in play at a permitted premises with 200 seats or less;

(2) no more than 12 electronic bingo devices may be in play at a permitted premises with 201 seats or more; and

(3) for premises where the primary business is bingo, the number of electronic bingo devices that may be in play will be determined by the board.

Seating capacity is determined as specified under the local fire code.

(f) Prior to a bingo occasion for linked bingo games played on an electronic bingo device, the linked bingo game provider, on behalf of the participating organizations, must provide to the board a bingo program in a format prescribed by the board.

~~(d)~~ (g) The board may adopt rules to:

(1) specify the manner in which a linked bingo game must be played and how the linked bingo prizes must be awarded;

(2) specify the records to be maintained by a linked bingo game provider;

(3) require the submission of periodic reports by the linked bingo game provider and specify the content of the reports;

(4) establish the qualifications required to be licensed as a linked bingo game provider; and

(5) any other matter involving the operation of a linked bingo game.

Sec. 26. Minnesota Statutes 2010, section 349.1721, is amended by adding a subdivision to read:

Subd. 3. Pull-tab dispensing devices restrictions and requirements. (a) The number of paper pull-tab dispensing devices located on any permitted premises is limited to three.

(b) The number of pull-tab dispensing devices that use facsimiles of paper pull-tabs is limited to:

(1) no more than six devices in play at any permitted premises with 200 seats or less;

(2) no more than 12 devices in play at any permitted premises with 201 seats or more; and

(3) for premises where the primary business is bingo, the number of devices that may be in play will be determined by the board.

Seating capacity is determined as specified under the local fire code.

(c) The use of any pull-tab dispensing device must be at a permitted premises which is:

(1) a licensed premises for on-sales of intoxicating liquor or 3.2 percent malt beverages; or

(2) a premises where bingo is conducted as the primary business and admission is restricted to persons 18 years or older.

(d) Pull-tab dispensing devices may be used in establishments licensed for the off-sale of intoxicating liquor, other than drugstores and general food stores licensed under section 340A.405, subdivision 1.

(e) An organization may use pull-tab dispensing devices that use facsimiles of paper pull-tabs if the organization conducts another form of lawful gambling at the permitted premises.

(f) Pull-tab dispensing devices that use facsimiles of paper pull-tabs must have the capability to:

(1) allow the board to electronically monitor the operation of the electronic pull-tab devices and the internal accounting systems;

(2) maintain a printable, permanent record of all transactions involving the device; and

(3) allow the board to require the deactivation of a device for violation of a law or rule and to implement any other controls deemed by the board necessary to ensure and maintain the integrity of games operated under this subdivision.

(g) The board shall examine prototypes of pull-tab dispensing devices that use facsimiles of paper pull-tabs. The board may contract for the examination of the devices and may require working models of the devices to be transported to locations the board designates for testing, examination, and analysis. The manufacturer shall pay all costs of any testing, examination, analysis, and transportation of the model.

Sec. 27. Minnesota Statutes 2010, section 349.1721, is amended by adding a subdivision to read:

Subd. 4. **Electronic facsimile of paper pull-tabs.** (a) Tickets and deals must be in conformance with board rules for pull-tabs.

(b) Deals must contain:

(1) a finite number of tickets in each electronic deal;

(2) a predetermined number of winning and losing tickets;

(3) serialized tracking for each deal;

(4) no regeneration of a serialized deal; and

(5) no spinning symbols which mimic a video slot machine.

(c) All deals in play must not be transferred electronically or otherwise to any other location by the licensed organization.

(d) Deals must not be shared or commingled with any other deals or locations.

Sec. 28. Minnesota Statutes 2010, section 349.1721, is amended by adding a subdivision to read:

Subd. 5. **Multiple chance games.** The board may permit pull-tab games in which the holders of certain predesignated winning tickets, with a prize value not to exceed \$75 each, have the option of turning in the winning tickets for the chance to win a prize of greater value.

Sec. 29. Minnesota Statutes 2010, section 349.18, subdivision 1, is amended to read:

Subdivision 1. **Lease or ownership required; rent limitations.** (a) An organization may conduct lawful gambling only on premises it owns or leases. Leases must be on a form prescribed by the board. The term of the lease is concurrent with the premises permit. Leases approved by the board must specify that the board may

authorize an organization to withhold rent from a lessor for a period of up to 90 days if the board determines that illegal gambling occurred on the premises or that the lessor or its employees participated in the illegal gambling or knew of the gambling and did not take prompt action to stop the gambling. The lease must authorize the continued tenancy of the organization without the payment of rent during the time period determined by the board under this paragraph. Copies of all leases must be made available to employees of the board and the Division of Alcohol and Gambling Enforcement on request.

(b) Rent paid by an organization for leased premises for the conduct of pull-tabs, tipboards, and paddle wheels is subject to the following limits:

(1) for booth operations, including booth operations where a paper pull-tab dispensing device is located, booth operations where a bar operation is also conducted, and booth operations where both a paper pull-tab dispensing device is located and a bar operation is also conducted, the ~~maximum rent is:~~ monthly rent is not more than ten percent of gross profits for that month;

~~(i) in any month where the organization's gross profit at those premises does not exceed \$4,000, up to \$400; and~~

~~(ii) in any month where the organization's gross profit at those premises exceeds \$4,000, up to \$400 plus not more than ten percent of the gross profit for that month in excess of \$4,000;~~

(2) for bar operations, ~~including bar operations where a pull tab dispensing device is located~~ but not including bar operations subject to clause (1), ~~and for locations where only a pull tab dispensing device is located~~ the monthly rent is subject to the following:

~~(i) in any month where the organization's gross profit at those premises does not exceed \$1,000, up to \$200; and~~

~~(ii) in any month where the organization's gross profit at those premises exceeds \$1,000, up to \$200 plus not more than 20 percent of the gross profit for that month in excess of \$1,000;~~

(i) not more than 20 percent of the monthly gross profits from the sale of paper pull-tabs or tipboards; and

(ii) not more than 17 percent of the monthly gross profits from sales of electronic linked bingo games and electronic facsimiles of paper pull-tabs;

(3) a lease not governed by clauses (1) and (2) must be approved by the board before becoming effective;

(4) total rent paid to a lessor from all organizations from leases governed by clause (1) may not exceed \$1,750 per month.

(c) Rent paid by an organization for leased premises for the conduct of bingo is subject to either of the following limits at the option of the parties to the lease:

(1) not more than ten percent of the monthly gross profit from all lawful gambling activities held during bingo occasions excluding bar bingo or at a rate based on a cost per square foot not to exceed 110 percent of a comparable cost per square foot for leased space as approved by the director; and

(2) no rent may be paid for bar bingo except as allowed in section 349.185.

(d) Amounts paid as rent under leases are all-inclusive. No other services or expenses provided or contracted by the lessor may be paid by the organization, including, but not limited to, trash removal, janitorial and cleaning services, snow removal, lawn services, electricity, heat, security, security monitoring, storage, other utilities or

services, and, in the case of bar operations, cash shortages, unless approved by the director. The lessor shall be responsible for the cost of any communications network or service that is required to conduct electronic gaming. Any other expenditure made by an organization that is related to a leased premises must be approved by the director. An organization may not provide any compensation or thing of value to a lessor or the lessor's employees from any fund source other than its gambling account. Rent payments may not be made to an individual.

(e) Notwithstanding paragraph (b), an organization may pay a lessor for food or beverages or meeting room rental if the charge made is comparable to similar charges made to other individuals or groups.

(f) No entity other than the licensed organization may conduct any activity within a booth operation on a leased premises.

(g) The rent provisions under this subdivision shall be monitored by the board and shall be reported to the legislature as part of the board's annual report.

Sec. 30. **[349.185] GROSS PROFIT ALLOCATION; LINKED BINGO ON ELECTRONIC BINGO DEVICES.**

(a) The allocation of gross profits from the operation of linked bingo on electronic bingo devices is as provided in this section. The licensed organization shall receive:

(1) a minimum of 50 percent of gross profits to be used exclusively for lawful purpose expenditures as defined under section 349.12, subdivision 25; and

(2) no more than 13 percent each fiscal year for allowable expenses as defined under section 349.12, subdivision 3a, and does not include the expenses allocated under paragraph (b) or (c).

(b) A linked bingo game provider shall receive no more than 20 percent of gross profits.

(c) Where the primary business is not bingo and the premises is leased and linked bingo is played on electronic bingo devices, the lessor is subject to the limits in section 349.18. The licensed organization shall be responsible for the overall conduct of linked bingo games but the lessor shall provide staffing to operate the linked bingo games at the premises in order to receive the percentage of profit allocation and the lessor is responsible for cash shortages.

(d) Where the primary business is bingo and the linked bingo is played on electronic bingo devices, the lessor is subject to the rent limitations under section 349.18, subdivision 1, paragraph (c), clause (1), and the licensed organization will receive the value identified under paragraph (c).

(e) The allocation of gross profits under this subdivision shall be monitored by the board and shall be reported to the legislature as part of the board's annual report.

Sec. 31. Minnesota Statutes 2010, section 349.211, subdivision 1a, is amended to read:

Subd. 1a. **Linked bingo prizes.** Prizes for a linked bingo game shall be limited as follows:

(1) no organization may contribute more than \$300 per linked bingo game to a linked bingo prize pool for linked bingo games played without electronic bingo devices, an organization may not contribute to a linked bingo game prize pool more than \$300 per linked bingo game per site;

(2) for linked bingo games played with electronic bingo devices, an organization may not contribute more than 85 percent of the gross receipts per permitted premises to a linked bingo game prize pool;

~~(2)~~ (3) no organization may award more than \$200 for a linked bingo game consolation prize. For purposes of this subdivision, a linked bingo game consolation prize is a prize awarded by an organization after a prize from the linked bingo prize pool has been won; ~~and~~

~~(3)~~ (4) for a progressive linked bingo game, if no player declares a valid bingo ~~within the~~ for a progressive prize or prizes based on a predetermined amount of bingo numbers called and posted win determination, a portion of the ~~prize is gross receipts may be~~ carried over to another ~~occasion game~~ until the accumulated progressive prize is won. The portion of the prize that is not carried over must be awarded to the first player or players who declares a valid bingo as additional numbers are called. If a valid bingo is declared within the predetermined amount of bingo numbers called, the entire prize pool for that game is awarded to the winner. ~~The annual limit for progressive bingo game prizes contained in subdivision 2 must be reduced by the amount an organization contributes to progressive linked bingo games during the same calendar year.; and~~

(5) for linked bingo games played on electronic bingo devices, linked bingo prizes in excess of \$599 shall be paid by the linked bingo game provider to the player within three business days. Winners of linked bingo prizes in excess of \$599 will be given a receipt or claim voucher as proof of a win."

Delete the title and insert:

"A bill for an act relating to gambling; modifying certain rates of tax on lawful gambling; providing for linked bingo and electronic pull-tabs; making clarifying, conforming, and technical changes; amending Minnesota Statutes 2010, sections 297E.02, subdivisions 1, 4, 6; 349.12, subdivisions 5, 12a, 25b, 25c, 25d, 29, 32, 32a; 349.13; 349.151, subdivisions 4b, 4c; 349.155, subdivisions 3, 4; 349.161, subdivision 1; 349.163, subdivisions 1, 6; 349.1635, subdivision 2, by adding a subdivision; 349.165, subdivision 2; 349.17, subdivisions 6, 7, 8; 349.1721, by adding subdivisions; 349.18, subdivision 1; 349.211, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 349."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1506, A bill for an act relating to state government; assigning new duties to the Legislative Commission on Planning and Fiscal Policy; transferring duties from executive agencies; appropriating money; amending Minnesota Statutes 2010, sections 3.885, subdivisions 1, 5, by adding a subdivision; 3.98; 3.987, subdivision 1.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1509, A bill for an act relating to environment; modifying Clean Water Partnership Law; amending Minnesota Statutes 2010, sections 17.117, subdivision 6a; 103F.705; 103F.711, subdivision 8; 103F.715; 103F.725, subdivisions 1, 1a; 103F.731, subdivision 2; 103F.735; 103F.741, subdivision 1; 103F.745; 103F.751; repealing Minnesota Statutes 2010, sections 103F.711, subdivision 7; 103F.721; 103F.731, subdivision 1; 103F.761.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Agriculture and Rural Development Policy and Finance.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1520, A bill for an act relating to public safety; aligning state controlled substance schedules with federal controlled substance schedules; modifying the authority of the Board of Pharmacy to regulate controlled substances; allowing the electronic prescribing of controlled substances; amending Minnesota Statutes 2010, sections 152.01, by adding a subdivision; 152.02; 152.11, subdivisions 1, 2, 2d, 3.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1535, A bill for an act relating to public safety; making changes to the DWI, off-highway vehicle, drive-by shooting, designated offense, and controlled substance forfeiture laws to provide more uniformity; raising the monetary cap on the value of certain property forfeitures that may be adjudicated in conciliation court; prohibiting forfeited property from being sold to prosecuting authorities or persons related to prosecuting authorities; amending Minnesota Statutes 2010, sections 84.7741, subdivisions 2, 3, 4, 8, 9, 10, by adding a subdivision; 169A.63, subdivisions 2, 3, 4, 8, 9, 10, by adding a subdivision; 491A.01, subdivision 3; 609.531, subdivision 1; 609.5314, subdivisions 2, 3; 609.5315, subdivisions 1, 5, 5a, 5b; 609.5318, subdivisions 2, 3.

Reported the same back with the following amendments:

Page 15, after line 28, insert:

"Sec. 17. Minnesota Statutes 2010, section 609.531, subdivision 6a, is amended to read:

Subd. 6a. **Forfeiture a civil procedure; conviction results in presumption.** (a) An action for forfeiture is a civil in rem action and is independent of any criminal prosecution, except as provided in this subdivision and section 609.5318.

(b) An asset is subject to a designated offense forfeiture under section 609.5312 only if the underlying designated offense is established by proof of a criminal conviction.

(c) The appropriate agency handling the forfeiture has the benefit of the evidentiary presumption of section 609.5314, subdivision 1, ~~but otherwise bears the burden of proving the act or omission giving rise to the forfeiture by clear and convincing evidence, except that in cases arising under section 609.5312, the designated offense may only be established by a criminal conviction~~ for forfeitures related to controlled substances.

(d) For all other forfeitures, the appropriate agency handling the forfeiture bears the burden of proving the act or omission by clear and convincing evidence.

~~(b)~~ (e) A court may not issue an order of forfeiture under section 609.5311 while the alleged owner of the property is in custody and related criminal proceedings are pending against the alleged owner. As used in this paragraph, the alleged owner is:

(1) for forfeiture of a motor vehicle, ~~the alleged owner is~~ the registered owner according to records of the Department of Public Safety;

(2) for real property, ~~the alleged owner is~~ the owner of record; and

(3) for other property, ~~the alleged owner is~~ the person notified by the prosecuting authority in filing the forfeiture action.

EFFECTIVE DATE. This section is effective July 1, 2011, and applies to forfeitures initiated on or after that date."

Page 20, after line 20, insert:

"Sec. 24. Minnesota Statutes 2010, section 609.5315, subdivision 6, is amended to read:

Subd. 6. **Reporting requirement.** (a) For each forfeiture occurring in the state regardless of the authority for it, the appropriate agency and the prosecutor shall provide a written record of the forfeiture incident to the state auditor. The record shall include the amount forfeited, the statutory authority for the forfeiture, its date, a brief description of the circumstances involved, and whether the forfeiture was contested. For controlled substance and driving while impaired forfeitures, the record shall indicate whether the forfeiture was initiated as an administrative or a judicial forfeiture. The record shall also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. The record shall indicate how the property was or is to be disposed of.

(b) An appropriate agency or the prosecutor shall report to the state auditor all instances in which property seized for forfeiture is returned to its owner either because forfeiture is not pursued or for any other reason.

(c) Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures.

(d) For forfeitures resulting from the activities of multijurisdictional law enforcement entities, the entity on its own behalf shall report the information required in this subdivision.

(e) The prosecutor is not required to report information required by this subdivision unless the prosecutor has been notified by the state auditor that the appropriate agency has not reported it.

(f) The appropriate agency shall provide a written record under this subdivision to the state auditor addressing instances in which the agency transfers a proceeding that involves asset forfeiture to another agency, including the federal government. In addition to the information required under paragraphs (a) and (b), the record must provide the name of the agency receiving the case and, if available, the case number.

EFFECTIVE DATE. This section is effective January 1, 2012, and applies to all cases pending on or after that date."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, after the semicolon, insert "requiring state law enforcement agencies to report on the transfer of cases involving forfeiture to the federal government; clarifying the general criminal code forfeiture law, necessity of conviction, and burden of proof;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1545, A bill for an act relating to energy; establishing Energy Reliability and Intervention Office within Department of Commerce to replace Energy Issues Intervention Office and energy reliability administrator; making conforming changes; amending Minnesota Statutes 2010, sections 216B.62, subdivisions 2, 3; 216C.052; repealing Minnesota Statutes 2010, section 216A.085.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

Anderson, S., from the Committee on Redistricting to which was referred:

H. F. No. 1547, A bill for an act relating to redistricting; establishing districting principles for legislative and congressional plans; proposing coding for new law in Minnesota Statutes, chapter 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **[2.92] DISTRICTING PRINCIPLES.**

Subdivision 1. Applicability. The principles in this section apply to legislative and congressional districts.

Subd. 2. Nesting. A representative district may not be divided in the formation of a senate district.

Subd. 3. Equal population. (a) Legislative districts must be substantially equal in population. The population of a legislative district must not deviate from the ideal by more than one percent, plus or minus. For a redistricting plan enacted in 2011 or 2012, the ideal population of a House district is 39,582 and the ideal population of a Senate district is 79,164.

(b) Congressional districts must be as nearly equal in population as practicable. For a redistricting plan enacted in 2011 or 2012, the ideal population of a congressional district is 662,991.

Subd. 4. **Contiguity; compactness.** The districts must be composed of convenient contiguous territory. To the extent consistent with the other principles in this section, districts should be compact. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Point contiguity is not sufficient.

Subd. 5. **Numbering.** (a) Legislative districts must be numbered in a regular series, beginning with house district 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the 11 county metropolitan area until the southeast corner has been reached; then to the 11 county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

(b) Congressional district numbers must begin with district one in the southeast corner of the state and end with district eight in the northeast corner of the state.

Subd. 6. **Minority representation.** (a) The dilution of racial or ethnic minority voting strength is contrary to the laws of the United States and the state of Minnesota. These principles must not be construed to supersede any provision of the Voting Rights Act of 1965, as amended.

(b) A redistricting plan must not have the intent or effect of dispersing or concentrating minority population in a manner that prevents minority communities from electing their candidates of choice.

Subd. 7. **Minor civil divisions.** (a) A county, city, or town must not be unduly divided unless required to meet equal population requirements or to form districts composed of convenient, contiguous territory.

(b) A county, city, or town is not unduly divided in the formation of a legislative or congressional district if:

(1) the division occurs because a portion of a city or town is noncontiguous with another portion of the same city or town; or

(2) despite the division, the known population of any affected county, city, or town remains wholly located within a single district.

Subd. 8. **Preserving communities of interest.** (a) Districts should attempt to preserve identifiable communities of interest where that can be done in compliance with the preceding principles.

(b) For purposes of this subdivision, "communities of interest" means recognizable areas with similarities of interests, including but not limited to racial, ethnic, geographic, social, or cultural interests.

Subd. 9. **Data to be used.** The geographic areas and population counts used in maps, tables, and legal descriptions of the districts must be those used by the Geographic Information Systems Office of the Legislative Coordinating Commission. The population counts will be the 2010 block population counts provided to the state under Public Law Number 94-171, subject to correction of any errors acknowledged by the United States Census Bureau.

Subd. 10. **Consideration of plans.** A redistricting plan must not be considered for adoption by the senate or house of representatives until a block equivalency file showing the district to which each census block has been assigned, in a form prescribed by the director of the Geographic Information Systems Office, has been filed with the director.

Subd. 11. **Priority of principles.** Where it is not possible to fully comply with the principles contained in subdivisions 1 to 8, a redistricting plan must give priority to those principles in the order in which they are listed in this section, except to the extent that doing so would violate federal or state law.

EFFECTIVE DATE; EXPIRATION. This section is effective the day following final enactment and applies to any plan for districts enacted or established for use at the state primary in 2012 and thereafter. This section expires June 1, 2012."

With the recommendation that when so amended the bill pass.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1577, A bill for an act relating to public safety; establishing a sex offender policy task force.

Reported the same back with the following amendments:

Page 2, line 10, before the semicolon, insert "in consultation with local corrections associations"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Government Operations and Elections.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1579, A bill for an act relating to counties; giving counties authority to provide for the general welfare; establishing an alternative service delivery pilot program for waivers; amending Minnesota Statutes 2010, section 375.18, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 402A.

Reported the same back with the following amendments:

Page 4, after line 33, insert:

"ARTICLE 3
MINNESOTA NORTHSTAR COUNCIL

Section 1. **[15D.01] PURPOSE.**

The Minnesota Action/Accountability Plan recognizes that the long-term success and high quality of life of Minnesota will depend on a dynamic approach to governance that brings public officials and citizens together to set a clear vision for the state's future built on a shared vision that is based upon a foundation of planning, performance management, accountability, and empowerment. This requires that the state create a strategic plan, that it innovates in the delivery of public services, and that it measures its success in producing superior results for the citizens of the state. The provisions of this chapter shall be accomplished by the state legislature, the governor's office, and state agencies within existing appropriations.

Sec. 2. **[15D.02] MINNESOTA NORTHSTAR COUNCIL.**

Subdivision 1. **Establishment.** The commissioner of management and budget must establish and convene the Minnesota Northstar Council to develop a state strategic plan which will include: (1) a mission statement for the state; (2) up to ten policy goals; and (3) up to 100 strategic performance measures.

Subd. 2. **Membership.** (a) The Minnesota Northstar Council shall consist of 17 members and shall be led by an executive committee made up of the following members:

(1) two members appointed by the governor;

(2) one member appointed by the speaker of the house;

(3) one member appointed by the minority leader of the house;

(4) one member appointed by the majority leader of the senate; and

(5) one member appointed by the minority leader of the senate.

(b) The executive committee must appoint one member representing each of the following:

(1) private business;

(2) organized labor;

(3) nonprofit organizations;

(4) foundations;

(5) counties;

(6) cities;

(7) townships;

(8) school boards;

(9) a member having expertise in performance measurement;

(10) a member having expertise in redesign and planning; and

(11) a member representing Minnesota youth.

(c) The following are nonvoting members of the council:

(1) the commissioner of management and budget or the commissioner's designee;

(2) a member appointed by the board of regents of the University of Minnesota;

(3) the state demographer; and

(4) the state economist.

(d) The governor shall designate one of the members of the council to serve as chair. The commissioner of management and budget shall provide staff assistance and administrative support to the council.

(e) Members serve at the pleasure of the appointing authority. Members may be reimbursed for expenses as provided in section 15.059.

(f) All actions of the council must be approved by a majority vote of a quorum of members appointed under paragraphs (a) and (b) who are present at a meeting. The state strategic plan must be approved by an affirmative vote of at least nine voting members of the council, including at least four members of the executive committee.

Sec. 3. **[15D.03] STATE STRATEGIC PLAN; STRATEGIC PERFORMANCE MEASURES.**

Subdivision 1. **Development.** (a) The council, with advice from state departments and agencies and aligned legislative committee chairs and ranking minority caucus members, shall develop a state strategic plan that must include: (1) a mission statement for the state; (2) up to ten policy goals; and (3) up to 100 outcome-based strategic performance measures. Strategic performance measures are defined as a level of achievement by which the state and its departments can measure their own progress against internal or external standards. Strategic performance measures must be outcome-based measures.

(b) In developing the state strategic plan, the council shall reach out to gather and coordinate citizen input from citizens across the state. The council may consider the work and process of the Minnesota Milestones and the Minnesota Compass in developing the strategic plan and in the council's other work. The council must consider the use of social media to solicit input.

(c) The council must complete the initial state strategic plan by August 1, 2012. The council shall review and approve changes to the strategic plan by January of each even-numbered year. The strategic plan shall undergo continuous review and improvement by the Northstar Council and the council shall review each of the ten goal areas and aligned strategic measures at least once every three years.

Subd. 2. **Strategic performance measures.** The council or Minnesota Management and Budget must designate an owner for each strategic performance measure that the council establishes as a means of measuring progress toward accomplishment of the public policy goals established by the council. The owner is responsible for the tracking of the measures, the results of the strategic performance measures, and the strategies implemented to improve performance.

Subd. 3. **Performance improvement plans.** (a) Upon request of the commissioner of management and budget, the head of an executive agency must develop a new, or review an existing, performance improvement plan for each relevant public policy goal and related aligned strategic performance measures. The performance improvement plan must propose actions for achieving the goals and measurements created by the Northstar Council and must include input from aligned legislative committees and their chairs and Minnesota Management and Budget. In addition, the performance improvement plan may include a description of how the volunteerism, service, nonprofit, and business sectors will be engaged in improving the strategic performance measurement.

(b) The department or agency officer in charge of a strategic performance measurement may designate an existing working group or create a new working group in order to receive feedback, develop the performance improvement plan, and carry out the performance improvement plan. Working groups may include members from the public and private sector but must not include vendors that would directly benefit from contracts with this department or agency.

Sec. 4. **[15D.04] AGENCY STRATEGIC PLANS; PERFORMANCE MANAGEMENT SYSTEMS.**

Subdivision 1. Development of strategic plan. Each state agency and department listed in section 15.06 must work with the aligned legislative committees and their chairs and Minnesota Management and Budget to prepare a strategic plan using an outcome-based approach for the agency or department under the commissioner's jurisdiction.

Subd. 2. Required content. Each agency strategic plan must be aligned with the state strategic plan and must identify key strategic outcomes as priorities for the next two bienniums and must include:

(1) a mission statement for the agency or department;

(2) outcome-based strategic performance measures within the state strategic plan that fall under the jurisdiction of this agency or department;

(3) quality and productivity department or agency performance measures for determining performance for each major activity within the agency's or department's budget, and that measure the performance of state-mandated services or operations. All budget items must be assigned an outcome-based goal within the state strategic plan;

(4) the methodology used to create the metrics to measure the performance measures;

(5) the goal level of performance for each performance measure;

(6) if progress has been made from the previous year on each performance measure;

(7) a method by which the success or failure to achieve the outcome will be measured;

(8) the executive official or owner responsible for achieving each performance measure;

(9) the agency's or department's plans to achieve the goals and improve the department's performance within the department or agency plan; and

(10) the projected costs for achieving the department or agency strategic plan.

Subd. 3. Private sector engagement. Notwithstanding any other law to the contrary, the department or agency may collaborate with the volunteerism, nonprofit, and business sectors to develop the department or agency strategic plan and work with the council to support stakeholder agencies of this chapter to separately or jointly seek and receive funds to provide expert technical assistance to the department, agency, council, participating counties, and any work groups or subwork groups formed to execute the provisions of this chapter including funding to develop the information resources infrastructure and to assist counties to design, implement, evaluate, and improve the innovations under section 402A.60 for MAGIC waivers.

Subd. 4. Performance improvement plans. Upon request of the commissioner of the agency or department of the aligned strategic plan, employees must develop a performance improvement plan for each performance measure. The performance improvement plan must include proposals and actions for achieving the goals and measurements. In addition, the performance improvement plan may include a description of how the volunteerism, service, nonprofit, and business sectors will be engaged in improving performance in that area. The department or agency officer in charge of this performance measurement may designate an existing working group or create a new working group in order to receive feedback, develop the performance improvement plan, and carry out the performance improvement plan. Working groups may include members from the public and private sector but shall not include vendors that would directly benefit from contracts with this department or agency.

Subd. 5. **Northstar Council review.** The Northstar Council must review each department and agency strategic plan developed under this section. The head of each agency or department must designate a key contact for each strategic performance measure. The key contact is responsible for the tracking and results of the performance measure. The council may make suggestions to the governor on alignment between the state's and departments' strategic plans.

Subd. 6. **Technical assistance.** Minnesota Management and Budget shall provide technical assistance to departments or agencies in the development of the department or agency plans, performance measures, and outcome-based budgeting. The Office of Enterprise Technology shall provide technological support in order to track performance and make information available to the public and shall review the feasibility of utilizing the Minnesota Compass, and its professional and technical infrastructure, for information resource development to meet the purposes of this chapter.

Sec. 5. [15D.05] IMPROVING AGENCY OPERATIONS AND PRODUCTIVITY.

Subdivision 1. **Employee objectives and learning.** Each state department and agency listed in section 15.06 must align all employee objectives and learning to the state and agency strategic plans, performance measures, and improvement plans.

Subd. 2. **Report.** Each state department and agency listed in section 15.06 shall recommend to the governor and the legislature by January 15 of each even-numbered year any statutory changes that will improve performance measures.

Subd. 3. **Performance objectives.** All state managers must set performance objectives for their units annually to be used in the annual performance appraisals of their employees. Each employee must have a learning and development plan. The commissioner of management and budget must conduct annual employee surveys to gather employee input on how agencies can improve performance.

Subd. 4. **Governor review of agency performance.** The governor shall hold an annual performance review with all of the state departments and agencies listed in section 15.06 to ensure that they are making progress in implementing their strategic plans, performance measures, and improvement plans.

Sec. 6. [15D.06] PUBLIC REPORT CARD ON STATE PERFORMANCE.

(a) Minnesota Management and Budget shall propose the form of a Minnesota State Performance Report Card to the council for approval. The report card must be made public by January 15, 2013, and be updated each year. The report card must be in a format easily understood by the public and include:

- (1) state policy goals;
- (2) the strategic performance measures;
- (3) the methodology used to create the metrics to measure the strategic performance measures;
- (4) the goal level of performance for each performance measure determined by the Northstar Council;
- (5) if progress has been made from the previous year on each performance measure;
- (6) a statement of value to the taxpayer when possible;

(7) a statement relating whether the value has gone down or up from the previous year based on an indexed rate of change when possible;

(8) the executive official responsible for achieving each performance measure; and

(9) the legislative committee that has jurisdiction for the department or agency.

(b) The commissioner of management and budget shall conduct an annual citizen survey to determine the citizen perception of achievement of the state's goals and performance measures where applicable.

Sec. 7. [15D.07] BUDGETING BASED ON STATE'S STRATEGIC PLAN.

(a) The governor shall propose a budget based on the state's strategic plan. The commissioner of management and budget must work with state departments and agencies in developing their budgets based on the ten public goals in the state strategic plan as well as the department and agency strategic plans, performance measures, and improvement plans. The governor's budget proposal must indicate the impact on achieving the state's goals. The budget must be able to be presented by department or by goal achievement as outlined in the state strategic plan.

(b) Department or agency budget proposals must include integration of performance measures that allow objective determination of an activity's success in achieving its strategic goals. Each department or agency shall include in the budget proposal an explanation of how the budget request promotes the strategic goals, performance measures, and outcomes outlined in the applicable strategic plan. For each change item in the budget proposal, the goal or performance measure to be achieved by the cost increase must be identified along with the method to evaluate whether or not the outcome has been achieved. The governor's budget must consider proposals to eliminate mandates and maintenance of effort provisions if alternative forms of service delivery can meet or exceed identified performance outcomes.

(c) Budget targets must be set by goal or outcome achieved rather than by department. Budget items must be evaluated and ranked within each budget to determine how well that budget item contributes to the achievement of the state's strategic goals. Budget items that lead to high outcome achievement must receive high budget priority and budget items that lead to low outcome achievement must be ranked lower and may not receive funding.

(d) The departments must present biannually to the aligned legislative committees on the achievement of the state's strategic goals through aligned strategic plans and performance measures. The chair of the aligned legislative committees may request updates at any time. The commissioner of management and budget shall work with department and agency staff to prepare fiscal notes that in addition to financial impacts also indicate how a bill will impact the achievement levels of the state's and departments' strategic plans and performance measures.

(e) The legislature may use the performance measurement system to mandate performance measure outcomes for state agencies rather than mandating a process or service delivery mandate or maintenance of effort. The legislature must take implementation costs into account when setting mandates for performance-based outcomes."

Amend the title as follows:

Page 1, line 2, delete the first "counties" and insert "government reform"

Page 1, line 3, after the semicolon, insert "providing for state strategic planning and performance review;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Anderson, S., from the Committee on Redistricting to which was referred:

House Concurrent Resolution No. 2, A House concurrent resolution relating to redistricting; establishing districting principles for legislative and congressional plans.

Reported the same back with the following amendments:

Page 1, delete lines 7 to 22

Page 2, delete lines 1 to 17 and insert:

"(1) [NUMBER OF DISTRICTS.] (a) The Senate must be composed of 67 members. The House of Representatives must be composed of 134 members. Each district is entitled to elect a single member. Districts must be numbered in a regular series, beginning with House district 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the 11-county metropolitan area until the southeast corner has been reached; then to the 11-county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

(b) A plan for congressional districts must have eight districts, each entitled to elect a single member. District numbers must begin with district one in the southeast corner of the state and end with district eight in the northeast corner of the state.

(2) [NESTING.] A representative district may not be divided in the formation of a Senate district.

(3) [EQUAL POPULATION.] (a) Legislative districts must be substantially equal in population. The population of a legislative district must not deviate from the ideal by more than one percent, plus or minus. The ideal population of a House district is 39,582. The ideal population of a Senate district is 79,164.

(b) Congressional districts must be as nearly equal in population as practicable. The ideal population of a congressional district is 662,991.

(4) [CONTIGUITY; COMPACTNESS.] Districts must be composed of convenient contiguous territory. To the extent consistent with the other principles in this resolution, districts should be compact. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Point contiguity is not sufficient.

(5) [MINORITY REPRESENTATION.] (a) The dilution of racial or ethnic minority voting strength is contrary to the laws of the United States and the state of Minnesota. The principles contained in this resolution must not be construed to supersede any provision of the Voting Rights Act of 1965, as amended.

(b) A redistricting plan must not have the intent or effect of dispersing or concentrating minority population in a manner that prevents minority communities from electing their candidates of choice.

(6) [MINOR CIVIL DIVISIONS.] (a) A county, city, or town must not be unduly divided unless required to meet equal population requirements or to form districts composed of convenient, contiguous territory.

(b) A county, city, or town is not unduly divided in the formation of a legislative or congressional district if:

(1) the division occurs because a portion of a city or town is noncontiguous with another portion of the same city or town; or

(2) despite the division, the known population of any affected county, city, or town remains wholly located within a single district.

(7) [PRESERVING COMMUNITIES OF INTEREST.] Districts should attempt to preserve identifiable communities of interest where that can be done in compliance with the preceding principles. "Communities of interest" means recognizable areas with similarities of interests including, but not limited to, racial, ethnic, geographic, social, or cultural interests.

(8) [DATA TO BE USED.] The geographic areas and population counts used in maps, tables, and legal descriptions of the districts must be those used by the Geographic Information Services Office of the Legislative Coordinating Commission. The population counts are the 2010 block population counts provided to the state under Public Law 94-171, subject to correction of any errors acknowledged by the United States Census Bureau.

(9) [CONSIDERATION OF PLANS.] A redistricting plan must not be considered for adoption by the Senate or House of Representatives until a block equivalency file showing the district to which each census block has been assigned, in a form prescribed by the director of the Geographic Information Services Office, has been filed with the director.

(10) [PRIORITY OF PRINCIPLES.] Where it is not possible to fully comply with the principles contained in paragraphs (1) to (7), a redistricting plan must give priority to those principles in the order in which they are listed in this resolution, except to the extent that doing so would violate federal or state law.

(11) [EXPIRATION.] This resolution expires June 1, 2012."

With the recommendation that when so amended the house concurrent resolution be adopted.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 716, 763, 922, 1245, 1363, 1378, 1410, 1422, 1461, 1473 and 1547 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Mariani introduced:

H. F. No. 1580, A bill for an act relating to education; prohibiting four-day week plans for school calendars; amending Minnesota Statutes 2010, sections 124D.10, subdivision 13; 124D.12; 124D.126, subdivision 2.

The bill was read for the first time and referred to the Committee on Education Reform.

Anderson, P., and Westrom introduced:

H. F. No. 1581, A bill for an act relating to capital investment; appropriating money for improvements to the Pope/Douglas Solid Waste Management Facility; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Atkins introduced:

H. F. No. 1582, A bill for an act relating to human services; modifying child care assistance provider rate differential for accreditation; amending Minnesota Statutes 2010, section 119B.13, subdivision 3a.

The bill was read for the first time and referred to the Committee on Health and Human Services Reform.

Hansen introduced:

H. F. No. 1583, A bill for an act relating to game and fish; modifying disposition of certain revenue; modifying license requirements and fees; appropriating money; amending Minnesota Statutes 2010, sections 97A.071, subdivision 2; 97A.075; 97A.411, subdivision 1; 97A.435, subdivision 2; 97A.451, subdivisions 2, 3, 4, 5, by adding a subdivision; 97A.473, subdivisions 2, 2b, 3, 4, 5, 5a; 97A.474, subdivision 2; 97A.475, subdivisions 2, 3, 4, 6, 7, 8, 11, 12, 20, 43, 44, 45; 97A.485, subdivision 7; 97B.715, subdivision 1; 97B.801; 97C.301, subdivision 3; 97C.305, subdivisions 1, 2; repealing Minnesota Statutes 2010, section 97A.451, subdivision 3a.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Dean and Abeler introduced:

H. F. No. 1584, A bill for an act relating to taxation; providing for a contingent reduction in the MinnesotaCare provider tax; amending Minnesota Statutes 2010, sections 295.52, by adding a subdivision; 297I.05, subdivision 5.

The bill was read for the first time and referred to the Committee on Health and Human Services Reform.

Anderson, P., introduced:

H. F. No. 1585, A bill for an act relating to education; allowing a limited exception to the 180-day good faith effort required before asking the Minnesota State High School League to arrange an interscholastic conference membership.

The bill was read for the first time and referred to the Committee on Education Reform.

McDonald, Gruenhagen, Cornish, Leidiger, LeMieur, Lohmer and Shimanski introduced:

H. F. No. 1586, A bill for an act relating to education; modifying provisions relating to allocation of funds for motorcycle safety education program; amending Minnesota Statutes 2010, section 121A.36.

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

Runbeck introduced:

H. F. No. 1587, A bill for an act relating to taxation; property; rotation of assessors; amending Minnesota Statutes 2010, section 273.08.

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

Beard introduced:

H. F. No. 1588, A bill for an act relating to highways; modifying provisions relating to toll lanes; amending Minnesota Statutes 2010, sections 160.845; 160.93, subdivisions 1, 2; repealing Minnesota Statutes 2010, section 160.93, subdivision 2a.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Benson, J., introduced:

H. F. No. 1589, A bill for an act relating to natural resources; appropriating money to acquire land within the statutory boundaries of Crow Wing State Park.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Knuth; Abeler; Melin; Greene; Hortman; Gauthier; Morrow; Fritz; Wagenius; Hansen; Brynaert; Murphy, E.; Greiling and Slawik introduced:

H. F. No. 1590, A bill for an act relating to public health; requiring reporting by manufacturers of children's products that contain harmful chemicals; specifying treatment of harmful chemicals that are trade secrets; amending Minnesota Statutes 2010, section 13.7411, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 116.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Nornes introduced:

H. F. No. 1591, A bill for an act relating to game and fish; permitting limited use of laser sights by visually impaired hunters; providing criminal penalties; amending Minnesota Statutes 2010, section 97B.031, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Beard introduced:

H. F. No. 1592, A bill for an act relating to traffic regulations; permitting use of lights by licensed protective agents under certain escort circumstances; amending powers of licensed protective agents; making technical changes; amending Minnesota Statutes 2010, sections 169.64, subdivision 3, by adding a subdivision; 169.86, subdivision 3b; 326.338, subdivision 4.

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

Scalze introduced:

H. F. No. 1593, A bill for an act relating to public health; reducing human exposure to arsenic; prohibiting sale and purchase of certain products containing arsenic; proposing coding for new law in Minnesota Statutes, chapter 25.

The bill was read for the first time and referred to the Committee on Agriculture and Rural Development Policy and Finance.

Westrom, Banaian, Vogel and Swedzinski introduced:

H. F. No. 1594, A resolution memorializing the President and Congress to enact legislation encouraging domestic oil drilling.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Murdock, Davids, Cornish and Westrom introduced:

H. F. No. 1595, A bill for an act relating to real estate; providing process for unaffixing manufactured home from real property; amending Minnesota Statutes 2010, sections 168A.01, by adding a subdivision; 168A.02, subdivision 3; 168A.04, subdivision 1; 168A.05, subdivisions 1, 1a, 1b; 168A.141, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 168A.

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform.

Torkelson introduced:

H. F. No. 1596, A bill for an act relating to natural resources; modifying local water management; amending Minnesota Statutes 2010, sections 103B.101, by adding a subdivision; 103B.311, subdivision 4; 103B.3369.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Kiffmeyer; Benson, M.; Zellers; Garofalo; Dean; Daudt; Erickson; Myhra; Shimanski; Howes; Drazkowski; Gruenhagen; Swedzinski; Lohmer; Anderson, B.; Torkelson; Kiel; Mazorol; Gottwalt; Downey; Vogel; Kieffer; Fabian; Crawford; Woodard; Wardlow; LeMieur; Cornish; Leidiger; Quam; Doepke; Barrett; Anderson, P., and Davids introduced:

H. F. No. 1597, A bill for an act proposing an amendment to the Minnesota Constitution, article VII, section 1; requiring voters to present photographic identification; providing photographic identification to voters at no charge; requiring equal verification standards for all voters.

The bill was read for the first time and referred to the Committee on Government Operations and Elections.

Dean moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 626, A bill for an act relating to human services; modifying certain nursing facility provisions; amending Minnesota Statutes 2010, sections 12A.10, by adding a subdivision; 144A.071, subdivisions 3, 4a; 144A.073, subdivision 3c, by adding a subdivision; 256B.431, subdivision 26; 256B.437, subdivision 4; 256B.441, by adding a subdivision; repealing Minnesota Statutes 2010, section 144A.073, subdivisions 4, 5.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Rosen, Hoffman and Sheran.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

CAL R. LUDEMAN, Secretary of the Senate

Schomacker moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 626. The motion prevailed.

CALENDAR FOR THE DAY

H. F. No. 361, A bill for an act relating to crime; modifying crime of fleeing a peace officer; amending Minnesota Statutes 2010, section 609.487, subdivision 4.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 93 yeas and 35 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hortman	Lenczewski	Norton	Stensrud
Anderson, D.	Doepke	Hosch	Lillie	O'Driscoll	Swedzinski
Anderson, P.	Downey	Howes	Lohmer	Pelowski	Thissen
Anderson, S.	Drazkowski	Huntley	Loon	Peppin	Tillberry
Atkins	Eken	Kath	Mack	Persell	Torkelson
Banaian	Erickson	Kelly	Mahoney	Petersen, B.	Urdahl
Barrett	Fabian	Kieffer	Marquart	Peterson, S.	Vogel
Benson, M.	Franson	Kiel	Mazorol	Quam	Ward
Bills	Fritz	Kiffmeyer	McElfatrick	Runbeck	Wardlow
Carlson	Garofalo	Knuth	McFarlane	Sanders	Westrom
Cornish	Gottwalt	Koenen	McNamara	Scalze	Winkler
Crawford	Gruenhagen	Kriesel	Morrow	Schomacker	Woodard
Daudt	Hamilton	Laine	Murdock	Scott	Spk. Zellers
Davids	Hilstrom	Lanning	Murray	Shimanski	
Dean	Holberg	Leidiger	Myhra	Simon	
Dettmer	Hoppe	LeMieur	Nornes	Slawik	

Those who voted in the negative were:

Anderson, B.	Champion	Hackbarth	Hornstein	Melin	Paymar
Anzelc	Dill	Hancock	Johnson	Moran	Poppe
Beard	Falk	Hansen	Kahn	Mullery	Rukavina
Benson, J.	Gauthier	Hausman	Lesch	Murphy, E.	Slocum
Brynaert	Greene	Hayden	Loeffler	Murphy, M.	Wagenius
Buesgens	Greiling	Hilty	Mariani	Nelson	

The bill was passed and its title agreed to.

H. F. No. 695 was reported to the House.

Mack, Cornish and Morrow moved to amend H. F. No. 695, the first engrossment, as follows:

Page 1, line 11, delete "any equipment" and insert "vehicles and equipment used in firefighting, ambulance and emergency medical treatment services, rescue, and hazardous materials response."

Page 1, delete lines 12 and 13

The motion prevailed and the amendment was adopted.

H. F. No. 695, A bill for an act relating to civil law; extending civil immunity to municipalities that donate public safety equipment; amending Minnesota Statutes 2010, section 466.03, by adding a subdivision.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Hansen	Laine	Mullery	Scott
Anderson, B.	Dettmer	Hausman	Lanning	Murphy, E.	Shimanski
Anderson, D.	Dill	Hayden	Leidiger	Murphy, M.	Simon
Anderson, P.	Dittrich	Hilstrom	LeMieur	Murray	Slawik
Anderson, S.	Doepke	Hilty	Lenczewski	Myhra	Slocum
Anzelc	Downey	Holberg	Lesch	Nelson	Stensrud
Atkins	Drazkowski	Hoppe	Liebling	Nornes	Swedzinski
Banaian	Eken	Hornstein	Lillie	Norton	Thissen
Barrett	Erickson	Hortman	Loeffler	O'Driscoll	Tillberry
Beard	Fabian	Hosch	Lohmer	Paymar	Torkelson
Benson, J.	Falk	Howes	Loon	Pelowski	Urdahl
Benson, M.	Franson	Huntley	Mack	Peppin	Vogel
Bills	Fritz	Johnson	Mahoney	Persell	Wagenius
Brynaert	Garofalo	Kahn	Mariani	Petersen, B.	Ward
Buesgens	Gauthier	Kath	Marquart	Peterson, S.	Wardlow
Carlson	Gottwalt	Kelly	Mazorol	Poppe	Westrom
Champion	Greene	Kieffer	McElpatrick	Quam	Winkler
Cornish	Greiling	Kiel	McFarlane	Rukavina	Woodard
Crawford	Gruenhagen	Kiffmeyer	McNamara	Runbeck	Spk. Zellers
Daudt	Hackbarth	Knuth	Melin	Sanders	
Davids	Hamilton	Koenen	Moran	Scalze	
Davnie	Hancock	Kriesel	Morrow	Schomacker	

The bill was passed, as amended, and its title agreed to.

H. F. No. 895 was reported to the House.

Atkins moved to amend H. F. No. 895, the first engrossment, as follows:

Page 1, delete section 2

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Atkins amendment and the roll was called. There were 60 yeas and 69 nays as follows:

Those who voted in the affirmative were:

Anzelc	Champion	Fritz	Hausman	Hortman	Kath
Atkins	Davnie	Gauthier	Hayden	Hosch	Knuth
Benson, J.	Dittrich	Greene	Hilstrom	Huntley	Koenen
Brynaert	Eken	Greiling	Hilty	Johnson	Laine
Carlson	Falk	Hansen	Hornstein	Kahn	Lenczewski

Lesch	Mariani	Mullery	Paymar	Rukavina	Thissen
Liebling	Marquart	Murphy, E.	Pelowski	Scalze	Tillberry
Lillie	Melin	Murphy, M.	Persell	Simon	Wagenius
Loeffler	Moran	Nelson	Peterson, S.	Slawik	Ward
Mahoney	Morrow	Norton	Poppe	Slocum	Winkler

Those who voted in the negative were:

Abeler	Crawford	Gottwalt	Kriesel	Murray	Stensrud
Anderson, B.	Daudt	Gruenhagen	Lanning	Myhra	Swedzinski
Anderson, D.	Dauids	Hackbarth	Leidiger	Nornes	Torkelson
Anderson, P.	Dean	Hamilton	LeMieur	O'Driscoll	Urdahl
Anderson, S.	Dettmer	Hancock	Lohmer	Peppin	Vogel
Banaian	Doepke	Holberg	Loon	Petersen, B.	Wardlow
Barrett	Downey	Hoppe	Mack	Quam	Westrom
Beard	Drazkowski	Howes	Mazorol	Runbeck	Woodard
Benson, M.	Erickson	Kelly	McElfatrick	Sanders	Spk. Zellers
Bills	Fabian	Kieffer	McFarlane	Schomacker	
Buesgens	Franson	Kiel	McNamara	Scott	
Cornish	Garofalo	Kiffmeyer	Murdock	Shimanski	

The motion did not prevail and the amendment was not adopted.

H. F. No. 895, A bill for an act relating to commerce; modifying certain insurance notices and authorizations to collect information; regulating certain insurance appraisers; amending Minnesota Statutes 2010, sections 60C.21, subdivision 1; 65A.12, subdivision 2; 72A.491, by adding a subdivision; 72A.501, subdivision 1, by adding a subdivision; 72A.502, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 102 yeas and 25 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Gruenhagen	Laine	Moran	Schomacker
Anderson, B.	Crawford	Hackbarth	Lanning	Murdock	Scott
Anderson, D.	Daudt	Hamilton	Leidiger	Murray	Shimanski
Anderson, P.	Dauids	Hancock	LeMieur	Myhra	Simon
Anderson, S.	Dean	Holberg	Lenczewski	Nelson	Slawik
Anzelc	Dettmer	Hoppe	Lesch	Nornes	Stensrud
Atkins	Dittrich	Hortman	Lillie	O'Driscoll	Swedzinski
Banaian	Doepke	Howes	Loeffler	Paymar	Tillberry
Barrett	Downey	Huntley	Lohmer	Pelowski	Torkelson
Beard	Drazkowski	Kath	Loon	Peppin	Urdahl
Benson, J.	Eken	Kelly	Mack	Petersen, B.	Vogel
Benson, M.	Erickson	Kieffer	Mahoney	Peterson, S.	Ward
Bills	Fabian	Kiel	Marquart	Poppe	Wardlow
Brynaert	Franson	Kiffmeyer	Mazorol	Quam	Westrom
Buesgens	Fritz	Knuth	McElfatrick	Runbeck	Winkler
Carlson	Garofalo	Koenen	McFarlane	Sanders	Woodard
Champion	Gottwalt	Kriesel	McNamara	Scalze	Spk. Zellers

Those who voted in the negative were:

Davnie	Hansen	Hosch	Melin	Persell
Falk	Hausman	Johnson	Morrow	Rukavina
Gauthier	Hilstrom	Kahn	Mullery	Slocum
Greene	Hilty	Liebling	Murphy, E.	Thissen
Greiling	Hornstein	Mariani	Norton	Wagenius

The bill was passed and its title agreed to.

H. F. No. 795, A bill for an act relating to child support; instructing the commissioner to initiate a foreign reciprocal agreement.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 127 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Abeler	Dettmer	Hausman	Leidiger	Murphy, E.	Simon
Anderson, B.	Dill	Hayden	LeMieur	Murphy, M.	Slawik
Anderson, D.	Dittrich	Hilstrom	Lenczewski	Murray	Slocum
Anderson, P.	Doepke	Holberg	Lesch	Myhra	Stensrud
Anderson, S.	Downey	Hoppe	Liebling	Nelson	Swedzinski
Anzelc	Drazkowski	Hornstein	Lillie	Nornes	Thissen
Atkins	Eken	Hortman	Loeffler	Norton	Tillberry
Banaian	Erickson	Hosch	Lohmer	O'Driscoll	Torkelson
Barrett	Fabian	Howes	Loon	Pelowski	Urdahl
Beard	Falk	Huntley	Mack	Peppin	Vogel
Benson, J.	Franson	Johnson	Mahoney	Persell	Wagenius
Benson, M.	Fritz	Kahn	Mariani	Petersen, B.	Ward
Bills	Garofalo	Kath	Marquart	Peterson, S.	Wardlow
Brynaert	Gauthier	Kelly	Mazorol	Poppe	Westrom
Carlson	Gottwalt	Kieffer	McElfrick	Quam	Winkler
Champion	Greene	Kiel	McFarlane	Rukavina	Woodard
Cornish	Greiling	Kiffmeyer	McNamara	Runbeck	Spk. Zellers
Crawford	Gruenhagen	Knuth	Melin	Sanders	
Daudt	Hackbarth	Koenen	Moran	Scalze	
Davids	Hamilton	Kriesel	Morrow	Schomacker	
Davnie	Hancock	Laine	Mullery	Scott	
Dean	Hansen	Lanning	Murdock	Shimanski	

Those who voted in the negative were:

Buesgens	Hilty
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The bill was passed and its title agreed to.

Hayden was excused for the remainder of today's session.

H. F. No. 186 was reported to the House.

Urdahl moved to amend H. F. No. 186, the first engrossment, as follows:

Page 2, line 11, delete "issued" and insert "that are valid"

The motion prevailed and the amendment was adopted.

H. F. No. 186, A bill for an act relating to drivers' licenses; extending expiration period for driver's license while person is serving in active military service; amending Minnesota Statutes 2010, section 171.27.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 123 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Hamilton	Laine	Mullery	Schomacker
Anderson, B.	Dean	Hancock	Lanning	Murdock	Scott
Anderson, D.	Dettmer	Hansen	Leidiger	Murphy, E.	Shimanski
Anderson, P.	Dill	Hilstrom	LeMieur	Murphy, M.	Simon
Anderson, S.	Dittrich	Hilty	Lenczewski	Murray	Slawik
Anzelc	Doepke	Holberg	Lesch	Myhra	Slocum
Atkins	Downey	Hornstein	Liebling	Nelson	Stensrud
Banaian	Drazkowski	Hortman	Lillie	Nornes	Swedzinski
Barrett	Eken	Hosch	Loeffler	O'Driscoll	Thissen
Beard	Erickson	Howes	Lohmer	Paymar	Tillberry
Benson, J.	Fabian	Huntley	Loon	Pelowski	Torkelson
Benson, M.	Falk	Johnson	Mahoney	Peppin	Urdahl
Bills	Franson	Kahn	Mariani	Persell	Vogel
Brynaert	Fritz	Kath	Marquart	Petersen, B.	Ward
Buesgens	Garofalo	Kelly	Mazorol	Peterson, S.	Westrom
Carlson	Gauthier	Kieffer	McElfatrick	Poppe	Winkler
Champion	Gottwalt	Kiel	McFarlane	Quam	Woodard
Cornish	Greene	Kiffmeyer	McNamara	Rukavina	Spk. Zellers
Crawford	Greiling	Knuth	Melin	Runbeck	
Daudt	Gruenhagen	Koenen	Moran	Sanders	
Davids	Hackbarth	Kriesel	Morrow	Scalze	

Those who voted in the negative were:

Hausman	Norton	Wagenius
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The bill was passed, as amended, and its title agreed to.

Dean moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 626:

Schomacker, Abeler and Fritz.

MOTIONS AND RESOLUTIONS

Hayden moved that the names of Davnie; Benson, J.; Mullery; Mahoney; Moran and Gauthier be added as authors on H. F. No. 1257. The motion prevailed.

Benson, M., moved that the name of Sanders be added as an author on H. F. No. 1331. The motion prevailed.

Dettmer moved that his name be stricken as an author on H. F. No. 1369. The motion prevailed.

Erickson moved that the name of Moran be added as an author on H. F. No. 1381. The motion prevailed.

Dauids moved that the name of Mazorol be added as an author on H. F. No. 1384. The motion prevailed.

Slawik moved that the name of Atkins be added as an author on H. F. No. 1430. The motion prevailed.

Cornish moved that the name of Anderson, S., be added as an author on H. F. No. 1493. The motion prevailed.

Quam moved that the name of Liebling be added as an author on H. F. No. 1526. The motion prevailed.

Cornish moved that the names of Liebling and Lesch be added as authors on H. F. No. 1535. The motion prevailed.

Liebling moved that the name of Moran be added as an author on H. F. No. 1550. The motion prevailed.

Wardlow moved that the name of Lohmer be added as an author on H. F. No. 1552. The motion prevailed.

Barrett moved that the name of Franson be added as an author on H. F. No. 1553. The motion prevailed.

Drazkowski moved that the names of Kiffmeyer and Hancock be added as authors on H. F. No. 1563. The motion prevailed.

Wardlow moved that the names of Franson, Downey, Kiffmeyer and Hancock be added as authors on H. F. No. 1566. The motion prevailed.

Paymar moved that the names of Slocum and Moran be added as authors on H. F. No. 1569. The motion prevailed.

Paymar moved that the name of Slocum be added as an author on H. F. No. 1570. The motion prevailed.

Hortman moved that the name of Mazorol be added as an author on H. F. No. 1573. The motion prevailed.

Cornish moved that the name of Slocum be added as an author on H. F. No. 1577. The motion prevailed.

McFarlane moved that the name of Hancock be added as an author on H. F. No. 1579. The motion prevailed.

Norton moved that H. F. No. 462, now on the General Register, be re-referred to the Committee on Health and Human Services Finance. The motion prevailed.

Drazkowski moved that H. F. No. 1088 be recalled from the Committee on Transportation Policy and Finance and be re-referred to the Committee on Environment, Energy and Natural Resources Policy and Finance. The motion prevailed.

Fabian moved that H. F. No. 1230, now on the General Register, be re-referred to the Committee on Ways and Means. The motion prevailed.

Simon moved that H. F. No. 210 be recalled from the Committee on Ways and Means and be re-referred to the Committee on Civil Law. The motion prevailed.

Atkins moved that H. F. No. 1476 be recalled from the Committee on Ways and Means and be re-referred to the Committee on Jobs and Economic Development Finance. The motion prevailed.

Davnie was excused for the remainder of today's session.

Winkler moved to amend the Permanent Rules of the House of Representatives for the 87th Session as follows:

Add a new rule to read as follows:

"4.16 BUDGET BALANCE REQUIRED. During an odd-numbered year, a House or Senate bill that proposes a constitutional amendment must not be considered on the calendar for the day, the fiscal calendar, or any other floor calendar until bills necessary to provide a balanced general fund budget for the biennium beginning on July 1 of that year have been enacted into law."

A roll call was requested and properly seconded.

LAY ON THE TABLE

Dean moved that the Winkler amendment to the Permanent Rules of the House for the 87th Session be laid on the table.

A roll call was requested and properly seconded.

The question was taken on the Dean motion and the roll was called. There were 65 yeas and 64 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, S.	Benson, M.	Crawford	Dettmer	Fabian
Anderson, B.	Banaian	Bills	Daudt	Doepke	Franson
Anderson, D.	Barrett	Buesgens	Davids	Drazkowski	Garofalo
Anderson, P.	Beard	Cornish	Dean	Erickson	Gottwalt

Gruenhagen	Kelly	Lohmer	Myhra	Schomacker	Urdahl
Hackbarth	Kieffer	Mack	Nornes	Scott	Vogel
Hamilton	Kiel	McElfrick	O'Driscoll	Shimanski	Wardlow
Hancock	Kiffmeyer	McFarlane	Peppin	Smith	Westrom
Holberg	Lanning	McNamara	Quam	Stensrud	Woodard
Hoppe	Leidiger	Murdock	Runbeck	Swedzinski	Spk. Zellers
Howes	LeMieur	Murray	Sanders	Torkelson	

Those who voted in the negative were:

Anzelc	Fritz	Huntley	Lillie	Murphy, E.	Scalze
Atkins	Gauthier	Johnson	Loeffler	Murphy, M.	Simon
Benson, J.	Greene	Kahn	Loon	Nelson	Slawik
Brynaert	Greiling	Kath	Mahoney	Norton	Slocum
Carlson	Hansen	Knuth	Mariani	Paymar	Thissen
Champion	Hausman	Koenen	Marquart	Pelowski	Tillberry
Dill	Hilstrom	Kriesel	Mazorol	Persell	Wagenius
Dittrich	Hilty	Laine	Melin	Petersen, B.	Ward
Downey	Hornstein	Lenczewski	Moran	Peterson, S.	Winkler
Eken	Hortman	Lesch	Morrow	Poppe	
Falk	Hosch	Liebling	Mullery	Rukavina	

The motion prevailed and the Winkler amendment to the Permanent Rules of the House for the 87th Session was laid on the table.

ADJOURNMENT

Dean moved that when the House adjourns today it adjourn until 3:00 p.m., Thursday, April 28, 2011. The motion prevailed.

Dean moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 3:00 p.m., Thursday, April 28, 2011.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives

