

STATE OF MINNESOTA

EIGHTY-FOURTH SESSION — 2005

 FORTIETH DAY

SAINT PAUL, MINNESOTA, THURSDAY, APRIL 14, 2005

The House of Representatives convened at 3:00 p.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by Pastor Tim Weber, Evergreen Community Church, Bloomington, Minnesota.

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	Dittrich	Hilstrom	Larson	Opatz	Sieben
Abrams	Dorman	Hilty	Latz	Otremba	Simon
Anderson, B.	Dorn	Holberg	Lenczewski	Ozment	Simpson
Anderson, I.	Eastlund	Hoppe	Lesch	Paulsen	Slawik
Atkins	Eken	Hornstein	Liebling	Paymar	Smith
Bernardy	Ellison	Hortman	Lieder	Pelowski	Soderstrom
Blaine	Emmer	Hosch	Lillie	Penas	Solberg
Bradley	Entenza	Howes	Loeffler	Peppin	Sykora
Brod	Erhardt	Huntley	Magnus	Peterson, A.	Thao
Buesgens	Erickson	Jaros	Mahoney	Peterson, N.	Thissen
Carlson	Finstad	Johnson, J.	Mariani	Peterson, S.	Tingelstad
Charron	Fritz	Johnson, R.	Marquart	Poppe	Urdahl
Clark	Garofalo	Johnson, S.	McNamara	Powell	Vandever
Cornish	Gazelka	Juhnke	Meslow	Rukavina	Wagenius
Cox	Goodwin	Kahn	Moe	Ruth	Walker
Cybart	Greiling	Kelliher	Mullery	Ruud	Wardlow
Davids	Gunther	Klinzing	Murphy	Sailor	Walti
Dean	Hackbarth	Knoblach	Nelson, M.	Samuelson	Westerberg
DeLaForest	Hamilton	Koenen	Nelson, P.	Scalze	Westrom
Demmer	Hansen	Kohls	Newman	Seifert	Wilkin
Dempsey	Hausman	Krinkie	Nornes	Sertich	Zellers
Dill	Heidgerken	Lanning	Olson	Severson	Spk. Sviggum

A quorum was present.

Davnie was excused.

Beard was excused until 3:35 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Hamilton moved that further reading of the Journal be suspended and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF STANDING COMMITTEES

Johnson, J., from the Committee on Civil Law and Elections to which was referred:

H. F. No. 127, A bill for an act relating to health; establishing a cancer drug repository program; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 7, delete lines 15 to 32 and insert:

"Subd. 11. [LIABILITY.] (a) The manufacturer of a drug or supply is not subject to criminal or civil liability for injury, death, or loss to a person or to property related to the donation of one of its drugs and caused by:

(1) the intentional or unintentional alteration of the drug or supply by a party not under the control of the manufacturer; or

(2) failure of a party not under the control of the manufacturer to transfer or communicate product or consumer information or the expiration date of the donated drug or supply.

(b) A medical facility or pharmacy participating in the program, a pharmacist dispensing a drug or supply pursuant to the program, a practitioner administering a drug or supply pursuant to the program, or the donor of a cancer drug or supply is immune from civil liability for an act or omission that causes injury to or the death of an individual to whom the cancer drug or supply is dispensed and no disciplinary action shall be taken against a pharmacist or practitioner so long as the drug or supply is donated, accepted, distributed, and dispensed in accordance with the requirements of this section. This immunity does not apply if the act or omission involves reckless, wanton, or intentional misconduct, or malpractice unrelated to the quality of the cancer drug or supply."

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

The report was adopted.

Johnson, J., from the Committee on Civil Law and Elections to which was referred:

H. F. No. 225, A bill for an act relating to government data practices; making technical, conforming, and clarifying changes to the Minnesota Government Data Practices Act; amending Minnesota Statutes 2004, sections 13.01, subdivisions 1, 3; 13.02, subdivision 7; 13.03, subdivisions 1, 2, 3, 4, 5, 6, 8; 13.04, subdivisions 2, 4; 13.05, subdivisions 1, 4, 6, 7, 8, 9; 13.06, subdivisions 1, 2, 3, 4; 13.07; 13.072, subdivision 4; 13.073, subdivision 3; 13.08, subdivisions 1, 2, 5; 13.32, by adding a subdivision; 13.82, subdivision 16; repealing Minnesota Statutes 2004, section 13.04, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 11A.24, subdivision 6, is amended to read:

Subd. 6. [OTHER INVESTMENTS.] (a) In addition to the investments authorized in subdivisions 1 to 5, and subject to the provisions in paragraph (b), the state board may invest funds in:

(1) venture capital investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(2) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts through investment in limited partnerships, bank sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;

(3) regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940, and closed-end mutual funds listed on an exchange regulated by a governmental agency;

(4) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(5) international securities.

(b) The investments authorized in paragraph (a) must conform to the following provisions:

(1) the aggregate value of all investments made according to paragraph (a), clauses (1) to (4), may not exceed 35 percent of the market value of the fund for which the state board is investing;

(2) there must be at least four unrelated owners of the investment other than the state board for investments made under paragraph (a), clause (1), (2), (3), or (4);

(3) state board participation in an investment vehicle is limited to 20 percent thereof for investments made under paragraph (a), clause (1), (2), (3), or (4); and

(4) state board participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The state board may not engage in any activity as a limited partner which creates general liability.

(c) All financial or proprietary data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are nonpublic data under section 13.02, subdivision 9. As used in this paragraph, "financial or proprietary data" means information, as determined by the executive director, that is of a financial or proprietary nature; and the release of which could cause competitive harm to the state board, the legal entity in which the state board has invested or has considered an investment, the managing entity of an investment, or a portfolio company in which the legal entity holds an interest. Regardless of whether they could be considered financial or proprietary data, the following data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are public at all times:

(1) the name and industry group classification of the legal entity in which the state board has invested or in which the state board has considered an investment;

(2) the state board commitment amount, if any;

(3) the funded amount of the state board's commitment to date, if any;

(4) the market value of the investment by the state board;

(5) the state board's internal rate of return for the investment, including expenditures and receipts used in the calculation of the investment's internal rate of return; and

(6) the age of the investment in years.

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

Sec. 2. Minnesota Statutes 2004, section 13.01, subdivision 1, is amended to read:

Subdivision 1. **[APPLICABILITY.]** All ~~state agencies, political subdivisions and statewide systems~~ government entities shall be governed by this chapter.

Sec. 3. Minnesota Statutes 2004, section 13.01, subdivision 3, is amended to read:

Subd. 3. **[SCOPE.]** This chapter regulates the collection, creation, storage, maintenance, dissemination, and access to government data in ~~state agencies, statewide systems, and political subdivisions~~ government entities. It establishes a presumption that government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public.

Sec. 4. Minnesota Statutes 2004, section 13.02, subdivision 7, is amended to read:

Subd. 7. **[GOVERNMENT DATA.]** "Government data" means all data collected, created, received, maintained or disseminated by any ~~state agency, political subdivision, or statewide system~~ government entity regardless of its physical form, storage media or conditions of use.

Sec. 5. Minnesota Statutes 2004, section 13.03, subdivision 1, is amended to read:

Subdivision 1. **[PUBLIC DATA.]** All government data collected, created, received, maintained or disseminated by a ~~state agency, political subdivision, or statewide system~~ government entity shall be public unless classified by statute, or temporary classification pursuant to section 13.06, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential. The responsible authority in every ~~state agency, political subdivision and statewide system~~ government entity shall keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use. Photographic, photostatic, microphotographic, or microfilmed records shall be considered as accessible for convenient use regardless of the size of such records.

Sec. 6. Minnesota Statutes 2004, section 13.03, subdivision 2, is amended to read:

Subd. 2. **[PROCEDURES.]** (a) The responsible authority in every ~~state agency, political subdivision, and statewide system~~ government entity shall establish procedures, consistent with this chapter, to insure that requests for government data are received and complied with in an appropriate and prompt manner.

(b) The responsible authority shall prepare public access procedures in written form and update them no later than August 1 of each year as necessary to reflect any changes in personnel or circumstances that might affect public access to government data. The responsible authority shall make copies of the written public access procedures easily available to the public by distributing free copies of the procedures to the public or by posting a copy of the procedures in a conspicuous place within the government entity that is easily accessible to the public.

(c) Full convenience and comprehensive accessibility shall be allowed to researchers including historians, genealogists and other scholars to carry out extensive research and complete copying of all records containing government data except as otherwise expressly provided by law.

A responsible authority may designate one or more designees.

Sec. 7. Minnesota Statutes 2004, section 13.03, subdivision 3, is amended to read:

Subd. 3. [REQUEST FOR ACCESS TO DATA.] (a) Upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. If a person requests access for the purpose of inspection, the responsible authority may not assess a charge or require the requesting person to pay a fee to inspect data.

(b) For purposes of this section, "inspection" includes, but is not limited to, the visual inspection of paper and similar types of government data. Inspection does not include printing copies by the government entity, unless printing a copy is the only method to provide for inspection of the data. In the case of data stored in electronic form and made available in electronic form on a remote access basis to the public by the government entity, inspection includes remote access to the data by the public and the ability to print copies of or download the data on the public's own computer equipment. Nothing in this section prohibits a government entity from charging a reasonable fee for remote access to data under a specific statutory grant of authority. A government entity may charge a fee for remote access to data where either the data or the access is enhanced at the request of the person seeking access.

(c) The responsible authority or designee shall provide copies of public data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, compiling, and electronically transmitting the copies of the data or the data, but may not charge for separating public from not public data. However, if copies of 100 or fewer black and white, letter- or legal-size pages are requested, actual costs shall not be used, and instead the responsible authority may charge up to 25 cents for each page copied. If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

(d) When a request under this subdivision involves any person's receipt of copies of public government data that has commercial value and is a substantial and discrete portion of or an entire formula, pattern, compilation, program, device, method, technique, process, database, or system developed with a significant expenditure of public funds by the ~~agency government entity~~, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying, and compiling the copies. Any fee charged must be clearly demonstrated by the ~~agency government entity~~ to relate to the actual development costs of the information. The responsible authority, upon the request of any person, shall provide sufficient documentation to explain and justify the fee being charged.

(e) The responsible authority of a ~~state agency, statewide system, or political subdivision~~ government entity that maintains public government data in a computer storage medium shall provide to any person making a request under this section a copy of any public data contained in that medium, in electronic form, if the government entity can reasonably make the copy or have a copy made. This does not require a government entity to provide the data in an electronic format or program that is different from the format or program in which the data are maintained by the government entity. The entity may require the requesting person to pay the actual cost of providing the copy.

(f) If the responsible authority or designee determines that the requested data is classified so as to deny the requesting person access, the responsible authority or designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any person denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.

Sec. 8. Minnesota Statutes 2004, section 13.03, subdivision 4, is amended to read:

Subd. 4. [CHANGE IN CLASSIFICATION OF DATA; EFFECT OF DISSEMINATION AMONG AGENCIES.] (a) The classification of data in the possession of an ~~agency entity~~ shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving ~~agency entity~~.

(b) If data on individuals is classified as both private and confidential by this chapter, or any other statute or federal law, the data is private.

(c) To the extent that government data is disseminated to ~~state agencies, political subdivisions, or statewide systems~~ a government entity by another ~~state agency, political subdivision, or statewide system~~ government entity, the data disseminated shall have the same classification in the hands of the ~~agency entity~~ receiving it as it had in the hands of the entity providing it.

(d) If a ~~state agency, statewide system, or political subdivision~~ government entity disseminates data to another ~~state agency, statewide system, or political subdivision~~ government entity, a classification provided for by law in the hands of the entity receiving the data does not affect the classification of the data in the hands of the entity that disseminates the data.

Sec. 9. Minnesota Statutes 2004, section 13.03, subdivision 5, is amended to read:

Subd. 5. [COPYRIGHT OR PATENT OF GOVERNMENT DATA.] A ~~state agency, statewide system, or political subdivision~~ government entity may enforce a copyright or acquire a patent for a computer software program or components of a program created by that government ~~agency entity~~ without statutory authority. In the event that a government ~~agency entity~~ acquires a patent to a computer software program or component of a program, the data shall be treated as trade secret information pursuant to section 13.37.

Sec. 10. Minnesota Statutes 2004, section 13.03, subdivision 6, is amended to read:

Subd. 6. [DISCOVERABILITY OF NOT PUBLIC DATA.] If a ~~state agency, political subdivision, or statewide system~~ government entity opposes discovery of government data or release of data pursuant to court order on the grounds that the data are classified as not public, the party that seeks access to the data may bring before the appropriate presiding judicial officer, arbitrator, or administrative law judge an action to compel discovery or an action in the nature of an action to compel discovery.

The presiding officer shall first decide whether the data are discoverable or releasable pursuant to the rules of evidence and of criminal, civil, or administrative procedure appropriate to the action.

If the data are discoverable the presiding officer shall decide whether the benefit to the party seeking access to the data outweighs any harm to the confidentiality interests of the ~~agency entity~~ maintaining the data, or of any person who has provided the data or who is the subject of the data, or to the privacy interest of an individual identified in the data. In making the decision, the presiding officer shall consider whether notice to the subject of

the data is warranted and, if warranted, what type of notice must be given. The presiding officer may fashion and issue any protective orders necessary to assure proper handling of the data by the parties. If the data are a videotape of a child victim or alleged victim alleging, explaining, denying, or describing an act of physical or sexual abuse, the presiding officer shall consider the provisions of section 611A.90, subdivision 2, paragraph (b).

Sec. 11. Minnesota Statutes 2004, section 13.03, subdivision 8, is amended to read:

Subd. 8. [CHANGE TO CLASSIFICATION OF DATA NOT ON INDIVIDUALS.] Except for security information, nonpublic and protected nonpublic data shall become public either ten years after the creation of the data by the government ~~agency entity~~ or ten years after the data was received or collected by any governmental ~~agency entity~~ unless the responsible authority for the originating or custodial ~~agency entity~~ for the data reasonably determines that, if the data were made available to the public or to the data subject, the harm to the public or to a data subject would outweigh the benefit to the public or to the data subject. If the responsible authority denies access to the data, the person denied access may challenge the denial by bringing an action in district court seeking release of the data. The action shall be brought in the district court located in the county where the data are being maintained, or, in the case of data maintained by a state agency, in any county. The data in dispute shall be examined by the court in camera. In deciding whether or not to release the data, the court shall consider the benefits and harms in the same manner as set forth above. The court shall make a written statement of findings in support of its decision.

Sec. 12. Minnesota Statutes 2004, section 13.04, subdivision 2, is amended to read:

Subd. 2. [INFORMATION REQUIRED TO BE GIVEN INDIVIDUAL.] An individual asked to supply private or confidential data concerning the individual shall be informed of: (a) the purpose and intended use of the requested data within the collecting ~~state agency, political subdivision, or statewide system~~ government entity; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data. This requirement shall not apply when an individual is asked to supply investigative data, pursuant to section 13.82, subdivision 7, to a law enforcement officer.

Sec. 13. Minnesota Statutes 2004, section 13.04, subdivision 4, is amended to read:

Subd. 4. [PROCEDURE WHEN DATA IS NOT ACCURATE OR COMPLETE.] (a) An individual subject of the data may contest the accuracy or completeness of public or private data. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days either: (1) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or (2) notify the individual that the authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.

The determination of the responsible authority may be appealed pursuant to the provisions of the Administrative Procedure Act relating to contested cases. Upon receipt of an appeal by an individual, the commissioner shall, before issuing the order and notice of a contested case hearing required by chapter 14, try to resolve the dispute through education, conference, conciliation, or persuasion. If the parties consent, the commissioner may refer the matter to mediation. Following these efforts, the commissioner shall dismiss the appeal or issue the order and notice of hearing.

(b) Data on individuals that have been successfully challenged by an individual must be completed, corrected, or destroyed by a state agency, political subdivision, or statewide system without regard to the requirements of section 138.17.

After completing, correcting, or destroying successfully challenged data, a ~~state agency, political subdivision, or statewide system~~ government entity may retain a copy of the commissioner of administration's order issued under chapter 14 or, if no order were issued, a summary of the dispute between the parties that does not contain any particulars of the successfully challenged data.

Sec. 14. Minnesota Statutes 2004, section 13.05, subdivision 1, is amended to read:

Subdivision 1. [PUBLIC DOCUMENT OF DATA CATEGORIES.] The responsible authority shall prepare a public document containing the authority's name, title and address, and a description of each category of record, file, or process relating to private or confidential data on individuals maintained by the authority's ~~state agency, statewide system, or political subdivision~~ government entity. Forms used to collect private and confidential data shall be included in the public document. Beginning August 1, 1977 and annually thereafter, the responsible authority shall update the public document and make any changes necessary to maintain the accuracy of the document. The document shall be available from the responsible authority to the public in accordance with the provisions of sections 13.03 and 15.17.

Sec. 15. Minnesota Statutes 2004, section 13.05, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS ON COLLECTION AND USE OF DATA.] Private or confidential data on an individual shall not be collected, stored, used, or disseminated by ~~political subdivisions, statewide systems, or state agencies~~ government entities for any purposes other than those stated to the individual at the time of collection in accordance with section 13.04, except as provided in this subdivision.

(a) Data collected prior to August 1, 1975, and which have not been treated as public data, may be used, stored, and disseminated for the purposes for which the data was originally collected or for purposes which are specifically approved by the commissioner as necessary to public health, safety, or welfare.

(b) Private or confidential data may be used and disseminated to individuals or ~~agencies~~ entities specifically authorized access to that data by state, local, or federal law enacted or promulgated after the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or ~~agencies~~ entities subsequent to the collection of the data when the responsible authority maintaining the data has requested approval for a new or different use or dissemination of the data and that request has been specifically approved by the commissioner as necessary to carry out a function assigned by law.

(d) Private data may be used by and disseminated to any person or ~~agency~~ entity if the individual subject or subjects of the data have given their informed consent. Whether a data subject has given informed consent shall be determined by rules of the commissioner. The format for informed consent is as follows, unless otherwise prescribed by the HIPAA, Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82, 461 (2000) (to be codified as Code of Federal Regulations, title 45, section 164): informed consent shall not be deemed to have been given by an individual subject of the data by the signing of any statement authorizing any person or ~~agency~~ entity to disclose information about the individual to an insurer or its authorized representative, unless the statement is:

(1) in plain language;

(2) dated;

(3) specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;

- (4) specific as to the nature of the information the subject is authorizing to be disclosed;
- (5) specific as to the persons or ~~agencies~~ entities to whom the subject is authorizing information to be disclosed;
- (6) specific as to the purpose or purposes for which the information may be used by any of the parties named in clause (5), both at the time of the disclosure and at any time in the future;
- (7) specific as to its expiration date which should be within a reasonable period of time, not to exceed one year except in the case of authorizations given in connection with applications for (i) life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy or (ii) medical assistance under chapter 256B or MinnesotaCare under chapter 256L, which shall be ongoing during all terms of eligibility, for individual education plan health-related services provided by a school district under section 125A.21, subdivision 2.

The responsible authority may require a person requesting copies of data under this paragraph to pay the actual costs of making, certifying, and compiling the copies.

(e) Private or confidential data on an individual may be discussed at a meeting open to the public to the extent provided in section 13D.05.

Sec. 16. Minnesota Statutes 2004, section 13.05, subdivision 6, is amended to read:

Subd. 6. [CONTRACTS.] Except as provided in section 13.46, subdivision 5, in any contract between a ~~governmental unit~~ government entity subject to this chapter and any person, when the contract requires that data on individuals be made available to the contracting parties by the ~~governmental unit~~ government entity, that data shall be administered consistent with this chapter. A contracting party shall maintain the data on individuals which it received according to the statutory provisions applicable to the data.

Sec. 17. Minnesota Statutes 2004, section 13.05, subdivision 7, is amended to read:

Subd. 7. [PREPARATION OF SUMMARY DATA.] The use of summary data derived from private or confidential data on individuals under the jurisdiction of one or more responsible authorities is permitted. Unless classified pursuant to section 13.06, another statute, or federal law, summary data is public. The responsible authority shall prepare summary data from private or confidential data on individuals upon the request of any person if the request is in writing and the cost of preparing the summary data is borne by the requesting person. The responsible authority may delegate the power to prepare summary data (1) to the administrative officer responsible for any central repository of summary data; or (2) to a person outside of ~~its agency~~ the entity if the person's purpose is set forth, in writing, and the person agrees not to disclose, and the ~~agency~~ entity reasonably determines that the access will not compromise private or confidential data on individuals.

Sec. 18. Minnesota Statutes 2004, section 13.05, subdivision 8, is amended to read:

Subd. 8. [PUBLICATION OF ACCESS PROCEDURES.] The responsible authority shall prepare a public document setting forth in writing the rights of the data subject pursuant to section 13.04 and the specific procedures in effect in the ~~state agency, statewide system or political subdivision~~ government entity for access by the data subject to public or private data on individuals.

Sec. 19. Minnesota Statutes 2004, section 13.05, subdivision 9, is amended to read:

Subd. 9. [INTERGOVERNMENTAL ACCESS OF DATA.] A responsible authority shall allow another responsible authority access to data classified as not public only when the access is authorized or required by statute or federal law. An agency entity that supplies government data under this subdivision may require the requesting agency entity to pay the actual cost of supplying the data.

Sec. 20. Minnesota Statutes 2004, section 13.06, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION TO COMMISSIONER.] Notwithstanding the provisions of section 13.03, the responsible authority of a ~~state agency, political subdivision, or statewide system~~ government entity may apply to the commissioner for permission to classify data or types of data on individuals as private or confidential, or data not on individuals as nonpublic or protected nonpublic, for its own use and for the use of other similar ~~agencies, political subdivisions, or statewide systems~~ government entities on a temporary basis until a proposed statute can be acted upon by the legislature. The application for temporary classification is public.

Upon the filing of an application for temporary classification, the data which is the subject of the application shall be deemed to be classified as set forth in the application for a period of 45 days, or until the application is disapproved, rejected, or granted by the commissioner, whichever is earlier.

If the commissioner determines that an application has been submitted for purposes not consistent with this section, the commissioner may immediately reject the application, give notice of that rejection to the applicant, and return the application. When the applicant receives the notice of rejection from the commissioner, the data which was the subject of the application shall have the classification it had before the application was submitted to the commissioner.

Sec. 21. Minnesota Statutes 2004, section 13.06, subdivision 2, is amended to read:

Subd. 2. [CONTENTS OF APPLICATION FOR PRIVATE OR CONFIDENTIAL DATA.] An application for temporary classification of data on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as private or confidential; and either

(a) that data similar to that for which the temporary classification is sought has been treated as either private or confidential by other ~~state agencies or political subdivisions~~ government entities, and by the public; or

(b) that a compelling need exists for immediate temporary classification, which if not granted could adversely affect the public interest or the health, safety, well being or reputation of the data subject.

Sec. 22. Minnesota Statutes 2004, section 13.06, subdivision 3, is amended to read:

Subd. 3. [CONTENTS OF APPLICATION FOR NONPUBLIC OR NONPUBLIC PROTECTED DATA.] An application for temporary classification of government data not on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as nonpublic or protected nonpublic; and either

(a) that data similar to that for which the temporary classification is sought has been treated as nonpublic or protected nonpublic by other ~~state agencies or political subdivisions~~ government entities, and by the public; or

(b) public access to the data would render unworkable a program authorized by law; or

(c) that a compelling need exists for immediate temporary classification, which if not granted could adversely affect the health, safety or welfare of the public.

Sec. 23. Minnesota Statutes 2004, section 13.06, subdivision 4, is amended to read:

Subd. 4. [PROCEDURE WHEN CLASSIFICATION AFFECTS OTHERS.] If the commissioner determines that an application for temporary classification involves data which would reasonably be classified in the same manner by all ~~agencies, political subdivisions, or statewide systems~~ government entities similar to the one which made the application, the commissioner may approve or disapprove the classification for data of the kind which is the subject of the application for the use of all ~~agencies, political subdivisions, or statewide systems~~ government entities similar to the applicant. On deeming this approach advisable, the commissioner shall provide notice of the proposed action by publication in the State Register within ten days of receiving the application. Within 30 days after publication in the State Register an affected ~~agency, political subdivision, government entity or the public, or statewide system~~ may submit comments on the commissioner's proposal. The commissioner shall consider any comments received when granting or denying a classification for data of the kind which is the subject of the application, for the use of all ~~agencies, political subdivisions, or statewide systems~~ government entities similar to the applicant. Within 45 days after the close of the period for submitting comment, the commissioner shall grant or disapprove the application. Applications processed under this subdivision shall be either approved or disapproved by the commissioner within 90 days of the receipt of the application. For purposes of subdivision 1, the data which is the subject of the classification shall be deemed to be classified as set forth in the application for a period of 90 days, or until the application is disapproved or granted by the commissioner, whichever is earlier. If requested in the application, or determined to be necessary by the commissioner, the data in the application shall be so classified for all ~~agencies, political subdivisions, or statewide systems~~ government entities similar to the applicant until the application is disapproved or granted by the commissioner, whichever is earlier. Proceedings after the grant or disapproval shall be governed by the provisions of subdivision 5.

Sec. 24. Minnesota Statutes 2004, section 13.07, is amended to read:

13.07 [DUTIES OF THE COMMISSIONER.]

The commissioner shall promulgate rules, in accordance with the rulemaking procedures in the Administrative Procedure Act which shall apply to ~~state agencies, statewide systems and political subdivisions~~ government entities to implement the enforcement and administration of this chapter. The rules shall not affect section 13.04, relating to rights of subjects of data. Prior to the adoption of rules authorized by this section the commissioner shall give notice to all state agencies and political subdivisions in the same manner and in addition to other parties as required by section 14.06 of the date and place of hearing, enclosing a copy of the rules to be adopted.

Sec. 25. Minnesota Statutes 2004, section 13.072, subdivision 4, is amended to read:

Subd. 4. [DATA SUBMITTED TO COMMISSIONER.] A ~~state agency, statewide system, or political subdivision~~ government entity may submit not public data to the commissioner for the purpose of requesting or responding to a person's request for an opinion. Government data submitted to the commissioner by a ~~state agency, statewide system, or political subdivision~~ government entity or copies of government data submitted by other persons have the same classification as the data have when held by the ~~state agency, statewide system, or political subdivision~~ government entity. If the nature of the opinion is such that the release of the opinion would reveal not public data, the commissioner may issue an opinion using pseudonyms for individuals. Data maintained by the commissioner, in the record of an opinion issued using pseudonyms that would reveal the identities of individuals protected by the use of the pseudonyms, are private data on individuals.

Sec. 26. Minnesota Statutes 2004, section 13.073, subdivision 3, is amended to read:

Subd. 3. [BASIC TRAINING.] The basic training component should be designed to meet the basic information policy needs of all government employees and public officials with a focus on key data practices laws and procedures that apply to all government entities. The commissioner should design the basic training component in a manner that minimizes duplication of the effort and cost for government entities to provide basic training. The commissioner may develop general programs and materials for basic training such as video presentations, data practices booklets, and training guides. The commissioner may assist state and local government ~~agencies~~ entities in developing training expertise within their own ~~agencies~~ entities and offer assistance for periodic training sessions for this purpose.

Sec. 27. Minnesota Statutes 2004, section 13.08, subdivision 1, is amended to read:

Subdivision 1. [ACTION FOR DAMAGES.] Notwithstanding section 466.03, a ~~political subdivision, responsible authority, statewide system, or state agency~~ government entity which violates any provision of this chapter is liable to a person or representative of a decedent who suffers any damage as a result of the violation, and the person damaged or a representative in the case of private data on decedents or confidential data on decedents may bring an action against the ~~political subdivision, responsible authority, statewide system or state agency~~ government entity to cover any damages sustained, plus costs and reasonable attorney fees. ~~In the case of a willful violation, The political subdivision, statewide system or state agency~~ government entity shall, in addition, be liable to exemplary damages of not less than ~~\$100~~ \$5,000, nor more than ~~\$10,000~~ \$100,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under this chapter.

Sec. 28. Minnesota Statutes 2004, section 13.08, subdivision 2, is amended to read:

Subd. 2. [INJUNCTION.] A ~~political subdivision, responsible authority, statewide system or state agency~~ government entity which violates or proposes to violate this chapter may be enjoined by the district court. The court may make any order or judgment as may be necessary to prevent the use or employment by any person of any practices which violate this chapter.

Sec. 29. Minnesota Statutes 2004, section 13.08, subdivision 4, is amended to read:

Subd. 4. [ACTION TO COMPEL COMPLIANCE.] (a) In addition to the remedies provided in subdivisions 1 to 3 or any other law, any aggrieved person seeking to enforce the person's rights under this chapter or obtain access to data may bring an action in district court to compel compliance with this chapter and may recover costs and disbursements, including reasonable attorney's fees, as determined by the court. If the court determines that an action brought under this subdivision is frivolous and without merit and a basis in fact, it may award reasonable costs and attorney fees to the responsible authority. If the court issues an order to compel compliance under this subdivision, the court may impose a civil penalty of up to ~~\$300~~ \$3,000 against the government entity. This penalty is payable to the state general fund and is in addition to damages under subdivision 1. The matter shall be heard as soon as possible. In an action involving a request for government data under section 13.03 or 13.04, the court may inspect in camera the government data in dispute, but shall conduct its hearing in public and in a manner that protects the security of data classified as not public. If the court issues an order to compel compliance under this subdivision, the court shall forward a copy of the order to the commissioner of administration.

(b) In determining whether to assess a civil penalty under this subdivision, the court shall consider whether the government entity has substantially complied with general data practices under this chapter, including but not limited to, whether the government entity has:

(1) designated a responsible authority under section 13.02, subdivision 16;

- (2) designated a data practices compliance official under section 13.05, subdivision 13;
 - (3) prepared the public document that names the responsible authority and describes the records and data on individuals that are maintained by the government entity under section 13.05, subdivision 1;
 - (4) developed public access procedures under section 13.03, subdivision 2; procedures to guarantee the rights of data subjects under section 13.05, subdivision 8; and procedures to ensure that data on individuals are accurate and complete and to safeguard the data's security under section 13.05, subdivision 5;
 - (5) sought an oral, written, or electronic opinion from the commissioner of administration related to the matter at issue and acted in conformity with that opinion or acted in conformity with an opinion issued under section 13.072 that was sought by another person; or
 - (6) provided ongoing training to government entity personnel who respond to requests under this chapter.
- (c) The court shall award reasonable attorney fees to a prevailing plaintiff who has brought an action under this subdivision if the government entity that is the defendant in the action was also the subject of a written opinion issued under section 13.072 and the court finds that the opinion is directly related to the cause of action being litigated and that the government entity did not act in conformity with the opinion.

Sec. 30. Minnesota Statutes 2004, section 13.08, subdivision 5, is amended to read:

Subd. 5. [IMMUNITY FROM LIABILITY.] A ~~state agency, statewide system, political subdivision,~~ government entity or person that releases not public data pursuant to an order under section 13.03, subdivision 6 is immune from civil and criminal liability.

Sec. 31. Minnesota Statutes 2004, section 13.32, is amended by adding a subdivision to read:

Subd. 10. [EDUCATION RECORDS; CHILD WITH DISABILITY.] Nothing in this chapter shall be construed as limiting the frequency of inspection of the educational records of a child with a disability by the child's parent or guardian or by the child upon the child reaching the age of majority. An agency or institution may not charge a fee to search for or to retrieve the educational records. An agency or institution that receives a request for copies of the educational records of a child with a disability may charge a fee that reflects the costs of reproducing the records except when to do so would impair the ability of the child's parent or guardian, or the child who has reached the age of majority, to exercise their right to inspect and review those records.

Sec. 32. Minnesota Statutes 2004, section 13.37, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given them.

(a) "Security information" means government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. "Security information" includes crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home addresses and telephone numbers.

(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(c) "Labor relations information" means management positions on economic and noneconomic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

(d) "Parking space leasing data" means the following government data on an applicant for, or lessee of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment, work telephone number, and location of the parking space.

~~(e) "Internal competitive proposal" means a proposal to provide government services that is prepared by the staff of a political subdivision in competition with proposals solicited by the political subdivision from the private sector.~~

Sec. 33. Minnesota Statutes 2004, section 13.37, subdivision 2, is amended to read:

Subd. 2. [CLASSIFICATION.] The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, and as private data with regard to data on individuals, pursuant to section 13.02, subdivision 12: Security information; trade secret information; sealed absentee ballots prior to opening by an election judge; sealed bids, including the number of bids received, prior to the opening of the bids; ~~internal competitive proposals prior to the time specified by a political subdivision for the receipt of private sector proposals for the services;~~ parking space leasing data; and labor relations information, provided that specific labor relations information which relates to a specific labor organization is classified as protected nonpublic data pursuant to section 13.02, subdivision 13.

Sec. 34. Minnesota Statutes 2004, section 13.37, subdivision 3, is amended to read:

Subd. 3. [DATA DISSEMINATION.] (a) Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs. The location of a National Night Out event is public data.

(b) A government entity may make security information accessible to any person, entity, or the public if the government entity determines that the access will aid public health, promote public safety, or assist law enforcement.

Sec. 35. Minnesota Statutes 2004, section 13.3805, is amended by adding a subdivision to read:

Subd. 3. [OFFICE OF HEALTH FACILITY COMPLAINTS; INVESTIGATIVE DATA.] Except for investigative data under section 626.556, all investigative data maintained by the Department of Health's Office of Health Facility Complaints are subject to provisions of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) to (d). Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b, paragraph (b), data identifying an individual substantiated as the perpetrator are public data. For purposes of this subdivision, an individual is substantiated as the perpetrator if the commissioner of health determines that the individual is the perpetrator and the determination of the commissioner is upheld after the individual either exercises applicable administrative appeal rights or fails to exercise these rights within the time allowed by law.

Sec. 36. Minnesota Statutes 2004, section 13.43, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section, "personnel data" means data on individuals collected because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a ~~state agency, statewide system or political subdivision or is a member of or an applicant for an advisory board or commission~~ government entity. Personnel data includes data submitted by an employee to a government entity as part of an organized self-evaluation effort by the government entity to request suggestions from all employees on ways to cut costs, make government more efficient, or improve the operation of government. An employee who is identified in a suggestion shall have access to all data in the suggestion except the identity of the employee making the suggestion.

Sec. 37. Minnesota Statutes 2004, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5 and subject to the limitations described in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a ~~state agency, statewide system, or political subdivision and members of advisory boards or commissions~~ government entity is public:

(1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title and bargaining unit; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

- (1) the head of a state agency and deputy and assistant state agency heads;
- (2) members of boards or commissions required by law to be appointed by the governor or other elective officers; and
- (3) executive or administrative heads of departments, bureaus, divisions, or institutions.

Sec. 38. Minnesota Statutes 2004, section 13.43, subdivision 3, is amended to read:

Subd. 3. [APPLICANT DATA.] Except for applicants described in subdivision 5, the following personnel data on current and former applicants for employment by a ~~state agency, statewide system or political subdivision or appointment to an advisory board or commission~~ government entity is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection. ~~Names and home addresses of applicants for appointment to and members of an advisory board or commission are public.~~

Sec. 39. Minnesota Statutes 2004, 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) Except as provided in paragraph (c), the following data on current 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, ~~and 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. When a correction order or fine has been issued, a license is suspended, immediately suspended, revoked, denied, or made conditional, or a complaint is resolved, the following data on current and former licensees 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, immediate suspension, revocation, denial, or conditional license contained in the record of licensing action; and the status of any appeal of these actions. ~~When an individual licensee is a substantiated perpetrator of maltreatment, and the substantiated maltreatment is a reason for the licensing action, the identity of the licensee as a perpetrator is public data. For purposes of this clause, a person is a substantiated perpetrator if the maltreatment determination has been upheld under section 626.556, subdivision 10i, 626.557, subdivision 9d, or 256.045, or an individual or facility has not timely exercised appeal rights under these sections.~~

(2) 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.

~~(2)~~ (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.

~~(3)~~ (4) For applicants who are denied 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, the date of denial of the application, the nature of the basis for the denial, and the status of any appeal of the denial.

~~(4)~~ (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.

~~(5)~~ (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.

(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 under sections 626.556 and 626.557 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 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 Retardation, 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.

(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.

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

Sec. 40. Minnesota Statutes 2004, section 13.591, is amended by adding a subdivision to read:

Subd. 4. [CLASSIFICATION OF EVALUATIVE DATA; DATA SHARING.] (a) Data created or maintained by a government entity as part of the selection or evaluation process are protected nonpublic until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in section 13.37.

(b) If a state agency asks employees of other state agencies to assist with the selection of the responses to a request for bid or the evaluation of responses to a request for proposal, the state agency may share not public data in the responses with those employees. The employees participating in the selection or evaluation may not further disseminate the not public data they review.

Sec. 41. Minnesota Statutes 2004, section 13.591, is amended by adding a subdivision to read:

Subd. 5. [INTERNAL COMPETITIVE RESPONSE.] (a) For purposes of this subdivision, "internal competitive response" means a bid or proposal to provide government goods or services that is prepared by the staff of a government entity in competition with bids or proposals solicited by (1) the same government entity from the private sector or (2) a different government entity from the private sector.

(b) Data in an internal competitive response is classified as private or nonpublic data until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in section 13.37.

Sec. 42. Minnesota Statutes 2004, section 13.601, is amended by adding a subdivision to read:

Subd. 3. [APPLICANTS FOR ELECTION OR APPOINTMENT.] All data about applicants for election or appointment to a public body, including those public bodies subject to chapter 13D, are public.

Sec. 43. Minnesota Statutes 2004, section 13.635, is amended by adding a subdivision to read:

Subd. 1a. [STATE BOARD OF INVESTMENT.] Certain government data of the State Board of Investment related to investments are classified under section 11A.24, subdivision 6.

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

Sec. 44. Minnesota Statutes 2004, section 13.72, is amended by adding a subdivision to read:

Subd. 11. [DESIGN-BUILD TRANSPORTATION PROJECT.] When the Department of Transportation undertakes a design-build transportation project as defined in section 161.3410, subdivision 6, the statement of qualification evaluation criteria and scoring methodology, statement of qualification evaluations, technical proposal evaluation criteria and scoring methodology, and technical proposal evaluations are classified as protected nonpublic data with regard to data not on individuals and as confidential data on individuals. The statement of qualification evaluation criteria and scoring methodology and statement of qualification evaluations are public when the Department of Transportation announces the short list of qualified contractors. The technical proposal evaluation criteria, scoring methodology, and technical proposal evaluations are public when the project is awarded.

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

Sec. 45. Minnesota Statutes 2004, section 13.72, is amended by adding a subdivision to read:

Subd. 12. [MEDIATION DATA.] All data received, created, or maintained by the commissioner of transportation or staff during the course of providing mediation services to employees are classified as nonpublic data with regard to data not on individuals and private data on individuals.

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

Sec. 46. Minnesota Statutes 2004, section 13.72, is amended by adding a subdivision to read:

Subd. 13. [TRANSPORTATION DEPARTMENT DATA.] When the commissioner of transportation determines that the design-build best value method of project delivery is appropriate for a project under sections 161.3410 to 161.3428, project right-of-way work maps, acquisition plat maps, relocation reports, computations for relocation supplements, computations for replacement housing, planimetric files, digital terrain models, preliminary design drawings, and other data deemed by the commissioner as necessary to preserve the design-build process integrity are classified as protected nonpublic data with regard to data not on individuals and confidential data on individuals until the department publishes the data as part of the request for proposal process. The commissioner may release design-build data to counties, cities, and other parties under contract to a government entity as necessary to facilitate project development. The released data retain their classification as protected nonpublic data with regard to data not on individuals and confidential data on individuals as provided by section 13.03, subdivision 4, paragraph (c), until the department publishes the data as part of the request for proposal process.

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

Sec. 47. Minnesota Statutes 2004, section 13.72, is amended by adding a subdivision to read:

Subd. 14. [ACCOUNT DATA.] The following data pertaining to applicants for or users of toll facilities, and high-occupancy vehicle lanes for which a user fee is charged under section 169.03, are classified as nonpublic data with regard to data not on individuals and as private data with regard to data on individuals: data contained in applications for the purchase, lease, or rental of a device such as an electronic vehicle transponder which automatically assesses charges for a vehicle's use of toll roads; personal and vehicle identification data; financial and credit data; and toll road usage data. Nothing in this subdivision prohibits the production of summary data as defined in section 13.02, subdivision 19.

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

Sec. 48. Minnesota Statutes 2004, section 13.82, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the Bureau of Criminal Apprehension, the Minnesota State Patrol, the Board of Peace Officer Standards and Training, ~~the Division of Insurance Fraud Prevention in~~ the Department of Commerce, and the program integrity section of, and county human service agency client and provider fraud prevention and control units operated or supervised by the Department of Human Services.

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

Sec. 49. Minnesota Statutes 2004, section 13.82, subdivision 16, is amended to read:

Subd. 16. [PUBLIC ACCESS.] When data is classified as public under this section, a law enforcement agency shall not be required to make the actual physical data available to the public if it is not administratively feasible to segregate the public data from the ~~confidential not public~~. However, the agency must make the information described as public data available to the public in a reasonable manner. When investigative data becomes inactive, as described in subdivision 7, the actual physical data associated with that investigation, including the public data, shall be available for public access.

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

Sec. 50. Minnesota Statutes 2004, section 16C.06, subdivision 5, is amended to read:

Subd. 5. [STATE AS RESPONDER.] The head of an agency, in consultation with the requesting agency and the commissioner, may respond to a solicitation or request if the goods and services meet the needs of the requesting agency and provide the state with the best value. When an agency responds to a solicitation, all work product relating to the response is ~~nonpublic data as defined in section 13.02, and shall become public information in accordance with subdivision 3~~ classified by section 13.591, subdivision 4.

Sec. 51. [41A.0235] [BOARD MEETINGS BY TELEPHONE OR OTHER ELECTRONIC MEANS.]

(a) If compliance with section 13D.02 is impractical, the Minnesota Agricultural and Economic Development Board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented marginal costs that the board incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

Sec. 52. Minnesota Statutes 2004, section 116J.68, is amended by adding a subdivision to read:

Subd. 5. [ADVISORY BOARD MEETINGS.] (a) If compliance with section 13D.02 is impractical, the Small Business Development Center Advisory Board, created pursuant to United State Code, title 15, section 648, may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented marginal costs that the board incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

Sec. 53. Minnesota Statutes 2004, section 116L.03, is amended by adding a subdivision to read:

Subd. 8. [BOARD MEETINGS.] (a) If compliance with section 13D.02 is impractical, the Minnesota Job Skills Partnership Board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented marginal costs that the board incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

Sec. 54. Minnesota Statutes 2004, section 116L.665, is amended by adding a subdivision to read:

Subd. 2a. [COUNCIL MEETINGS.] (a) If compliance with section 13D.02 is impractical, the Governor's Workforce Development Council may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the council participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the council can hear clearly all discussion and testimony and all votes of members of the council;

(3) at least one member of the council is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the council participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, the council, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The council may require the person making such a connection to pay for documented marginal costs that the council incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the council shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

Sec. 55. Minnesota Statutes 2004, section 116M.15, is amended by adding a subdivision to read:

Subd. 5. [BOARD MEETING.] (a) If compliance with section 13D.02 is impractical, the Urban Initiative Board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented marginal costs that the board incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

Sec. 56. Minnesota Statutes 2004, section 116U.25, is amended to read:

116U.25 [EXPLORE MINNESOTA TOURISM COUNCIL.]

(a) The director shall be advised by the Explore Minnesota Tourism Council consisting of up to 28 voting members appointed by the governor for four-year terms, including:

- (1) the director of Explore Minnesota Tourism who serves as the chair;
- (2) eleven representatives of statewide associations representing bed and breakfast establishments, golf, festivals and events, counties, convention and visitor bureaus, lodging, resorts, trails, campgrounds, restaurants, and chambers of commerce;
- (3) one representative from each of the four tourism marketing regions of the state as designated by the office;
- (4) six representatives of the tourism business representing transportation, retail, travel agencies, tour operators, travel media, and convention facilities;
- (5) one or more ex-officio nonvoting members including at least one from the University of Minnesota Tourism Center;
- (6) four legislators, two from each house, one each from the two largest political party caucuses in each house, appointed according to the rules of the respective houses; and
- (7) other persons, if any, as designated from time to time by the governor.

(b) The council shall act to serve the broader interests of tourism in Minnesota by promoting activities that support, maintain, and expand the state's domestic and international travel market, thereby generating increased visitor expenditures, tax revenue, and employment.

(c) Filling of membership vacancies is as provided in section 15.059. The terms of one-half of the members shall be coterminous with the governor and the terms of the remaining one-half of the members shall end on the first Monday in January one year after the terms of the other members. Members may serve until their successors are appointed and qualify. Members are not compensated. A member may be reappointed.

(d) The council shall meet at least four times per year and at other times determined by the council. Notwithstanding section 15.059, the council does not expire.

(e) If compliance with section 13D.02 is impractical, the Explore Minnesota Tourism Council may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the council participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the council can hear clearly all discussion and testimony and all votes of members of the council;

(3) at least one member of the council is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(f) Each member of the council participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(g) If telephone or other electronic means is used to conduct a meeting, the council, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The council may require the person making such a connection to pay for documented marginal costs that the council incurs as a result of the additional connection.

(h) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the council shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (g). The timing and method of providing notice is governed by section 13D.04.

Sec. 57. Minnesota Statutes 2004, section 168.346, is amended to read:

168.346 [~~PRIVACY OF NAME OR RESIDENCE ADDRESS~~ PERSONAL INFORMATION.]

~~(a) The registered owner of a motor vehicle may request in writing that the owner's residence address or name and residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor vehicle. The residence address or name and residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9. Subdivision 1. [VEHICLE REGISTRATION DATA; FEDERAL COMPLIANCE.] (a) Data on an individual provided to register a vehicle is public data on individuals. The commissioner shall disclose this data if permitted by United States Code, title 18, section 2721, subsection (b).~~

~~(b) An individual The registered owner of a motor vehicle must be informed in a clear and conspicuous manner on the forms for issuance or renewal of titles and registrations, that the owner's personal information who is an individual may be disclosed consent in writing to the commissioner to disclose the individual's personal information exempted by United States Code, title 18, section 2721, subsection (b), to any person who makes a written request for the personal information, and that, except for uses permitted by United States Code, title 18, section 2721, subsection (b),. If the registered owner may prohibit disclosure of the personal information by so indicating on the form is an individual and so authorizes disclosure, the commissioner shall implement the request. For purposes of this paragraph, access by requesters making requests described in section 168.345, subdivision 4, is deemed to be related to public safety.~~

~~(c) At the time of registration or renewal, If authorized by the individual registered owner of a motor vehicle must also be informed in a clear and conspicuous manner on forms that as indicated in paragraph (b), the registered owner's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes including surveys, marketing, and or solicitation. The commissioner shall implement methods and procedures that enable the registered owner to request that bulk surveys, marketing, or solicitation not be directed to the owner. If the registered owner so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.~~

~~(d)~~ Subd. 2. [PERSONAL INFORMATION DISCLOSURE FOR PUBLIC SAFETY.] The commissioner shall disclose personal information when the use is related to the operation or use of a ~~motor~~ vehicle or to public safety. The use of personal information is related to public safety if it concerns the physical safety or security of drivers, vehicles, pedestrians, or property. The commissioner may refuse to disclose data under this ~~paragraph~~ subdivision when the commissioner concludes that the requester is likely to use the data for illegal, improper, or noninvestigative purposes.

~~(e) To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to register a motor vehicle is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, subsection (b).~~ Subd. 3. [PRIVACY CLASSIFICATION FOR PERSONAL SAFETY.] The registered owner of a vehicle who is an individual may request, in writing, that the registered owner's residence address or name and residence address be classified as "private data on individuals," as defined in section 13.02, subdivision 12. The commissioner shall grant the classification on receipt of a signed statement by the registered owner that the classification is required for the safety of the registered owner or the registered owner's family, if the statement also provides a valid, existing address where the registered owner consents to receive service of process. The commissioner shall use the service of process mailing address in place of the registered owner's residence address in all documents and notices pertaining to the vehicle. The residence address or name and residence address and any information provided in the classification request, other than the individual's service for process mailing address, are private data on individuals but may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.

Sec. 58. Minnesota Statutes 2004, section 168A.04, is amended by adding a subdivision to read:

Subd. 2a. [ALTERNATE MAILING ADDRESS.] If the United States Postal Service will not deliver mail to the residence address of a registered owner who is an individual as listed on the title application, then the registered owner must provide verification from the United States Postal Service that mail will not be delivered to the registered owner's residence address and that mail will be delivered to a specified alternate mailing address. When an applicant provides an alternate mailing address under this subdivision, the commissioner shall use the alternate mailing address in lieu of the residence address for all notices and mailings to the registered owner.

Sec. 59. Minnesota Statutes 2004, section 169.09, subdivision 1, is amended to read:

Subdivision 1. [DRIVER TO STOP FOR ACCIDENT WITH ~~PERSON~~ INDIVIDUAL.] The driver of any ~~motor~~ vehicle involved in an accident resulting in immediately demonstrable bodily injury to or death of any ~~person~~ individual shall immediately stop the vehicle at the scene of the accident, or as close to the scene as possible; but shall then return to and in every event, shall remain at, the scene of the accident, until the driver has fulfilled the requirements of this ~~chapter~~ section as to the giving of information. The stop ~~shall~~ must be made without unnecessarily obstructing traffic.

Sec. 60. Minnesota Statutes 2004, section 169.09, subdivision 2, is amended to read:

Subd. 2. [DRIVER TO STOP FOR ACCIDENT TO PROPERTY.] The driver of any motor vehicle involved in an accident to a vehicle ~~which is~~ driven or attended by any ~~person~~ individual shall immediately stop ~~such the motor~~ vehicle at the scene of ~~such the~~ accident, or as close ~~thereto to the~~ to the accident as possible; but shall forthwith return to, and in every event shall remain at, the scene of the accident, until the driver has fulfilled the requirements of this ~~chapter~~ section as to the giving of information. ~~Every such~~ The stop shall must be made without unnecessarily obstructing traffic ~~more than is necessary~~.

Sec. 61. Minnesota Statutes 2004, section 169.09, subdivision 3, is amended to read:

Subd. 3. [DRIVER TO GIVE INFORMATION.] (a) The driver of any motor vehicle involved in an accident resulting in bodily injury to or death of any person individual, or damage to any vehicle ~~which is~~ driven or attended by any person individual, shall stop and give the driver's name, address, and date of birth and the registration plate number of the vehicle being driven, ~~and~~. The driver shall, upon request and if available, exhibit the driver's license or permit to drive to the person individual struck or the driver or occupant of or person individual attending any vehicle collided with. The driver also shall give the information and upon request exhibit the license or permit to any police peace officer at the scene of the accident or who is investigating the accident. The driver shall render reasonable assistance to any person individual injured in the accident.

(b) If not given at the scene of the accident, the driver, within 72 hours ~~thereafter~~ after the accident, shall give ~~upon~~, on request to any person individual involved in the accident or to a peace officer investigating the accident, the name and address of the insurer providing automobile vehicle liability insurance coverage, and the local insurance agent for the insurer.

Sec. 62. Minnesota Statutes 2004, section 169.09, subdivision 4, is amended to read:

Subd. 4. [COLLISION WITH UNATTENDED VEHICLE.] The driver of any motor vehicle ~~which that~~ collides with and damages any vehicle ~~which that~~ is unattended shall immediately stop and either locate and notify the driver or owner of the vehicle of the name and address of the driver and registered owner of the vehicle striking the unattended vehicle, shall report ~~the this same information~~ to a police peace officer, or shall leave in a conspicuous place in or secured to the vehicle struck, a written notice giving the name and address of the driver and of the registered owner of the vehicle doing the striking.

Sec. 63. Minnesota Statutes 2004, section 169.09, subdivision 5, is amended to read:

Subd. 5. [NOTIFY OWNER OF DAMAGED PROPERTY.] The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of ~~such the~~ property of ~~such that~~ fact ~~and~~, of the driver's name and address, and of the registration plate number of the vehicle being driven and shall, upon request and if available, exhibit the driver's ~~or chauffeur's~~ license, and make report of ~~such the~~ accident in every case. The report ~~shall must~~ be made in the same manner as a report made pursuant to subdivision 7.

Sec. 64. Minnesota Statutes 2004, section 169.09, subdivision 6, is amended to read:

Subd. 6. [~~NOTIFY POLICE~~ NOTICE OF PERSONAL INJURY.] The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person individual shall, after compliance with ~~the provisions of~~ this section, and by the quickest means of communication, give notice of the accident to the local police department; if the accident occurs within a municipality, ~~or~~ to a State Patrol officer if the accident occurs on a trunk highway, or to the office of the sheriff of the county.

Sec. 65. Minnesota Statutes 2004, section 169.09, subdivision 7, is amended to read:

Subd. 7. [ACCIDENT REPORT TO COMMISSIONER.] (a) The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person individual or total property damage to an apparent extent of \$1,000 or more, shall forward a written report of the accident to the commissioner of public safety within ten days ~~thereof of the accident~~. On the required report, the driver shall provide the commissioner with the name and policy number of the insurer providing vehicle liability insurance coverage at the time of the accident.

(b) On determining that the original report of any driver of a vehicle involved in an accident of which report must be made as provided in this section is insufficient, the commissioner of public safety may require the driver to file supplementary ~~reports~~ information.

Sec. 66. Minnesota Statutes 2004, section 169.09, subdivision 8, is amended to read:

Subd. 8. [OFFICER TO REPORT ACCIDENT TO COMMISSIONER.] A ~~law-enforcement~~ peace officer who, in the regular course of duty, investigates ~~a motor vehicle~~ an accident that must be reported under this section shall, within ten days after the date of the accident, forward an electronic or written report of the accident ~~to~~ as prescribed by the commissioner of public safety.

Sec. 67. Minnesota Statutes 2004, section 169.09, subdivision 9, is amended to read:

Subd. 9. [ACCIDENT REPORT ~~FORMS~~ FORMAT.] The ~~Department~~ commissioner of public safety shall ~~prepare electronic or written forms~~ prescribe the format for the accident reports required under this section. Upon request the ~~department commissioner~~ shall ~~supply~~ make available the ~~forms~~ format to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals. ~~The forms must be appropriate with respect to the persons required to make the reports and the purposes to be served.~~ The electronic or written report ~~forms~~ to be completed by ~~persons~~ individuals involved in accidents and by investigating peace officers must ~~call for sufficiently detailed information to disclose with reference to a traffic accident~~ the causes, existing conditions ~~then existing~~, and the ~~persons~~ individuals and vehicles involved.

Sec. 68. Minnesota Statutes 2004, section 169.09, subdivision 11, is amended to read:

Subd. 11. [CORONER TO REPORT DEATH.] Every coroner or other official performing like functions shall report in writing to the ~~Department~~ commissioner of public safety the death of any ~~person~~ individual within the coroner's jurisdiction as the result of an accident involving a ~~motor~~ vehicle and the circumstances of the accident. The report ~~shall~~ must be made within 15 days after the death.

In the case of drivers killed in ~~motor~~ vehicle accidents and of the death of pedestrians 16 years of age or older, who die within four hours after an accident, the coroner or other official performing like functions shall examine the body and shall make tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs if feasible, in the blood of the victim. This information ~~shall~~ must be included in each report submitted pursuant to the provisions of this subdivision and shall be tabulated on a monthly basis by the ~~Department~~ commissioner of public safety. This information may be used only for statistical purposes ~~which~~ that do not reveal the identity of the deceased.

Sec. 69. Minnesota Statutes 2004, section 169.09, subdivision 12, is amended to read:

Subd. 12. [GARAGE TO REPORT BULLET DAMAGE.] The ~~person~~ individual in charge of any garage or repair shop to which is brought any ~~motor~~ vehicle ~~which~~ that shows evidence of having been struck by any bullet shall immediately report to the local police or sheriff and to the commissioner of public safety within 24 hours after ~~such motor~~ the vehicle is received, giving the engine number if any, registration plate number, and the name and address of the registered owner or operator of ~~such~~ the vehicle.

Sec. 70. Minnesota Statutes 2004, section 169.09, subdivision 14, is amended to read:

Subd. 14. [PENALTIES.] (a) The driver of any vehicle who violates subdivision 1 or 6 and who did not cause the accident is punishable as follows:

(1) if the accident results in the death of any ~~person~~ individual, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both;

(2) if the accident results in great bodily harm to any ~~person~~ individual, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than \$4,000, or both; or

(3) if the accident results in substantial bodily harm to any ~~person~~ individual, as defined in section 609.02, subdivision 7a, the driver may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(b) The driver of any vehicle involved in an accident not resulting in substantial bodily harm or death who violates subdivision 1 or 6 may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(c) Any person who violates subdivision 2, 3, 4, 5, 7, 8, ~~10~~, 11, or 12 is guilty of a misdemeanor.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

Sec. 71. Minnesota Statutes 2004, section 169.09, subdivision 15, is amended to read:

Subd. 15. [DEFENSE.] It is an affirmative defense to prosecution under subdivisions 1, 2, and 6 that the driver left the scene of the accident to take any ~~person~~ individual suffering immediately demonstrable bodily injury in the accident to receive emergency medical care if the driver of the involved vehicle gives notice to a law enforcement agency as required by subdivision 6 as soon as reasonably feasible after the emergency medical care has been undertaken.

Sec. 72. Minnesota Statutes 2004, section 169.09, is amended by adding a subdivision to read:

Subd. 16. [COMMISSIONER AS AGENT FOR SERVICE OF PROCESS.] The use and operation by a resident of this state or the resident's agent, or by a nonresident or the nonresident's agent, of a motor vehicle within the state of Minnesota, is deemed an irrevocable appointment by the resident if absent from this state continuously for six months or more following an accident, or by the nonresident at any time, of the commissioner of public safety to be the resident's or nonresident's true and lawful attorney upon whom may be served all legal process in any action or proceeding against the resident or nonresident or the executor, administrator, or personal representative of the resident or nonresident growing out of the use and operation of a motor vehicle within this state, resulting in damages or loss to person or property, whether the damage or loss occurs on a highway or on abutting public or private property. This appointment is binding upon the nonresident's executor, administrator, or personal representative. The use or operation of a motor vehicle by the resident or nonresident is a signification of agreement that any process in any action against the resident or nonresident or executor, administrator, or personal representative of the resident or nonresident that is so served has the same legal force and validity as if served upon the resident or nonresident personally or on the executor, administrator, or personal representative of the resident or nonresident. Service of process must be made by serving a copy thereof upon the commissioner or by filing a copy

in the commissioner's office, together with payment of a fee of \$20, and is deemed sufficient service upon the absent resident or the nonresident or the executor, administrator, or personal representative of the resident or nonresident; provided that notice of service and a copy of the process are sent by mail by the plaintiff within ten days to the defendant at the defendant's last known address and that the plaintiff's affidavit of compliance with the provisions of this chapter is attached to the summons.

Sec. 73. Minnesota Statutes 2004, section 169.09, is amended by adding a subdivision to read:

Subd. 17. [CONTINUANCE OF COURT PROCEEDING; COSTS.] The court in which the action is pending may order a continuance as may be necessary to afford the defendant reasonable opportunity to defend the action, not exceeding 90 days from the date of filing of the action in that court. The fee of \$20 paid by the plaintiff to the commissioner at the time of service of the proceedings must be taxed in the plaintiff's cost if the plaintiff prevails in the suit. The commissioner shall keep a record of all processes so served, which must show the day and hour of service.

Sec. 74. Minnesota Statutes 2004, section 171.07, subdivision 1, is amended to read:

Subdivision 1. [LICENSE; CONTENTS.] (a) Upon the payment of the required fee, the department shall issue to every qualifying applicant a license designating the type or class of vehicles the applicant is authorized to drive as applied for. This license must bear a distinguishing number assigned to the licensee; the licensee's full name, date of birth, and residence address ~~and permanent mailing address if different~~; a description of the licensee in a manner as the commissioner deems necessary; and the usual signature of the licensee. No license is valid unless it bears the usual signature of the licensee. Every license must bear a colored photograph or an electronically produced image of the licensee.

(b) If the United States Postal Service will not deliver mail to the applicant's residence address as listed on the license, then the applicant shall provide verification from the United States Postal Service that mail will not be delivered to the applicant's residence address and that mail will be delivered to a specified alternate mailing address. When an applicant provides an alternate mailing address under this subdivision, the commissioner shall use the alternate mailing address in lieu of the applicant's residence address for all notices and mailings to the applicant.

(c) Every license issued to an applicant under the age of 21 must be of a distinguishing color and plainly marked "Under-21."

~~(e)~~ (d) The department shall use processes in issuing a license that prohibit, as nearly as possible, the ability to alter or reproduce a license, or prohibit the ability to superimpose a photograph or electronically produced image on a license, without ready detection.

~~(d)~~ (e) A license issued to an applicant age 65 or over must be plainly marked "senior" if requested by the applicant.

Sec. 75. Minnesota Statutes 2004, section 171.07, subdivision 3, is amended to read:

Subd. 3. [IDENTIFICATION CARD; FEE.] (a) Upon payment of the required fee, the department shall issue to every qualifying applicant a Minnesota identification card. The department may not issue a Minnesota identification card to ~~a person~~ an individual who has a driver's license, other than a limited license. The card must bear a distinguishing number assigned to the applicant; a colored photograph or an electronically produced image of the applicant; the applicant's full name, date of birth, and residence address; a description of the applicant in the manner as the commissioner deems necessary; and the usual signature of the applicant.

(b) If the United States Postal Service will not deliver mail to the applicant's residence address as listed on the Minnesota identification card, then the applicant shall provide verification from the United States Postal Service that mail will not be delivered to the applicant's residence address and that mail will be delivered to a specified alternate mailing address. When an applicant provides an alternate mailing address under this subdivision, the commissioner shall use the alternate mailing address in lieu of the applicant's residence address for all notices and mailings to the applicant.

(c) Each identification card issued to an applicant under the age of 21 must be of a distinguishing color and plainly marked "Under-21."

(e) (d) Each Minnesota identification card must be plainly marked "Minnesota identification card - not a driver's license."

~~(d)~~ (e) The fee for a Minnesota identification card is 50 cents when issued to a person who is mentally retarded, as defined in section 252A.02, subdivision 2; a physically disabled person, as defined in section 169.345, subdivision 2; or, a person with mental illness, as described in section 245.462, subdivision 20, paragraph (c).

Sec. 76. Minnesota Statutes 2004, section 171.12, subdivision 7, is amended to read:

Subd. 7. ~~[PRIVACY OF RESIDENCE ADDRESS DATA.]~~ (a) ~~An applicant for Data on individuals provided to obtain a driver's license or a Minnesota identification card may request that the applicant's residence address be classified as private is public data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the driver's license or identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9. The commissioner shall disclose this data if permitted by United States Code, title 18, section 2721, subsection (b).~~

(b) ~~An applicant for a driver's license or a Minnesota identification card must be informed in a clear and conspicuous manner on the forms for the issuance or renewal that may consent, in writing, to the commissioner to disclose the applicant's personal information may be disclosed exempted by United States Code, title 18, section 2721, subsection (b), to any person who makes a request for the personal information, and that except for uses permitted by United States Code, title 18, section 2721, subsection (b), the applicant may prohibit disclosure of the personal information by so indicating on the form. If the applicant so authorizes disclosures, the commissioner shall implement the request and the information may be used.~~

(c) ~~If authorized by an applicant for a driver's license or a Minnesota identification card must be also informed in a clear and conspicuous manner on forms that, as indicated in paragraph (b), the applicant's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes, including surveys, marketing, or solicitation. The commissioner shall implement methods and procedures that enable the applicant to request that bulk surveys, marketing, or solicitation not be directed to the applicant. If the applicant so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.~~

(d) ~~To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to obtain a Minnesota identification card or a driver's license is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, subsection (b).~~ An applicant for a driver's license, instruction permit, or Minnesota identification card may request that the applicant's residence address be classified as "private data on individuals," as defined in section 13.02, subdivision 12. The commissioner shall grant the classification on receipt

of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the service for process mailing address in place of the residence address in all documents and notices pertaining to the driver's license, instruction permit, or Minnesota identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.

Sec. 77. [299C.40] [COMPREHENSIVE INCIDENT-BASED REPORTING SYSTEM.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "CIBRS" means the Comprehensive Incident-Based Reporting System, located in the Department of Public Safety and managed by the Bureau of Criminal Apprehension, Criminal Justice Information Systems Section. A reference in this section to "CIBRS" includes the Bureau of Criminal Apprehension.

(c) "Law enforcement agency" means a Minnesota municipal police department, the Metropolitan Transit Police, the Metropolitan Airports Police, the University of Minnesota Police Department, a Minnesota county sheriff's department, the Bureau of Criminal Apprehension, or the Minnesota State Patrol.

Subd. 2. [PURPOSE.] CIBRS is a statewide system containing data from law enforcement agencies. Data in CIBRS must be made available to law enforcement agencies in order to prepare a case against a person, whether known or unknown, for the commission of a crime or other offense for which the agency has investigative authority, or for purposes of background investigations required by section 626.87.

Subd. 3. [DATA PRACTICES ACT GOVERNS.] The provisions of chapter 13 apply to this section.

Subd. 4. [DATA CLASSIFICATION; GENERAL RULE; CHANGES IN CLASSIFICATION; AUDIT TRAIL.] (a) The classification of data in the law enforcement agency does not change after the data is submitted to CIBRS.

(b) Data on individuals created, collected, received, maintained, or disseminated by CIBRS is classified as confidential data on individuals as defined in section 13.02, subdivision 3, and becomes private data on individuals as defined in section 13.02, subdivision 12, as provided by this section.

(c) Data not on individuals created, collected, received, maintained, or disseminated by CIBRS is classified as protected nonpublic data as defined in section 13.02, subdivision 13, and becomes nonpublic data as defined in section 13.02, subdivision 9, as provided by this section.

(d) Confidential or protected nonpublic data created, collected, received, maintained, or disseminated by CIBRS must automatically change classification from confidential data to private data or from protected nonpublic data to nonpublic data on the earlier of the following dates:

(1) upon receipt by CIBRS of notice from a law enforcement agency that an investigation has become inactive; or

(2) when the data has not been updated by the law enforcement agency that submitted it for a period of 120 days.

(e) For the purposes of this section, an investigation becomes inactive upon the occurrence of any of the events listed in section 13.82, subdivision 7, clauses (a) to (c).

(f) Ten days before making a data classification change because data has not been updated, CIBRS must notify the law enforcement agency that submitted the data that a classification change will be made on the 120th day. The notification must inform the law enforcement agency that the data will retain its classification as confidential or protected nonpublic data if the law enforcement agency updates the data or notifies CIBRS that the investigation is still active before the 120th day. A new 120-day period begins if the data is updated or if a law enforcement agency notifies CIBRS that an active investigation is continuing.

(g) A law enforcement agency that submits data to CIBRS must notify CIBRS if an investigation has become inactive so that the data is classified as private data or nonpublic data. The law enforcement agency must provide this notice to CIBRS within ten days after an investigation becomes inactive.

(h) All queries and responses and all actions in which data is submitted to CIBRS, changes classification, or is disseminated by CIBRS to any law enforcement agency must be recorded in the CIBRS audit trail.

Subd. 5. [ACCESS TO CIBRS DATA BY LAW ENFORCEMENT AGENCY PERSONNEL.] Only law enforcement agency personnel with certification from the Bureau of Criminal Apprehension may enter, update, or access CIBRS data. The ability of particular law enforcement agency personnel to enter, update, or access CIBRS data must be limited through the use of purpose codes that correspond to the official duties and training level of the personnel.

Subd. 6. [ACCESS TO CIBRS DATA BY DATA SUBJECT.] Upon request to the Bureau of Criminal Apprehension or to a law enforcement agency participating in CIBRS an individual shall be informed whether the individual is the subject of private or confidential data held by CIBRS. An individual who is the subject of private data held by CIBRS may obtain access to the data by making a request to the Bureau of Criminal Apprehension or to a participating law enforcement agency. Private data provided to the subject under this subdivision must also include the name of the law enforcement agency that submitted the data to CIBRS and the name, telephone number, and address of the responsible authority of that law enforcement agency.

Subd. 7. [CHALLENGE TO COMPLETENESS AND ACCURACY OF DATA.] An individual who is the subject of public or private data held by CIBRS and who wants to challenge the completeness or accuracy of the data under section 13.04, subdivision 4, must notify in writing the responsible authority of the participating law enforcement agency. A law enforcement agency must notify the Bureau of Criminal Apprehension when data held by CIBRS is challenged. The notification must identify the data that was challenged and the subject of the data. CIBRS must include any notification received under this paragraph whenever disseminating data about which no determination has been made. When the responsible authority of a law enforcement agency completes, corrects, or destroys successfully challenged data, the corrected data must be submitted to CIBRS and any future dissemination must be of the corrected data.

Sec. 78. [REPORT TO LEGISLATURE.]

By January 15, 2006, the commissioner of public safety must report to the chair of the House Public Safety Policy and Finance Committee and the chair of the Senate Crime Prevention and Public Safety Committee and make legislative recommendations on possible use of CIBRS data for background checks required by law, a process for criminal records expungement by the subject of CIBRS data, and retention schedules for CIBRS data.

Sec. 79. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall renumber each section of Minnesota Statutes in column A with the number in column B. The revisor shall also make any necessary cross-reference changes.

Column A

170.24
170.54

Column B

169.09, subdivision 14a
169.09, subdivision 5a

Sec. 80. [REPEALER.]

Minnesota Statutes 2004, sections 13.04, subdivision 5; 169.09, subdivision 10; and 170.55, are repealed."

Delete the title and insert:

"A bill for an act relating to government data; making technical, conforming, and clarifying changes to the Minnesota Government Data Practices Act; defining terms; modifying certain civil penalty and damages amounts; classifying and regulating access to, and dissemination of, certain data; regulating certain fees; providing for the conduct of certain board and council meetings; modifying provisions regulating motor vehicle and driver applications and records; modifying vehicle accident reports and procedures; providing for treatment of data held by the comprehensive incident-based reporting system; amending Minnesota Statutes 2004, sections 11A.24, subdivision 6; 13.01, subdivisions 1, 3; 13.02, subdivision 7; 13.03, subdivisions 1, 2, 3, 4, 5, 6, 8; 13.04, subdivisions 2, 4; 13.05, subdivisions 1, 4, 6, 7, 8, 9; 13.06, subdivisions 1, 2, 3, 4; 13.07; 13.072, subdivision 4; 13.073, subdivision 3; 13.08, subdivisions 1, 2, 4, 5; 13.32, by adding a subdivision; 13.37, subdivisions 1, 2, 3; 13.3805, by adding a subdivision; 13.43, subdivisions 1, 2, 3; 13.46, subdivision 4; 13.591, by adding subdivisions; 13.601, by adding a subdivision; 13.635, by adding a subdivision; 13.72, by adding subdivisions; 13.82, subdivisions 1, 16; 16C.06, subdivision 5; 116J.68, by adding a subdivision; 116L.03, by adding a subdivision; 116L.665, by adding a subdivision; 116M.15, by adding a subdivision; 116U.25; 168.346; 168A.04, by adding a subdivision; 169.09, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, by adding subdivisions; 171.07, subdivisions 1, 3; 171.12, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 41A; 299C; repealing Minnesota Statutes 2004, sections 13.04, subdivision 5; 169.09, subdivision 10; 170.55."

With the recommendation that when so amended the bill pass.

The report was adopted.

Gunther from the Committee on Jobs and Economic Opportunity Policy and Finance to which was referred:

H. F. No. 400, A bill for an act relating to unemployment insurance; making an eligibility exception permanent for certain school food service workers; amending Minnesota Statutes 2004, section 268.085, subdivision 8.

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.

Wilkin from the Committee on Commerce and Financial Institutions to which was referred:

H. F. No. 471, A bill for an act relating to commerce; imposing certain customer sales or service call center requirements; prescribing a criminal penalty; proposing coding for new law in Minnesota Statutes, chapter 325F.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [325F.695] [CUSTOMER SALES OR SERVICE CALL CENTER REQUIREMENTS.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them:

(1) "customer sales and service call center" means an entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purpose of initiating telephone solicitations as defined in section 325E.311, subdivision 6;

(2) "customer service call center" means an entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purposes of providing or receiving services or information necessary in connection with the providing of services or other benefits; and

(3) "customer services employee" means a person employed by or working on behalf of a customer sales call center or a customer service call center.

Subd. 2. [CUSTOMERS' RIGHT TO CUSTOMER SALES OR CUSTOMER SERVICE CALL CENTER INFORMATION.] (a) Any person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center, upon request, has the right to know the identification of the state or country where the customer service employee is located.

(b) A person who receives a telephone solicitation from, or places a telephone call to, a customer sales call center or a customer service call center located in a foreign country, which requests the person's financial, credit, or identifying information, shall have the right to request an alternative option to contact a customer sales and service center located in the United States before the information is given if the alternative option is available.

Subd. 3. [VIOLATION.] It is fraud under section 325F.69 for a person to willfully violate this section.

Subd. 4. [APPLICATION TO OTHER REMEDIES.] Nothing in this section changes the remedies currently available under state or federal law or creates additional or new remedies.

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

This act is effective August 1, 2005."

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

The report was adopted.

Dorman from the Committee on Capital Investment to which was referred:

H. F. No. 498, A bill for an act relating to public safety; radio communications; modifying sales and use tax exemption for public safety radio communication system products and services; expanding definition of subsystems; expanding purposes for public safety radio communication systems' revenue bonds; increasing dollar limits and

clarifying the kind of subsystem certain revenue bonds may be used for; appropriating money; amending Minnesota Statutes 2004, sections 297A.70, subdivision 8; 403.21, subdivision 8; 403.27, subdivisions 3, 4, by adding subdivisions; 403.30, by adding a subdivision.

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

The report was adopted.

Holberg from the Committee on Transportation Finance to which was referred:

H. F. No. 682, A bill for an act relating to the military; providing for special "Support Our Troops" plates; establishing an account; providing funding for certain National Guard incentive programs; providing funding for a World War II veterans memorial and the maintenance and improvement of veterans homes; providing certain income tax benefits; appropriating money; amending Minnesota Statutes 2004, sections 289A.02, subdivision 7; 290.01, subdivisions 19, 19b, 31; 290.06, subdivision 2c; 290.091, subdivision 2; 290A.03, subdivision 15; 291.005, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 168; 190.

Reported the same back with the following amendments:

Pages 1 to 4, delete article 1

Renumber the articles in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, delete line 3

Page 1, line 12, delete everything after "1" and insert a period

Page 1, delete line 13

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.

Hackbarth from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 731, A bill for an act relating to the environment; modifying individual sewage treatment system inspection requirements to avoid conflicts of interest; amending Minnesota Statutes 2004, section 115.55, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 115.55, subdivision 5, is amended to read:

Subd. 5. [INSPECTION.] (a) An inspection shall be required for all new construction or replacement of a system to determine compliance with agency rule or local standards. The manner and timing of inspection may be determined by the applicable local ordinance. The inspection requirement may be satisfied by a review by the designated local official of video, electronic, photographic, or other evidence of compliance provided by the installer.

(b) Except as provided in subdivision 5b, paragraph (b), a local unit of government may not issue a building permit or variance for the addition of a bedroom on property served by a system unless the system is in compliance with the applicable requirements, as evidenced by a certificate of compliance issued by a licensed inspector or site evaluator or designer. A local unit of government may temporarily waive the certificate of compliance requirement for a building permit or variance for which application is made during the period from November 1 to April 30, provided that an inspection of the system is performed by the following June 1 and the applicant submits a certificate of compliance by the following September 30. This paragraph does not apply if the local unit of government does not have an ordinance requiring a building permit to add a bedroom.

(c) A certificate of compliance for an existing system is valid for three years from the date of issuance unless the local unit of government finds evidence of an imminent threat to public health or safety requiring removal and abatement under section 145A.04, subdivision 8.

(d) A certificate of compliance for a new system is valid for five years from the date of issuance unless the local unit of government finds evidence of an imminent threat to public health or safety requiring removal and abatement under section 145A.04, subdivision 8.

(e) A licensed inspector who inspects an existing system may subsequently design and install a new system for that property, provided the inspector is licensed to install individual sewage treatment systems.

(f) No system professional may use their position with government, either as an employee or a contractor, to solicit business for their private system enterprise."

With the recommendation that when so amended the bill pass.

The report was adopted.

Johnson, J., from the Committee on Civil Law and Elections to which was referred:

H. F. No. 761, A bill for an act relating to family law; changing certain procedures for removal of a child's residence from Minnesota; amending Minnesota Statutes 2004, sections 518.1705, subdivision 7; 518.175, subdivision 3; 518.18.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [257.026] [NOTIFICATION OF RESIDENCE WITH CERTAIN CONVICTED PERSONS.]

A person who is granted custody of a child under this chapter or chapter 518 must notify the child's noncustodial parent, if any, and the court that granted the custody if the person with custody marries or begins living in the same residence with a person who has been convicted of a crime listed in section 518.179, subdivision 2. The court must hold a hearing within 30 days to determine whether the existing custody situation is still in the best interests of the child or custody of the child should be transferred to a different person.

Sec. 2. Minnesota Statutes 2004, section 257.55, subdivision 1, is amended to read:

Subdivision 1. [PRESUMPTION.] A man is presumed to be the biological father of a child if:

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court. The presumption in this paragraph does not apply if the man has joined in a recognition of parentage recognizing another man as the biological father under section 257.75, subdivision 1a;

(b) Before the child's birth, he and the child's biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's biological mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth record; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) ~~While the child is under the age of majority, he receives the child into his home~~ During the first two years of the child's life, he resided in the same household with the child for at least 12 months and openly ~~holds held~~ out the child as his ~~biological child own~~;

(e) He and the child's biological mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this paragraph to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted;

~~(f) Evidence of statistical probability of paternity based on blood or genetic testing establishes the likelihood that he is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater;~~

~~(g)~~ He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man is presumed to be the father under this subdivision;

~~(h)~~ (g) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man and the child's mother have executed a recognition of parentage in accordance with section 257.75; or

~~(i)~~ (h) He and the child's biological mother executed a recognition of parentage in accordance with section 257.75 when either or both of the signatories were less than 18 years of age.

Sec. 3. Minnesota Statutes 2004, section 257.57, subdivision 2, is amended to read:

Subd. 2. [ACTIONS UNDER OTHER PARAGRAPHS OF SECTION 257.55, SUBDIVISION 1.] The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under ~~section~~ sections 257.55, subdivision 1, paragraph (d), (e), ~~(f)~~, (g), or (h), and 257.62, subdivision 5, paragraph (b), or the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) of that subdivision;

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the presumed father is not the father of the child;

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under ~~section 257.55, subdivision 1, paragraph (f)~~ 257.62, subdivision 5, paragraph (b), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood or genetic test results; or

(4) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.75, subdivision 9, only if the action is brought by the minor signatory within six months after the minor signatory reaches the age of 18. In the case of a recognition of parentage executed by two minor signatories, the action to declare the nonexistence of the father and child relationship must be brought within six months after the youngest signatory reaches the age of 18.

Sec. 4. Minnesota Statutes 2004, section 257.62, subdivision 5, is amended to read:

Subd. 5. [POSITIVE TEST RESULTS.] (a) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that the likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 92 percent or greater, upon motion the court

shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money to the public authority if the public authority is a party and is providing services to the parties or, if not, into court pursuant to the Rules of Civil Procedure to await the results of the paternity proceedings.

(b) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater, there is an evidentiary presumption that the alleged father is presumed to be the parent biological father and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.

(c) A determination under this subdivision that the alleged father is the biological father does not preclude the adjudication of another man as the legal father pursuant to section 257.55, subdivision 2, nor does it allow the donor of genetic material for assisted reproduction for the benefit of the recipient parent or parents, whether sperm or ovum (egg), to claim to be the child's biological or legal parent or both.

Sec. 5. Minnesota Statutes 2004, section 257C.03, subdivision 7, is amended to read:

Subd. 7. [INTERESTED THIRD PARTY; BURDEN OF PROOF; FACTORS.] (a) To establish that an individual is an interested third party, the individual must:

(1) show by clear and convincing evidence that one of the following factors exist:

(i) the parent has abandoned, neglected, or otherwise exhibited disregard for the child's well-being to the extent that the child will be harmed by living with the parent;

(ii) placement of the child with the individual takes priority over preserving the day-to-day parent-child relationship because of the presence of physical or emotional danger to the child, or both; or

(iii) other extraordinary circumstances; ~~and~~

(2) prove by a preponderance of the evidence that it is in the best interests of the child to be in the custody of the interested third party; and

(3) show by clear and convincing evidence that granting the petition would not violate section 518.179, subdivision 1a.

(b) The following factors must be considered by the court in determining an interested third party's petition:

(1) the amount of involvement the interested third party had with the child during the parent's absence or during the child's lifetime;

(2) the amount of involvement the parent had with the child during the parent's absence;

(3) the presence or involvement of other interested third parties;

(4) the facts and circumstances of the parent's absence;

(5) the parent's refusal to comply with conditions for retaining custody set forth in previous court orders;

(6) whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence;

(7) whether a sibling of the child is already in the care of the interested third party; and

(8) the existence of a standby custody designation under chapter 257B.

(c) In determining the best interests of the child, the court must apply the standards in section 257C.04.

Sec. 6. Minnesota Statutes 2004, section 259.24, subdivision 1, is amended to read:

Subdivision 1. [EXCEPTIONS.] No child shall be adopted without the consent of the child's parents and the child's guardian, if there be one, except in the following instances:

(a) Consent shall not be required of a parent not entitled to notice of the proceedings.

(b) Consent shall not be required of a parent who has abandoned the child, or of a parent who has lost custody of the child through a divorce decree or a decree of dissolution, and upon whom notice has been served as required by section 259.49.

(c) Consent shall not be required of a parent whose parental rights to the child have been terminated by a juvenile court or who has lost custody of a child through a final commitment of the juvenile court or through a decree in a prior adoption proceeding.

(d) If there be no parent or guardian qualified to consent to the adoption, the consent ~~may~~ must be given by the commissioner. After the court accepts a parent's consent to the adoption under section 260C.201, subdivision 11, consent by the commissioner or the commissioner's designee is also necessary. Agreement to the identified prospective adoptive parent by the responsible social services agency under section 260C.201, subdivision 11, does not constitute the required consent.

(e) The commissioner or agency having authority to place a child for adoption pursuant to section 259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such child. The commissioner or agency shall make every effort to place siblings together for adoption. Notwithstanding any rule to the contrary, the commissioner may delegate the right to consent to the adoption or separation of siblings, if it is in the child's best interest, to a local social services agency.

Sec. 7. Minnesota Statutes 2004, section 259.24, subdivision 2a, is amended to read:

Subd. 2a. [TIME OF CONSENT; NOTICE OF INTENT TO CONSENT TO ADOPTION.] (a) Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home, a person whose consent is required under this section shall execute a consent.

(b) Unless all birth parents from whom consent is required under this section are involved in making the adoptive placement and intend to consent to the adoption, a birth parent who intends to execute a consent to an adoption must give notice to the child's other birth parent of the intent to consent to the adoption prior to or within 72 hours following the placement of the child, if the other birth parent's consent to the adoption is required under subdivision 1. The birth parent who receives notice shall have 60 days after the placement of the child to either consent or refuse to consent to the adoption. If the birth parent who receives notice fails to take either of these actions, that parent shall be deemed to have irrevocably consented to the child's adoption. The notice provisions of chapter 260C and the rules of juvenile protection procedure shall apply to both parents when the consent to adopt is executed under section 260C.201, subdivision 11.

(c) When notice is required under this subdivision, it shall be provided to the other birth parent according to the Rules of Civil Procedure for service of a summons and complaint.

Sec. 8. Minnesota Statutes 2004, section 259.24, subdivision 5, is amended to read:

Subd. 5. [EXECUTION.] All consents to an adoption shall be in writing, executed before two competent witnesses, and acknowledged by the consenting party. In addition, all consents to an adoption, except those by the commissioner, the commissioner's agent, a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for adoption by a stepparent, shall be executed before a representative of the commissioner, the commissioner's agent, or a licensed child-placing agency. All consents by a parent:

(1) shall contain notice to the parent of the substance of subdivision 6a, providing for the right to withdraw consent unless the parent will not have the right to withdraw consent because consent was executed under section 260C.201, subdivision 11, following proper notice that consent given under that provision is irrevocable upon acceptance by the court as provided in subdivision 6a; and

(2) shall contain the following written notice in all capital letters at least one-eighth inch high:

"This agency will submit your consent to adoption to the court. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."

Consents shall be filed in the adoption proceedings at any time before the matter is heard provided, however, that a consent executed and acknowledged outside of this state, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid.

Sec. 9. Minnesota Statutes 2004, section 259.24, subdivision 6a, is amended to read:

Subd. 6a. [WITHDRAWAL OF CONSENT.] Except for consents executed under section 260C.201, subdivision 11, a parent's consent to adoption may be withdrawn for any reason within ten working days after the consent is executed and acknowledged. Written notification of withdrawal of consent must be received by the agency to which the child was surrendered no later than the tenth working day after the consent is executed and acknowledged. On the day following the tenth working day after execution and acknowledgment, the consent shall become irrevocable, except upon order of a court of competent jurisdiction after written findings that consent was obtained by fraud. A consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon proper notice to both parents of the effect of a consent to adopt and acceptance by the court, except upon order of the same court after written findings that the consent was obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents and the child shall be made parties. The proceedings shall be conducted to preserve the confidentiality of the adoption process. There shall be no presumption in the proceedings favoring the birth parents over the adoptive parents.

Sec. 10. Minnesota Statutes 2004, section 260C.201, subdivision 11, is amended to read:

Subd. 11. [REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.] (a) This subdivision and subdivision 11a do not apply in cases where the child is in placement due solely to the child's developmental disability or emotional disturbance, where legal custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons under section 260C.007, subdivision 8, to continue the child in foster care past the time periods specified in this subdivision. Foster care placements of children due solely to their disability are governed by section 260C.141, subdivision 2b. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall conduct a hearing to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent.

For purposes of this subdivision, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to this hearing, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152. If a termination of parental rights petition is filed before the date required for the permanency planning determination and there is a trial under section 260C.163 scheduled on that petition within 90 days of the filing of the petition, no hearing need be conducted under this subdivision.

(c) At the conclusion of the hearing, the court shall order the child returned to the care of the parent or guardian from whom the child was removed or order a permanent placement in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

(d) If the child is not returned to the home, the court must order one of the following dispositions:

(1) permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(i) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(ii) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures set out in the juvenile court rules;

(iii) an order establishing permanent legal and physical custody under this subdivision must be filed with the family court;

(iv) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(v) the social services agency may bring a petition or motion naming a fit and willing relative as a proposed permanent legal and physical custodian. The commissioner of human services shall annually prepare for counties information that must be given to proposed custodians about their legal rights and obligations as custodians together with information on financial and medical benefits for which the child is eligible; and

(vi) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;

(2) termination of parental rights according to the following conditions:

(i) unless the social services agency has already filed a petition for termination of parental rights under section 260C.307, the court may order such a petition filed and all the requirements of sections 260C.301 to 260C.328 remain applicable; and

(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58;

(3) long-term foster care according to the following conditions:

(i) the court may order a child into long-term foster care only if it finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests; and

(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:

(A) the child has reached age 12 and reasonable efforts by the responsible social services agency have failed to locate an adoptive family for the child; or

(B) the child is a sibling of a child described in subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home;

(4) foster care for a specified period of time according to the following conditions:

(i) foster care for a specified period of time may be ordered only if:

(A) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(B) the court finds that foster care for a specified period of time is in the best interests of the child; and

(C) the court finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home that has agreed to adopt the child and agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this section and the court accepts the parent's voluntary consent to adopt under section 259.24;

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner; ~~and~~

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent; and

(vi) notwithstanding item (v), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

(1) the placement is long-term foster care or foster care for a specified period of time;

(2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;

(3) an adoption has not yet been finalized; or

(4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), or foster care for a specified period of time must be conducted at least yearly and must review the child's out-of-home placement plan and the reasonable efforts of the agency to:

(1) identify a specific long-term foster home for the child or a specific foster home for the time the child is specified to be out of the care of the parent, if one has not already been identified;

(2) support continued placement of the child in the identified home, if one has been identified;

(3) ensure appropriate services are provided to the child during the period of long-term foster care or foster care for a specified period of time;

(4) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1; and

(5) where placement is for a specified period of time, a plan for the safe return of the child to the care of the parent.

(h) An order under this subdivision must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or parents;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home.

(i) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

(j) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

Sec. 11. [260C.209] [BACKGROUND CHECKS.]

Subdivision 1. [SUBJECTS.] (a) The responsible social services agency must conduct a background check of the following under this section:

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over 13 years of age when there is a reasonable cause to believe that the parent or household member over 13 years of age has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

(2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined, and any member of the relative's household who is over 13 years of age when: (i) the relative must be licensed for foster care; (ii) the agency must conduct a background study under section 259.53, subdivision 2; or (iii) the agency has reasonable cause to believe the relative or household member over 13 years of age has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social services agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

(b) As used in this subdivision, "reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and must not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Subd. 2. [GENERAL PROCEDURES.] (a) When conducting a background check under subdivision 1, the agency may require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including the individual's:

(1) first, middle, and last name and all other names by which the individual has been known;

(2) home address, zip code, city, county, and state of residence for the past ten years;

(3) sex;

(4) date of birth; and

(5) driver's license number or state identification number.

(b) When notified by the responsible social services agency that it is conducting an assessment under this section, the Bureau of Criminal Apprehension, the commissioners of health and human services, law enforcement, and county agencies must provide the responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under section 626.556.

Subd. 3. [MULTISTATE INFORMATION.] (a) For any assessment completed under this section, if the responsible social services agency has reasonable cause to believe that the individual is a multistate offender, the individual must provide the responsible social services agency or the county attorney with a set of classifiable fingerprints obtained from an authorized law enforcement agency. The responsible social services agency or county attorney may obtain criminal history data from the National Criminal Records Repository by submitting the fingerprints to the Bureau of Criminal Apprehension.

(b) For purposes of this subdivision, the responsible social services agency has reasonable cause when, but not limited to:

(1) information from the Bureau of Criminal Apprehension indicates that the individual is a multistate offender;

(2) information from the Bureau of Criminal Apprehension indicates that multistate offender status is undetermined;

(3) the social services agency has received a report from the individual or a third party indicating that the individual has a criminal history in a jurisdiction other than Minnesota; or

(4) the individual is or has been a resident of a state other than Minnesota at any time during the prior ten years.

Subd. 4. [NOTICE UPON RECEIPT.] The responsible social services agency must provide the subject of the background study with the results of the study under this section within 15 business days of receipt or at least 15 days prior to the hearing at which the results will be presented, whichever comes first. The subject may provide written information to the agency that the results are incorrect and may provide additional or clarifying information to the agency and to the court through a party to the proceeding. This provision does not apply to any background study conducted under chapters 245A and 245C.

Sec. 12. Minnesota Statutes 2004, section 260C.212, subdivision 4, is amended to read:

Subd. 4. [RESPONSIBLE SOCIAL SERVICE AGENCY'S DUTIES FOR CHILDREN IN PLACEMENT.] (a) When a child is in placement, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(1) If The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of temporarily or permanently providing for the day-to-day care of the child. An assessment under this clause may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

(i) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

(ii) provide a parent who is the subject of a background study under section 260C.209, 15 days' notice that it intends to use the study to recommend against putting the child with that parent, as well as the notice provided in section 260C.209, subdivision 4, and the court shall afford the parent an opportunity to be heard concerning the study.

(3) The results of a background study of a noncustodial parent must not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

~~(3)~~ (4) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

~~(4)~~ (5) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

(b) The responsible social services agency shall give notice to the parent or parents or guardian of each child in a residential facility, other than a child in placement due solely to that child's developmental disability or emotional disturbance, of the following information:

(1) that residential care of the child may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under chapter 260C and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of residential care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in the residential facility.

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally disturbed of the following information:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.

(d) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

Sec. 13. Minnesota Statutes 2004, section 484.65, subdivision 9, is amended to read:

Subd. 9. ~~[REFEREES; REVIEW APPEAL.] All recommended orders and findings of a referee shall be subject to confirmation by said district court judge. Review of any recommended order or finding of a referee by the district court judge may be had by notice served and filed within ten days of effective notice of such recommended order or finding. The notice of review shall specify the grounds for such review and the specific provisions of the recommended findings or orders disputed, and said district court judge, upon receipt of such notice of review, shall set a time and place for such review hearing. Fourth Judicial District Family Court referee orders and decrees may be appealed directly to the Court of Appeals in the same manner as judicial orders and decrees. The time for appealing an appealable referee order runs from service by any party of written notice of the filing of the confirmed order.~~

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

Sec. 14. Minnesota Statutes 2004, section 518.1705, subdivision 7, is amended to read:

Subd. 7. ~~[MOVING THE CHILD TO ANOTHER STATE.] Parents may agree, but the court must not require, that in a parenting plan the factors in section 518.17 or 257.025, as applicable, upon the legal standard that will govern a decision concerning removal of a child's residence from this state, provided that:~~

- (1) both parents were represented by counsel when the parenting plan was approved; or
- (2) the court found the parents were fully informed, the agreement was voluntary, and the parents were aware of its implications.

Sec. 15. Minnesota Statutes 2004, section 518.175, subdivision 3, is amended to read:

Subd. 3. ~~[MOVE TO ANOTHER STATE.] The parent with whom the child resides shall not move the residence of the child to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree. If the purpose of the move is to interfere with parenting time given to the other parent by the decree, the court shall not permit the child's residence to be moved to another state.~~

The court shall apply a best interests standard when considering the request of the parent with whom the child resides to move the child's residence to another state. The factors the court must consider in determining the child's best interests include, but are not limited to:

- (1) the nature, quality, extent of involvement, and duration of the child's relationship with the person proposing to relocate and with the nonrelocating person, siblings, and other significant persons in the child's life;

(2) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(3) the feasibility of preserving the relationship between the nonrelocating person and the child through suitable parenting time arrangements, considering the logistics and financial circumstances of the parties;

(4) the child's preference, taking into consideration the age and maturity of the child;

(5) whether there is an established pattern of conduct of the person seeking the relocation either to promote or thwart the relationship of the child and the nonrelocating person;

(6) whether the relocation of the child will enhance the general quality of life for both the custodial parent seeking the relocation and the child including, but not limited to, financial or emotional benefit or educational opportunity;

(7) the reasons of each person for seeking or opposing the relocation; and

(8) the effect on the safety and welfare of the child, or of the parent requesting to move the child's residence, of domestic abuse, as defined in section 518B.01.

The burden of proof is upon the parent requesting to move the residence of the child to another state, except that if the court finds the existence of domestic abuse between the parents, the burden of proof is upon the parent opposing the move. The court must consider all of the factors in this subdivision in determining the best interests of the child.

Sec. 16. Minnesota Statutes 2004, section 518.179, is amended by adding a subdivision to read:

Subd. 1a. [CUSTODY OF CHILD.] A person convicted of a crime described in subdivision 2 may not be considered for custody of a child unless the child is the person's child by birth or adoption.

Sec. 17. Minnesota Statutes 2004, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order or a parenting plan provision which specifies the child's primary residence unless it finds, upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have

arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:

(i) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) both parties agree to the modification;

(iii) the child has been integrated into the family of the petitioner with the consent of the other party; ~~or~~

(iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(v) the court has denied a request of the primary custodial parent to move the residence of the child to another state, and the primary custodial parent has relocated to another state despite the court's order.

In addition, a court may modify a custody order or parenting plan under section 631.52.

(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

(f) If a parent has been granted sole physical custody of a minor and the child subsequently lives with the other parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the obligor's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

Sec. 18. Minnesota Statutes 2004, section 518.191, subdivision 2, is amended to read:

Subd. 2. [REQUIRED INFORMATION.] A summary real estate disposition judgment must contain the following information: (1) the full caption and file number of the case and the title "Summary Real Estate Disposition Judgment"; (2) the dates of the parties' marriage and of the entry of the judgment and decree of dissolution; (3) the names of the parties' attorneys or if either or both appeared pro se; (4) the name of the judge and referee, if any, who signed the order for judgment and decree; (5) whether the judgment and decree resulted from a stipulation, a default, or a trial and the appearances at the default or trial; (6) if the judgment and decree resulted from a stipulation, whether disposition of the property was stipulated to by legal description; (7) if the judgment and decree resulted from a default, whether the petition contained the legal description of the property and disposition was made in accordance with the request for relief, and service of the summons and petition was made personally pursuant to section 543.19 or Rules of Civil Procedure, Rule 4.03(a); (8) whether either party changed the party's name through the judgment and decree; ~~(7)~~ (9) the legal description of each parcel of real estate; ~~(8)~~ (10) the name or names of the persons awarded an interest in each parcel of real estate and a description of the interest awarded; ~~(9)~~ (11) liens, mortgages, encumbrances, or other interests in the real estate described in the judgment and decree; and ~~(10)~~ (12) triggering or contingent events set forth in the judgment and decree affecting the disposition of each parcel of real estate.

Sec. 19. Minnesota Statutes 2004, section 518.191, subdivision 4, is amended to read:

Subd. 4. [TRANSFER OF PROPERTY.] The summary real estate disposition judgment operates as a conveyance and transfer of each interest in the real estate in the manner and to the extent described in the summary real estate disposition judgment. Recording of a certified copy of the judgment and decree or summary real estate disposition judgment is sufficient to transfer title, create a lien, or effect any other disposition ordered in the judgment, without a deed or other conveyance.

Sec. 20. Minnesota Statutes 2004, section 518.54, subdivision 4a, is amended to read:

Subd. 4a. [SUPPORT ORDER.] (a) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction:

(1) for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, ~~or;~~

(2) for a child and the parent with whom the child is living, that provides for monetary support, child care, medical support including expenses for confinement and pregnancy, arrearages, or reimbursement, ~~and that; or~~

(3) for the maintenance of a spouse.

(b) The support order may include related costs and fees, interest and penalties, income withholding, and other relief. This definition applies to orders issued under this chapter and chapters 256, 257, and 518C.

Sec. 21. Minnesota Statutes 2004, section 518.551, subdivision 1, is amended to read:

Subdivision 1. [SCOPE; PAYMENT TO PUBLIC AGENCY.] (a) This section applies to all proceedings involving a support order, including, but not limited to, a support order establishing an order for past support or reimbursement of public assistance.

(b) The court shall direct that all payments ordered for maintenance ~~and~~ or support be made to the public agency responsible for child support enforcement so long as the obligee is receiving or has applied for public assistance, or has applied for child support ~~and~~ or maintenance collection services. Public authorities responsible for child support enforcement may act on behalf of other public authorities responsible for child support enforcement. This includes the authority to represent the legal interests of or execute documents on behalf of the other public authority in connection with the establishment, enforcement, and collection of child support, maintenance, or medical support, and collection on judgments.

(c) Payments made to the public authority other than payments under section 518.6111 must be credited as of the date the payment is received by the central collections unit.

(d) Amounts received by the public agency responsible for child support enforcement greater than the amount granted to the obligee shall be remitted to the obligee.

Sec. 22. Minnesota Statutes 2004, section 518.58, subdivision 4, is amended to read:

Subd. 4. [PENSION PLANS.] (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump sum amount from defined benefit pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of defined benefit public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5)."

Delete the title and insert:

"A bill for an act relating to family law; changing certain requirements and procedures; requiring notification of certain convictions by custodial parent; changing certain paternity presumptions; limiting child custody rights of persons with certain convictions; changing procedures for removing a child's residence from the state; authorizing Department of Human Services to collect spousal maintenance; amending Minnesota Statutes 2004, sections 257.55, subdivision 1; 257.57, subdivision 2; 257.62, subdivision 5; 257C.03, subdivision 7; 259.24, subdivisions 1, 2a, 5, 6a; 260C.201, subdivision 11; 260C.212, subdivision 4; 484.65, subdivision 9; 518.1705, subdivision 7; 518.175, subdivision 3; 518.179, by adding a subdivision; 518.18; 518.191, subdivisions 2, 4; 518.54, subdivision 4a; 518.551, subdivision 1; 518.58, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 257; 260C."

With the recommendation that when so amended the bill pass.

The report was adopted.

Gunther from the Committee on Jobs and Economic Opportunity Policy and Finance to which was referred:

H. F. No. 762, A bill for an act relating to children; including possible availability of mental health screening in notice to parents of truant children; amending Minnesota Statutes 2004, sections 260A.03; 260A.04, subdivisions 2, 3.

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

The report was adopted.

Buesgens from the Committee on Education Policy and Reform to which was referred:

H. F. No. 834, A bill for an act relating to education; granting school districts the authority to offer certain rewards; amending Minnesota Statutes 2004, section 123B.02, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 9, after "board" insert ", after formally adopting a policy consistent with this section,"

Page 1, after line 15, insert:

"Sec. 2. [MODEL POLICY.]

The commissioner of education, after consulting with representatives of teachers, school administrators, parents, students, student support service providers, law enforcement officials, community service providers, and the juvenile justice and district court systems, must develop and make available upon request to interested school boards a model policy to effect a reward for information about persons committing crimes against students, school employees, school volunteers, school board members, or school property, consistent with section 1.

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

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "requiring the Department of Education to develop and make available a model policy;"

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

The report was adopted.

Wilkin from the Committee on Commerce and Financial Institutions to which was referred:

H. F. No. 949, A bill for an act relating to health; increasing consumer protection for hearing aid users; amending Minnesota Statutes 2004, sections 153A.15, subdivision 1; 153A.19, subdivision 2.

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

The report was adopted.

Holberg from the Committee on Transportation Finance to which was referred:

H. F. No. 1153, A bill for an act relating to traffic regulations; establishing a crosswalk safety education account; appropriating money; amending Minnesota Statutes 2004, section 169.21, by adding a subdivision.

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

The report was adopted.

Bradley from the Committee on Health Policy and Finance to which was referred:

H. F. No. 1161, A bill for an act relating to health; establishing penalty fees for certain credentialed health occupations; amending Minnesota Statutes 2004, sections 148.5194, by adding a subdivision; 148.6445, by adding a subdivision; 148C.12, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 153A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

BOARD OF SOCIAL WORK

Section 1. [148D.001] [CITATION.]

This chapter may be cited as the "Minnesota Board of Social Work Practice Act."

Sec. 2. [148D.005] [PURPOSE.]

The purpose of this chapter is to promote and protect the public health, safety, and welfare through the licensure and regulation of persons who practice social work in this state.

Sec. 3. [148D.010] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purpose of this chapter, the terms in this section have the meanings given.

Subd. 2. [APPLICANT.] "Applicant" means a person who submits an application to the board for a new license, a license renewal, a change in license, an inactive license, reactivation of a license, or a voluntary termination.

Subd. 3. [APPLICATION.] "Application" means an application to the board for a new license, a license renewal, a change in license, an inactive license, reactivation of a license, or voluntary termination.

Subd. 4. [BOARD.] "Board" means the Board of Social Work created under section 148D.025.

Subd. 5. [CLIENT.] "Client" means an individual, couple, family, group, community, or organization that receives or has received social work services as described in subdivision 9.

Subd. 6. [CLINICAL PRACTICE.] "Clinical practice" means applying professional social work knowledge, skills, and values in the differential diagnosis and treatment of psychosocial function, disability, or impairment, including addictions and emotional, mental, and behavioral disorders. Treatment includes a plan based on a differential diagnosis. Treatment may include, but is not limited to, the provision of psychotherapy to individuals, couples, families, and groups. Clinical social workers may also provide the services described in subdivision 9.

Subd. 7. [INTERN.] "Intern" means a student in field placement working under the supervision or direction of a social worker.

Subd. 8. [PERSON-IN-ENVIRONMENT PERSPECTIVE.] "Person-in-environment perspective" means viewing human behavior, development, and function in the context of one or more of the following: the environment, social functioning, mental health, and physical health.

Subd. 9. [PRACTICE OF SOCIAL WORK.] "Practice of social work" means working to maintain, restore, or improve behavioral, cognitive, emotional, mental, or social functioning of clients, in a manner that applies accepted professional social work knowledge, skills, and values, including the person-in-environment perspective, by providing in person or through telephone, video conferencing, or electronic means one or more of the social work services described in clauses (1) to (3). Social work services may address conditions that impair or limit behavioral, cognitive, emotional, mental, or social functioning. Such conditions include, but are not limited to, the following: abuse and neglect of children or vulnerable adults, addictions, developmental disorders, disabilities, discrimination, illness, injuries, poverty, and trauma. Social work services include:

(1) providing assessment and intervention through direct contact with clients, developing a plan based on information from an assessment, and providing services which include, but are not limited to, assessment, case management, client-centered advocacy, client education, consultation, counseling, crisis intervention, and referral;

(2) providing for the direct or indirect benefit of clients through administrative, educational, policy, or research services including, but not limited to:

(i) advocating for policies, programs, or services to improve the well-being of clients;

(ii) conducting research related to social work services;

(iii) developing and administering programs which provide social work services;

(iv) engaging in community organization to address social problems through planned collective action;

(v) supervising individuals who provide social work services to clients;

(vi) supervising social workers in order to comply with the supervised practice requirements specified in sections 148D.100 to 148D.125; and

(vii) teaching professional social work knowledge, skills, and values to students; and

(3) engaging in clinical practice.

Subd. 10. [PROFESSIONAL NAME.] "Professional name" means the name a licensed social worker uses in making representations of the social worker's professional status to the public and which has been designated to the board in writing pursuant to section 148D.090.

Subd. 11. [PROFESSIONAL SOCIAL WORK KNOWLEDGE, SKILLS, AND VALUES.] "Professional social work knowledge, skills, and values" means the knowledge, skills, and values taught in programs accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board. Professional social work knowledge, skills, and values include, but are not limited to, principles of person-in-environment and the values, principles, and standards described in the Code of Ethics of the National Association of Social Workers.

Subd. 12. [SEXUAL CONDUCT.] "Sexual conduct" means any physical contact or conduct that may be reasonably interpreted as sexual, or any oral, written, electronic, or other communication that suggests engaging in physical contact or conduct that may be reasonably interpreted as sexual.

Subd. 13. [SOCIAL WORKER.] "Social worker" means an individual who:

(1) is licensed as a social worker; or

(2) has obtained 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 body designated by the board and engages in the practice of social work.

Subd. 14. [STUDENT.] "Student" means an individual who is taught professional social work knowledge, skills, and values in a program that has been accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accreditation body designated by the board.

Subd. 15. [SUPERVISEE.] "Supervisee" means an individual provided evaluation and supervision or direction by a social worker.

Subd. 16. [SUPERVISION.] "Supervision" means a professional relationship between a supervisor and a social worker in which the supervisor provides evaluation and direction of the services provided by the social worker to promote competent and ethical services to clients through the continuing development of the social worker's knowledge and application of accepted professional social work knowledge, skills, and values.

APPLICABILITY

Sec. 4. [148D.015] [SCOPE.]

This chapter applies to all applicants and licensees, all persons who use the title social worker, and all persons in or out of this state who provide social work services to clients who reside in this state unless there are specific applicable exemptions provided by law.

Sec. 5. [148D.020] [CHAPTER 214.]

Chapter 214 applies to the Board of Social Work unless superseded by this chapter.

BOARD

Sec. 6. [148D.025] [BOARD OF SOCIAL WORK.]

Subdivision 1. [CREATION.] The Board of Social Work consists of 15 members appointed by the governor. The members are:

(1) ten social workers licensed pursuant to section 148D.055; and

(2) five public members as defined in section 214.02.

Subd. 2. [QUALIFICATIONS OF BOARD MEMBERS.] (a) All social worker members must have engaged in the practice of social work in Minnesota for at least one year during the ten years preceding their appointments.

(b) Five social worker members must be licensed social workers. The other five members must be a licensed graduate social worker, a licensed independent social worker, or a licensed independent clinical social worker.

(c) Eight social worker members must be engaged at the time of their appointment in the practice of social work in Minnesota in the following settings:

(1) one member must be engaged in the practice of social work in a county agency;

(2) one member must be engaged in the practice of social work in a state agency;

(3) one member must be engaged in the practice of social work in an elementary, middle, or secondary school;

(4) one member must be employed in a hospital or nursing home licensed under chapter 144 or 144A;

(5) two members must be engaged in the practice of social work in a private agency;

(6) one member must be engaged in the practice of social work in a clinical social work setting; and

(7) one member must be an educator engaged in regular teaching duties at a program of social work accredited by the Council on Social Work Education or a similar accreditation body designated by the board.

(d) At the time of their appointments, at least six members must reside outside of the seven-county metropolitan area.

(e) At the time of their appointments, at least five members must be persons with expertise in communities of color.

Subd. 3. [OFFICERS.] The board must annually elect from its membership a chair, vice-chair, and secretary-treasurer.

Subd. 4. [BYLAWS.] The board must adopt bylaws to govern its proceedings.

Subd. 5. [EXECUTIVE DIRECTOR.] The board must appoint and employ an executive director who is not a member of the board.

Sec. 7. [148D.030] [DUTIES OF THE BOARD.]

Subdivision 1. [DUTIES.] The board must perform the duties necessary to promote and protect the public health, safety, and welfare through the licensure and regulation of persons who practice social work in this state. These duties include, but are not limited to:

(1) establishing the qualifications and procedures for individuals to be licensed as social workers;

(2) establishing standards of practice for social workers;

(3) holding examinations or contracting with the Association of Social Work Boards or a similar examination body designated by the board to hold examinations to assess applicants' qualifications;

(4) issuing licenses to qualified individuals pursuant to sections 148D.055 and 148D.060;

(5) taking disciplinary, adversarial, corrective, or other action pursuant to sections 148D.255 to 148D.270 when an individual violates the requirements of this chapter;

(6) assessing fees pursuant to sections 148D.175 and 148D.180; and

(7) educating social workers and the public on the requirements of the board.

Subd. 2. [RULES.] The board may adopt and enforce rules to carry out the duties specified in subdivision 1.

Sec. 8. [148D.035] [VARIANCES.]

If the effect of a requirement pursuant to this chapter is unreasonable, impossible to execute, absurd, or would impose an extreme hardship on a licensee, the board may grant a variance if the variance is consistent with promoting and protecting the public health, safety, and welfare. A variance must not be granted for core licensing standards such as substantive educational and examination requirements.

Sec. 9. [148D.040] [IMMUNITY.]

Board members, board employees, and persons engaged on behalf of the board are immune from civil liability for any actions, transactions, or publications in the lawful execution of or relating to their duties under this chapter.

CONTESTED CASES

Sec. 10. [148D.045] [CONTESTED CASE HEARING.]

An applicant or a licensee who is the subject of a disciplinary or adversarial action by the board pursuant to this chapter may request a contested case hearing under sections 14.57 to 14.62. An applicant or a licensee who desires to request a contested case hearing must submit a written request to the board within 90 days after the date on which the board mailed the notification of the adverse action, except as otherwise provided in this chapter.

LICENSING

Sec. 11. [148D.050] [LICENSING; SCOPE OF PRACTICE.]

Subdivision 1. [REQUIREMENTS.] The practice of social work must comply with the requirements of subdivision 2, 3, 4, or 5.

Subd. 2. [LICENSED SOCIAL WORKER.] A licensed social worker may engage in social work practice except that a licensed social worker must not engage in clinical practice.

Subd. 3. [LICENSED GRADUATE SOCIAL WORKER.] A licensed graduate social worker may engage in social work practice except that a licensed graduate social worker must not engage in clinical practice except under the supervision of a licensed independent clinical social worker or an alternate supervisor pursuant to section 148D.120.

Subd. 4. [LICENSED INDEPENDENT SOCIAL WORKER.] A licensed independent social worker may engage in social work practice except that a licensed independent social worker must not engage in clinical practice except under the supervision of a licensed independent clinical social worker or an alternate supervisor pursuant to section 148D.120.

Subd. 5. [LICENSED INDEPENDENT CLINICAL SOCIAL WORKER.] A licensed independent clinical social worker may engage in social work practice, including clinical practice.

Sec. 12. [148D.055] [LICENSE REQUIREMENTS.]

Subdivision 1. [LICENSE REQUIRED.] (a) In order to practice social work, an individual must have a social work license under this section or section 148D.060, except when the individual is exempt from licensure pursuant to section 148D.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 body designated by the board must have a social work license under this section or section 148D.060, except when the individual is exempt from licensure pursuant to section 148D.065.

Subd. 2. [QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A LICENSED SOCIAL WORKER.] (a) Except as provided in paragraph (i), to be licensed as a licensed social worker, an applicant for licensure by examination must provide evidence satisfactory to the board that the applicant:

(1) has received a baccalaureate 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 body designated by the board;

(2) has passed the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. Unless an applicant applies for licensure by endorsement pursuant to subdivision 7, an examination is not valid if it was taken and passed eight or more years prior to submitting a completed, signed application form provided by the board. The examination may be taken prior to completing degree requirements;

(3) has submitted a completed, signed application form provided by the board, including the applicable application fee specified in section 148D.180. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board;

(4) has submitted the criminal background check fee and a form provided by the board authorizing a criminal background check pursuant to subdivision 8;

(5) has paid the applicable license fee specified in section 148D.180; and

(6) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.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 pursuant to sections 148D.255 to 148D.270.

(b) An application that is not completed and signed, or that is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

(c) A licensee granted a license by the board pursuant to paragraph (a) must meet the supervised practice requirements specified in sections 148D.100 to 148D.125. If a licensee does not meet the supervised practice requirements, the board may take action pursuant to sections 148D.255 to 148D.270.

(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 specified in paragraph (a) and must provide all of the information requested by the board pursuant to paragraph (d). If within one year the applicant does not meet all the requirements, or does not provide all of the information requested, the applicant is considered ineligible and the application for licensure must be closed.

(f) Except as provided in paragraph (g), an applicant may not take more than three times the bachelors or equivalent examination administered by the Association of Social Work Boards, or a similar examination body designated by the board. An applicant must receive a passing score on the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board in no more than 18 months after the date the applicant first failed the examination.

(g) Notwithstanding paragraph (f), the board may allow an applicant to take, for a fourth or subsequent time, the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board if the applicant:

(1) meets all requirements specified in paragraphs (a) to (e) other than passing the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board;

(2) provides to the board a description of the efforts the applicant has made to improve the applicant's score and demonstrates to the board's satisfaction that the efforts are likely to improve the score; and

(3) provides to the board letters of recommendation from two licensed social workers attesting to the applicant's ability to practice social work competently and ethically in accordance with professional social work knowledge, skills, and values.

(h) An individual must not practice social work until the individual passes the examination and receives a social work license under this section or section 148D.060. If the board has reason to believe that an applicant may be practicing social work without a license, and the applicant has failed the bachelors or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board, the board may notify the applicant's employer that the applicant is not licensed as a social worker.

(i) An applicant who was born in a foreign country, who has taken and failed to pass the examination specified in paragraph (a), clause (2), at least once since January 1, 2000, and for whom English is a second language, is eligible for licensure as a social worker if the applicant:

(1) provides evidence to the board of compliance with the requirements in paragraph (a), clauses (1) and (3) to (6), and in paragraphs (b) to (e) and (h); and

(2) provides to the board letters of recommendation and experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2007.

Subd. 3. [QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A LICENSED GRADUATE SOCIAL WORKER.] (a) Except as provided in paragraph (i), to be licensed as a licensed graduate social worker, an applicant for licensure by examination must provide evidence satisfactory to the board that the applicant:

(1) has received 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 accreditation body designated by the board;

(2) has passed the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. Unless an applicant applies for licensure by endorsement pursuant to section 148D.055, subdivision 7, an examination is not valid if it was taken and passed eight or more years prior to submitting a completed, signed application form provided by the board. The examination may be taken prior to completing degree requirements;

(3) has submitted a completed, signed application form provided by the board, including the applicable application fee specified in section 148D.180. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board;

(4) has submitted the criminal background check fee and a form provided by the board authorizing a criminal background check pursuant to subdivision 8;

(5) has paid the applicable license fee specified in section 148D.180; and

(6) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.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 pursuant to sections 148D.255 to 148D.270.

(b) An application which is not completed and signed, or which is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

(c) A licensee granted a license by the board pursuant to paragraph (a) must meet the supervised practice requirements specified in sections 148D.100 to 148D.125. If a licensee does not meet the supervised practice requirements, the board may take action pursuant to sections 148D.255 to 148D.270.

(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 specified in paragraph (a) and must provide all of the information requested by the board pursuant to paragraph (d). If within one year the applicant does not meet all the requirements, or does not provide all of the information requested, the applicant is considered ineligible and the application for licensure must be closed.

(f) Except as provided in paragraph (g), an applicant may not take more than three times the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. An applicant must receive a passing score on the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board in no more than 18 months after the date the applicant first failed the examination.

(g) Notwithstanding paragraph (f), the board may allow an applicant to take, for a fourth or subsequent time, the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board if the applicant:

(1) meets all requirements specified in paragraphs (a) to (e) other than passing the masters or equivalent examination administered by the Association of Social Work boards or a similar examination body designated by the board;

(2) provides to the board a description of the efforts the applicant has made to improve the applicant's score and demonstrates to the board's satisfaction that the efforts are likely to improve the score; and

(3) provides to the board letters of recommendation from two licensed social workers attesting to the applicant's ability to practice social work competently and ethically in accordance with professional social work knowledge, skills, and values.

(h) An individual must not practice social work until the individual passes the examination and receives a social work license under this section or section 148D.060. If the board has reason to believe that an applicant may be practicing social work without a license, and the applicant has failed the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board, the board may notify the applicant's employer that the applicant is not licensed as a social worker.

(i) An applicant who was born in a foreign country, who has taken and failed to pass the examination specified in paragraph (a), clause (2), at least once since January 1, 2000, and for whom English is a second language, is eligible for licensure as a social worker if the applicant:

(1) provides evidence to the board of compliance with the requirements in paragraph (a), clauses (1) and (3) to (6), and in paragraphs (b) to (e) and (h); and

(2) provides to the board letters of recommendation and experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2007.

Subd. 4. [QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A LICENSED INDEPENDENT SOCIAL WORKER.] (a) Except as provided in paragraph (i), to be licensed as a licensed independent social worker, an applicant for licensure by examination must provide evidence satisfactory to the board that the applicant:

(1) has received 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 accreditation body designated by the board;

(2) has practiced social work as defined in section 148D.010, and has met the supervised practice requirements specified in sections 148D.100 to 148D.125;

(3) has passed the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. Unless an applicant applies for licensure by endorsement pursuant to subdivision 7, an examination is not valid if it was taken and passed eight or more years prior to submitting a completed, signed application form provided by the board;

(4) has submitted a completed, signed application form provided by the board, including the applicable application fee specified in section 148D.180. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board;

(5) has submitted the criminal background check fee and a form provided by the board authorizing a criminal background check pursuant to subdivision 8;

(6) has paid the applicable license fee specified in section 148D.180; and

(7) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.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 pursuant to sections 148D.255 to 148D.270.

(b) An application which is not completed and signed, or which is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

(c) A licensed independent social worker who practices clinical social work must meet the supervised practice requirements specified in sections 148D.100 to 148D.125. If a licensee does not meet the supervised practice requirements, the board may take action pursuant to sections 148D.255 to 148D.270.

(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 specified in paragraph (a) and must provide all of the information requested by the board pursuant to paragraph (d). If within one year the applicant does not meet all the requirements, or does not provide all of the information requested, the applicant is considered ineligible and the application for licensure must be closed.

(f) Except as provided in paragraph (g), an applicant may not take more than three times the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. An applicant must receive a passing score on the masters or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board in no more than 18 months after the first time the applicant failed the examination.

(g) Notwithstanding paragraph (f), the board may allow an applicant to take, for a fourth or subsequent time, the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board if the applicant:

(1) meets all requirements specified in paragraphs (a) to (e) other than passing the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board;

(2) provides to the board a description of the efforts the applicant has made to improve the applicant's score and demonstrates to the board's satisfaction that the efforts are likely to improve the score; and

(3) provides to the board letters of recommendation from two licensed social workers attesting to the applicant's ability to practice social work competently and ethically in accordance with professional social work knowledge, skills, and values.

(h) An individual must not practice social work until the individual passes the examination and receives a social work license under this section or section 148D.060. If the board has reason to believe that an applicant may be practicing social work without a license, except as provided in section 148D.065, and the applicant has failed the advanced generalist or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board, the board may notify the applicant's employer that the applicant is not licensed as a social worker.

(i) An applicant who was born in a foreign country, who has taken and failed to pass the examination specified in paragraph (a), clause (3), at least once since January 1, 2000, and for whom English is a second language, is eligible for licensure as a social worker if the applicant:

(1) provides evidence to the board of compliance with the requirements in paragraph (a), clauses (1), (2), and (4) to (7), and in paragraphs (b) to (e) and (h); and

(2) provides to the board letters of recommendation and experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2007.

Subd. 5. [QUALIFICATIONS FOR LICENSURE BY EXAMINATION AS A LICENSED INDEPENDENT CLINICAL SOCIAL WORKER.] (a) Except as provided in paragraph (h), to be licensed as a licensed independent clinical social worker, an applicant for licensure by examination must provide evidence satisfactory to the board that the applicant:

(1) has received 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 accreditation body designated by the board;

(2) has practiced clinical social work as defined in section 148D.010, including both diagnosis and treatment, and has met the supervised practice requirements specified in sections 148D.100 to 148D.125;

(3) has passed the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. Unless an applicant applies for licensure by endorsement pursuant to subdivision 7, an examination is not valid if it was taken and passed eight or more years prior to submitting a completed, signed application form provided by the board;

(4) has submitted a completed, signed application form provided by the board, including the applicable application fee specified in section 148D.180. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board;

(5) has submitted the criminal background check fee and a form provided by the board authorizing a criminal background check pursuant to subdivision 8;

(6) has paid the license fee specified in section 148D.180; and

(7) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148D.195 to 148D.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 pursuant to sections 148D.255 to 148D.270.

(b) An application which is not completed and signed, or which is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

(c) 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.

(d) Within one year of the time the board receives an application for licensure, the applicant must meet all the requirements specified in paragraph (a) and must provide all of the information requested by the board pursuant to paragraph (c). If within one year the applicant does not meet all the requirements, or does not provide all of the information requested, the applicant is considered ineligible and the application for licensure must be closed.

(e) Except as provided in paragraph (f), an applicant may not take more than three times the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board. An applicant must receive a passing score on the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board no later than 18 months after the first time the applicant failed the examination.

(f) Notwithstanding paragraph (e), the board may allow an applicant to take, for a fourth or subsequent time, the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board if the applicant:

(1) meets all requirements specified in paragraphs (a) to (d) other than passing the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board;

(2) provides to the board a description of the efforts the applicant has made to improve the applicant's score and demonstrates to the board's satisfaction that the efforts are likely to improve the score; and

(3) provides to the board letters of recommendation from two licensed social workers attesting to the applicant's ability to practice social work competently and ethically in accordance with professional social work knowledge, skills, and values.

(g) An individual must not practice social work until the individual passes the examination and receives a social work license under this section or section 148D.060. If the board has reason to believe that an applicant may be practicing social work without a license, and the applicant has failed the clinical or equivalent examination administered by the Association of Social Work Boards or a similar examination body designated by the board, the board may notify the applicant's employer that the applicant is not licensed as a social worker.

(h) An applicant who was born in a foreign country, who has taken and failed to pass the examination specified in paragraph (a), clause (3), at least once since January 1, 2000, and for whom English is a second language, is eligible for licensure as a social worker if the applicant:

(1) provides evidence to the board of compliance with the requirements in paragraph (a), clauses (1), (2), and (4) to (7), and paragraphs (b) to (d) and (g); and

(2) provides to the board letters of recommendation and experience ratings from two licensed social workers and one professor from the applicant's social work program who can attest to the applicant's competence.

This paragraph expires August 1, 2007.

Subd. 6. [DEGREES FROM OUTSIDE THE UNITED STATES OR CANADA.] If an applicant receives a degree from a program outside the United States or Canada that is not accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar examination body designated by the board, the degree does not fulfill the requirements specified in subdivision 2, paragraph (a), clause (1); 3, paragraph (a), clause (1); 4, paragraph (a), clause (1); or 5, paragraph (a), clause (1), unless the Council on Social Work Education or a similar accreditation body designated by the board has determined through the council's international equivalency determination service that the degree earned is equivalent to the degree required.

Subd. 7. [LICENSURE BY ENDORSEMENT.] (a) An applicant for licensure by endorsement must hold a current license or credential to practice social work in another jurisdiction.

(b) An applicant for licensure by endorsement who meets the qualifications of paragraph (a) and who demonstrates to the satisfaction of the board that the applicant passed the examination administered by the Association of Social Work Boards or a similar examination body designated by the board for the applicable license in Minnesota is not required to retake the licensing examination.

(c) An application for licensure by endorsement must meet the applicable license requirements specified in subdivisions 1 to 6 and submit the licensure by endorsement application fee specified in section 148D.180.

Subd. 8. [CRIMINAL BACKGROUND CHECKS.] (a) Except as provided in paragraph (b), an initial license application must be accompanied by:

(1) a form provided by the board authorizing the board to complete a criminal background check; and

(2) the criminal background check fee specified by the Bureau of Criminal Apprehension.

Criminal background check fees collected by the board must be used to reimburse the Bureau of Criminal Apprehension for the criminal background checks.

(b) An applicant who has previously submitted a license application authorizing the board to complete a criminal background check is exempt from the requirement specified in paragraph (a).

(c) If a criminal background check indicates that an applicant has engaged in criminal behavior, the board may take action pursuant to sections 148D.255 to 148D.270.

Subd. 9. [EFFECTIVE DATE.] The effective date of an initial license is the day on which the board receives the applicable license fee from an applicant approved for licensure.

Subd. 10. [EXPIRATION DATE.] The expiration date of an initial license is the last day of the licensee's birth month in the second calendar year following the effective date of the initial license.

Subd. 11. [CHANGE IN LICENSE.] (a) A licensee who changes from a licensed social worker to a licensed graduate social worker, or from a licensed graduate social worker to a licensed independent social worker, or from a licensed graduate social worker or licensed independent social worker to a licensed independent clinical social worker, must pay the prorated share of the fee for the new license.

(b) The effective date of the new license is the day on which the board receives the applicable license fee from an applicant approved for the new license.

(c) The expiration date of the new license is the same date as the expiration date of the license held by the licensee prior to the change in the license.

Sec. 13. [148D.060] [TEMPORARY LICENSES.]

Subdivision 1. [STUDENTS AND OTHER PERSONS NOT CURRENTLY LICENSED IN ANOTHER JURISDICTION.] 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 148D.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 148D.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 body designated by the board; 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. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

Subd. 2. [EMERGENCY SITUATIONS AND PERSONS CURRENTLY LICENSED IN ANOTHER JURISDICTION.] 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 148D.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 body designated by the board; 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. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action pursuant to sections 148D.255 to 148D.270.

Subd. 3. [TEACHERS.] 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 148D.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 148D.195 to 148D.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 pursuant to sections 148D.255 to 148D.270.

Subd. 4. [TEMPORARY LICENSE APPLICATION FEE.] An applicant for a temporary license must pay the application fee described in section 148D.180 plus the required fee for the cost of the criminal background check. Only one fee for the cost of the criminal background check must be submitted when the applicant is applying for both a temporary license and a license under section 148D.055.

Subd. 5. [TEMPORARY LICENSE TERM.] (a) A temporary license is valid until expiration, or until the board issues or denies the license pursuant to section 148D.055, or until the board revokes the temporary license, whichever comes first. A temporary license is nonrenewable.

(b) A temporary license issued pursuant to subdivision 1 or 2 expires after six months.

(c) A temporary license issued pursuant to subdivision 3 expires after 12 months.

Subd. 6. [LICENSEE WITH A TEMPORARY LICENSE WHO HAS COMPLETED REQUIREMENTS FOR A BACCALAUREATE DEGREE.] A licensee with a temporary license who has provided evidence to the board that the licensee has completed the requirements for a baccalaureate 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 body designated by the board may temporarily engage in social work practice except that a licensee with a temporary license may not engage in clinical social work practice.

Subd. 7. [LICENSEE WITH A TEMPORARY LICENSE WHO HAS COMPLETED REQUIREMENTS FOR A GRADUATE DEGREE.] A licensee with a temporary license who has provided evidence to the board that the licensee has completed the requirements for 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 accreditation body designated by the board may temporarily engage in social work practice, including clinical practice.

Subd. 8. [SUPERVISION REQUIREMENTS.] (a) Except as provided in paragraph (b), an applicant who is not currently licensed or credentialed to practice social work in another jurisdiction and who obtains a temporary license may practice social work only under the supervision of an individual licensed as a social worker who is eligible to provide supervision under sections 148D.100 to 148D.125. Before the applicant is approved for licensure, the applicant's supervisor must attest to the board's satisfaction that the applicant has practiced social work under supervision. This supervision applies toward the supervision required after licensure.

(b) If an applicant is currently licensed or credentialed to practice social work in another jurisdiction, and receives a temporary license pursuant to subdivision 3, the requirements specified in paragraph (a) do not apply. However, if an applicant with a temporary license chooses to practice social work under supervision, the supervision applies to the requirements specified in sections 148D.100 to 148D.125.

Subd. 9. [PROHIBITION ON PRACTICE.] An applicant for a temporary license must not practice social work in Minnesota, except as provided in section 148D.065, until the applicant has been granted a temporary license.

Subd. 10. [REPRESENTATION OF PROFESSIONAL STATUS.] In making representations of professional status to the public, a licensee with a temporary license must state that the licensee has a temporary license.

Subd. 11. [STANDARDS OF PRACTICE.] A licensee with a temporary license must conduct all professional activities as a social worker in accordance with the requirements of sections 148D.195 to 148D.240.

Subd. 12. [INELIGIBILITY.] An applicant who is currently practicing social work in Minnesota in a setting that is not exempt under section 148D.065 at the time of application is ineligible for a temporary license.

Subd. 13. [REVOCATION OF TEMPORARY LICENSE.] The board may immediately revoke the temporary license of any licensee who violates any requirements of this section. The revocation must be made for cause, without notice or opportunity to be heard. A licensee whose temporary license is revoked must immediately return the temporary license to the board.

Sec. 14. [148D.065] [EXEMPTIONS.]

Subdivision 1. [OTHER PROFESSIONALS.] Nothing in this chapter may be construed to prevent 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, psychological practitioners, probation officers, members of the clergy and Christian Science practitioners, attorneys, marriage and family therapists, alcohol and drug counselors, professional counselors, school counselors, and registered occupational therapists or certified occupational therapist assistants. These persons must not, however, hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of social work, or that they are licensed to engage in the practice of social work. Persons engaged in the practice of social work are not exempt from the board's jurisdiction solely by the use of one of the titles in this subdivision.

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.

Subd. 3. [GEOGRAPHIC WAIVER.] A geographic waiver may be granted by the board on a case-by-case basis to agencies with special regional hiring problems. The waiver is for the purpose of permitting agencies to hire individuals who do not meet the qualifications of section 148D.055 or 148D.060 to practice social work.

Subd. 4. [CITY, COUNTY, AND STATE AGENCY SOCIAL WORKERS.] The licensure of city, county, and state agency social workers is voluntary. City, county, and state agencies employing social workers are not required to employ licensed social workers.

Subd. 5. [FEDERALLY RECOGNIZED TRIBES AND PRIVATE NONPROFIT AGENCIES WITH A MINORITY FOCUS.] The licensure of social workers who are employed by federally recognized tribes, or by private nonprofit agencies whose primary service focus addresses ethnic minority populations, and who are themselves members of ethnic minority populations within those agencies, is voluntary.

Sec. 15. [148D.070] [LICENSE RENEWALS.]

Subdivision 1. [LICENSE RENEWAL TERM.] (a) If a license is renewed, the license must be renewed for a two-year renewal term. The renewal term is the period from the effective date of an initial or renewed license to the expiration date of the license.

(b) The effective date of a renewed license is the day following the expiration date of the expired license.

(c) The expiration date of a renewed license is the last day of the licensee's birth month in the second calendar year following the effective date of the renewed license.

Subd. 2. [MAILING LICENSE RENEWAL NOTICES.] The board must mail a notice for license renewal to a licensee at least 45 days before the expiration date of the license. Mailing the notice by United States mail to the licensee's last known mailing address constitutes valid mailing. Failure to receive the renewal notice does not relieve a licensee of the obligation to renew a license and to pay the renewal fee.

Subd. 3. [SUBMITTING LICENSE RENEWAL APPLICATIONS.] (a) In order to renew a license, a licensee must submit:

(1) a completed, signed application for license renewal; and

(2) the applicable renewal fee specified in section 148D.180.

The completed, signed application and renewal fee must be received by the board prior to midnight of the day of the license expiration date. For renewals submitted electronically, a "signed application" means providing an attestation as specified by the board.

(b) An application which is not completed and signed, or which is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void.

(c) The completed, signed application must include documentation that the licensee has met the continuing education requirements specified in sections 148D.130 to 148D.170 and, if applicable, the supervised practice requirements specified in sections 148D.100 to 148D.125.

(d) By submitting a renewal application, an applicant authorizes the board to:

(1) investigate any information provided or requested in the application. The board may request that the applicant provide additional information, verification, or documentation;

(2) conduct an audit to determine if the applicant has met the continuing education requirements specified in sections 148D.130 to 148D.170; and

(3) if applicable, conduct an audit to determine whether the applicant has met the supervision requirements specified in sections 148D.100 to 148D.125.

(e) If a licensee's application for license renewal meets the requirements specified in paragraph (a), the licensee may continue to practice after the license expiration date until the board approves or denies the application.

Subd. 4. [RENEWAL LATE FEE.] An application that is received after the license expiration date must be accompanied by the renewal late fee specified in section 148D.180 in addition to the applicable renewal fee. The application, renewal fee, and renewal late fee must be received by the board within 60 days of the license expiration date, or the license automatically expires.

Subd. 5. [EXPIRED LICENSE.] (a) If an application does not meet the requirements specified in subdivisions 3 and 4, the license automatically expires. A licensee whose license has expired may reactivate a license by meeting the requirements in section 148D.080 or be relicensed by meeting the requirements specified in section 148D.055.

(b) The board may take action pursuant to sections 148D.255 to 148D.270 based on a licensee's conduct before the expiration of the license.

(c) An expired license may be reactivated within one year of the expiration date specified in section 148D.080. After one year of the expiration date, an individual may apply for a new license pursuant to section 148D.055.

Sec. 16. [148D.075] [INACTIVE LICENSES.]

Subdivision 1. [INACTIVE STATUS.] (a) A licensee qualifies for inactive status under either of the circumstances described in paragraph (b) or (c).

(b) A licensee qualifies for inactive status when the licensee is granted temporary leave from active practice. A licensee qualifies for temporary leave from active practice if the licensee demonstrates to the satisfaction of the board that the licensee is not engaged in the practice of social work in any setting, including settings in which social workers are exempt from licensure pursuant to section 148D.065. A licensee who is granted temporary leave from active practice may reactivate the license pursuant to section 148D.080.

(c) A licensee qualifies for inactive status when a licensee is granted an emeritus license. A licensee qualifies for an emeritus license if the licensee demonstrates to the satisfaction of the board that:

(i) the licensee is retired from social work practice; and

(ii) the licensee is not engaged in the practice of social work in any setting, including settings in which social workers are exempt from licensure pursuant to section 148D.065.

A licensee who possesses an emeritus license may reactivate the license pursuant to section 148D.080.

Subd. 2. [APPLICATION.] A licensee may apply for inactive status:

(1) at any time by submitting an application for a temporary leave from active practice or for an emeritus license; or

(2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal and submitting the completed, signed application to the board.

An application that is not completed or signed, or that is not accompanied by the correct fee, must be returned to the applicant, along with any fee submitted, and is void. For applications submitted electronically, a "signed application" means providing an attestation as specified by the board.

Subd. 3. [FEE.] (a) Regardless of when the application for inactive status is submitted, the temporary leave or emeritus license fee specified in section 148D.180, whichever is applicable, must accompany the application. A licensee who is approved for inactive status before the license expiration date is not entitled to receive a refund for any portion of the license or renewal fee.

(b) If an application for temporary leave is received after the license expiration date, the licensee must pay a renewal late fee as specified in section 148D.180 in addition to the temporary leave fee.

Subd. 4. [TIME LIMITS FOR TEMPORARY LEAVES.] A licensee may maintain an inactive license on temporary leave for no more than five consecutive years. If a licensee does not apply for reactivation within 60 days following the end of the consecutive five-year period, the license automatically expires.

Subd. 5. [TIME LIMITS FOR AN EMERITUS LICENSE.] A licensee with an emeritus license may not apply for reactivation pursuant to section 148D.080 after five years following the granting of the emeritus license. However, after five years following the granting of the emeritus license, an individual may apply for new licensure pursuant to section 148D.055.

Subd. 6. [PROHIBITION ON PRACTICE.] (a) Except as provided in paragraph (b), a licensee whose license is inactive must not practice, attempt to practice, offer to practice, or advertise or hold out as authorized to practice social work.

(b) The board may grant a variance to the requirements of paragraph (a) if a licensee on inactive status provides emergency social work services. A variance is granted only if the board provides the variance in writing to the licensee. The board may impose conditions or restrictions on the variance.

Subd. 7. [REPRESENTATIONS OF PROFESSIONAL STATUS.] In making representations of professional status to the public, a licensee whose license is inactive must state that the license is inactive and that the licensee cannot practice social work.

Subd. 8. [DISCIPLINARY OR OTHER ACTION.] The board may resolve any pending complaints against a licensee before approving an application for inactive status. The board may take action pursuant to sections 148D.255 to 148D.270 against a licensee whose license is inactive based on conduct occurring before the license is inactive or conduct occurring while the license is inactive.

Sec. 17. [148D.080] [REACTIVATIONS.]

Subdivision 1. [MAILING NOTICES TO LICENSEES ON TEMPORARY LEAVE.] The board must mail a notice for reactivation to a licensee on temporary leave at least 45 days before the expiration date of the license pursuant to section 148D.075, subdivision 4. Mailing the notice by United States mail to the licensee's last known mailing address constitutes valid mailing. Failure to receive the reactivation notice does not relieve a licensee of the obligation to comply with the provisions of this section to reactivate a license.

Subd. 2. [REACTIVATION FROM A TEMPORARY LEAVE OR EMERITUS STATUS.] To reactivate a license from a temporary leave or emeritus status, a licensee must do the following within the time period specified in section 148D.075, subdivisions 4 and 5:

(1) complete an application form specified by the board;

(2) document compliance with the continuing education requirements specified in subdivision 4;

(3) submit a supervision plan, if required;

(4) pay the reactivation of an inactive licensee fee specified in section 148D.180; and

(5) pay the wall certificate fee in accordance with section 148D.095, subdivision 1, paragraph (b) or (c), if the licensee needs a duplicate license.

Subd. 3. [REACTIVATION OF AN EXPIRED LICENSE.] To reactivate an expired license, a licensee must do the following within one year of the expiration date:

(1) complete an application form specified by the board;

(2) document compliance with the continuing education requirements that were in effect at the time the license expired;

(3) document compliance with the supervision requirements, if applicable, that were in effect at the time the license expired; and

(4) pay the reactivation of an expired license fee specified in section 148D.180.

Subd. 4. [CONTINUING EDUCATION REQUIREMENTS.] (a) A licensee who is on temporary leave or who has an emeritus license must obtain the continuing education hours that would be required if the license was active. At the time of reactivation, the licensee must document compliance with the continuing education requirements specified in sections 148D.130 to 148D.170.

(b) A licensee applying for reactivation pursuant to subdivision 2 or 3 may apply for a variance to the continuing education requirements pursuant to sections 148D.130 to 148D.170.

Subd. 5. [REACTIVATION OF A VOLUNTARILY TERMINATED LICENSE.] To reactivate a voluntarily terminated license, a licensee must do the following within one year of the date the voluntary termination takes effect:

(1) complete an application form specified by the board;

(2) document compliance with the continued education requirements that were in effect at the time the license was voluntarily terminated;

(3) document compliance with the supervision requirements, if applicable, that were in effect at the time the license was voluntarily terminated; and

(4) pay the reactivation of an expired or voluntarily terminated license fee specified in section 148D.180.

Sec. 18. [148D.085] [VOLUNTARY TERMINATIONS.]

Subdivision 1. [REQUESTS FOR VOLUNTARY TERMINATION.] (a) A licensee may request voluntary termination of a license if the licensee demonstrates to the satisfaction of the board that the licensee is not engaged in the practice of social work in any setting except settings in which social workers are exempt from licensure pursuant to section 148D.065.

(b) A licensee may apply for voluntary termination:

(1) at any time by submitting an application; or

(2) as an alternative to applying for the renewal of a license by so recording on the application for license renewal and submitting the completed, signed application to the board.

For applications submitted electronically, a "signed application" means providing an attestation as specified by the board. An application that is not completed and signed must be returned to the applicant and is void.

(c) The board may resolve any pending complaints against a licensee before approving a request for voluntary termination.

Subd. 2. [APPLICATION FOR NEW LICENSURE.] A licensee who has voluntarily terminated a license may not reactivate the license after one year following the date the voluntary termination takes effect. However, a licensee who has voluntarily terminated a license may apply for a new license pursuant to section 148D.055.

Subd. 3. [PROHIBITION ON PRACTICE.] A licensee who has voluntarily terminated a license must not practice, attempt to practice, offer to practice, or advertise or hold out as authorized to practice social work, except when the individual is exempt from licensure pursuant to section 148D.065.

Subd. 4. [DISCIPLINARY OR OTHER ACTION.] The board may take action pursuant to sections 148D.255 to 148D.270 against a licensee whose license has been terminated based on conduct occurring before the license is terminated or for practicing social work without a license.

Sec. 19. [148D.090] [NAME; CHANGE OF NAME OR ADDRESS.]

Subdivision 1. [NAME.] A licensee must use the licensee's legal name or a professional name. If the licensee uses a professional name, the licensee must inform the board in writing of both the licensee's professional name and legal name and must comply with the requirements of this section.

Subd. 2. [LEGAL NAME CHANGE.] Within 30 days after changing the licensee's legal name, a licensee must:

- (1) request a new license wall certificate;
- (2) provide legal verification of the name change; and
- (3) pay the license wall certificate fee specified in section 148D.180.

Subd. 3. [PROFESSIONAL NAME CHANGE.] Within 30 days after changing the licensee's professional name, a licensee must:

- (1) request a new license wall certificate;
- (2) provide a notarized statement attesting to the name change; and
- (3) pay the license wall certificate fee specified in section 148D.180.

Subd. 4. [ADDRESS OR TELEPHONE CHANGE.] When a licensee changes a mailing address, home address, work address, e-mail address, or daytime public telephone number, the licensee must notify the board of the change electronically or in writing no more than 30 days after the date of the change.

Sec. 20. [148D.095] [LICENSE CERTIFICATE OR CARD.]

Subdivision 1. [LICENSE WALL CERTIFICATE.] (a) The board must issue a new license wall certificate when the board issues a new license. No fee in addition to the applicable license fee specified in section 148D.180 is required.

(b) The board must replace a license wall certificate when:

(1) a licensee submits an affidavit to the board that the original license wall certificate was lost, stolen, or destroyed; and

(2) the licensee submits the license wall certificate fee specified in section 148D.180.

(c) The board must issue a revised license wall certificate when:

(1) a licensee requests a revised license wall certificate pursuant to section 148D.095; and

(2) submits the license wall certificate fee specified in section 148D.180.

(d) The board must issue an additional license wall certificate when:

(1) a licensee submits a written request for a new certificate because the licensee practices in more than one location; and

(2) the licensee submits the license wall certificate fee specified in section 148D.180.

Subd. 2. [LICENSE CARD.] (a) The board must issue a new license card when the board issues a new license. No fee in addition to the applicable license fee specified in section 148D.180 is required.

(b) The board must replace a license card when a licensee submits:

(1) an affidavit to the board that the original license card was lost, stolen, or destroyed; and

(2) the license card fee specified in section 148D.180.

(c) The board must issue a revised license card when the licensee submits a written request for a new license wall certificate because of a new professional or legal name pursuant to section 148D.090, subdivision 2 or 3. No fee in addition to the one specified in subdivision 1, paragraph (b), is required.

SUPERVISED PRACTICE

Sec. 21. [148D.100] [LICENSED SOCIAL WORKERS; SUPERVISED PRACTICE.]

Subdivision 1. [SUPERVISION REQUIRED AFTER LICENSURE.] After receiving a license from the board as a licensed social worker, the licensed social worker must obtain at least 75 hours of supervision in accordance with the requirements of this section.

Subd. 2. [PRACTICE REQUIREMENTS.] The supervision required by subdivision 1 must be obtained during the first 4,000 hours of postbaccalaureate social work practice authorized by law. At least three hours of supervision must be obtained during every 160 hours of practice.

Subd. 3. [TYPES OF SUPERVISION.] (a) Thirty-seven and one-half hours of the supervision required by subdivision 1 must consist of one-on-one in-person supervision.

(b) Thirty-seven and one-half hours must consist of one or more of the following types of supervision, subject to the limitation in clause (3):

(1) one-on-one in-person supervision;

(2) in-person group supervision; or

(3) electronic supervision such as by telephone or video conferencing, provided that electronic supervision must not exceed 25 hours.

(c) To qualify as in-person group supervision, the group must not exceed seven members including the supervisor.

Subd. 4. [SUPERVISOR REQUIREMENTS.] The supervision required by subdivision 1 must be provided by a supervisor who:

(1) is a licensed social worker who has completed the supervised practice requirements;

(2) is a licensed graduate social worker, licensed independent social worker, or licensed independent clinical social worker; or

(3) meets the requirements specified in section 148D.120, subdivision 2.

Subd. 5. [SUPERVISEE REQUIREMENTS.] The supervisee must:

(1) to the satisfaction of the supervisor, practice competently and ethically in accordance with professional social work knowledge, skills, and values;

(2) receive supervision in the following content areas:

(i) development of professional values and responsibilities;

(ii) practice skills;

(iii) authorized scope of practice;

(iv) ensuring continuing competence; and

(v) ethical standards of practice;

(3) submit a supervision plan in accordance with section 148D.125, subdivision 1; and

(4) if the board audits the supervisee's supervised practice, submit verification of supervised practice in accordance with section 148D.125, subdivision 3.

Subd. 6. [AFTER COMPLETION OF SUPERVISION REQUIREMENTS.] A licensed social worker who fulfills the supervision requirements specified in subdivisions 1 to 5 is not required to be supervised after completion of the supervision requirements.

Subd. 7. [ATTESTATION.] The social worker and the social worker's supervisor must attest that the supervisee has met or has made progress on meeting the applicable supervision requirements in accordance with section 148D.125, subdivision 2.

Sec. 22. [148D.105] [LICENSED GRADUATE SOCIAL WORKERS; SUPERVISED PRACTICE.]

Subdivision 1. [SUPERVISION REQUIRED AFTER LICENSURE.] After receiving a license from the board as a licensed graduate social worker, a licensed graduate social worker must obtain at least 75 hours of supervision in accordance with the requirements of this section.

Subd. 2. [PRACTICE REQUIREMENTS.] The supervision required by subdivision 1 must be obtained during the first 4,000 hours of postgraduate social work practice authorized by law. At least three hours of supervision must be obtained during every 160 hours of practice.

Subd. 3. [TYPES OF SUPERVISION.] (a) Thirty-seven and one-half hours of the supervision required by subdivision 1 must consist of one-on-one in-person supervision.

(b) Thirty-seven and one-half hours must consist of one or more of the following types of supervision, subject to the limitation in clause (3):

(1) one-on-one in-person supervision;

(2) in-person group supervision; or

(3) electronic supervision such as by telephone or video conferencing, provided that electronic supervision must not exceed 25 hours.

(c) To qualify as in-person group supervision, the group must not exceed seven members including the supervisor.

Subd. 4. [SUPERVISOR REQUIREMENTS.] The supervision required by subdivision 1 must be provided by a supervisor who meets the requirements specified in section 148D.120. The supervision must be provided:

(1) if the supervisee is not engaged in clinical practice, by a (i) licensed independent social worker, (ii) licensed graduate social worker who has completed the supervised practice requirements, or (iii) licensed independent clinical social worker;

(2) if the supervisee is engaged in clinical practice, by a licensed independent clinical social worker; or

(3) by a supervisor who meets the requirements specified in section 148D.120, subdivision 2.

Subd. 5. [SUPERVISEE REQUIREMENTS.] The supervisee must:

(1) to the satisfaction of the supervisor, practice competently and ethically in accordance with professional social work knowledge, skills, and values;

(2) receive supervision in the following content areas:

(i) development of professional values and responsibilities;

(ii) practice skills;

(iii) authorized scope of practice;

(iv) ensuring continuing competence; and

(v) ethical standards of practice;

(3) submit a supervision plan in accordance with section 148D.125, subdivision 1; and

(4) verify supervised practice in accordance with section 148D.125, subdivision 3, if:

(i) the board audits the supervisee's supervised practice; or

(ii) a licensed graduate social worker applies for a licensed independent social worker or licensed independent clinical social worker license.

Subd. 6. [LICENSED GRADUATE SOCIAL WORKERS WHO PRACTICE CLINICAL SOCIAL WORK.]

(a) A licensed graduate social worker must not engage in clinical social work practice except under supervision by a licensed independent clinical social worker or an alternate supervisor designated pursuant to section 148D.120, subdivision 2.

(b) Except as provided in paragraph (c), a licensed graduate social worker must not engage in clinical social work practice under supervision for more than 8,000 hours. In order to practice clinical social work for more than 8,000 hours, a licensed graduate social worker must obtain a licensed independent clinical social worker license.

(c) Notwithstanding the requirements of paragraph (b), the board may grant a licensed graduate social worker permission to engage in clinical social work practice for more than 8,000 hours if the licensed graduate social worker petitions the board and demonstrates to the board's satisfaction that for reasons of personal hardship the licensed graduate social worker should be granted an extension to continue practicing clinical social work under supervision for up to an additional 2,000 hours.

(d) Upon completion of 4,000 hours of clinical social work practice and 75 hours of supervision in accordance with the requirements of this section, a licensed graduate social worker is eligible to apply for a licensed independent clinical social worker license pursuant to section 148D.115, subdivision 1.

Subd. 7. [LICENSED GRADUATE SOCIAL WORKERS WHO DO NOT PRACTICE CLINICAL SOCIAL WORK.] A licensed graduate social worker who fulfills the supervision requirements specified in subdivisions 1 to 5, and who does not practice clinical social work, is not required to be supervised after completion of the supervision requirements.

Subd. 8. [ATTESTATION.] A social worker and the social worker's supervisor must attest that the supervisee has met or has made progress on meeting the applicable supervision requirements in accordance with section 148D.125, subdivision 2.

Sec. 23. [148D.110] [LICENSED INDEPENDENT SOCIAL WORKERS; SUPERVISED PRACTICE.]

Subdivision 1. [SUPERVISION REQUIRED BEFORE LICENSURE.] Before becoming licensed as a licensed independent social worker, a person must have obtained at least 75 hours of supervision during 4,000 hours of postgraduate social work practice authorized by law in accordance with the requirements of section 148D.105, subdivisions 3, 4, and 5. At least three hours of supervision must be obtained during every 160 hours of practice.

Subd. 2. [LICENSED INDEPENDENT SOCIAL WORKERS WHO PRACTICE CLINICAL SOCIAL WORK AFTER LICENSURE.] (a) After licensure, a licensed independent social worker must not engage in clinical social work practice except under supervision by a licensed independent clinical social worker or an alternate supervisor designated pursuant to section 148D.120, subdivision 2.

(b) Except as provided in paragraph (c), a licensed independent social worker must not engage in clinical social work practice under supervision for more than 8,000 hours. In order to practice clinical social work for more than 8,000 hours, a licensed independent social worker must obtain a licensed independent clinical social worker license.

(c) Notwithstanding the requirements of paragraph (b), the board may grant a licensed independent social worker permission to engage in clinical social work practice for more than 8,000 hours if the licensed independent social worker petitions the board and demonstrates to the board's satisfaction that for reasons of personal hardship the licensed independent social worker should be granted an extension to continue practicing clinical social work under supervision for up to an additional 2,000 hours.

Subd. 3. [LICENSED INDEPENDENT SOCIAL WORKERS WHO DO NOT PRACTICE CLINICAL SOCIAL WORK AFTER LICENSURE.] After licensure, a licensed independent social worker is not required to be supervised if the licensed independent social worker does not practice clinical social work.

Sec. 24. [148D.115] [LICENSED INDEPENDENT CLINICAL SOCIAL WORKERS; SUPERVISED PRACTICE.]

Subdivision 1. [SUPERVISION REQUIRED BEFORE LICENSURE.] Before becoming licensed as a licensed independent clinical social worker, a person must have obtained at least 75 hours of supervision during 4,000 hours of postgraduate clinical practice authorized by law in accordance with the requirements of section 148D.105, subdivisions 3, 4, and 5. At least three hours of supervision must be obtained during every 160 hours of practice.

Subd. 2. [NO SUPERVISION REQUIRED AFTER LICENSURE.] After licensure, a licensed independent clinical social worker is not required to be supervised.

Sec. 25. [148D.120] [REQUIREMENTS OF SUPERVISORS.]

Subdivision 1. [SUPERVISORS LICENSED AS SOCIAL WORKERS.] (a) Except as provided in paragraph (b), to be eligible to provide supervision under this section, a social worker must attest, on a form provided by the board, that he or she has met the applicable licensure requirements specified in sections 148D.100 to 148D.115.

(b) 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 pursuant to subdivision 2.

Subd. 2. [ALTERNATE SUPERVISORS.] (a) The board may approve an alternate supervisor if:

(1) the board determines that supervision is not obtainable pursuant to paragraph (b);

(2) the licensee requests in the supervision plan submitted pursuant to section 148D.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 pursuant to section 148D.125, subdivision 1, that the licensee has conducted a thorough search for a supervisor meeting the applicable licensure requirements specified in sections 148D.100 to 148D.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 following are not grounds for a determination that supervision is unobtainable:

(1) obtaining a supervisor who meets the requirements of subdivision 1 would present the licensee with a financial hardship;

(2) the licensee is unable to obtain a supervisor who meets the requirements of subdivision 1 within the licensee's agency or organization and the agency or organization will not allow outside supervision; or

(3) the specialized nature of the licensee's practice requires supervision from a practitioner other than an individual licensed as a social worker.

(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 148D.065, and who has qualifications equivalent to the applicable requirements specified in sections 148D.100 to 148D.115; or

(2) 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.

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.

Sec. 26. [148D.125] [DOCUMENTATION OF SUPERVISION.]

Subdivision 1. [SUPERVISION PLAN.] (a) A social worker must submit, on a form provided by the board, a supervision plan for meeting the supervision requirements specified in sections 148D.100 to 148D.120.

(b) The supervision plan must be submitted no later than 90 days after the licensee begins a social work practice position after becoming licensed.

(c) For failure to submit the supervision plan within 90 days after beginning a social work practice position, a licensee must pay the supervision plan late fee specified in section 148D.180 when the licensee applies for license renewal.

(d) A license renewal application submitted pursuant to paragraph (a) must not be approved unless the board has received a supervision plan.

(e) The supervision plan must include the following:

(1) the name of the supervisee, the name of the agency in which the supervisee is being supervised, and the supervisee's position title;

(2) the name and qualifications of the person providing the supervision;

(3) the number of hours of one-on-one in-person supervision and the number and type of additional hours of supervision to be completed by the supervisee;

(4) the supervisee's position description;

(d) a brief description of the supervision the supervisee will receive in the following content areas:

(i) clinical practice, if applicable;

(ii) development of professional social work knowledge, skills, and values;

(iii) practice methods;

(iv) authorized scope of practice;

(v) ensuring continuing competence; and

(vi) ethical standards of practice; and

(6) if applicable, a detailed description of the supervisee's clinical social work practice, addressing:

(i) the client population, the range of presenting issues, and the diagnoses;

(ii) the clinical modalities that were utilized; and

(iii) the process utilized for determining clinical diagnoses, including the diagnostic instruments used and the role of the supervisee in the diagnostic process.

(f) The board must receive a revised supervision plan within 90 days of any of the following changes:

(1) the supervisee has a new supervisor;

(2) the supervisee begins a new social work position;

(3) the scope or content of the supervisee's social work practice changes substantially;

(4) the number of practice or supervision hours changes substantially; or

(5) the type of supervision changes as supervision is described in section 148D.100, subdivision 3, or 148D.105, subdivision 3, or as required in section 148D.115, subdivision 4.

(g) For failure to submit a revised supervised plan as required in paragraph (f), a supervisee must pay the supervision plan late fee specified in section 148D.180, when the supervisee applies for license renewal.

(h) The board must approve the supervisor and the supervision plan.

Subd. 2. [ATTESTATION.] (a) When a supervisee submits renewal application materials to the board, the supervisee and supervisor must submit an attestation providing the following information on a form provided by the board:

(1) the name of the supervisee, the name of the agency in which the supervisee is being supervised, and the supervisee's position title;

(2) the name and qualifications of the supervisor;

(3) the number of hours and dates of each type of supervision completed;

(4) the supervisee's position description;

(5) a declaration that the supervisee has not engaged in conduct in violation of the standards of practice specified in sections 148D.195 to 148D.240;

(6) a declaration that the supervisee has practiced competently and ethically in accordance with professional social work knowledge, skills, and values; and

(7) a list of the content areas in which the supervisee has received supervision, including the following:

(i) clinical practice, if applicable;

(ii) development of professional social work knowledge, skills, and values;

(iii) practice methods;

(iv) authorized scope of practice;

(v) ensuring continuing competence; and

(vi) ethical standards of practice.

(b) The information provided on the attestation form must demonstrate to the board's satisfaction that the supervisee has met or has made progress on meeting the applicable supervised practice requirements.

Subd. 3. [VERIFICATION OF SUPERVISED PRACTICE.] (a) In addition to receiving the attestation required pursuant to subdivision 2, the board must receive verification of supervised practice if:

(1) the board audits the supervision of a supervisee pursuant to section 148D.070, subdivision 3; or

(2) an applicant applies for a license as a licensed independent social worker or as a licensed independent clinical social worker.

(b) When verification of supervised practice is required pursuant to paragraph (a), the board must receive from the supervisor the following information on a form provided by the board:

(1) the name of the supervisee, the name of the agency in which the supervisee is being supervised, and the supervisee's position title;

(2) the name and qualifications of the supervisor;

(3) the number of hours and dates of each type of supervision completed;

(4) the supervisee's position description;

(5) a declaration that the supervisee has not engaged in conduct in violation of the standards of practice specified in sections 148D.195 to 148D.240;

(6) a declaration that the supervisee has practiced ethically and competently in accordance with professional social work knowledge, skills, and values;

(7) a list of the content areas in which the supervisee has received supervision, including the following:

(i) clinical practice, if applicable;

(ii) development of professional social work knowledge, skills, and values;

(iii) practice methods;

(iv) authorized scope of practice;

(v) ensuring continuing competence; and

(vi) ethical standards of practice; and

(8) if applicable, a detailed description of the supervisee's clinical social work practice, addressing:

(i) the client population, the range of presenting issues, and the diagnoses;

(ii) the clinical modalities that were utilized; and

(iii) the process utilized for determining clinical diagnoses, including the diagnostic instruments used and the role of the supervisee in the diagnostic process.

(c) The information provided on the verification form must demonstrate to the board's satisfaction that the supervisee has met the applicable supervised practice requirements.

Subd. 4. [ALTERNATIVE VERIFICATION OF SUPERVISED PRACTICE.] Notwithstanding the requirements of subdivision 3, the board may accept alternative verification of supervised practice if a supervisee demonstrates to the satisfaction of the board that the supervisee is unable to locate a former supervisor to provide the required information.

CONTINUING EDUCATION

Sec. 27. [148D.130] [CLOCK HOURS REQUIRED.]

Subdivision 1. [TOTAL CLOCK HOURS REQUIRED.] At the time of license renewal, a licensee must provide evidence satisfactory to the board that the licensee has, during the renewal term, completed at least 30 clock hours of continuing education.

Subd. 2. [ETHICS REQUIREMENT.] At least two of the clock hours required under subdivision 1 must be in social work ethics.

Subd. 3. [INDEPENDENT STUDY.] Independent study must not consist of more than ten clock hours of continuing education per renewal term. Independent study must be for publication, public presentation, or professional development. Independent study includes, but is not limited to, electronic study.

Subd. 4. [COURSEWORK.] One credit of coursework in a semester-based academic institution is the equivalent of 15 clock hours.

Subd. 5. [PRORATED RENEWAL TERM.] If the licensee's renewal term is prorated to be less or more than 24 months, the required number of continuing education clock hours is prorated proportionately.

Sec. 28. [148D.135] [APPROVAL OF CLOCK HOURS.]

Subdivision 1. [WAYS OF APPROVING CLOCK HOURS.] The clock hours required under section 148D.130 must be approved in one or more of the following ways:

(1) the hours must be offered by a continuing education provider approved by the board;

(2) the hours must be offered by a continuing education provider approved by the Association of Social Work Boards or a similar examination body designated by the board;

(3) the hours must be earned through a continuing education program approved by the National Association of Social Workers; or

(4) the hours must be earned through a continuing education program approved by the board.

Subd. 2. [PREAPPROVAL NOT REQUIRED.] Providers and programs are not required to be preapproved but must meet the requirements specified in this section.

Sec. 29. [148D.140] [VARIANCES.]

The board may grant a variance to the continuing education requirements specified in section 148D.130, when a licensee demonstrates to the satisfaction of the board that the licensee is unable to complete the required number of clock hours during the renewal term. The board may allow a licensee to complete the required number of clock hours within a time frame specified by the board. The board must not allow a licensee to complete less than the required number of clock hours.

Sec. 30. [148D.145] [CONTINUING EDUCATION PROVIDERS APPROVED BY THE BOARD.]

Subdivision 1. [BOARD APPROVAL.] (a) The board must approve a continuing education provider who:

(1) submits a completed application to the board which provides the information required by subdivision 2 and which meets the criteria specified in subdivision 3; and

(2) pays the provider fee specified in section 148D.180.

(b) An approval is valid for programs offered no later than one year from the date the application is approved by the board.

Subd. 2. [INFORMATION REQUIRED.] The information that must be provided to the board includes, but is not limited to, the following:

(1) the name of the continuing education provider;

(2) the address, telephone number, and e-mail address of a contact person for the provider;

(3) a signed statement that indicates the provider understands and agrees to abide by the criteria specified in subdivision 3; and

(4) a signed statement that indicates the provider agrees to furnish a certificate of attendance to each participant in a program offered by the provider.

Subd. 3. [CRITERIA FOR PROGRAMS OFFERED BY CONTINUING EDUCATION PROVIDERS.] (a) A continuing education provider must employ the following criteria in determining whether to offer a continuing education program:

(1) whether the material to be presented will promote the standards of practice described in sections 148D.195 to 148D.240;

(2) whether the material to be presented will contribute to the practice of social work as defined in section 148D.010;

(3) whether the material to be presented is intended for the benefit of practicing social workers; and

(4) whether the persons presenting the program are qualified in the subject matter being presented.

(b) The material presented must not be primarily procedural or primarily oriented towards business practices or self-development.

Subd. 4. [AUDITS.] (a) The board may audit programs offered by a continuing education provider approved by the board to determine compliance with the requirements of this section.

(b) A continuing education provider audited by the board must provide the documentation specified in subdivision 5.

Subd. 5. [INFORMATION REQUIRED TO BE MAINTAINED BY CONTINUING EDUCATION PROVIDERS.] For three years following the end of each program offered by a continuing education provider, the provider must maintain the following information:

(1) the title of the program;

(2) a description of the content and objectives of the program;

(3) the date of the program;

(4) the number of clock hours credited for participation in the program;

(5) the program location;

(6) the names and qualifications of the primary presenters;

(7) a description of the primary audience the program was designed for; and

(8) a list of the participants in the program.

Sec. 31. [148D.150] [CONTINUING EDUCATION PROVIDERS APPROVED BY THE ASSOCIATION OF SOCIAL WORK BOARDS.]

In order to receive credit for a program offered by a continuing education provider approved by the Association of Social Work Boards or a similar examination body designated by the board, the provider must be listed on the Association of Social Work Boards Web site as a provider currently approved by the Association of Social Work Boards or a similar examination body designated by the board.

Sec. 32. [148D.155] [CONTINUING EDUCATION PROGRAMS APPROVED BY THE NATIONAL ASSOCIATION OF SOCIAL WORKERS.]

In order to receive credit for a program approved by the National Association of Social Workers, the program must be listed on the National Association of Social Workers Web site as a program currently approved by the National Association of Social Workers.

Sec. 33. [148D.160] [CONTINUING EDUCATION PROGRAMS APPROVED BY THE BOARD.]

Subdivision 1. [REQUIRED PROGRAM CONTENT.] In order to be approved by the board, a continuing education program must:

- (1) promote the standards of practice described in sections 148D.195 to 148D.240;
- (2) contribute to the practice of social work as defined in section 148D.010; and
- (3) not be primarily procedural or be primarily oriented towards business practices or self-development.

Subd. 2. [TYPES OF CONTINUING EDUCATION PROGRAMS.] In order to be approved by the board, a continuing education program must be one of the following: academic coursework offered by an institution of higher learning; educational workshops, seminars, or conferences offered by an organization or individual; staff training offered by a public or private employer; or independent study.

Sec. 34. [148D.165] [CONTINUING EDUCATION REQUIREMENTS OF LICENSEES.]

Subdivision 1. [INFORMATION REQUIRED TO BE MAINTAINED BY LICENSEES.] For one year following the expiration date of a license, the licensee must maintain documentation of clock hours earned during the previous renewal term. The documentation must include the following:

(1) for educational workshops or seminars offered by an organization or at a conference, a copy of the certificate of attendance issued by the presenter or sponsor giving the following information:

- (i) the name of the sponsor or presenter of the program;
- (ii) the title of the workshop or seminar;
- (iii) the dates the licensee participated in the program; and
- (iv) the number of clock hours completed;

(2) for academic coursework offered by an institution of higher learning, a copy of a transcript giving the following information:

- (i) the name of the institution offering the course;
- (ii) the title of the course;
- (iii) the dates the licensee participated in the course; and
- (iv) the number of credits completed;

(3) for staff training offered by public or private employers, a copy of the certificate of attendance issued by the employer giving the following information:

- (i) the name of the employer;
- (ii) the title of the staff training;
- (iii) the dates the licensee participated in the program; and
- (iv) the number of clock hours completed; and

(4) for independent study, including electronic study, a written summary of the study conducted, including the following information:

- (i) the topics studied;
- (ii) a description of the applicability of the study to the licensee's authorized scope of practice;
- (iii) the titles and authors of books and articles consulted or the name of the organization offering the study;
- (iv) the dates the licensee conducted the study; and
- (v) the number of clock hours the licensee conducted the study.

Subd. 2. [AUDITS.] The board may audit license renewal and reactivation applications to determine compliance with the requirements of sections 148D.130 to 148D.170. A licensee audited by the board must provide the documentation specified in subdivision 1 regardless of whether the provider or program has been approved by the board, the Association of Social Work Boards, or a similar examination body designated by the board, or the National Association of Social Workers.

Sec. 35. [148D.170] [REVOCATION OF CONTINUING EDUCATION APPROVALS.]

The board may revoke approval of a provider or of a program offered by a provider, or of an individual program approved by the board, if the board determines subsequent to the approval that the provider or program failed to meet the requirements of sections 148D.130 to 148D.170.

FEES

Sec. 36. [148D.175] [FEES.]

The fees specified in section 148D.180 are nonrefundable and must be deposited in the state government special revenue fund.

Sec. 37. [148D.180] [FEE AMOUNTS.]

Subdivision 1. [APPLICATION FEES.] Application fees for licensure are as follows:

- (1) for a licensed social worker, \$45;
- (2) for a licensed graduate social worker, \$45;

(3) for a licensed independent social worker, \$90;

(4) for a licensed independent clinical social worker, \$90;

(5) for a temporary license, \$50; and

(6) for a licensure by endorsement, \$150.

The fee for criminal background checks is the fee charged by the Bureau of Criminal Apprehension. The criminal background check fee must be included with the application fee as required pursuant to section 148D.055.

Subd. 2. [LICENSE FEES.] License fees are as follows:

(1) for a licensed social worker, \$115.20;

(2) for a licensed graduate social worker, \$201.60;

(3) for a licensed independent social worker, \$302.40;

(4) for a licensed independent clinical social worker, \$331.20;

(5) for an emeritus license, \$50; and

(6) for a temporary leave fee, the same as the renewal fee specified in subdivision 3.

If the licensee's initial license term is less or more than 24 months, the required license fees must be prorated proportionately.

Subd. 3. [RENEWAL FEES.] Renewal fees for licensure are as follows:

(1) for a licensed social worker, \$115.20;

(2) for a licensed graduate social worker, \$201.60;

(3) for a licensed independent social worker, \$302.40; and

(4) for a licensed independent clinical social worker, \$331.20.

Subd. 4. [CONTINUING EDUCATION PROVIDER FEES.] Continuing education provider fees are as follows:

(1) for a provider who offers programs totaling one to eight clock hours in a one-year period pursuant to section 148D.145, \$50;

(2) for a provider who offers programs totaling nine to 16 clock hours in a one-year period pursuant to section 148D.145, \$100;

(3) for a provider who offers programs totaling 17 to 32 clock hours in a one-year period pursuant to section 148D.145, \$200;

(4) for a provider who offers programs totaling 33 to 48 clock hours in a one-year period pursuant to section 148D.145, \$400; and

(5) for a provider who offers programs totaling 49 or more clock hours in a one-year period pursuant to section 148D.145, \$600.

Subd. 5. [LATE FEES.] Late fees are as follows:

(1) renewal late fee, one-half of the renewal fee specified in subdivision 3; and

(2) supervision plan late fee, \$40.

Subd. 6. [LICENSE CARDS AND WALL CERTIFICATES.] (a) The fee for a license card as specified in section 148D.095 is \$10.

(b) The fee for a license wall certificate as specified in section 148D.095 is \$30.

Subd. 7. [REACTIVATION FEES.] Reactivation fees are as follows:

(1) reactivation from a temporary leave or emeritus status, the prorated share of the renewal fee specified in subdivision 3; and

(2) reactivation of an expired license, 1-1/2 times the renewal fees specified in subdivision 3.

Subd. 8. [TEMPORARY FEE REDUCTION.] For fiscal years 2006, 2007, 2008, and 2009, the following fee changes are effective:

(1) in subdivision 1, the application fee for a licensed independent social worker is reduced to \$45;

(2) in subdivision 1, the application fee for a licensed independent clinical social worker is reduced to \$45;

(3) in subdivision 1, the application fee for a licensure by endorsement is reduced to \$85;

(4) in subdivision 2, the license fee for a licensed social worker is reduced to \$90;

(5) in subdivision 2, the license fee for a licensed graduate social worker is reduced to \$160;

(6) in subdivision 2, the license fee for a licensed independent social worker is reduced to \$240;

(7) in subdivision 2, the license fee for a licensed independent clinical social worker is reduced to \$265;

(8) in subdivision 3, the renewal fee for a licensed social worker is reduced to \$90;

(9) in subdivision 3, the renewal fee for a licensed graduate social worker is reduced to \$160;

(10) in subdivision 3, the renewal fee for a licensed independent social worker is reduced to \$240;

(11) in subdivision 3, the renewal fee for a licensed independent clinical social worker is reduced to \$265; and

(12) in subdivision 5, the renewal late fee is reduced to one-third of the renewal fee specified in subdivision 3.

This subdivision expires on June 30, 2009.

COMPLIANCE

Sec. 38. [148D.185] [PURPOSE OF COMPLIANCE LAWS.]

The purpose of sections 148D.185 to 148D.290 is to protect the public by ensuring that all persons licensed as social workers meet minimum standards of practice. The board shall promptly and fairly investigate and resolve all complaints alleging violations of statutes and rules that the board is empowered to enforce and (1) take appropriate disciplinary action, adversarial action, or other action justified by the facts, or (2) enter into corrective action agreements or stipulations to cease practice, when doing so is consistent with the board's obligation to protect the public.

Sec. 39. [148D.190] [GROUND FOR ACTION.]

Subdivision 1. [SCOPE.] The grounds for action in subdivisions 2 to 4 and the standards of practice requirements in sections 148D.195 to 148D.240 apply to all licensees and applicants.

Subd. 2. [VIOLATIONS.] The board has grounds to take action pursuant to sections 148D.255 to 148D.270 when a social worker violates:

(1) a statute or rule enforced by the board, including this section and sections 148D.195 to 148D.240;

(2) a federal or state law or rule related to the practice of social work; or

(3) an order, stipulation, or agreement agreed to or issued by the board.

Subd. 3. [CONDUCT BEFORE LICENSURE.] A violation of the requirements specified in this section and sections 148D.195 to 148D.240 is grounds for the board to take action under sections 148D.255 to 148D.270. The board's jurisdiction to exercise the powers provided in this section extends to an applicant or licensee's conduct that occurred before licensure if:

(1) the conduct did not meet the minimum accepted and prevailing standards of professional social work practice at the time the conduct occurred; or

(2) the conduct adversely affects the applicant or licensee's present ability to practice social work in conformity with the requirements of sections 148D.195 to 148D.240.

Subd. 4. [UNAUTHORIZED PRACTICE.] The board has grounds to take action pursuant to sections 148D.255 to 148D.270 when a social worker:

(1) practices outside the scope of practice authorized by section 148D.050;

(2) engages in the practice of social work without a social work license under section 148D.055 or 148D.060, except when the social worker is exempt from licensure pursuant to section 148D.065;

(3) provides social work services to a client who receives social work services in this state, and is not licensed pursuant to section 148D.055 or 148D.060, except when the social worker is exempt from licensure pursuant to section 148D.065.

STANDARDS OF PRACTICE

Sec. 40. [148D.195] [REPRESENTATIONS TO CLIENTS AND PUBLIC.]

Subdivision 1. [REQUIRED DISPLAYS AND INFORMATION FOR CLIENTS.] (a) A social worker must conspicuously display at the social worker's places of practice, or make available as a handout for all clients, information that the client has the right to the following:

- (1) to be informed of the social worker's license status, education, training, and experience;
- (2) to examine public data on the social worker maintained by the board;
- (3) to report a complaint about the social worker's practice to the board; and
- (4) to be informed of the board's mailing address, e-mail address, Web site address, and telephone number.

(b) A social worker must conspicuously display the social worker's wall certificate at the social worker's places of practice and office locations. Additional wall certificates may be requested pursuant to section 148D.095.

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 pursuant to sections 148D.055 and 148D.060 or practices in a setting exempt from licensure pursuant to section 148D.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.

Subd. 3. [INFORMATION ON CREDENTIALS.] (a) A social worker must provide accurate and factual information concerning the social worker's credentials, education, training, and experience when the information is requested by clients, potential clients, or other persons or organizations.

(b) A social worker must not misrepresent directly or by implication the social worker's license, degree, professional certifications, affiliations, or other professional qualifications in any oral or written communications to clients, potential clients, or other persons or organizations. A social worker must take reasonable steps to prevent such misrepresentations by other social workers.

(c) A social worker must not hold out as a person licensed as a social worker without having a social work license pursuant to sections 148D.055 and 148D.060.

(d) A social worker must not misrepresent directly or by implication (1) affiliations with institutions or organizations, or (2) purposes or characteristics of institutions or organizations with which the social worker is or has been affiliated.

Sec. 41. [148D.200] [COMPETENCE.]

Subdivision 1. [COMPETENCE.] (a) A social worker must provide services and hold out as competent only to the extent the social worker's education, training, license, consultation received, supervision experience, or other relevant professional experience demonstrate competence in the services provided. A social worker must make a referral to a competent professional when the services required are beyond the social worker's competence or authorized scope of practice.

(b) When generally recognized standards do not exist with respect to an emerging area of practice, including but not limited to providing social work services through electronic means, a social worker must take the steps necessary, such as consultation or supervision, to ensure the competence of the social worker's work and to protect clients from harm.

Subd. 2. [SUPERVISION OR CONSULTATION.] Notwithstanding the completion of supervision requirements as specified in sections 148D.100 to 148D.125, a social worker must obtain supervision or engage in consultation when appropriate or necessary for competent and ethical practice.

Subd. 3. [DELEGATION OF SOCIAL WORK RESPONSIBILITIES.] (a) A social worker must not delegate a social work responsibility to another individual when the social worker knows or reasonably should know that the individual is not licensed when required to be licensed pursuant to sections 148D.055 and 148D.060.

(b) A social worker must not delegate a social work responsibility to another individual when the social worker knows or reasonably should know that the individual is not competent to assume the responsibility or perform the task.

Sec. 42. [148D.205] [IMPAIRMENT.]

Subdivision 1. [GROUNDS FOR ACTION.] The board has grounds to take action under sections 148D.255 to 148D.270 when a social worker is unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition.

Subd. 2. [SELF-REPORTING.] A social worker regulated by the board who is unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition, must report to the board or the health professionals services program.

Sec. 43. [148D.210] [PROFESSIONAL AND ETHICAL CONDUCT.]

The board has grounds to take action under sections 148D.255 to 148D.270 when a social worker:

(1) engages in unprofessional or unethical conduct, including any departure from or failure to conform to the minimum accepted ethical and other prevailing standards of professional social work practice, without actual injury to a social work client, intern, student, supervisee or the public needing to be established;

(2) engages in conduct that has the potential to cause harm to a client, intern, student, supervisee, or the public;

(3) demonstrates a willful or careless disregard for the health, welfare, or safety of a client, intern, student, or supervisee; or

(4) engages in acts or conduct adversely affecting the applicant or licensee's current ability or fitness to engage in social work practice, whether or not the acts or conduct occurred while engaged in the practice of social work.

Sec. 44. [148D.215] [RESPONSIBILITIES TO CLIENTS.]

Subdivision 1. [RESPONSIBILITY TO CLIENTS.] A social worker's primary professional responsibility is to the client. A social worker must respect the client's interests, including the interest in self-determination, except when required to do otherwise by law.

Subd. 2. [NONDISCRIMINATION.] A social worker must not discriminate against a client, intern, student, or supervisee or in providing services to a client, intern, or supervisee on the basis of age, gender, sexual orientation, race, color, national origin, religion, illness, disability, political affiliation, or social or economic status.

Subd. 3. [RESEARCH.] When undertaking research activities, a social worker must use accepted protocols for the protection of human subjects, including (1) establishing appropriate safeguards to protect the subject's vulnerability, and (2) obtaining the subjects' informed consent.

Sec. 45. [148D.220] [RELATIONSHIPS WITH CLIENTS, FORMER CLIENTS, AND OTHER INDIVIDUALS.]

Subdivision 1. [SOCIAL WORKER RESPONSIBILITY.] (a) A social worker is responsible for acting professionally in relationships with clients or former clients. A client or a former client's initiation of, or attempt to engage in, or request to engage in, a personal, sexual, or business relationship is not a defense to a violation of this section.

(b) When a relationship is permitted by this section, social workers who engage in such a relationship assume the full burden of demonstrating that the relationship will not be detrimental to the client or the professional relationship.

Subd. 2. [PROFESSIONAL BOUNDARIES.] A social worker must maintain appropriate professional boundaries with a client. A social worker must not engage in practices with clients that create an unacceptable risk of client harm or of impairing a social worker's objectivity or professional judgment. A social worker must not act or fail to act in a way that, as judged by a reasonable and prudent social worker, inappropriately encourages the client to relate to the social worker outside of the boundaries of the professional relationship, or in a way that interferes with the client's ability to benefit from social work services from the social worker.

Subd. 3. [MISUSE OF PROFESSIONAL RELATIONSHIP.] A social worker must not use the professional relationship with a client, student, supervisee, or intern to further the social worker's personal, emotional, financial, sexual, religious, political, or business benefit or interests.

Subd. 4. [IMPROPER TERMINATION.] A social worker must not terminate a professional relationship for the purpose of beginning a personal, sexual, or business relationship with a client.

Subd. 5. [PERSONAL RELATIONSHIP WITH A CLIENT.] (a) Except as provided in paragraph (b), a social worker must not engage in a personal relationship with a client that creates a risk of client harm or of impairing a social worker's objectivity or professional judgment.

(b) Notwithstanding paragraph (a), if a social worker is unable to avoid a personal relationship with a client, the social worker must take appropriate precautions, such as consultation or supervision, to address the potential for risk of client harm or of impairing a social worker's objectivity or professional judgment.

Subd. 6. [PERSONAL RELATIONSHIP WITH A FORMER CLIENT.] A social worker may engage in a personal relationship with a former client after appropriate termination of the professional relationship, except:

(1) as prohibited by subdivision 8; or

(2) if a reasonable and prudent social worker would conclude after appropriate assessment that (i) the former client is emotionally dependent on the social worker or continues to relate to the social worker as a client, or (ii) the social worker is emotionally dependent on the client or continues to relate to the former client as a social worker.

Subd. 7. [SEXUAL CONDUCT WITH A CLIENT.] A social worker must not engage in or suggest sexual conduct with a client.

Subd. 8. [SEXUAL CONDUCT WITH A FORMER CLIENT.] (a) A social worker who has engaged in diagnosing, counseling, or treating a client with mental, emotional, or behavioral disorders must not engage in or suggest sexual conduct with the former client under any circumstances unless:

(1) the social worker did not intentionally or unintentionally coerce, exploit, deceive, or manipulate the former client at any time;

(2) the social worker did not represent to the former client that sexual conduct with the social worker is consistent with or part of the client's treatment;

(3) the social worker's sexual conduct was not detrimental to the former client at any time;

(4) the former client is not emotionally dependent on the social worker and does not continue to relate to the social worker as a client; and

(5) the social worker is not emotionally dependent on the client and does not continue to relate to the former client as a social worker.

(b) If there is an alleged violation of paragraph (a), the social worker assumes the full burden of demonstrating to the board that the social worker did not intentionally or unintentionally coerce, exploit, deceive, or manipulate the client, and the social worker's sexual conduct was not detrimental to the client at any time. Upon request, a social worker must provide information to the board addressing:

(1) the amount of time that has passed since termination of services;

(2) the duration, intensity, and nature of services;

(3) the circumstances of termination of services;

(4) the former client's emotional, mental, and behavioral history;

(5) the former client's current emotional, mental, and behavioral status;

(6) the likelihood of adverse impact on the former client; and

(7) the existence of actions, conduct, or statements made by the social worker during the course of services suggesting or inviting the possibility of a sexual relationship with the client following termination of services.

(c) A social worker who has provided social work services other than those described in paragraph (a) to a client must not engage in or suggest sexual conduct with the former client if a reasonable and prudent social worker would conclude after appropriate assessment that engaging in such behavior with the former client would create an unacceptable risk of harm to the former client.

Subd. 9. [SEXUAL CONDUCT WITH A STUDENT, SUPERVISEE, OR INTERN.] (a) A social worker must not engage in or suggest sexual conduct with a student while the social worker has authority over any part of the student's academic program.

(b) A social worker supervising an intern must not engage in or suggest sexual conduct with the intern during the course of the internship.

(c) A social worker practicing social work as a supervisor must not engage in or suggest sexual conduct with a supervisee during the period of supervision.

Subd. 10. [SEXUAL HARASSMENT.] A social worker must not engage in any physical, oral, written, or electronic behavior that a client, former client, student, supervisee, or intern may reasonably interpret as sexually harassing or sexually demeaning.

Subd. 11. [BUSINESS RELATIONSHIP WITH A CLIENT.] A social worker must not purchase goods or services from a client or otherwise engage in a business relationship with a client except when:

(1) a social worker purchases goods or services from the client and a reasonable and prudent social worker would determine that it is not practical or reasonable to obtain the goods or services from another provider; and

(2) engaging in the business relationship will not be detrimental to the client or the professional relationship.

Subd. 12. [BUSINESS RELATIONSHIP WITH A FORMER CLIENT.] A social worker may purchase goods or services from a former client or otherwise engage in a business relationship with a former client after appropriate termination of the professional relationship unless a reasonable and prudent social worker would conclude after appropriate assessment that:

(1) the former client is emotionally dependent on the social worker and purchasing goods or services from the former client or otherwise engaging in a business relationship with the former client would be detrimental to the former client; or

(2) the social worker is emotionally dependent on the former client and purchasing goods or services from the former client or otherwise engaging in a business relationship with the former client would be detrimental to the former client.

Subd. 13. [PREVIOUS SEXUAL, PERSONAL, OR BUSINESS RELATIONSHIP.] (a) A social worker must not engage in a social worker/client relationship with an individual with whom the social worker had a previous sexual relationship.

(b) A social worker must not engage in a social worker/client relationship with an individual with whom the social worker had a previous personal or business relationship if a reasonable and prudent social worker would conclude after appropriate assessment that the social worker/client relationship would create an unacceptable risk of client harm or that the social worker's objectivity or professional judgment may be impaired.

Subd. 14. [GIVING ALCOHOL OR OTHER DRUGS TO A CLIENT.] (a) Unless authorized by law, a social worker must not offer medication or controlled substances to a client.

(b) A social worker must not accept medication or controlled substances from a client except that if authorized by law, a social worker may accept medication or controlled substances from a client for purposes of disposal or to monitor use.

(c) A social worker must not offer alcoholic beverages to a client except when such an offer is authorized or prescribed by a physician or is in accordance with a client's care plan.

(d) A social worker must not accept alcoholic beverages from a client.

Subd. 15. [RELATIONSHIP WITH A CLIENT'S FAMILY OR HOUSEHOLD MEMBER.] Subdivisions 1 to 14 apply to a social worker's relationship with a client's family or household member when a reasonable and prudent social worker would conclude after appropriate assessment that a relationship with a family or household member would create an unacceptable risk of harm to the client.

Sec. 46. [148D.225] [TREATMENT AND INTERVENTION SERVICES.]

Subdivision 1. [ASSESSMENT OR DIAGNOSIS.] A social worker must base treatment and intervention services on an assessment or diagnosis. A social worker must evaluate, on an ongoing basis, the appropriateness of the assessment or diagnosis.

Subd. 2. [ASSESSMENT OR DIAGNOSTIC INSTRUMENTS.] A social worker must not use an assessment or diagnostic instrument without adequate training. A social worker must follow standards and accepted procedures for using an assessment or diagnostic instrument. A social worker must inform a client of the purpose before administering the instrument and must make the results available to the client.

Subd. 3. [PLAN FOR SERVICES.] A social worker must develop a plan for services that includes goals based on the assessment or diagnosis. A social worker must evaluate, on an ongoing basis, the appropriateness of the plan and the client's progress toward the goals.

Subd. 4. [RECORDS.] (a) A social worker must make and maintain current and accurate records, appropriate to the circumstances, of all services provided to a client. At a minimum, the records must contain documentation of:

(1) the assessment or diagnosis;

(2) the content of the service plan;

(3) progress with the plan and any revisions of assessment, diagnosis, or plan;

(4) any fees charged and payments made;

(5) copies of all client-written authorizations for release of information; and

(6) other information necessary to provide appropriate services.

(b) These records must be maintained by the social worker for at least seven years after the last date of service to the client. Social workers who are employed by an agency or other entity are not required to:

(1) maintain personal or separate records; or

(2) personally retain records at the conclusion of their employment.

Subd. 5. [TERMINATION OF SERVICES.] A social worker must terminate a professional relationship with a client when the social worker reasonably determines that the client is not likely to benefit from continued services or the services are no longer needed, unless the social worker is required by law to provide services. A social worker who anticipates terminating services must give reasonable notice to the client in a manner that is appropriate to the needs of the client. The social worker must provide appropriate referrals as needed or upon request of the client.

Sec. 47. [148D.230] [CONFIDENTIALITY AND RECORDS.]

Subdivision 1. [INFORMED CONSENT.] (a) A social worker must obtain valid, informed consent, appropriate to the circumstances, before providing services to clients. When obtaining informed consent, the social worker must determine whether the client has the capacity to provide informed consent. If the client does not have the capacity to provide consent, the social worker must obtain consent for the services from the client's legal representative. The social worker must not provide services, unless authorized or required by law, if the client or the client's legal representative does not consent to the services.

(b) If a social worker determines that a client does not have the capacity to provide consent, and the client does not have a legal representative, the social worker:

(1) must, except as provided in clause (2), secure a legal representative for a client before providing services; or

(2) may, notwithstanding clause (1), provide services, except when prohibited by other applicable law, that are necessary to ensure the client's safety or to preserve the client's property or financial resources.

(c) A social worker must use clear and understandable language, including using an interpreter proficient in the client's primary language as necessary, to inform clients of the plan of services, risks related to the plan, limits to services, relevant costs, terms of payment, reasonable alternatives, the client's right to refuse or withdraw consent, and the time frame covered by the consent.

Subd. 2. [MANDATORY REPORTING AND DISCLOSURE OF CLIENT INFORMATION.] At the beginning of a professional relationship and during the professional relationship as necessary and appropriate, a social worker must inform the client of those circumstances under which the social worker may be required to disclose client information specified in subdivision 3, paragraph (a), without the client's consent.

Subd. 3. [CONFIDENTIALITY OF CLIENT INFORMATION.] (a) A social worker must ensure the confidentiality of all client information obtained in the course of the social worker/client relationship and all client information otherwise obtained by the social worker that is relevant to the social worker/client relationship. Except as provided in this section, client information may be disclosed or released only with the client's or the client's legal representative's valid informed consent, appropriate to the circumstances, except when otherwise required by law. A social worker must seek consent to disclose or release client information only when such disclosure or release is necessary to provide social work services.

(b) A social worker must continue to maintain confidentiality of the client information specified in paragraph (a) upon termination of the professional relationship including upon the death of the client, except as provided under this section or other applicable law.

(c) A social worker must limit access to the client information specified in paragraph (a) in a social worker's agency to appropriate agency staff whose duties require access.

Subd. 4. [RELEASE OF CLIENT INFORMATION WITH WRITTEN INFORMED CONSENT.] (a) Except as provided in subdivision 5, client information specified in subdivision 3, paragraph (a), may be released only with the client's or the client's legal representative's written informed consent. The written informed consent must:

- (1) explain to whom the client's records may be released;
- (2) explain the purpose for the release; and
- (3) state an expiration date for the authorized release of the records.

(b) A social worker may provide client information specified in subdivision 3, paragraph (a), to a third party for the purpose of payment for services rendered only with the client's written informed consent.

(c) Except as provided in subdivision 5, a social worker may disclose client information specified in subdivision 3, paragraph (a), only with the client's or the client's legal representative's written informed consent. When it is not practical to obtain written informed consent before providing necessary services, a social worker may disclose or release client information with the client's or the client's legal representative's oral informed consent.

(d) Unless otherwise authorized by law, a social worker must obtain a client's written informed consent before taking a photograph of the client or making an audio or video recording of the client, or allowing a third party to do the same. The written informed consent must explain:

- (1) the purpose of the photograph or the recording and how the photograph or recording will be used, how it will be stored, and when it will be destroyed; and
- (2) how the client may have access to the photograph or recording.

Subd. 5. [RELEASE OF CLIENT INFORMATION WITHOUT WRITTEN INFORMED CONSENT.] (a) A social worker may disclose client information specified in subdivision 3, paragraph (a), without the written consent of the client or the client's legal representative only under the following circumstances or under the circumstances described in paragraph (b):

(1) when mandated or authorized by federal or state law, including the mandatory reporting requirements under the duty to warn, maltreatment of minors, and vulnerable adult laws specified in section 148D.240, subdivisions 6 to 8;

(2) when the board issues a subpoena to the social worker; or

(3) when a court of competent jurisdiction orders release of the client records or information.

(b) When providing services authorized or required by law to a client who does not have the capacity to provide consent and who does not have a legal representative, a social worker must disclose or release client records or information as necessary to provide services to ensure the client's safety or to preserve the client's property or financial resources.

Subd. 6. [RELEASE OF CLIENT RECORDS OR INFORMATION.] When releasing client records or information under this section, a social worker must release current, accurate, and complete records or information.

Sec. 48. [148D.235] [FEES AND BILLING PRACTICES.]

Subdivision 1. [FEES AND PAYMENTS.] (a) A social worker must ensure that a client or a client's legal representative is informed of all fees at the initial session or meeting with the client, and that payment for services is arranged with the client or the client's legal representative at the beginning of the professional relationship. Upon request from a client or a client's legal representative, a social worker must provide in a timely manner a written payment plan or a written explanation of the charges for any services rendered.

(b) When providing services authorized or required by law to a client who does not have the capacity to provide consent and who does not have a legal representative, a social worker may submit reasonable bills to an appropriate payer for services provided.

Subd. 2. [BILLING FOR SERVICES NOT PROVIDED.] A social worker must not bill for services that have not been provided except that, with prior notice to the client, a social worker may bill for failed appointments or for cancellations without sufficient notice. A social worker may bill only for provided services which are necessary and appropriate. Financial responsibility for failed appointment billings resides solely with the client and such costs may not be billed to public or private payers.

Subd. 3. [NO PAYMENT FOR REFERRALS.] A social worker must not accept or give a commission, rebate, or other form of remuneration solely or primarily to profit from the referral of a client.

Subd. 4. [FEES AND BILLING PRACTICES.] A social worker must not engage in improper or fraudulent billing practices, including, but not limited to, violations of the federal Medicare and Medicaid laws or state medical assistance laws.

Sec. 49. [148D.240] [REPORTING REQUIREMENTS.]

Subdivision 1. [FAILURE TO SELF-REPORT ADVERSE ACTIONS.] The board has grounds to take action under sections 148D.255 to 148D.270 when a social worker fails to report to the board within 90 days:

(1) having been disciplined, sanctioned, or found to have violated a state, territorial, provincial, or foreign licensing agency's laws or rules;

(2) having been convicted of committing a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work;

(3) having had a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, of committing a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work;

(4) having admitted to committing, or entering a no contest plea to committing, a felony, gross misdemeanor, or misdemeanor reasonably related to the practice of social work; or

(5) having been denied licensure by a state, territorial, provincial, or foreign licensing agency.

Subd. 2. [FAILURE TO SUBMIT APPLICATION INFORMATION.] The board has grounds to take action under sections 148D.255 to 148D.270 when an applicant or licensee fails to submit with an application the following information:

(1) the dates and dispositions of any malpractice settlements or awards made relating to the social work services provided by the applicant or licensee; or

(2) the dates and dispositions of any civil litigations or arbitrations relating to the social work services provided by the applicant or licensee.

Subd. 3. [REPORTING OTHER LICENSED HEALTH PROFESSIONALS.] An applicant or licensee must report to the appropriate health-related licensing board conduct by a licensed health professional which would constitute grounds for disciplinary action under the statutes and rules enforced by that board.

Subd. 4. [REPORTING UNLICENSED PRACTICE.] An applicant or licensee must report to the board conduct by an unlicensed person which constitutes the practice of social work, as defined in section 148D.010, except when the unlicensed person is exempt from licensure pursuant to section 148D.065.

Subd. 5. [FAILURE TO REPORT OTHER APPLICANTS OR LICENSEES AND UNLICENSED PRACTICE.] The board has grounds to take action under sections 148D.255 to 148.270 when an applicant or licensee fails to report to the board conduct:

(1) by another licensee or applicant which the applicant or licensee has reason to believe may reasonably constitute grounds for disciplinary action under this section; or

(2) by an unlicensed person that constitutes the practice of social work when a license is required to practice social work.

Subd. 6. [DUTY TO WARN.] A licensee must comply with the duty to warn established by section 148.975.

Subd. 7. [REPORTING MALTREATMENT OF MINORS.] An applicant or licensee must comply with the reporting of maltreatment of minors established by section 626.556.

Subd. 8. [REPORTING MALTREATMENT OF VULNERABLE ADULTS.] An applicant or licensee must comply with the reporting of maltreatment of vulnerable adults established by section 626.557.

Subd. 9. [SUBPOENAS.] The board may issue subpoenas pursuant to section 148D.245 and chapter 214 for the production of any reports required by this section or any related documents.

INVESTIGATIONS

Sec. 50. [148D.245] [INVESTIGATIVE POWERS AND PROCEDURES.]

Subdivision 1. [SUBPOENAS.] (a) The board may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material as part of its investigation of an applicant or licensee under this section or chapter 214.

(b) If any person fails or refuses to appear or testify regarding any matter about which the person may be lawfully questioned, or fails or refuses to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so, the board may institute a proceeding in any district court to enforce the board's order or subpoena.

(c) The board or a designated member of the board acting on behalf of the board may issue subpoenas or administer oaths to witnesses or take affirmations. Depositions may be taken within or out of the state in the manner provided by law for the taking of depositions in civil actions.

(d) A subpoena or other process or paper may be served upon any person named therein, by mail or by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state.

(e) Fees, mileage, and other costs must be paid as the board directs.

Subd. 2. [CLASSIFICATION OF DATA.] (a) Any records obtained as part of an investigation must be treated as investigative data under section 13.41 and be classified as confidential data.

(b) Notwithstanding paragraph (a), client records must be treated as private data under chapter 13. Client records must be protected as private data in the records of the board and in administrative or judicial proceedings unless the client authorizes the board in writing to make public the identity of the client or a portion or all of the client's records.

Subd. 3. [MENTAL OR PHYSICAL EXAMINATION; CHEMICAL DEPENDENCY EVALUATION.] (a) If the board has (1) probable cause to believe that an applicant or licensee has violated a statute or rule enforced by the board, or an order issued by the board and (2) the board believes the applicant may have a health-related condition relevant to the violation, the board may issue an order directing the applicant or licensee to submit to one or more of the following: a mental examination, a physical examination, or a chemical dependency evaluation.

(b) An examination or evaluation order issued by the board must include:

(1) factual specifications on which the order is based;

(2) the purpose of the examination or evaluation;

(3) the name of the person or entity that will conduct the examination or evaluation; and

(4) the means by which the examination or evaluation will be paid for.

(c) Every applicant or licensee must submit to a mental examination, a physical examination, or a chemical dependency evaluation when ordered to do so in writing by the board.

(d) By submitting to a mental examination, a physical examination, or a chemical dependency evaluation, an applicant or licensee waives all objections to the admissibility of the examiner or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication.

Subd. 4. [FAILURE TO SUBMIT TO AN EXAMINATION.] (a) If an applicant or licensee fails to submit to an examination or evaluation ordered by the board pursuant to subdivision 3, unless the failure was due to circumstances beyond the control of the applicant or licensee, the failure is an admission that the applicant or licensee violated a statute or rule enforced by the board as specified in the examination or evaluation order issued by the board. The failure may result in an application being denied or other adversarial, corrective, or disciplinary action being taken by the board without a contested case hearing.

(b) If an applicant or licensee requests a contested case hearing after the board denies an application or takes other disciplinary or adversarial action, the only issues which may be determined at the hearing are:

(1) whether the board had probable cause to issue the examination or evaluation order; and

(2) whether the failure to submit to the examination or evaluation was due to circumstances beyond the control of the applicant or licensee.

(c) Neither the record of a proceeding under this subdivision nor an order issued by the board may be admissible, subject to subpoena, or be used against the applicant or licensee in a proceeding in which the board is not a party or decision maker.

(d) Information obtained under this subdivision must be treated as private data under chapter 13. An order issued by the board as the result of an applicant's or licensee's failure to submit to an examination or evaluation must be treated as public data under chapter 13.

Subd. 5. [ACCESS TO DATA AND RECORDS.] (a) In addition to ordering a physical or mental examination or chemical dependency evaluation, and notwithstanding section 13.384, 144.651, 595.02, or any other statute limiting access to health records, the board or a designated member of the board acting on behalf of the board may subpoena physical, mental, and chemical dependency health records relating to an applicant or licensee without the applicant's or licensee's consent if:

(1) the board has probable cause to believe that the applicant or licensee has violated chapter 214, a statute or rule enforced by the board, or an order issued by the board; and

(2) the board has reason to believe that the records are relevant and necessary to the investigation.

(b) An applicant, licensee, insurance company, government agency, health care facility, or provider as defined in section 144.335, subdivision 1, paragraph (b), must comply with any subpoena of the board under this subdivision and is not liable in any action for damages for releasing information subpoenaed by the board under this subdivision unless the information provided is false and the person or entity providing the information knew or had reason to know that the information was false.

(c) Information on individuals obtained under this subdivision must be treated as investigative data under section 13.41 and be classified as confidential data.

(d) If an applicant, licensee, person, or entity does not comply with any subpoena of the board under this subdivision, the board may institute a proceeding in any district court to enforce the board's subpoena.

Subd. 6. [EVIDENCE OF PAST SEXUAL CONDUCT.] If, in a proceeding for taking action against an applicant or licensee under this section, the charges involve sexual contact with a client or former client, the board or administrative law judge must not consider evidence of the client's or former client's previous sexual conduct. Reference to the client's or former client's previous sexual conduct must not be made during the proceedings or in the findings, except by motion of the complainant, unless the evidence would be admissible under the applicable provisions of section 609.347, subdivision 3.

Subd. 7. [INVESTIGATIONS INVOLVING VULNERABLE ADULTS OR CHILDREN IN NEED OF PROTECTION.] (a) Except as provided in paragraph (b), if the board receives a complaint about a social worker regarding the social worker's involvement in a case of vulnerable adults or children in need of protection, the county or other appropriate public authority may request that the board suspend its investigation, and the board must comply until such time as the court issues its findings on the case.

(b) Notwithstanding paragraph (a), the board may continue with an investigation if the board determines that doing so is in the best interests of the vulnerable adult or child and is consistent with the board's obligation to protect the public. If the board chooses to continue an investigation, the board must notify the county or other appropriate public authority in writing and state its reasons for doing so.

Subd. 8. [NOTIFICATION OF COMPLAINANT.] (a) In no more than 14 calendar days after receiving a complaint regarding a licensee, the board must notify the complainant that the board has received the complaint.

(b) The board must periodically notify the complainant of the status of the complaint.

Subd. 9. [NOTIFICATION OF LICENSEE.] (a) Except as provided in paragraph (b), in no more than 60 calendar days after receiving a complaint regarding a licensee, the board must notify the licensee that the board has received the complaint and inform the licensee of:

(1) the substance of the complaint;

(2) the sections of the law that allegedly have been violated; and

(3) whether an investigation is being conducted.

(b) Paragraph (a) does not apply if:

(1) the board determines that such notice would compromise the board's investigation pursuant to section 214.10; or

(2) the board determines that such notice cannot reasonably be accomplished within this time.

(c) The board must periodically notify the licensee of the status of the complaint.

Subd. 10. [RESOLUTION OF COMPLAINTS.] In no more than one year after receiving a complaint regarding a licensee, the board must resolve or dismiss the complaint unless the board determines that resolving or dismissing the complaint cannot reasonably be accomplished within this time.

Sec. 51. [148D.250] [OBLIGATION TO COOPERATE.]

Subdivision 1. [OBLIGATION TO COOPERATE.] An applicant or licensee who is the subject of an investigation, or who is questioned by or on behalf of the board in connection with an investigation, must cooperate fully with the investigation. Cooperation includes, but is not limited to:

(1) responding fully and promptly to any question relating to the investigation;

(2) as reasonably requested by the board, providing copies of client and other records in the applicant's or licensee's possession relating to the investigation;

(3) executing release of records as reasonably requested by the board; and

(4) appearing at conferences, hearings, or meetings scheduled by the board, as required in sections 148D.255 to 148D.270 and chapter 214.

Subd. 2. [INVESTIGATION.] A social worker must not knowingly withhold relevant information, give false or misleading information, or do anything to obstruct an investigation of the social worker or another social worker by the board or by another state or federal regulatory or law enforcement authority.

Subd. 3. [PAYMENT FOR COPIES.] The board must pay for copies requested by the board.

Subd. 4. [ACCESS TO CLIENT RECORDS.] Notwithstanding any law to the contrary, an applicant or licensee must allow the board access to any records of a client provided services by the applicant or licensee 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 in the records that identifies the client before providing the records to the board.

Subd. 5. [CLASSIFICATION OF DATA.] Any records obtained pursuant to this subdivision must be treated as investigative data pursuant to section 13.41 and be classified as confidential data.

TYPES OF ACTIONS

Sec. 52. [148D.255] [TYPES OF ACTIONS.]

Subdivision 1. [ACTIONS.] The board may take disciplinary action pursuant to section 148D.260, adversarial but nondisciplinary action pursuant to section 148D.265, or voluntary action pursuant to section 148D.270. Any action taken under sections 148D.260 to 148D.270 is public data.

Subd. 2. [DISCIPLINARY ACTION.] For purposes of section 148D.260, "disciplinary action" means an action taken by the board against an applicant or licensee that addresses a complaint alleging a violation of a statute or rule the board is empowered to enforce.

Subd. 3. [ADVERSARIAL BUT NONDISCIPLINARY ACTION.] For purposes of section 148D.265, "adversarial but nondisciplinary action" means a nondisciplinary action taken by the board that addresses a complaint alleging a violation of a statute or rule the board is empowered to enforce.

Subd. 4. [VOLUNTARY ACTION.] For purposes of section 148D.270, "voluntary action" means a nondisciplinary action agreed to by the board or a designated board member and an applicant or licensee that, through educational or other corrective means, addresses a complaint alleging a violation of a statute or rule that the board is empowered to enforce.

Sec. 53. [148D.260] [DISCIPLINARY ACTIONS.]

Subdivision 1. [GENERAL DISCIPLINARY ACTIONS.] (a) When the board has grounds for disciplinary actions under this chapter, the board may take one or more of the following disciplinary actions:

(1) deny an application;

(2) permanently revoke a license to practice social work;

(3) indefinitely or temporarily suspend a license to practice social work;

(4) impose restrictions on a licensee's scope of practice;

(5) impose conditions required for the licensee to maintain licensure, including, but not limited to, additional education, supervision, and requiring the passing of an examination provided for in section 148D.055;

(6) reprimand a licensee;

(7) impose a civil penalty of up to \$10,000 for each violation in order to discourage future violations or to deprive the licensee of any economic advantage gained by reason of the violation; or

(8) impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action, including, but not limited to, the amount paid by the board for services received from or expenses incurred by the Office of Administrative Hearings, the Office of the Attorney General, court reporters, witnesses, board members, board staff, or the amount paid by the board for reproducing records.

(b) Disciplinary action taken by the board under this subdivision is in effect pending determination of an appeal unless the court, upon petition and for good cause shown, decides otherwise.

Subd. 2. [REPRIMANDS.] (a) In addition to the board's authority to issue a reprimand pursuant to subdivision 1, a designated board member reviewing a complaint as provided for in chapter 214 may issue a reprimand to a licensee. The designated board member must notify the licensee that the reprimand will become final disciplinary action unless the licensee requests a hearing by the board within 14 calendar days.

(b) If the licensee requests a hearing within 14 calendar days, the board must schedule a hearing unless the designated board member withdraws the reprimand.

(c) The hearing must be scheduled within 14 working days of the time the licensee submits a request for the hearing.

(d) The designated board member who issued the reprimand may participate in the hearing but must not deliberate or vote on the decision by the board.

(e) The only evidence permitted at the hearing is affidavits or other documents except for testimony by the licensee or other witnesses whose testimony the board chair has authorized for good cause.

(f) If testimony is authorized, the testimony is subject to cross-examination.

(g) After the hearing, the board must affirm or dismiss the reprimand.

Subd. 3. [TEMPORARY SUSPENSIONS.] (a) In addition to any other remedy provided by statute, the board or a designated board member may, without a hearing, temporarily suspend a license to practice social work if the board or the designated board member finds that:

(1) the licensee has violated a statute or rule enforced by the board, any other federal or state law or rule related to the practice of social work, or an order, stipulation, or agreement agreed to or issued by the board; and

(2) continued practice by the licensee would create a serious risk of harm to others.

(b) The suspension is in effect upon service of a written order on the licensee specifying the statute, rule, order, stipulation, or agreement violated. Service of the order is effective if the order is served on the licensee or the licensee's attorney personally or by first class mail to the most recent address provided to the board for the licensee or the licensee's attorney.

(c) The temporary suspension remains in effect until after the board issues an order pursuant to paragraph (e), or if there is a contested case hearing, after the board issues a written final order pursuant to paragraph (g).

(d) If the licensee requests in writing within five calendar days of service of the order that the board hold a hearing, the board must hold a hearing on the sole issue of whether to continue, modify, or lift the suspension. The board must hold the hearing within ten working days of receipt of the licensee's written request. Evidence presented by the board or licensee must be in affidavit form only, except that the licensee or the licensee's attorney may present oral argument.

(e) Within five working days after the hearing, the board must issue its order. If the licensee contests the order, the board must schedule a contested case hearing under chapter 14. The contested case hearing must be scheduled to occur within 45 calendar days after issuance of the order.

(f) The administrative law judge must issue a report within 30 calendar days after the contested case hearing is concluded.

(g) The board must issue a final order within 30 calendar days after the board receives the administrative law judge's report.

Sec. 54. [148D.265] [ADVERSARIAL BUT NONDISCIPLINARY ACTIONS.]

Subdivision 1. [AUTOMATIC SUSPENSIONS.] (a) A license to practice social work is automatically suspended if:

(1) a guardian of a licensee is appointed by order of a court pursuant to sections 524.5-101 and 524.5.102; or

(2) the licensee is committed by order of a court pursuant to chapter 253B.

(b) A license remains suspended until:

(1) the licensee is restored to capacity by a court; and

(2) upon petition by the licensee and after a hearing or an agreement with the licensee, the board terminates the suspension.

(c) If the board terminates the suspension, it may do so with or without conditions or restrictions, including, but not limited to, participation in the health professional services program.

Subd. 2. [CEASE AND DESIST ORDERS.] (a) The board or a designated board member may issue a cease and desist order to stop a person from engaging in unauthorized practice or from violating or threatening to violate a statute or rule enforced by the board or an order, stipulation, or agreement agreed to or issued by the board.

(b) 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 the person fails to request a hearing in writing postmarked within 15 calendar days after service of the cease and desist order, the order is the final order of the board and is not reviewable by a court or agency.

(c) If the board receives a written request for a hearing postmarked within 15 calendar days after service of the cease and desist order, the board must schedule a hearing within 30 calendar days of receiving the request.

(d) The administrative law judge must issue a report within 30 calendar days after the contested case hearing is concluded.

(e) Within 30 calendar days after the board receives the administrative law judge's report, the board must issue a final order modifying, vacating, or making permanent the cease and desist order. The final order remains in effect until modified or vacated by the board.

(f) If a person does not comply with a cease and desist order, the board may institute a proceeding in any district court to obtain injunctive relief or other appropriate relief, including but not limited to, a civil penalty payable to the board of up to \$10,000 for each violation.

(g) A cease and desist order issued pursuant to this subdivision does not relieve a person from criminal prosecution by a competent authority or from disciplinary action by the board.

Subd. 3. [INJUNCTIVE RELIEF.] (a) In addition to any other remedy provided by law, the board may bring an action in district court for injunctive relief to restrain any unauthorized practice or violation or threatened violation of any statute or rule, stipulation, or agreement agreed to or enforced by the board or an order issued by the board.

(b) A temporary restraining order may be granted in the proceeding if continued activity by a person would create an imminent risk of harm to others.

(c) Injunctive relief granted pursuant to this subdivision does not relieve a person from criminal prosecution by a competent authority or from disciplinary action by the board.

(d) In bringing an action for injunctive relief, the board need not show irreparable harm.

Sec. 55. [148D.270] [VOLUNTARY ACTIONS.]

Subdivision 1. [AGREEMENTS FOR CORRECTIVE ACTION.] (a) The board or a designated board member may enter into an agreement for corrective action with an applicant or licensee when the board or a designated board member determines that a complaint alleging a violation of a statute or rule enforced by the board or an order issued by the board may best be resolved through an agreement for corrective action when disciplinary action is not required to protect the public.

(b) An agreement for corrective action must:

(1) be in writing;

(2) specify the facts upon which the agreement is based;

(3) clearly indicate the corrective action agreed upon; and

(4) provide that the complaint that resulted in the agreement must be dismissed by the board or the designated board member upon successful completion of the corrective action.

(c) The board or designated board member may determine successful completion when the applicant or licensee submits a request for dismissal that documents the applicant's or licensee's successful completion of the corrective action. The burden of proof is on the applicant or licensee to prove successful completion.

(d) An agreement for corrective action is not disciplinary action but must be treated as public data under chapter 13.

(e) The board may impose a fee to reimburse the board for all or part of the costs of the proceedings resulting in a corrective action, including, but not limited to, the amount paid by the board for services received from or expenses incurred by the Office of the Attorney General, board members, board staff, or the amount paid by the board for reproducing records.

(f) The board or designated board member must not enter into an agreement for corrective action when the complaint alleged sexual conduct with a client unless there is insufficient evidence to justify disciplinary action but there is a basis for corrective action.

Subd. 2. [STIPULATIONS TO CEASE PRACTICING SOCIAL WORK.] (a) The board or a designated board member may enter into a stipulation to cease practicing social work with a licensee if the board or designated board member determines that the licensee is unable to practice social work competently or safely or that the social worker's continued practice creates an unacceptable risk of safety to clients, potential clients, or the public.

(b) A stipulation to cease practicing social work must:

(1) be in writing;

(2) specify the facts upon which the stipulation is based;

(3) clearly indicate that the licensee must not practice social work and must not hold out to the public that the social worker is licensed; and

(4) specify the term of the stipulation or when and under what circumstances the licensee may petition the board for termination of the stipulation.

(c) A stipulation to cease practicing social work is not disciplinary action but must be treated as public data under chapter 13.

(d) Nothing in this subdivision prevents the board or designated board member from taking any other disciplinary or adversarial action authorized by sections 148D.255 to 148D.265 in lieu of or in addition to entering into a stipulation to cease practicing social work.

REQUIREMENTS OF NONLICENSEES

Sec. 56. [148D.275] [UNAUTHORIZED PRACTICE.]

No individual may:

(1) engage in the practice of social work without a social work license under sections 148D.055 and 148D.060, except when the individual is exempt from licensure pursuant to section 148D.065;

(2) provide social work services to a client who resides in this state when the individual providing the services is not licensed as a social worker pursuant to sections 148D.055 to 148D.060, except when the individual is exempt from licensure pursuant to section 148D.065.

Sec. 57. [148D.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 148D.195, unless that individual holds a license pursuant to sections 148D.055 and 148D.060, or practices in a setting exempt from licensure pursuant to section 148D.065.

Sec. 58. [148D.285] [REPORTING REQUIREMENTS.]

Subdivision 1. [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 must report to the board:

(1) any adversarial action, disciplinary action, or other sanction for conduct that might constitute grounds for action under section 148D.190;

(2) the resignation of any applicant or licensee prior to the conclusion of any proceeding for adversarial action, disciplinary action, or other sanction for conduct that might constitute grounds for action under section 148D.190; or

(3) the resignation of any applicant or licensee prior to the commencement of a proceeding for adversarial action, disciplinary action, or other sanction for conduct that might constitute grounds for action under section 148D.190, but after the applicant or licensee had knowledge that a proceeding was contemplated or in preparation.

Subd. 2. [PROFESSIONAL SOCIETIES AND ASSOCIATIONS.] A state or local professional society or association whose members consist primarily of licensed social workers must report to the board any adversarial action, disciplinary action, or other sanction taken against a member.

Subd. 3. [IMMUNITY.] An individual, professional society or association, state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, other health care institution or organization or other entity is immune from civil liability or criminal prosecution for submitting in good faith a report under subdivision 1 or 2 or for otherwise reporting, providing information, or testifying about violations or alleged violations of this chapter.

Sec. 59. [148D.290] [PENALTIES.]

An individual or other entity that violates section 148D.275, 148D.280, or 148D.285 is guilty of a misdemeanor.

Sec. 60. Minnesota Statutes 2004, section 214.06, subdivision 1, is amended to read:

Subdivision 1. [FEE ADJUSTMENT.] Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust, as needed, any fee which the commissioner of health or the board is empowered to assess. As provided in section 16A.1285, the adjustment shall be an amount sufficient so that the total fees collected by each board will ~~as closely as possible equal be based on~~ anticipated expenditures during the fiscal biennium, including expenditures for the programs authorized by sections ~~214.17 to 214.25 and 214.31 to 214.37~~ 214.10, 214.103, 214.11, 214.17 to 214.24, 214.28 to 214.37, and 214.40, except that a health-related licensing board may have anticipated expenditures in excess of anticipated revenues in a biennium by using accumulated surplus revenues from fees collected by that board in previous bienniums. A health-related licensing board shall not spend more money than the amount appropriated by the legislature for a biennium. For members of an occupation registered after July 1, 1984, by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. ~~Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund.~~

Sec. 61. Minnesota Statutes 2004, section 214.06, is amended by adding a subdivision to read:

Subd. 1a. [HEALTH OCCUPATIONS LICENSING ACCOUNT.] Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund. The commissioner of finance shall ensure that the revenues and expenditures of each health-related licensing board are tracked separately in the health occupations licensing account.

Sec. 62. [REPEALER.]

Subdivision 1. [REPEAL OF STATUTES.] Minnesota Statutes 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; and 148B.289, are repealed.

Subd. 2. [REPEAL OF RULES.] Minnesota Rules, parts 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187; 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; and 8740.0345, are repealed.

Sec. 63. [EFFECTIVE DATE.]

Sections 1 to 60 and 62 are effective January 1, 2006. Section 61 is effective July 1, 2005.

ARTICLE 2

BOARD OF SOCIAL WORK
CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2004, section 13.383, subdivision 10, is amended to read:

Subd. 10. [SOCIAL WORKERS.] (a) [DISCIPLINARY DATA GENERALLY.] Data held by the Board of Social Work in connection with disciplinary matters are classified under sections ~~148B.281, subdivisions 2 and 5, and 148B.285~~ 148D.255 to 148D.270.

(b) [REPORTS OF VIOLATIONS.] Certain reports of violations submitted to the Board of Social Work are classified under ~~section 148B.284~~ sections 148D.240 to 148D.250.

(c) [CLIENT RECORDS.] Client records of a patient cared for by a social worker who is under review by the Board of Social Work are classified under ~~sections 148B.282 and 148B.286, subdivision 3~~ section 148D.230.

Sec. 2. Minnesota Statutes 2004, section 13.411, subdivision 5, is amended to read:

Subd. 5. [SOCIAL WORKERS.] Residence addresses and telephone numbers of social worker licensees are classified under ~~section 148B.285, subdivision 5~~ chapter 148D.

Sec. 3. Minnesota Statutes 2004, section 144.335, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them:

(a) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient appoints in writing as a representative, including a health care agent acting pursuant to chapter 145C, unless the authority of the agent has been limited by the principal in the principal's health care directive. Except for minors who have received health care services pursuant to sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(b) "Provider" means (1) any person who furnishes health care services and is regulated to furnish the services pursuant to chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148C, 148D, 150A, 151, 153, or 153A, or Minnesota Rules, chapter 4666; (2) a home care provider licensed under section 144A.46; (3) a health care facility licensed pursuant to this chapter or chapter 144A; (4) a physician assistant registered under chapter 147A; and (5) an unlicensed mental health practitioner regulated pursuant to sections 148B.60 to 148B.71.

(c) "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

Sec. 4. Minnesota Statutes 2004, section 144A.46, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

(1) a person who is licensed as a registered nurse under sections 148.171 to 148.285 and who independently provides nursing services in the home without any contractual or employment relationship to a home care provider or other organization;

(2) a personal care assistant who provides services to only one individual under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, and 256B.04, subdivision 16;

(3) a person or organization that exclusively offers, provides, or arranges for personal care assistant services to only one individual under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, and 256B.04, subdivision 16;

(4) a person who is licensed under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization;

(5) a provider that is licensed by the commissioner of human services to provide semi-independent living services under Minnesota Rules, parts 9525.0500 to 9525.0660 when providing home care services to a person with a developmental disability;

(6) a provider that is licensed by the commissioner of human services to provide home and community-based services under Minnesota Rules, parts 9525.2000 to 9525.2140 when providing home care services to a person with a developmental disability;

(7) a person or organization that provides only home management services, if the person or organization is registered under section 144A.461; or

(8) a person who is licensed as a social worker under ~~sections 148B.18 to 148B.289~~ chapter 148D and who provides social work services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.

An exemption under this subdivision does not excuse the individual from complying with applicable provisions of the home care bill of rights.

Sec. 5. Minnesota Statutes 2004, section 147.09, is amended to read:

147.09 [EXEMPTIONS.]

Section 147.081 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.

(2) A licensed physician from a state or country who is in actual consultation here.

(3) A licensed or registered physician who treats the physician's home state patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.

(4) A student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized medical school.

(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board, provided the student has a residency permit issued by the board under section 147.0391.

(6) A person employed in a scientific, sanitary, or teaching capacity by the state university, the Department of Education, a public or private school, college, or other bona fide educational institution, a nonprofit organization, which has tax-exempt status in accordance with the Internal Revenue Code, section 501(c)(3), and is organized and operated primarily for the purpose of conducting scientific research directed towards discovering the causes of and cures for human diseases, or the state Department of Health, whose duties are entirely of a research, public health, or educational character, while engaged in such duties; provided that if the research includes the study of humans, such research shall be conducted under the supervision of one or more physicians licensed under this chapter.

(7) Physician's assistants registered in this state.

(8) A doctor of osteopathy duly licensed by the state Board of Osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with this chapter provided that the doctor confines activities within the scope of the license.

(9) Any person licensed by a health related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including psychological practitioners with respect to the use of hypnosis; provided that the person confines activities within the scope of the license.

(10) A person who practices ritual circumcision pursuant to the requirements or tenets of any established religion.

(11) A Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

(12) A physician licensed to practice medicine in another state who is in this state for the sole purpose of providing medical services at a competitive athletic event. The physician may practice medicine only on participants in the athletic event. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to adopt the contents of the form by rule. The physician shall provide evidence satisfactory to the board of a current unrestricted license in another state. The board shall charge a fee of \$50 for the registration.

(13) A psychologist licensed under section 148.907 or a social worker licensed under ~~section 148B.21~~ chapter 148D who uses or supervises the use of a penile or vaginal plethysmograph in assessing and treating individuals suspected of engaging in aberrant sexual behavior and sex offenders.

(14) Any person issued a training course certificate or credentialed by the Emergency Medical Services Regulatory Board established in chapter 144E, provided the person confines activities within the scope of training at the certified or credentialed level.

(15) An unlicensed complementary and alternative health care practitioner practicing according to chapter 146A.

Sec. 6. Minnesota Statutes 2004, section 214.01, subdivision 2, is amended to read:

Subd. 2. [HEALTH-RELATED LICENSING BOARD.] "Health-related licensing board" means the Board of Examiners of Nursing Home Administrators established pursuant to section 144A.19, the Office of Unlicensed Complementary and Alternative Health Care Practice established pursuant to section 146A.02, the Board of Medical Practice created pursuant to section 147.01, the Board of Nursing created pursuant to section 148.181, the Board of Chiropractic Examiners established pursuant to section 148.02, the Board of Optometry established pursuant to section 148.52, the Board of Physical Therapy established pursuant to section 148.67, the Board of Psychology established pursuant to section 148.90, the Board of Social Work pursuant to section ~~148B.19~~ 148D.025, the Board of Marriage and Family Therapy pursuant to section 148B.30, the Office of Mental Health Practice established pursuant to section 148B.61, the Board of Behavioral Health and Therapy established by section 148B.51, the Alcohol and Drug Counselors Licensing Advisory Council established pursuant to section 148C.02, the Board of Dietetics and Nutrition Practice established under section 148.622, the Board of Dentistry established pursuant to section 150A.02, the Board of Pharmacy established pursuant to section 151.02, the Board of Podiatric Medicine established pursuant to section 153.02, and the Board of Veterinary Medicine, established pursuant to section 156.01.

Sec. 7. Minnesota Statutes 2004, section 245.462, subdivision 18, is amended to read:

Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285; and:

(i) who is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a national nurse certification organization; or

(ii) who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person licensed as an independent clinical social worker under ~~section 148B.21, subdivision 6~~ chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: an individual licensed by the Board of Psychology under sections 148.88 to 148.98 who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy: the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; or

(6) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 8. Minnesota Statutes 2004, section 245.4871, subdivision 27, is amended to read:

Subd. 27. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under ~~section 148B.21, subdivision 6~~ chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;

(3) in psychology, the mental health professional must be an individual licensed by the board of psychology under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders or emotional disturbances; or

(6) in allied fields, the mental health professional must be a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of emotional disturbances.

Sec. 9. Minnesota Statutes 2004, section 256B.0625, subdivision 38, is amended to read:

Subd. 38. [PAYMENTS FOR MENTAL HEALTH SERVICES.] Payments for mental health services covered under the medical assistance program that are provided by masters-prepared mental health professionals shall be 80 percent of the rate paid to doctoral-prepared professionals. Payments for mental health services covered under the medical assistance program that are provided by masters-prepared mental health professionals employed by community mental health centers shall be 100 percent of the rate paid to doctoral-prepared professionals. For purposes of reimbursement of mental health professionals under the medical assistance program, all social workers who:

(1) have received a master's degree in social work from a program accredited by the Council on Social Work Education;

(2) are licensed at the level of graduate social worker or independent social worker; and

(3) are practicing clinical social work under appropriate supervision, as defined by ~~section 148B.18~~ chapter 148D; meet all requirements under Minnesota Rules, part 9505.0323, subpart 24, and shall be paid accordingly.

Sec. 10. Minnesota Statutes 2004, section 256J.08, subdivision 73a, is amended to read:

Subd. 73a. [QUALIFIED PROFESSIONAL.] (a) For physical illness, injury, or incapacity, a "qualified professional" means a licensed physician, a physician's assistant, a nurse practitioner, or a licensed chiropractor.

(b) For mental retardation and intelligence testing, a "qualified professional" means an individual qualified by training and experience to administer the tests necessary to make determinations, such as tests of intellectual functioning, assessments of adaptive behavior, adaptive skills, and developmental functioning. These professionals include licensed psychologists, certified school psychologists, or certified psychometrists working under the supervision of a licensed psychologist.

(c) For learning disabilities, a "qualified professional" means a licensed psychologist or school psychologist with experience determining learning disabilities.

(d) For mental health, a "qualified professional" means a licensed physician or a qualified mental health professional. A "qualified mental health professional" means:

(1) for children, in psychiatric nursing, a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) for adults, in psychiatric nursing, a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in clinical social work, a person licensed as an independent clinical social worker under ~~section 148B.21, subdivision 6~~ chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(4) in psychology, an individual licensed by the Board of Psychology under sections 148.88 to 148.98, who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

(5) in psychiatry, a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; and

(6) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39, with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 11. Minnesota Statutes 2004, section 319B.02, subdivision 19, is amended to read:

Subd. 19. [PROFESSIONAL SERVICES.] "Professional services" means services of the type required or permitted to be furnished by a professional under a license, registration, or certificate issued by the state of Minnesota to practice medicine and surgery under sections 147.01 to 147.22, as a physician assistant pursuant to sections 147A.01 to 147A.27, chiropractic under sections 148.01 to 148.105, registered nursing under sections 148.171 to 148.285, optometry under sections 148.52 to 148.62, psychology under sections 148.88 to 148.98, social work under ~~sections 148B.18 to 148B.289~~ chapter 148D, dentistry and dental hygiene under sections 150A.01 to 150A.12, pharmacy under sections 151.01 to 151.40, podiatric medicine under sections 153.01 to 153.25, veterinary medicine under sections 156.001 to 156.14, architecture, engineering, surveying, landscape architecture, geoscience, and certified interior design under sections 326.02 to 326.15, accountancy under chapter 326A, or law under sections 481.01 to 481.17, or under a license or certificate issued by another state under similar laws. Professional services includes services of the type required to be furnished by a professional pursuant to a license or other authority to practice law under the laws of a foreign nation.

Sec. 12. Minnesota Statutes 2004, section 319B.40, is amended to read:

319B.40 [PROFESSIONAL HEALTH SERVICES.]

(a) Individuals who furnish professional services pursuant to a license, registration, or certificate issued by the state of Minnesota to practice medicine pursuant to sections 147.01 to 147.22, as a physician assistant pursuant to sections 147A.01 to 147A.27, chiropractic pursuant to sections 148.01 to 148.106, registered nursing pursuant to sections 148.171 to 148.285, optometry pursuant to sections 148.52 to 148.62, psychology pursuant to sections 148.88 to 148.98, social work pursuant to ~~sections 148B.18 to 148B.289~~ chapter 148D, dentistry pursuant to sections 150A.01 to 150A.12, pharmacy pursuant to sections 151.01 to 151.40, or podiatric medicine pursuant to sections 153.01 to 153.26 are specifically authorized to practice any of these categories of services in combination if the individuals are organized under this chapter.

(b) This authorization does not authorize an individual to practice any profession, or furnish a professional service, for which the individual is not licensed, registered, or certified, but otherwise applies regardless of any contrary provision of a licensing statute or rules adopted pursuant to that statute, related to practicing and organizing in combination with other health services professionals.

Sec. 13. [EFFECTIVE DATE.]

This article is effective January 1, 2006.

ARTICLE 3

PHYSICAL THERAPISTS

Section 1. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

Subd. 3. [PHYSICAL THERAPIST ASSISTANT.] "Physical therapist assistant" means a graduate of a physical therapist assistant educational program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) or a recognized comparable national accrediting agency approved by the board. The physical therapist assistant, under the direction and supervision of the physical therapist, performs physical therapy interventions and assists with coordination, communication, and documentation; and patient-client-related instruction. The physical therapist is not required to be on-site except as required under Minnesota Rules, part 5601.1500, but must be easily available by telecommunications.

Sec. 2. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

Subd. 4. [PHYSICAL THERAPY AIDE.] "Physical therapy aide" means a person, working under the direct supervision of a physical therapist, who is not a physical therapist assistant as defined in subdivision 3, who performs tasks as provided under Minnesota Rules, part 5601.1400.

Sec. 3. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

Subd. 5. [STUDENT PHYSICAL THERAPIST.] "Student physical therapist" means a person in a professional educational program, approved by the board under section 148.705, who is satisfying supervised clinical education requirements by performing physical therapy under the on-site supervision of a licensed physical therapist. "On-site supervision" means the physical therapist is easily available for instruction to the student physical therapist. The physical therapist shall have direct contact with the patient during at least every second treatment session by the student physical therapist. Telecommunications, except within the facility, does not meet the requirement of on-site supervision.

Sec. 4. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

Subd. 6. [STUDENT PHYSICAL THERAPIST ASSISTANT.] "Student physical therapist assistant" means a person in a physical therapist assistant educational program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) or a recognized comparable national accrediting agency approved by the board. The student physical therapist assistant, under the direct supervision of the physical therapist, or the direct supervision of the physical therapist and physical therapist assistant, performs physical therapy interventions and assists with coordination, communication, documentation, and patient-client-related instruction. "Direct supervision" means the physical therapist is physically present and immediately available to provide instruction to the student physical therapist assistant.

Sec. 5. Minnesota Statutes 2004, section 148.65, is amended by adding a subdivision to read:

Subd. 7. [SUPPORTIVE PERSONNEL.] "Supportive personnel" means a physical therapist assistant and a physical therapy aide.

Sec. 6. Minnesota Statutes 2004, section 148.706, is amended to read:

148.706 [SUPERVISION OF ASSISTANTS ~~AND~~, AIDES, AND STUDENTS.]

Every physical therapist who uses the services of ~~an~~ a physical therapist assistant or physical therapy aide for the purpose of assisting in the practice of physical therapy is responsible for functions performed by the assistant or aide while engaged in such assistance. The physical therapist shall ~~permit the assistant or aide to perform only those functions which the therapist is authorized by rule to delegate to a physical therapist assistant or assign to a physical therapy aide and shall provide supervision as specified~~ delegate duties to the physical therapist assistant and assign tasks to the physical therapy aide in accordance with Minnesota Rules, part 5601.1400. Physical therapists who instruct student physical therapists and student physical therapist assistants are responsible for the functions performed by the students and shall supervise the students as provided under section 148.65, subdivisions 5 and 6.

Sec. 7. [148.735] [CANCELLATION OF LICENSE IN GOOD STANDING.]

Subdivision 1. [BOARD APPROVAL; REPORTING.] A physical therapist holding an active license to practice physical therapy in the state may, upon approval of the board, be granted license cancellation if the board is not investigating the person as a result of a complaint or information received or if the board has not begun disciplinary proceedings against the person. Such action by the board shall be reported as a cancellation of a license in good standing.

Subd. 2. [FEES NONREFUNDABLE.] A physical therapist who receives board approval for license cancellation is not entitled to a refund of any license fees paid for the licensure year in which cancellation of the license occurred.

Subd. 3. [NEW LICENSE AFTER CANCELLATION.] If a physical therapist who has been granted board approval for license cancellation desires to resume the practice of physical therapy in Minnesota, that physical therapist must obtain a new license by applying for licensure and fulfilling the requirements then in existence for obtaining an initial license to practice physical therapy in Minnesota.

Sec. 8. [148.736] [CANCELLATION OF CREDENTIALS UNDER DISCIPLINARY ORDER.]

Subdivision 1. [BOARD APPROVAL; REPORTING.] A physical therapist, whose right to practice is under suspension, condition, limitation, qualification, or restriction by the board may be granted cancellation of credentials by approval of the board. Such action by the board shall be reported as cancellation while under discipline. Credentials, for purposes of this section, means board authorized documentation of the privilege to practice physical therapy.

Subd. 2. [FEES NONREFUNDABLE.] A physical therapist who receives board approval for credential cancellation is not entitled to a refund of any fees paid for the credentialing year in which cancellation of the credential occurred.

Subd. 3. [NEW CREDENTIAL AFTER CANCELLATION.] If a physical therapist who has been granted board approval for credential cancellation desires to resume the practice of physical therapy in Minnesota, that physical therapist must obtain a new credential by applying to the board and fulfilling the requirements then in existence for obtaining an initial credential to practice physical therapy in Minnesota.

Sec. 9. [148.737] [CANCELLATION OF LICENSE FOR NONRENEWAL.]

The Board of Physical Therapy shall not renew, reissue, reinstate, or restore a license that has lapsed on or after January 1, 2006, and has not been renewed within two annual license renewal cycles starting January 1, 2008. A licensee whose license is canceled for nonrenewal must obtain a new license by applying for licensure and fulfilling all requirements then in existence for an initial license to practice physical therapy in Minnesota.

Sec. 10. Minnesota Statutes 2004, section 148.75, is amended to read:

148.75 [LICENSES; DENIAL, SUSPENSION, REVOCATION.]

(a) The state Board of Physical Therapy may refuse to grant a license to any physical therapist, or may suspend or revoke the license of any physical therapist for any of the following grounds:

- (1) using drugs or intoxicating liquors to an extent which affects professional competence;
- (2) conviction of a felony;
- (3) conviction for violating any state or federal narcotic law;
- (4) obtaining a license or attempting to obtain a license by fraud or deception;
- (5) conduct unbecoming a person licensed as a physical therapist or conduct detrimental to the best interests of the public;
- (6) gross negligence in the practice of physical therapy as a physical therapist;
- (7) treating human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state in the practice of medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of physical therapy rule;
- (8) treating human ailments, without referral, by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;
- (9) failing to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders to "evaluate and treat";
- (10) treating human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state;
- (11) inappropriate delegation to a physical therapist assistant or inappropriate task assignment to an aide or inadequate supervision of ~~either level of supportive personnel~~ a student physical therapist, physical therapist assistant, student physical therapist assistant, or a physical therapy aide;
- (12) practicing as a physical therapist performing medical diagnosis, the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01;

(13) failing to comply with a reasonable request to obtain appropriate clearance for mental or physical conditions that would interfere with the ability to practice physical therapy, and that may be potentially harmful to patients;

(14) dividing fees with, or paying or promising to pay a commission or part of the fee to, any person who contacts the physical therapist for consultation or sends patients to the physical therapist for treatment;

(15) engaging in an incentive payment arrangement, other than that prohibited by clause (14), that tends to promote physical therapy overuse, that allows the referring person or person who controls the availability of physical therapy services to a client to profit unreasonably as a result of patient treatment;

(16) practicing physical therapy and failing to refer to a licensed health care professional a patient whose medical condition at the time of evaluation has been determined by the physical therapist to be beyond the scope of practice of a physical therapist; ~~and~~

(17) failing to report to the board other licensed physical therapists who violate this section; and

(18) practice of physical therapy under lapsed or nonrenewed credentials.

(b) A license to practice as a physical therapist is suspended if (1) a guardian of the physical therapist is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the physical therapist; or (2) the physical therapist is committed by order of a court pursuant to chapter 253B. The license remains suspended until the physical therapist is restored to capacity by a court and, upon petition by the physical therapist, the suspension is terminated by the Board of Physical Therapy after a hearing.

Sec. 11. [148.754] [EXAMINATION; ACCESS TO MEDICAL DATA.]

(a) If the board has probable cause to believe that a physical therapist comes under section 148.75, paragraph (a), it may direct the physical therapist to submit to a mental or physical examination. For the purpose of this paragraph, every physical therapist is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that they constitute a privileged communication. Failure of the physical therapist to submit to an examination when directed 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. A physical therapist affected under this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that the person can resume the competent practice of physical therapy with reasonable skill and safety to the public.

(b) In any proceeding under paragraph (a), neither the record of proceedings nor the orders entered by the board shall be used against a physical therapist in any other proceeding.

(c) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a physical therapist or applicant without the person's or applicant's consent if the board has probable cause to believe that a physical therapist comes under paragraph (a). The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this paragraph 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 paragraph, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this paragraph is classified as private under sections 13.01 to 13.87.

Sec. 12. [148.755] [TEMPORARY SUSPENSION OF LICENSE.]

In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the license of a physical therapist if the board finds that the physical therapist has violated a statute or rule which the board is empowered to enforce and continued practice by the physical therapist would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the physical therapist, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act, chapter 14. The physical therapist shall be provided with at least 20 days' notice of any hearing held pursuant to this section. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Sec. 13. [REPEALER.]

Minnesota Rules, part 5601.0100, subparts 3 and 4, are repealed.

ARTICLE 4

DENTISTRY

Section 1. Minnesota Statutes 2004, section 150A.01, subdivision 6a, is amended to read:

Subd. 6a. [FACULTY DENTIST.] "Faculty dentist" means a person who is licensed to practice dentistry as a faculty member of a school of dentistry, pursuant to section 150A.06, subdivision 1a.

Sec. 2. Minnesota Statutes 2004, section 150A.06, subdivision 1a, is amended to read:

Subd. 1a. [FACULTY DENTISTS.] (a) Faculty members of a school of dentistry must be licensed in order to practice dentistry as defined in section 150A.05. The board may issue to members of the faculty of a school of dentistry a license designated as either a "limited faculty license" or a "full faculty license" entitling the holder to practice dentistry within the terms described in paragraph (b) or (c). The dean of a school of dentistry and program directors of a Minnesota dental hygiene or dental assisting school accredited by the Commission on Dental Accreditation of the American Dental Association shall certify to the board those members of the school's faculty who practice dentistry but are not licensed to practice dentistry in Minnesota. A faculty member who practices dentistry as defined in section 150A.05, before beginning duties in a school of dentistry or a dental hygiene or dental assisting school, shall apply to the board for a limited or full faculty license. ~~The license expires the next July 1 and may, at the discretion of the board, be renewed on a yearly basis.~~ Pursuant to Minnesota Rules, chapter 3100, and at the discretion of the board, a limited faculty license must be renewed annually and a full faculty license must be renewed biennially. The faculty applicant shall pay a nonrefundable fee set by the board for issuing and renewing the faculty license. The faculty license is valid during the time the holder remains a member of the faculty of a school of dentistry or a dental hygiene or dental assisting school and subjects the holder to this chapter.

(b) The board may issue to dentist members of the faculty of a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association, a license designated as a limited faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of teaching or conducting research. The practice of dentistry at a school facility for purposes other than teaching or research is not allowed unless the dentist was a faculty member on August 1, 1993.

(c) The board may issue to dentist members of the faculty of a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association a license designated as a full faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities and elsewhere if the holder of the license is employed 50 percent time or more by the school in the practice of teaching or research, and upon successful review by the board of the applicant's qualifications as described in subdivisions 1, 1c, and 4 and board rule. The board, at its discretion, may waive specific licensing prerequisites.

Sec. 3. [150A.091] [FEES.]

Subdivision 1. [FEE REFUNDS.] No fee may be refunded for any reason.

Subd. 2. [APPLICATION FEES.] Each applicant for licensure or registration shall submit with a license or registration application a nonrefundable fee in the following amounts in order to administratively process an application:

- (1) dentist, \$140;
- (2) limited faculty dentist, \$140;
- (3) resident dentist, \$55;
- (4) dental hygienist, \$55;
- (5) registered dental assistant, \$35; and
- (6) dental assistant with a limited registration, \$15.

Subd. 3. [INITIAL LICENSE OR REGISTRATION FEES.] Along with the application fee, each of the following licensees or registrants shall submit a separate prorated initial license or registration fee. The prorated initial fee shall be established by the board based on the number of months of the licensee's or registrant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

- (1) dentist, \$14 times the number of months of the initial term;
- (2) dental hygienist, \$5 times the number of months of the initial term;
- (3) registered dental assistant, \$3 times the number of months of initial term; and
- (4) dental assistant with a limited registration, \$1 times the number of months of the initial term.

Subd. 4. [ANNUAL LICENSE FEES.] Each limited faculty or resident dentist shall submit with an annual license renewal application a fee established by the board not to exceed the following amounts:

- (1) limited faculty dentist, \$168; and
- (2) resident dentist, \$59.

Subd. 5. [BIENNIAL LICENSE OR REGISTRATION FEES.] Each of the following licensees or registrants shall submit with a biennial license or registration renewal application a fee as established by the board, not to exceed the following amounts:

(1) dentist, \$336;

(2) dental hygienist, \$118;

(3) registered dental assistant, \$80; and

(4) dental assistant with a limited registration, \$24.

Subd. 6. [ANNUAL LICENSE LATE FEE.] Applications for renewal of any license received after the time specified in Minnesota Rules, part 3100.1750, must be assessed a late fee equal to 50 percent of the annual renewal fee.

Subd. 7. [BIENNIAL LICENSE OR REGISTRATION LATE FEE.] Applications for renewal of any license or registration received after the time specified in Minnesota Rules, part 3100.1700, must be assessed a late fee equal to 25 percent of the biennial renewal fee.

Subd. 8. [DUPLICATE LICENSE OR REGISTRATION FEE.] Each licensee or registrant shall submit, with a request for issuance of a duplicate of the original license or registration, or of an annual or biennial renewal of it, a fee in the following amounts:

(1) original dentist or dental hygiene license, \$35; and

(2) initial and renewal registration certificates and license renewal certificates, \$10.

Subd. 9. [LICENSURE AND REGISTRATION BY CREDENTIALS.] Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant by credentials pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota Rules, part 3100.1400, shall submit with the license or registration application a fee in the following amounts:

(1) dentist, \$725;

(2) dental hygienist, \$175; and

(3) registered dental assistant, \$35.

Subd. 10. [REINSTATEMENT FEE.] No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked may have the license or registration reinstated or a new license or registration issued until a fee has been submitted to the board in the following amounts:

(1) dentist, \$140;

(2) dental hygienist, \$55; and

(3) registered dental assistant, \$35.

Subd. 11. [CERTIFICATE APPLICATION FEE FOR ANESTHESIA/SEDATION.] Each dentist shall submit with a general anesthesia or conscious sedation application a fee as established by the board not to exceed the following amounts:

(1) for both a general anesthesia and conscious sedation application, \$50;

(2) for a general anesthesia application only, \$50; and

(3) for a conscious sedation application only, \$50.

Subd. 12. [DUPLICATE CERTIFICATE FEE FOR ANESTHESIA/SEDATION.] Each dentist shall submit with a request for issuance of a duplicate of the original general anesthesia or conscious sedation certificate a fee in the amount of \$10.

Subd. 13. [ON-SITE INSPECTION FEE.] An on-site inspection fee must be paid to the individual, organization, or agency conducting the inspection and be limited to a maximum fee as determined by the board. Travel, lodging, and other expenses are not part of the on-site inspection fee.

Subd. 14. [AFFIDAVIT OF LICENSURE.] Each licensee or registrant shall submit with a request for an affidavit of licensure a fee in the amount of \$10.

Subd. 15. [VERIFICATION OF LICENSURE.] Each institution or corporation shall submit with a request for verification of a license or registration a fee in the amount of \$5 for each license or registration to be verified.

[EFFECTIVE DATE.] Subdivisions 11 and 12 are effective

ARTICLE 5

PHYSICIAN ASSISTANTS

Section 1. Minnesota Statutes 2004, section 147A.18, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION.] (a) A supervising physician may delegate to a physician assistant who is registered with the board, certified by the National Commission on Certification of Physician Assistants or successor agency approved by the board, and who is under the supervising physician's supervision, the authority to prescribe, dispense, and administer legend drugs, medical devices, and controlled substances subject to the requirements in this section. The authority to dispense includes, but is not limited to, the authority to request, receive, and dispense sample drugs. This authority to dispense extends only to those drugs described in the written agreement developed under paragraph (b).

(b) The agreement between the physician assistant and supervising physician and any alternate supervising physicians must include a statement by the supervising physician regarding delegation or nondelegation of the functions of prescribing, dispensing, and administering of legend drugs and medical devices to the physician assistant. The statement must include a protocol indicating categories of drugs for which the supervising physician delegates prescriptive and dispensing authority. The delegation must be appropriate to the physician assistant's practice and within the scope of the physician assistant's training. Physician assistants who have been delegated the authority to prescribe, dispense, and administer legend drugs and medical devices shall provide evidence of current certification by the National Commission on Certification of Physician Assistants or its successor agency when registering or reregistering as physician assistants. Physician assistants who have been delegated the authority to prescribe controlled substances must present evidence of the certification and hold a valid DEA certificate.

Supervising physicians shall retrospectively review the prescribing, dispensing, and administering of legend and controlled drugs and medical devices by physician assistants, when this authority has been delegated to the physician assistant as part of the delegation agreement between the physician and the physician assistant. This review must take place ~~at least weekly~~ as outlined in the internal protocol. The process and schedule for the review must be outlined in the delegation agreement.

(c) The board may establish by rule:

(1) a system of identifying physician assistants eligible to prescribe, administer, and dispense legend drugs and medical devices;

(2) a system of identifying physician assistants eligible to prescribe, administer, and dispense controlled substances;

(3) a method of determining the categories of legend and controlled drugs and medical devices that each physician assistant is allowed to prescribe, administer, and dispense; and

(4) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe legend and controlled drugs and medical devices.

Sec. 2. Minnesota Statutes 2004, section 147A.18, subdivision 3, is amended to read:

Subd. 3. [OTHER REQUIREMENTS AND RESTRICTIONS.] (a) The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each category of drug or medical device, or controlled substance the physician assistant may prescribe, dispense, and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subdivision 5. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to an addition or deletion to categories delegated in the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.

(b) The supervising physician and physician assistant shall review delegation of prescribing, dispensing, and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.

(c) Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name, and address, ~~and telephone number~~ of the prescribing physician assistant ~~and of the physician serving as supervisor~~.

(d) In prescribing, dispensing, and administering legend drugs and medical devices, including controlled substances as defined in section 152.01, subdivision 4, a physician assistant must conform with the agreement, chapter 151, and this chapter.

ARTICLE 6

RESPIRATORY THERAPISTS

Section 1. Minnesota Statutes 2004, section 147C.05, is amended to read:

147C.05 [SCOPE OF PRACTICE.]

(a) The practice of respiratory care by a registered respiratory care practitioner includes, but is not limited to, the following services:

(1) providing and monitoring therapeutic administration of medical gases, aerosols, humidification, and pharmacological agents related to respiratory care procedures, but not including administration of general anesthesia;

(2) carrying out therapeutic application and monitoring of mechanical ventilatory support;

(3) providing cardiopulmonary resuscitation and maintenance of natural airways and insertion and maintenance of artificial airways;

(4) assessing and monitoring signs, symptoms, and general behavior relating to, and general physical response to, respiratory care treatment or evaluation for treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics;

(5) obtaining physiological specimens and interpreting physiological data including:

(i) analyzing arterial and venous blood gases;

(ii) assessing respiratory secretions;

(iii) measuring ventilatory volumes, pressures, and flows;

(iv) testing pulmonary function;

(v) testing and studying the cardiopulmonary system; and

(vi) diagnostic testing of breathing patterns related to sleep disorders;

(6) assisting hemodynamic monitoring and support of the cardiopulmonary system;

(7) assessing and making suggestions for modifications in the treatment regimen based on abnormalities, protocols, or changes in patient response to respiratory care treatment;

(8) providing cardiopulmonary rehabilitation including respiratory-care related educational components, postural drainage, chest physiotherapy, breathing exercises, aerosolized administration of medications, and equipment use and maintenance;

(9) instructing patients and their families in techniques for the prevention, alleviation, and rehabilitation of deficiencies, abnormalities, and diseases of the cardiopulmonary system; and

(10) transcribing and implementing physician orders for respiratory care services.

(b) Patient service by a practitioner must be limited to:

(1) services within the training and experience of the practitioner; and

(2) services within the parameters of the laws, rules, and standards of the facilities in which the respiratory care practitioner practices.

(c) Respiratory care services provided by a registered respiratory care practitioner, whether delivered in a health care facility or the patient's residence, must not be provided except upon referral from a physician.

(d) This section does not prohibit an individual licensed or registered as a respiratory therapist in another state or country from providing respiratory care in an emergency in this state, providing respiratory care as a member of an organ harvesting team, or from providing respiratory care on board an ambulance as part of an ambulance treatment team.

ARTICLE 7

LICENSED PROFESSIONAL COUNSELORS, ALCOHOL AND DRUG COUNSELORS

Section 1. Minnesota Statutes 2004, section 148B.53, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] (a) To be licensed as a licensed professional counselor (LPC), an applicant must provide evidence satisfactory to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's or doctoral degree program in counseling or a related field, as determined by the board based on the criteria in paragraph (b), that includes a minimum of 48 semester hours or 72 quarter hours and a supervised field experience of not fewer than 700 hours that is counseling in nature;

(4) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board; and

(5) has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) ~~including obtaining a passing score on the examination accepted by the board based on the determinations made by the NBCC or an equivalent national examination as determined by the board,~~ and ethical, oral, and situational examinations if prescribed by the board.

(b) The degree described in paragraph (a), clause (3), must be from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher

Education Accreditation (CHEA). ~~Except as provided in paragraph (e), specific academic course content and training must meet standards established by the CACREP, including~~ include course work in each of the following subject areas:

- (1) the helping relationship, including counseling theory and practice;
- (2) human growth and development;
- (3) lifestyle and career development;
- (4) group dynamics, processes, counseling, and consulting;
- (5) assessment and appraisal;
- (6) social and cultural foundations, including multicultural issues;
- (7) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
- (8) family counseling and therapy;
- (9) research and evaluation; and
- (10) professional counseling orientation and ethics.

(c) To be licensed as a professional counselor, a psychological practitioner licensed under section 148.908 need only show evidence of licensure under that section and is not required to comply with paragraph (a), clauses (1) to (3) and (5), or paragraph (b).

(d) To be licensed as a professional counselor, a Minnesota licensed psychologist need only show evidence of licensure from the Minnesota Board of Psychology and is not required to comply with paragraph (a) or (b).

(e) If the degree described in paragraph (a), clause (3), is from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP), the applicant is deemed to have met the specific course work requirements of paragraph (b).

Sec. 2. Minnesota Statutes 2004, section 148B.53, subdivision 3, is amended to read:

Subd. 3. [FEE.] ~~Each applicant shall pay a Nonrefundable fee~~ fees are as follows:

- (1) initial license application fee for licensed professional counseling (LPC) - \$250;
- (2) annual active license renewal fee for LPC - \$200 or equivalent;
- (3) annual inactive license renewal fee for LPC - \$100;
- (4) license renewal late fee - \$100 per month or portion thereof;
- (5) copy of board order or stipulation - \$10;
- (6) certificate of good standing or license verification - \$10;

- (7) duplicate certificate fee - \$10;
- (8) professional firm renewal fee - \$25;
- (9) initial registration fee - \$50; and
- (10) annual registration renewal fee - \$25.

Sec. 3. [148B.531] [POSTDEGREE COMPLETION OF DEGREE REQUIREMENTS FOR LICENSURE.]

An individual whose degree upon which licensure is to be based included less than 48 semester hours or 72 quarter hours, who did not complete 700 hours of supervised professional practice as part of the degree program, or who did not complete course work in all of the content areas required by section 148B.53, subdivision 1, paragraph (b), may complete these requirements postdegree, in order to obtain licensure, if:

(1) all course work and field experiences are completed through an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA) or through a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP);

(2) all course work and field experiences are taken and passed for credit; and

(3) no more than 20 semester credits or 30 quarter credits are completed postdegree for purposes of licensure unless the credits are earned as part of an organized sequence of study.

Sec. 4. Minnesota Statutes 2004, section 148B.54, subdivision 2, is amended to read:

Subd. 2. [CONTINUING EDUCATION.] At the completion of the first ~~two~~ four years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

Sec. 5. [148B.555] [EXPERIENCED COUNSELOR TRANSITION.]

(a) An applicant for licensure who, prior to December 31, 2003, completed a master's or doctoral degree program in counseling or a related field, as determined by the board, and whose degree was from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA), need not comply with the requirements of section 148B.53, subdivision 1, paragraph (a), clause (3), or (b), so long as the applicant can document five years of full-time postdegree work experience within the practice of professional counseling as defined under section 148B.50, subdivisions 4 and 5.

(b) This section expires July 1, 2007.

Sec. 6. [148B.561] [RETALIATORY PROVISIONS.]

If by the laws of any state or the rulings or decisions of the appropriate officers or boards thereof, any burden, obligation, requirement, disqualification, or disability is put upon licensed professional counselors licensed and in good standing in this state, affecting the right of these licensed professional counselors to be registered or licensed in that state, then the same or like burden, obligation, requirement, disqualification, or disability may be put upon the licensure in this state of licensed professional counselors registered in that state.

Sec. 7. Minnesota Statutes 2004, section 148B.59, is amended to read:

148B.59 [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF DISCIPLINARY ACTION; RESTORATION OF LICENSE.]

(a) The board may impose disciplinary action as described in paragraph (b) 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 professional counseling, that adversely affects the person's ability or fitness to practice professional 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 professional counseling;
- (5) has employed fraud or deception in obtaining or renewing a license, or in passing an examination;
- (6) has had any counseling 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 the Licensed Professional Counseling Act;
- (8) has failed to cooperate with an investigation of the board;
- (9) has demonstrated an inability to practice professional counseling with reasonable skill and safety to clients due to any mental or physical illness or condition;
- (10) 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; ~~and~~

(ii) referring a client to any health care provider as defined in section 144.335 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 and~~

(iii) paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of clients;

(11) has engaged in conduct with a ~~patient~~ client that is sexual or may reasonably be interpreted by the ~~patient~~ client as sexual, or in any verbal behavior that is seductive or sexually demeaning to a ~~patient~~ client;

(12) has been subject to a corrective action or similar action in another jurisdiction or by another regulatory authority; or

(13) has been adjudicated as mentally incompetent, mentally ill, or mentally retarded 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.

(b) If grounds for disciplinary action exist under paragraph (a), 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 professional 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) refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination grade if the board finds that it is in the public interest; or

(7) 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.

(c) In lieu of or in addition to paragraph (b), the board may require, as a condition of continued licensure, termination of suspension, reinstatement of license, examination, or release of examination grades, that the applicant or licensee:

(1) submit to a quality review, as specified by the board, of the applicant's or licensee's ability, skills, or quality of work; and

(2) complete to the satisfaction of the board educational courses specified by the board.

The board may also refer a licensee, if appropriate, to the health professionals services program described in sections 214.31 to 214.37.

(d) Service of the order is effective if the order is served on the applicant, licensee, or counsel of record personally or by mail to the most recent address provided to the board for the licensee, applicant, or counsel of record. The order shall state the reasons for the entry of the order.

Sec. 8. [148B.5901] [TEMPORARY SUSPENSION OF LICENSE.]

(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 licensed professional 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 provided to the board for the licensee.

(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.

Sec. 9. [148B.5905] [MENTAL, PHYSICAL, OR CHEMICAL DEPENDENCY EXAMINATION OR EVALUATION; ACCESS TO MEDICAL DATA.]

(a) If the board has probable cause to believe section 148B.59, paragraph (a), clause (9), applies to a licensee or applicant, the board may direct the person to submit to a mental, physical, or chemical dependency examination or evaluation. For the purpose 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. 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. A licensee or applicant affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the person can resume the competent practice of licensed professional counseling with reasonable skill and safety to the public. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a licensee or applicant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384, 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 section 148B.59, paragraph (a), clause (9), applies to the licensee or applicant. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b); an insurance company; or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall 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. Information obtained under this subdivision is classified as private under sections 13.01 to 13.87.

Sec. 10. [148B.5925] [ASSESSMENT TOOL SECURITY.]

Notwithstanding section 144.335, subdivision 2, paragraphs (a) and (b), a provider shall not be required to provide copies of assessment tools, assessment tool materials, or scoring keys to any individual who has completed an assessment tool or to an individual not qualified to administer, score, and interpret the assessment tool, if the provider reasonably determines that access would compromise the objectivity, fairness, or integrity of the assessment process for the individual or others. If the provider makes this determination, the provider shall, at the discretion of the individual who has completed the assessment tool, release the information either to another provider who is qualified to administer, score, and interpret the assessment tool or furnish a summary of the assessment tool results to the individual or to a third party designated by the individual.

Sec. 11. Minnesota Statutes 2004, section 148C.03, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The commissioner shall, ~~after consultation with the advisory council or a committee established by rule:~~

(a) adopt and enforce rules for licensure of alcohol and drug counselors, including establishing standards and methods of determining whether applicants and licensees are qualified under section 148C.04. The rules must provide for examinations and establish standards for the regulation of professional conduct. The rules must be designed to protect the public;

~~(b) develop and, at least twice a year, administer an examination to assess applicants' knowledge and skills. The commissioner may contract for the administration of an examination with an entity designated by the commissioner. The examinations must be psychometrically valid and reliable; must be written and oral, with the oral examination based on a written case presentation; must minimize cultural bias; and must be balanced in various theories relative to the practice of alcohol and drug counseling;~~

- ~~(e)~~ issue licenses to individuals qualified under sections 148C.01 to 148C.11;
- ~~(d)~~ (c) issue copies of the rules for licensure to all applicants;
- ~~(e)~~ (d) adopt rules to establish and implement procedures, including a standard disciplinary process and rules of professional conduct;
- ~~(f)~~ (e) carry out disciplinary actions against licensees;
- ~~(g)~~ (f) establish, ~~with the advice and recommendations of the advisory council,~~ written internal operating procedures for receiving and investigating complaints and for taking disciplinary actions as appropriate;
- ~~(h)~~ (g) educate the public about the existence and content of the rules for alcohol and drug counselor licensing to enable consumers to file complaints against licensees who may have violated the rules;
- ~~(i)~~ (h) evaluate the rules in order to refine and improve the methods used to enforce the commissioner's standards; and
- ~~(j)~~ (i) collect license fees for alcohol and drug counselors.

Sec. 12. Minnesota Statutes 2004, section 148C.04, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENTS FOR LICENSURE BEFORE JULY 1, 2008.] An applicant for a license must furnish evidence satisfactory to the commissioner that the applicant has met all the requirements in clauses (1) to (3). The applicant must have:

(1) received an associate degree, or an equivalent number of credit hours, and a certificate in alcohol and drug counseling, including 18 semester credits or 270 clock hours of academic course work in accordance with subdivision 5a, paragraph (a), from an accredited school or educational program and 880 clock hours of supervised alcohol and drug counseling practicum;

(2) completed one of the following:

(i) a written case presentation and satisfactorily passed an oral examination ~~established by the commissioner~~ that demonstrates competence in the core functions as determined by the board; or

(ii) satisfactorily completed 2,000 hours of supervised postdegree equivalent professional practice according to subdivision 5b; and

(3) ~~satisfactorily passed a written examination as established by the commissioner~~ examinations for licensure as determined by the board.

Sec. 13. Minnesota Statutes 2004, section 148C.04, subdivision 4, is amended to read:

Subd. 4. [REQUIREMENTS FOR LICENSURE AFTER JULY 1, 2008.] An applicant for a license must submit evidence to the commissioner that the applicant has met one of the following requirements:

(1) the applicant must have:

(i) received a bachelor's degree from an accredited school or educational program, including 18 semester credits or 270 clock hours of academic course work in accordance with subdivision 5a, paragraph (a), from an accredited school or educational program and 880 clock hours of supervised alcohol and drug counseling practicum;

(ii) completed a written case presentation and satisfactorily passed an oral examination ~~established by the commissioner~~ that demonstrates competence in the core functions as determined by the board, submitted to the board a plan for supervision during the first 2,000 hours of professional practice, or submitted proof of supervised professional practice that is acceptable to the board; and

(iii) satisfactorily passed ~~a written examination as established by the commissioner~~ examinations for licensure determined by the board; or

(2) the applicant must meet the requirements of section 148C.07.

Sec. 14. Minnesota Statutes 2004, section 148C.04, is amended by adding a subdivision to read:

Subd. 5b. [SUPERVISED POSTDEGREE PROFESSIONAL PRACTICE.] (a) For the purpose of meeting the requirements of this subdivision, "supervision" means documented interactive consultation, which, subject to the limitations in paragraph (d), clause (2), may be conducted in person, by telephone, or by audio or audiovisual electronic device, with a supervisor as defined in paragraph (c). The supervision shall be adequate to ensure the quality and competence of the activities supervised. Supervisory consultation shall 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 counseling services in the supervisee's practice.

(b) "Postdegree professional practice" means required postdegree paid or volunteer work experience and training that involves the professional oversight by a supervisor approved by the board and that satisfies the supervision requirements in paragraph (d).

(c) For purposes of this subdivision, the supervisor shall:

(1) be a licensed alcohol and drug counselor or other qualified professional as determined by the board;

(2) have four years of experience in providing alcohol and drug counseling;

(3) have received a minimum of 12 hours of training in clinical and ethical supervision, which may include graduate course work, continuing education courses, workshops, or a combination thereof; and

(4) supervise no more than three persons in postdegree professional practice.

(d) (1) The content of supervision must include:

(i) knowledge, skills, values, and ethics with specific application to the practice issues faced by the supervisee, including the core functions under section 148C.01, subdivision 9;

(ii) 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

(iii) the supervisee's permissible scope of practice, as defined in section 148C.01, subdivision 10.

(2) The supervision shall 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.

(3) The supervision shall be completed in no fewer than 12 consecutive months and no more than 36 consecutive months.

(4) The applicant shall include, with an application for licensure, verification of completion of the 2,000 hours of supervised professional practice. Verification shall be on a form specified by the board. The supervisor or supervisors shall verify that the supervisee has completed the required hours of supervision in accordance with this subdivision. The supervised practice required under this subdivision shall be 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. 15. Minnesota Statutes 2004, section 148C.04, subdivision 6, is amended to read:

Subd. 6. [TEMPORARY PERMIT REQUIREMENTS.] (a) The commissioner shall issue a temporary permit to practice alcohol and drug counseling prior to being licensed under this chapter if the person:

(1) either:

(i) submits verification of a current and unrestricted credential for the practice of alcohol and drug counseling from a national certification body or a certification or licensing body from another state, United States territory, or federally recognized tribal authority;

(ii) submits verification of the completion of at least 64 semester credits, including 270 clock hours or 18 semester credits of formal classroom education in alcohol and drug counseling and at least 880 clock hours of alcohol and drug counseling practicum from an accredited school or educational program;

(iii) applies to renew a lapsed license according to the requirements of section 148C.055, subdivision 3, clauses (1) and (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

(iv) meets the requirements of section 148C.11, subdivision 1, paragraph (c), or 6, clauses (1), (2), and (5);

(2) applies, in writing, on an application form provided by the commissioner, which includes the nonrefundable temporary permit fee as specified in section 148C.12 and an affirmation by the person's supervisor, as defined in paragraph (c), clause (1), which is signed and dated by the person and the person's supervisor; and

(3) has not been disqualified to practice temporarily on the basis of a background investigation under section 148C.09, subdivision 1a.

(b) The commissioner must notify the person in writing within 90 days from the date the completed application and all required information is received by the commissioner whether the person is qualified to practice under this subdivision.

(c) A person practicing under this subdivision:

(1) may practice under tribal jurisdiction or under the direct supervision of a person who is licensed under this chapter;

(2) is subject to the Rules of Professional Conduct set by rule; and

(3) is not subject to the continuing education requirements of section 148C.075.

(d) A person practicing under this subdivision must use the title or description stating or implying that the person is a trainee engaged in the practice of alcohol and drug counseling.

(e) A person practicing under this subdivision must annually submit a renewal application on forms provided by the commissioner with the renewal fee required in section 148C.12, subdivision 3, and the commissioner may renew the temporary permit if the trainee meets the requirements of this subdivision. A trainee may renew a practice permit no more than five times.

(f) A temporary permit expires if not renewed, upon a change of employment of the trainee or upon a change in supervision, or upon the granting or denial by the commissioner of a license.

Sec. 16. Minnesota Statutes 2004, section 148C.091, subdivision 1, is amended to read:

Subdivision 1. [FORMS OF DISCIPLINARY ACTION.] When the commissioner finds that an applicant or a licensed alcohol and drug counselor has violated a provision or provisions of sections 148C.01 to 148C.11, or rules promulgated under this chapter, the commissioner may take one or more of the following actions:

(1) refuse to grant a license;

(2) revoke the license;

(3) suspend the license;

(4) impose limitations or conditions;

(5) 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 counselor of any economic advantage gained by reason of the violation charged or to reimburse the commissioner for all costs of the investigation and proceeding; including, but not limited to, the amount paid by the commissioner for services from the Office of Administrative Hearings, attorney fees, court reports, witnesses, reproduction of records, ~~advisory council members' per diem compensation~~, staff time, and expense incurred by ~~advisory council members~~ and staff of the department;

(6) order the counselor to provide uncompensated professional service under supervision at a designated public hospital, clinic, or other health care institution;

(7) censure or reprimand the counselor; or

(8) any other action justified by the case.

Sec. 17. Minnesota Statutes 2004, section 148C.10, subdivision 2, is amended to read:

Subd. 2. [USE OF TITLES.] No person shall present themselves or any other individual to the public by any title incorporating the words "licensed 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. Persons issued a temporary permit must use titles consistent with section 148C.04, subdivision 6, paragraph ~~(e)~~ (d).

Sec. 18. Minnesota Statutes 2004, section 148C.11, subdivision 1, is amended to read:

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 psychological practitioners, members of the clergy, 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 school counselors, registered occupational therapists or occupational therapy assistants, city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and until July 1, 2005, 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 under this ~~section~~ subdivision but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees. The commissioner shall issue a license without examination to an applicant who is licensed or registered in a profession identified in paragraph (a) if the applicant:

(1) shows evidence of current licensure or registration; and

(2) has submitted to the commissioner a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the commissioner.

(d) ~~These persons~~ Any person who is exempt from licensure under this section must not, ~~however,~~ 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 commissioner's jurisdiction solely by the use of one of the above titles.

Sec. 19. Minnesota Statutes 2004, section 148C.11, subdivision 4, is amended to read:

Subd. 4. [HOSPITAL ALCOHOL AND DRUG COUNSELORS.] Effective January 1, ~~2006~~ 2007, hospitals employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol or drug counselor employed by a hospital must be licensed as an alcohol and drug counselor in accordance with this chapter.

Sec. 20. Minnesota Statutes 2004, section 148C.11, subdivision 5, is amended to read:

Subd. 5. [CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.] Effective January 1, ~~2006~~ 2007, city, county, and state agencies employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol and drug counselor employed by a city, county, or state agency must be licensed as an alcohol and drug counselor in accordance with this chapter.

Sec. 21. Minnesota Statutes 2004, section 148C.11, subdivision 6, is amended to read:

Subd. 6. [TRANSITION PERIOD FOR HOSPITAL AND CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.] For the period between July 1, 2003, and January 1, ~~2006~~ 2007, the commissioner shall grant a license to an individual who is employed as an alcohol and drug counselor at a Minnesota school district or hospital, or a city, county, or state agency in Minnesota, if the individual meets the requirements in section 148C.0351 and:

(1) was employed as an alcohol and drug counselor at a school district, a hospital, or a city, county, or state agency before August 1, 2002; ~~(2)~~ has 8,000 hours of alcohol and drug counselor work experience; ~~(3)~~ has completed a written case presentation and satisfactorily passed an oral examination established by the commissioner; ~~(4)~~ and has satisfactorily passed a written examination as established by the commissioner; ~~and (5) meets the requirements in section 148C.0351 or~~

(2) is credentialed as a board certified counselor (BCC) or board certified counselor reciprocal (BCCR) by the Minnesota Certification Board; or

(3) has 14,000 hours of supervised alcohol and drug counselor work experience as documented by the employer.

Sec. 22. Minnesota Statutes 2004, section 148C.12, subdivision 3, is amended to read:

Subd. 3. [TEMPORARY PERMIT FEE.] The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), is \$100. The fee for annual renewal of a temporary permit is ~~\$100~~ \$150, but when the first expiration date occurs in less or more than one year, the fee must be prorated.

Sec. 23. [AUTHORIZATION FOR EXPEDITED RULEMAKING AUTHORITY.]

The Board of Behavioral Health and Therapy may use the expedited rulemaking process under Minnesota Statutes, section 14.389, for adopting and amending rules to conform with sections 1 to 14.

Sec. 24. [REPEALER.]

(a) Minnesota Statutes 2004, sections 148C.02 and 148C.12, subdivision 4, are repealed.

(b) Minnesota Rules, parts 4747.0030, subparts 11 and 16; 4747.1200; and 4747.1300, are repealed.

Sec. 25. [EFFECTIVE DATE.]

Sections 1 to 24 are effective July 1, 2005.

ARTICLE 8

AUDIOLOGISTS, HEARING AID DISPENSERS

Section 1. Minnesota Statutes 2004, section 148.512, subdivision 6, is amended to read:

Subd. 6. [AUDIOLOGIST.] "Audiologist" means a natural person who engages in the practice of audiology, meets the qualifications required by sections 148.511 to ~~148.5196~~ 148.5198, and is licensed by the commissioner under a general, clinical fellowship, doctoral externship, or temporary license. Audiologist also means a natural person using any descriptive word with the title audiologist.

Sec. 2. Minnesota Statutes 2004, section 148.512, is amended by adding a subdivision to read:

Subd. 10a. [HEARING AID.] "Hearing aid" means an instrument, or any of its parts, worn in the ear canal and designed to or represented as being able to aid or enhance human hearing. "Hearing aid" includes the aid's parts, attachments, or accessories, including, but not limited to, ear molds and behind the ear (BTE) devices with or without an ear mold. Batteries and cords are not parts, attachments, or accessories of a hearing aid. Surgically implanted hearing aids, and assistive listening devices not worn within the ear canal, are not hearing aids.

Sec. 3. Minnesota Statutes 2004, section 148.512, is amended by adding a subdivision to read:

Subd. 10b. [HEARING AID DISPENSING.] "Hearing aid dispensing" means making ear mold impressions, prescribing, or recommending a hearing aid, assisting the consumer in aid selection, selling hearing aids at retail, or testing human hearing in connection with these activities regardless of whether the person conducting these activities has a monetary interest in the dispensing of hearing aids to the consumer.

Sec. 4. Minnesota Statutes 2004, section 148.513, is amended by adding a subdivision to read:

Subd. 2a. [HEARING AID DISPENSERS.] An audiologist must not hold out as a licensed hearing aid dispenser.

Sec. 5. Minnesota Statutes 2004, section 148.515, is amended by adding a subdivision to read:

Subd. 6. [DISPENSING AUDIOLOGIST EXAMINATION REQUIREMENTS.] (a) Audiologists are exempt from the written examination requirement in section 153A.14, subdivision 2h, paragraph (a), clause (1).

(b) After July 31, 2005, all applicants for audiologist licensure under sections 148.512 to 148.5198 must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c).

(c) In order to dispense hearing aids as a sole proprietor, member of a partnership, or for a limited liability company, corporation, or any other entity organized for profit, a licensee who obtained audiologist licensure under sections 148.512 to 148.5198, before August 1, 2005, and who is not certified to dispense hearing aids under chapter 153A, must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c). All other audiologist licensees who obtained licensure before August 1, 2005, are exempt from the practical tests.

Sec. 6. Minnesota Statutes 2004, section 148.5194, is amended by adding a subdivision to read:

Subd. 7. [AUDIOLOGIST SURCHARGE FEE.] (a) The biennial surcharge fee for audiologists is \$235. The commissioner shall prorate the fee for clinical fellowship, doctoral externship, temporary, and first time licensees according to the number of months that have elapsed between the date the license is issued and the date the license expires or must be renewed under section 148.5191, subdivision 4.

(b) Effective November 1, 2005, the commissioner shall collect the \$235 audiologist surcharge fee prorated according to the number of months remaining until the next scheduled license renewal.

Sec. 7. Minnesota Statutes 2004, section 148.5195, subdivision 3, is amended to read:

Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY COMMISSIONER.] The commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that the individual has:

- (1) intentionally submitted false or misleading information to the commissioner or the advisory council;
- (2) failed, within 30 days, to provide information in response to a written request, via certified mail, by the commissioner or advisory council;
- (3) performed services of a speech-language pathologist or audiologist in an incompetent or negligent manner;
- (4) violated sections 148.511 to ~~148.5196~~ 148.5198;

(5) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(6) violated any state or federal law, rule, or regulation, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which relates directly or indirectly to the practice of speech-language pathology or audiology. Conviction for violating any state or federal law which relates to speech-language pathology or audiology is necessarily considered to constitute a violation, except as provided in chapter 364;

(7) aided or abetted another person in violating any provision of sections 148.511 to ~~148.5196~~ 148.5198;

(8) been or is being disciplined by another jurisdiction, if any of the grounds for the discipline is the same or substantially equivalent to those under sections 148.511 to 148.5196;

(9) not cooperated with the commissioner or advisory council in an investigation conducted according to subdivision 1;

(10) advertised in a manner that is false or misleading;

(11) engaged in conduct likely to deceive, defraud, or harm the public; or demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(12) failed to disclose to the consumer any fee splitting or any promise to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;

(13) engaged in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(14) obtained money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;

(15) performed services for a client who had no possibility of benefiting from the services;

(16) failed to refer a client for medical evaluation or to other health care professionals when appropriate or when a client indicated symptoms associated with diseases that could be medically or surgically treated;

(17) ~~if the individual is a dispenser of hearing instruments as defined by section 153A.13, subdivision 5, had the certification required by chapter 153A; denied, suspended, or revoked according to chapter 153A;~~

(18) used the term doctor of audiology, doctor of speech-language pathology, AuD, or SLPD without having obtained the degree from an institution accredited by the North Central Association of Colleges and Secondary Schools, the Council on Academic Accreditation in Audiology and Speech-Language Pathology, the United States Department of Education, or an equivalent; ~~or~~

(19) failed to comply with the requirements of section 148.5192 regarding supervision of speech-language pathology assistants; or

(20) if the individual is an audiologist or certified hearing aid dispenser:

(i) prescribed or otherwise recommended to a consumer or potential consumer the use of a hearing aid, unless the prescription from a physician or recommendation from an audiologist or certified dispenser is in writing, is based on an audiogram that is delivered to the consumer or potential consumer when the prescription or recommendation is

made, and bears the following information in all capital letters of 12-point or larger boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED BY, AND HEARING AIDS MAY BE PURCHASED FROM, THE LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER OF YOUR CHOICE";

(ii) failed to give a copy of the audiogram, upon which the prescription or recommendation is based, to the consumer when the consumer requests a copy;

(iii) failed to provide the consumer rights brochure required by section 148.5197, subdivision 3;

(iv) failed to comply with restrictions on sales of hearing aids in sections 148.5197, subdivision 3, and 148.5198;

(v) failed to return a consumer's hearing aid used as a trade-in or for a discount in the price of a new hearing aid when requested by the consumer upon cancellation of the purchase agreement;

(vi) failed to follow Food and Drug Administration or Federal Trade Commission regulations relating to dispensing hearing aids;

(vii) failed to dispense a hearing aid in a competent manner or without appropriate training;

(viii) delegated hearing instrument dispensing authority to a person not authorized to dispense a hearing instrument under this chapter or chapter 153A;

(ix) failed to comply with the requirements of an employer or supervisor of a hearing aid dispenser trainee; or

(x) violated a state or federal court order or judgment, including a conciliation court judgment, relating to the activities of the individual's hearing aid dispensing.

Sec. 8. Minnesota Statutes 2004, section 148.5196, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The commissioner shall appoint ~~eight~~ 12 persons to a Speech-Language Pathologist and Audiologist Advisory Council. The ~~eight~~ 12 persons must include:

(1) ~~two~~ three public members, as defined in section 214.02. Two of the public members shall be either persons receiving services of a speech-language pathologist or audiologist, or family members of or caregivers to such persons, and at least one of the public members shall be either a hearing instrument user or an advocate of one;

(2) ~~two~~ three speech-language pathologists licensed under sections 148.511 to 148.5196, one of whom is currently and has been, for the five years immediately preceding the appointment, engaged in the practice of speech-language pathology in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, and government agencies;

(3) one speech-language pathologist licensed under sections 148.511 to 148.5196, who is currently and has been, for the five years immediately preceding the appointment, employed by a Minnesota public school district or a Minnesota public school district consortium that is authorized by Minnesota Statutes and who is licensed in speech-language pathology by the Minnesota Board of Teaching;

(4) ~~two~~ three audiologists licensed under sections 148.511 to 148.5196, ~~one~~ two of whom ~~is~~ are currently and ~~has~~ have been, for the five years immediately preceding the appointment, engaged in the practice of audiology and the dispensing of hearing instruments in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, industry, and government agencies; ~~and~~

(5) one nonaudiologist hearing instrument dispenser recommended by a professional association representing hearing instrument dispensers; and

(6) one physician licensed under chapter 147 and certified by the American Board of Otolaryngology, Head and Neck Surgery.

Sec. 9. [148.5197] [HEARING AID DISPENSING.]

Subdivision 1. [CONTENT OF CONTRACTS.] Oral statements made by an audiologist or certified dispenser regarding the provision of warranties, refunds, and service on the hearing aid or aids dispensed must be written on, and become part of, the contract of sale, specify the item or items covered, and indicate the person or business entity obligated to provide the warranty, refund, or service.

Subd. 2. [REQUIRED USE OF LICENSE NUMBER.] The audiologist's license number or certified dispenser's certificate number must appear on all contracts, bills of sale, and receipts used in the sale of hearing aids.

Subd. 3. [CONSUMER RIGHTS INFORMATION.] An audiologist or certified dispenser shall, at the time of the recommendation or prescription, give a consumer rights brochure, prepared by the commissioner and containing information about legal requirements pertaining to dispensing of hearing aids, to each potential consumer of a hearing aid. The brochure must contain information about the consumer information center described in section 153A.18. A contract for a hearing aid must note the receipt of the brochure by the consumer, along with the consumer's signature or initials.

Subd. 4. [LIABILITY FOR CONTRACTS.] Owners of entities in the business of dispensing hearing aids, employers of audiologists or persons who dispense hearing aids, supervisors of trainees or audiology students, and hearing aid dispensers conducting the transaction at issue are liable for satisfying all terms of contracts, written or oral, made by their agents, employees, assignees, affiliates, or trainees, including terms relating to products, repairs, warranties, service, and refunds. The commissioner may enforce the terms of hearing aid contracts against the principal, employer, supervisor, or dispenser who conducted the transaction and may impose any remedy provided for in this chapter.

Sec. 10. [148.5198] [RESTRICTION ON SALE OF HEARING AIDS.]

Subdivision 1. [45-CALENDAR-DAY GUARANTEE AND BUYER RIGHT TO CANCEL.] (a) An audiologist or certified dispenser dispensing a hearing aid in this state must comply with paragraphs (b) and (c).

(b) The audiologist or certified dispenser must provide the buyer with a 45-calendar-day written money-back guarantee. The guarantee must permit the buyer to cancel the purchase for any reason within 45 calendar days after receiving the hearing aid by giving or mailing written notice of cancellation to the audiologist or certified dispenser. If the buyer mails the notice of cancellation, the 45-calendar-day period is counted using the postmark date, to the date of receipt by the audiologist or certified dispenser. If the hearing aid must be repaired, remade, or adjusted during the 45-calendar-day money-back guarantee period, the running of the 45-calendar-day period is suspended one day for each 24-hour period that the hearing aid is not in the buyer's possession. A repaired, remade, or adjusted hearing aid must be claimed by the buyer within three business days after notification of availability, after which time the running of the 45-calendar-day period resumes. The guarantee must entitle the buyer, upon cancellation, to receive a refund of payment within 30 days of return of the hearing aid to the audiologist or certified dispenser. The audiologist or certified dispenser may retain as a cancellation fee no more than \$250 of the buyer's total purchase price of the hearing aid.

(c) The audiologist or certified dispenser shall provide the buyer with a contract written in plain English, that contains uniform language and provisions that meet the requirements under the Plain Language Contract Act, sections 325G.29 to 325G.36. The contract must include, but is not limited to, the following: in immediate proximity to the space reserved for the signature of the buyer, or on the first page if there is no space reserved for the signature of the buyer, a clear and conspicuous disclosure of the following specific statement in all capital letters of no less than 12-point boldface type: "MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 45TH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN OR MAILED TO THE AUDIOLOGIST OR CERTIFIED DISPENSER. IF THE BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST OR CERTIFIED DISPENSER MAY RETAIN AS A CANCELLATION FEE NO MORE THAN \$250."

Subd. 2. [ITEMIZED REPAIR BILL.] Any audiologist, certified dispenser, or company who agrees to repair a hearing aid must provide the owner of the hearing aid, or the owner's representative, with a bill that describes the repair and services rendered. The bill must also include the repairing audiologist's, certified dispenser's, or company's name, address, and telephone number.

This subdivision does not apply to an audiologist, certified dispenser, or company that repairs a hearing aid pursuant to an express warranty covering the entire hearing aid and the warranty covers the entire cost, both parts and labor, of the repair.

Subd. 3. [REPAIR WARRANTY.] Any guarantee of hearing aid repairs must be in writing and delivered to the owner of the hearing aid, or the owner's representative, stating the repairing audiologist's, certified dispenser's, or company's name, address, telephone number, length of guarantee, model, and serial number of the hearing aid and all other terms and conditions of the guarantee.

Subd. 4. [MISDEMEANOR.] A person found to have violated this section is guilty of a misdemeanor.

Subd. 5. [ADDITIONAL.] In addition to the penalty provided in subdivision 4, a person found to have violated this section is subject to the penalties and remedies provided in section 325F.69, subdivision 1.

Subd. 6. [ESTIMATES.] Upon the request of the owner of a hearing aid or the owner's representative for a written estimate and prior to the commencement of repairs, a repairing audiologist, certified dispenser, or company shall provide the customer with a written estimate of the price of repairs. If a repairing audiologist, certified dispenser, or company provides a written estimate of the price of repairs, it must not charge more than the total price stated in the estimate for the repairs. If the repairing audiologist, certified dispenser, or company after commencing repairs determines that additional work is necessary to accomplish repairs that are the subject of a written estimate and if the repairing audiologist, certified dispenser, or company did not unreasonably fail to disclose the possible need for the additional work when the estimate was made, the repairing audiologist, certified dispenser, or company may charge more than the estimate for the repairs if the repairing audiologist, certified dispenser, or company immediately provides the owner or owner's representative a revised written estimate pursuant to this section and receives authorization to continue with the repairs. If continuation of the repairs is not authorized, the repairing audiologist, certified dispenser, or company shall return the hearing aid as close as possible to its former condition and shall release the hearing aid to the owner or owner's representative upon payment of charges for repairs actually performed and not in excess of the original estimate.

Sec. 11. Minnesota Statutes 2004, section 153A.13, subdivision 5, is amended to read:

Subd. 5. [DISPENSER OF HEARING INSTRUMENTS.] "Dispenser of hearing instruments" means a natural person who engages in hearing instrument dispensing whether or not certified by the commissioner of health or licensed by an existing health-related board, except that a person described as follows is not a dispenser of hearing instruments:

(1) a student participating in supervised field work that is necessary to meet requirements of an accredited educational program if the student is designated by a title which clearly indicates the student's status as a student trainee; or

(2) a person who helps a dispenser of hearing instruments in an administrative or clerical manner and does not engage in hearing instrument dispensing.

A person who offers to dispense a hearing instrument, or a person who advertises, holds out to the public, or otherwise represents that the person is authorized to dispense hearing instruments must be certified by the commissioner except when the person is an audiologist as defined in section 148.512.

Sec. 12. Minnesota Statutes 2004, section 153A.14, subdivision 2h, is amended to read:

Subd. 2h. [CERTIFICATION BY EXAMINATION.] An applicant must achieve a passing score, as determined by the commissioner, on an examination according to paragraphs (a) to (c).

(a) The examination must include, but is not limited to:

(1) A written examination approved by the commissioner covering the following areas as they pertain to hearing instrument selling:

(i) basic physics of sound;

(ii) the anatomy and physiology of the ear;

(iii) the function of hearing instruments; and

(iv) the principles of hearing instrument selection; ~~and~~

~~(v) state and federal laws, rules, and regulations.~~

(2) Practical tests of proficiency in the following techniques as they pertain to hearing instrument selling:

(i) pure tone audiometry, including air conduction testing and bone conduction testing;

(ii) live voice or recorded voice speech audiometry including speech recognition (discrimination) testing, most comfortable loudness level, and uncomfortable loudness measurements of tolerance thresholds;

(iii) masking when indicated;

(iv) recording and evaluation of audiograms and speech audiometry to determine proper selection and fitting of a hearing instrument;

(v) taking ear mold impressions; ~~and~~

(vi) using an otoscope for the visual observation of the entire ear canal; and

(vii) state and federal laws, rules, and regulations.

(b) The examination shall be administered by the commissioner at least twice a year.

(c) An applicant must achieve a passing score on all portions of the examination within a two-year period. An applicant who does not achieve a passing score on all portions of the examination within a two-year period must retake the entire examination and achieve a passing score on each portion of the examination. An applicant who does not apply for certification within one year of successful completion of the examination must retake the examination and achieve a passing score on each portion of the examination. An applicant may not take any part of the examination more than three times in a two-year period.

Sec. 13. Minnesota Statutes 2004, section 153A.14, subdivision 2i, is amended to read:

Subd. 2i. [CONTINUING EDUCATION REQUIREMENT.] On forms provided by the commissioner, each certified dispenser must submit with the application for renewal of certification evidence of completion of ten course hours of continuing education earned within the 12-month period of July 1 to June 30 immediately preceding renewal. Continuing education courses must be directly related to hearing instrument dispensing and approved by the International Hearing Society ~~or qualify for continuing education approved for Minnesota licensed audiologists.~~ Evidence of completion of the ten course hours of continuing education must be submitted with renewal applications by October 1 of each year. This requirement does not apply to dispensers certified for less than one year. The first report of evidence of completion of the continuing education credits shall be due October 1, 1997.

Sec. 14. Minnesota Statutes 2004, section 153A.14, subdivision 4, is amended to read:

Subd. 4. [DISPENSING OF HEARING INSTRUMENTS WITHOUT CERTIFICATE.] Except as provided in subdivisions 4a and 4c, and in sections 148.512 to 148.5198, it is unlawful for any person not holding a valid certificate to dispense a hearing instrument as defined in section 153A.13, subdivision 3. A person who dispenses a hearing instrument without the certificate required by this section is guilty of a gross misdemeanor.

Sec. 15. Minnesota Statutes 2004, section 153A.14, subdivision 4c, is amended to read:

Subd. 4c. [RECIPROCITY.] (a) A person applying for certification as a hearing instrument dispenser under subdivision 1 who has dispensed hearing instruments in another jurisdiction may dispense hearing instruments as a trainee under indirect supervision if the person:

(1) satisfies the provisions of subdivision 4a, paragraph (a);

(2) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 153A.15, subdivision 1; and

(3) provides a copy of a current credential as a hearing instrument dispenser, ~~an audiologist, or both,~~ held in the District of Columbia or a state or territory of the United States.

(b) A person becoming a trainee under this subdivision who fails to take and pass the practical examination described in subdivision 2h, paragraph (a), clause (2), when next offered must cease dispensing hearing instruments unless under direct supervision.

Sec. 16. Minnesota Statutes 2004, section 153A.14, subdivision 9, is amended to read:

Subd. 9. ~~[CONSUMER RIGHTS INFORMATION.] A hearing instrument dispenser shall, at the time of the recommendation or prescription, give a consumer rights brochure, prepared by the commissioner and containing information about legal requirements pertaining to sales of hearing instruments, to each potential buyer of a hearing instrument. A sales contract for a hearing instrument must note the receipt of the brochure by the buyer, along with the buyer's signature or initials~~ comply with the requirements of sections 148.5195, subdivision 3, clause (20); 148.5197; and 148.5198.

Sec. 17. Minnesota Statutes 2004, section 153A.15, subdivision 1, is amended to read:

Subdivision 1. ~~[PROHIBITED ACTS.] The commissioner may take enforcement action as provided under subdivision 2 against a dispenser of hearing instruments for the following acts and conduct:~~

~~(1) prescribing or otherwise recommending to a consumer or potential consumer the use of a hearing instrument, unless the prescription from a physician or recommendation from a hearing instrument dispenser or audiologist is in writing, is based on an audiogram that is delivered to the consumer or potential consumer when the prescription or recommendation is made, and bears the following information in all capital letters of 12 point or larger boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED BY, AND HEARING INSTRUMENTS MAY BE PURCHASED FROM, THE CERTIFIED DISPENSER OF YOUR CHOICE";~~

~~(2) failing to give a copy of the audiogram, upon which the prescription or recommendation is based, to the consumer when there has been a charge for the audiogram and the consumer requests a copy;~~

~~(3) dispensing a hearing instrument to a minor person 18 years or younger unless evaluated by an audiologist for hearing evaluation and hearing aid evaluation;~~

~~(4) failing to provide the consumer rights brochure required by section 153A.14, subdivision 9;~~

~~(5) (2) being disciplined through a revocation, suspension, restriction, or limitation by another state for conduct subject to action under this chapter;~~

~~(6) (3) presenting advertising that is false or misleading;~~

~~(7) (4) providing the commissioner with false or misleading statements of credentials, training, or experience;~~

~~(8) (5) engaging in conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a consumer;~~

~~(9) (6) splitting fees or promising to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;~~

~~(10) (7) engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;~~

~~(11) (8) obtaining money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;~~

~~(12) failing to comply with restrictions on sales of hearing aids in sections 153A.14, subdivision 9, and 153A.19;~~

(13) (9) performing the services of a certified hearing instrument dispenser in an incompetent or negligent manner;

(14) (10) failing to comply with the requirements of this chapter as an employer, supervisor, or trainee;

(15) (11) failing to provide information in a timely manner in response to a request by the commissioner, commissioner's designee, or the advisory council;

(16) (12) being convicted within the past five years of violating any laws of the United States, or any state or territory of the United States, and the violation is a felony, gross misdemeanor, or misdemeanor, an essential element of which relates to hearing instrument dispensing, except as provided in chapter 364;

(17) (13) failing to cooperate with the commissioner, the commissioner's designee, or the advisory council in any investigation;

(18) (14) failing to perform hearing instrument dispensing with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(19) (15) failing to fully disclose actions taken against the applicant or the applicant's legal authorization to dispense hearing instruments in this or another state;

(20) (16) violating a state or federal court order or judgment, including a conciliation court judgment, relating to the activities of the applicant in hearing instrument dispensing;

(21) (17) having been or being disciplined by the commissioner of the Department of Health, or other authority, in this or another jurisdiction, if any of the grounds for the discipline are the same or substantially equivalent to those in sections 153A.13 to 153A.19;

(22) (18) misrepresenting the purpose of hearing tests, or in any way communicating that the hearing test or hearing test protocol required by section 153A.14, subdivision 4b, is a medical evaluation, a diagnostic hearing evaluation conducted by an audiologist, or is other than a test to select a hearing instrument, except that the hearing instrument dispenser can determine the need for or recommend the consumer obtain a medical evaluation consistent with requirements of the United States Food and Drug Administration;

(23) (19) violating any of the provisions of sections 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and 153A.13 to 153A.19 153A.18; and

(24) (20) aiding or abetting another person in violating any of the provisions of sections 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and 153A.13 to 153A.19 153A.18.

Sec. 18. Minnesota Statutes 2004, section 153A.20, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The commissioner shall appoint ~~nine~~ seven persons to a Hearing Instrument Dispenser Advisory Council.

(a) The ~~nine~~ seven persons must include:

(1) three public members, as defined in section 214.02. At least one of the public members shall be a hearing instrument user and one of the public members shall be either a hearing instrument user or an advocate of one; and

(2) three hearing instrument dispensers certified under sections 153A.14 to 153A.20, each of whom is currently, and has been for the five years immediately preceding their appointment, engaged in hearing instrument dispensing in Minnesota and who represent the occupation of hearing instrument dispensing and who are not audiologists; and

(3) ~~three audiologists who are certified hearing instrument dispensers or are~~ one audiologist licensed as ~~audiologists~~ an audiologist under chapter 148 who dispenses hearing instruments, recommended by a professional association representing audiologists and speech-language pathologists.

(b) The factors the commissioner may consider when appointing advisory council members include, but are not limited to, professional affiliation, geographical location, and type of practice.

(c) No two members of the advisory council shall be employees of, or have binding contracts requiring sales exclusively for, the same hearing instrument manufacturer or the same employer.

Sec. 19. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change references from "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198" wherever they appear in Minnesota Statutes and Minnesota Rules, and change "153A.19" to "148.5197" in Minnesota Statutes, section 325G.203.

Sec. 20. [REPEALER.]

Minnesota Statutes 2004, sections 153A.14, subdivisions 2a, 8, and 10; and 153A.19, are repealed.

Sec. 21. [EFFECTIVE DATE.]

Sections 1 to 18 and 20 are effective August 1, 2005.

ARTICLE 9

PENALTY FEES

Section 1. Minnesota Statutes 2004, section 148.5194, is amended by adding a subdivision to read:

Subd. 8. [PENALTY FEES.] (a) The penalty fee for practicing speech-language pathology or audiology without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of speech-language pathology or audiology before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of speech-language pathology or audiology.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. The licensee must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding six months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 2. Minnesota Statutes 2004, section 148.6445, is amended by adding a subdivision to read:

Subd. 11. [PENALTY FEES.] (a) The penalty fee for practicing occupational therapy without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of occupational therapy before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of occupational therapy.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. The licensee must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding six months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 3. Minnesota Statutes 2004, section 148C.12, is amended by adding a subdivision to read:

Subd. 11. [PENALTY FEES.] (a) The penalty fee for practicing alcohol and drug counseling without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of alcohol and drug counseling before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of alcohol and drug counseling.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$100 plus \$20 for each missing clock hour. The licensee must obtain the correct number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after August 1, 2005, and exceeding 12 months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 4. [153A.175] [PENALTY FEES.]

(a) The penalty fee for holding oneself out as a hearing instrument dispenser without a current certificate after the credential has expired and before it is renewed is one-half the amount of the certificate renewal fee for any part of the first day, plus one-half the certificate renewal fee for any part of any subsequent days up to 30 days.

(b) The penalty fee for applicants who hold themselves out as hearing instrument dispensers after expiration of the trainee period and before being issued a certificate is one-half the amount of the certificate application fee for any part of the first day, plus one-half the certificate application fee for any part of any subsequent days up to 30 days. This paragraph does not apply to applicants not qualifying for a certificate who hold themselves out as hearing instrument dispensers.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$200 plus \$200 for each missing clock hour. The certificate holder must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by certificate holders prior to August 1, 2005, for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty fees. Payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case."

Delete the title and insert:

"A bill for an act relating to health; recodifying statutes and rules relating to social work; modifying provisions relating to physical therapists; modifying dental licensure provisions; modifying provisions for licensed professional counselors; modifying physician review; modifying information contained on prescriptions; providing recognition for the practice of respiratory therapy in emergency situations; providing that audiologists need not obtain hearing instrument dispenser certification; providing penalties; establishing penalty fees for certain credentialed health occupations; authorizing rulemaking; establishing fees; providing criminal penalties; amending Minnesota Statutes 2004, sections 13.383, subdivision 10; 13.411, subdivision 5; 144.335, subdivision 1; 144A.46, subdivision 2; 147.09; 147A.18, subdivisions 1, 3; 147C.05; 148.512, subdivision 6, by adding subdivisions; 148.513, by adding a subdivision; 148.515, by adding a subdivision; 148.5194, by adding subdivisions; 148.5195, subdivision 3; 148.5196, subdivision 1; 148.6445, by adding a subdivision; 148.65, by adding subdivisions; 148.706; 148.75; 148B.53, subdivisions 1, 3; 148B.54, subdivision 2; 148B.59; 148C.03, subdivision 1; 148C.04, subdivisions 3, 4, 6, by adding a subdivision; 148C.091, subdivision 1; 148C.10, subdivision 2; 148C.11, subdivisions 1, 4, 5, 6; 148C.12, subdivision 3, by adding a subdivision; 150A.01, subdivision 6a; 150A.06, subdivision 1a; 153A.13, subdivision 5; 153A.14, subdivisions 2h, 2i, 4, 4c, 9; 153A.15, subdivision 1; 153A.20, subdivision 1; 214.01, subdivision 2; 214.06, subdivision 1, by adding a subdivision; 245.462, subdivision 18; 245.4871, subdivision 27; 256B.0625, subdivision 38; 256J.08, subdivision 73a; 319B.02, subdivision 19; 319B.40; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; 150A; 153A; proposing coding for new law as Minnesota Statutes, chapter 148D; repealing Minnesota Statutes 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; 148B.289; 148C.02; 148C.12, subdivision 4; 153A.14, subdivisions 2a, 8, 10; 153A.19; Minnesota Rules, parts 4747.0030, subparts 11, 16; 4747.1200; 4747.1300; 5601.0100, subparts 3, 4; 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187; 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; 8740.0345."

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.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 1214, A bill for an act relating to telecommunications; establishing an accessible electronic information service for blind and disabled persons; appropriating money; amending Minnesota Statutes 2004, section 237.52, subdivisions 2, 4; proposing coding for new law in Minnesota Statutes, chapter 248.

Reported the same back with the following amendments:

Page 1, line 11, before "The" insert "(a)" and delete "and" and insert a comma

Page 1, line 12, after "development" insert "; and the commissioner of human services"

Page 1, line 14, delete "and" and insert a comma

Page 1, line 15, after the comma, insert "and 256C.30," and after "respectively" insert ". The maximum annual budget for section 248.062 must not exceed \$100,000 and for section 256C.30 must not exceed \$300,000"

Page 1, lines 17 and 18, delete the new language

Page 1, after line 26, insert:

"(b) If the fund balance falls below a level capable of fully supporting all programs eligible under subdivision 5 and section 248.062, expenditures under section 248.062 shall be suspended and expenditures under section 237.53 shall be fully funded. Expenditures under section 248.062 shall resume when the commissioner of commerce determines there is a sufficient fund balance to fund those expenditures."

Page 2, line 5, delete "and" and insert a comma

Page 2, line 6, delete "248.061" and insert "248.062, and to the commissioner of human services to implement section 256C.30"

Page 2, after line 36, insert:

"Sec. 5. [256C.30] [DUTIES OF HUMAN SERVICES COMMISSIONER.]

(a) As described in this section, the commissioner of human services must enter into grant agreements with television stations to make live local news programming accessible to deaf, hard-of-hearing, and deaf-blind persons as defined in section 256C.23.

(b) The grant agreements must provide for:

(1) real-time captioning services for broadcasting that is not emergency broadcasting subject to Code of Federal Regulations, title 47, section 79.2;

(2) real-time captioning services for commercial broadcasters in areas of Minnesota where commercial broadcasters are not subject to the live programming closed-captioning requirements of Code of Federal Regulations, title 47, section 71.1(e)(3); and

(3) real-time captioning for large-market noncommercial broadcasters who produce live news programming.

(c) For the purposes of this section, "real-time captioning" means a method of captioning in which captions are simultaneously prepared and transmitted at the time of origination by specially trained real-time captioners."

Page 3, line 2, after "4" insert "as they relate to duties and powers related to section 248.062"

Page 3, after line 4, insert:

"Sec. 6. [SUNSET.]

Sections 1 to 5 expire June 30, 2010."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 7, delete "chapter" and insert "chapters" and after "248" insert "; 256C"

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.

Gunther from the Committee on Jobs and Economic Opportunity Policy and Finance to which was referred:

H. F. No. 1344, A bill for an act relating to utilities; modifying and adding provisions relating to alternative, clean, or renewable energy resource development; regulating public utilities, power transmission companies and facilities, and energy facilities; authorizing local power quality zones; authorizing community-based energy development tariff; transferring various siting authorities from Environmental Quality Board to Public Utilities Commission; providing for commission oversight of reliability administrator; modifying provisions relating to energy conservation; requiring commission to establish e-filing system; requiring creation of stakeholder and working groups; requiring studies and reports; making clarifying and technical changes; appropriating money; amending Minnesota Statutes 2004, sections 116C.52, subdivisions 2, 4; 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c, by adding a subdivision; 116C.575, subdivision 5; 116C.577; 116C.58; 116C.69, subdivisions 2, 2a; 216B.02, by adding a subdivision; 216B.16, subdivision 6d, by adding subdivisions; 216B.1645, subdivision 1; 216B.241, subdivisions 1b, 2; 216B.2421, subdivision 2; 216B.2425, subdivision 2, by adding a subdivision; 216B.243, subdivisions 3, 4, 5, 6, 8; 216B.50, subdivision 1; 216B.62, subdivision 5, by adding a subdivision; 216B.79; 216C.052; 216C.41, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 216B; 216C.

Reported the same back with the following amendments:

Page 3, line 26, delete "Owners of" and insert "Subject to prior approval of the commission under this subdivision, a public utility that owns"

Page 9, line 24, delete everything after "zone"

Page 9, line 25, delete everything before the period

Page 9, after line 34, insert:

"(c) Nothing in this section limits the ability of the utility and any customer to enter into customer-specific agreements pursuant to applicable statutory, rule, or tariff provisions."

Page 11, delete lines 31 and 32

Page 11, line 36, delete everything after "agreement" and insert a period

Page 12, delete lines 1 to 5

Page 12, delete lines 15 to 18 and insert:

"(1) has no single qualifying owner owning more than 15 percent of a C-BED project that consists of more than two turbines; or

(2) for C-BED projects of one or two turbines, is owned entirely by one or more qualifying owners, with at least 51 percent of the total financial benefits over the life of the project flowing to qualifying owners; and"

Page 12, line 19, delete "(2)" and insert "(3)"

Page 12, line 23, delete everything after "(a)"

Page 12, delete line 24

Page 12, line 25, delete everything before "The" and after "tariff" insert "described in subdivision 4" and delete everything after "schedule" and insert "that allows for a rate up"

Page 12, line 33, delete "(c) In developing the model tariff," and insert "(b)"

Page 12, delete line 36 and insert:

"(c) The commission"

Page 13, delete lines 5 to 7

Page 13, line 8, delete "Within 90 days after" and insert "By December 1, 2005"

Page 13, line 9, delete everything before the comma

Page 13, line 12, delete "the model tariff established under"

Page 13, line 13, delete "150" and insert "90" and delete "an order under subdivision 2" and insert "the first commission approval order under this subdivision"

Page 13, line 16, delete "with the"

Page 13, line 17, delete "model tariff issued"

Page 14, after line 33, insert:

"Unless a party objects to the contract within 30 days, the contract will be deemed approved."

Page 21, line 9, after the period, insert "This assistance shall include the sharing of staff resources as necessary."

Page 21, line 15, after the period, insert "If either the commissioner or the commission deems it necessary, the Department of Commerce and the commission shall enter into an interagency agreement establishing terms and conditions for the provision of assistance and resources under this subdivision."

Page 22, after line 29, insert:

"Sec. 10. Minnesota Statutes 2004, section 116C.61, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY PARTICIPATION.] (a) State agencies authorized to issue permits required for construction or operation of large electric power generating plants or high voltage transmission lines shall participate during routing and siting at public hearings and all other activities of the board on specific site or route designations and design considerations of the board, and shall clearly state whether the site or route being considered for designation or permit and other design matters under consideration for approval will be in compliance with state agency standards, rules, or policies.

(b) An applicant for a permit under this section or under chapter 116I shall notify the commissioner of agriculture if the proposed project will impact cultivated agricultural land, as defined in section 1116I.01, subdivision 4. The commissioner may participate in any proceeding on the application, may advise the commission as to whether to grant a permit for the project, and may make recommendations regarding mitigating adverse impacts to agricultural lands if the permit is granted. The Department of Agriculture shall be the lead agency in developing an agricultural mitigation plan required for the project."

Page 25, after line 10, insert:

"Sec. 15. Minnesota Statutes 2004, section 216B.243, subdivision 7, is amended to read:

Subd. 7. [PARTICIPATION BY OTHER AGENCY OR POLITICAL SUBDIVISION.] (a) Other state agencies authorized to issue permits for siting, construction or operation of large energy facilities, and those state agencies authorized to participate in matters before the commission involving utility rates and adequacy of utility services, shall present their position regarding need and participate in the public hearing process prior to the issuance or denial of a certificate of need. Issuance or denial of certificates of need shall be the sole and exclusive prerogative of the commission and these determinations and certificates shall be binding upon other state departments and agencies, regional, county, and local governments and special purpose government districts except as provided in sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

(b) An applicant for a permit under this section or under chapter 116I shall notify the commissioner of agriculture if the proposed project will impact cultivated agricultural land, as defined in section 1116I.01, subdivision 4. The commissioner may participate in any proceeding on the application, may advise the commission as to whether to grant a permit for the project, and may make recommendations regarding mitigating adverse impacts to agricultural lands if the permit is granted. The Department of Agriculture shall be the lead agency in developing an agricultural mitigation plan required for the project."

Page 27, line 2, reinstate "~~department~~" and delete the second "commission"

Page 27, line 15, delete the new language and reinstate the stricken language

Page 27, line 19, delete the new language and reinstate the stricken language

Page 28, line 7, before "All" insert "To ensure greater public participation in energy infrastructure approval proceedings and to better integrate and align state energy and environmental policy goals with economic decisions involving large energy infrastructure."

Page 28, line 22, after the period, insert "The Department of Commerce and the public utilities commission shall perform these duties in accord with the provisions set forth in section 116D.03."

Page 28, line 28, after the second comma, insert "and the staff currently performing those duties."

Page 29, line 16, delete "16" and insert "18"

Page 29, after line 16, insert:

"ARTICLE 4

GAS INFRASTRUCTURE COST RECOVERY

Section 1. [216B.1635] [RECOVERY OF ELIGIBLE INFRASTRUCTURE REPLACEMENT COSTS BY GAS UTILITIES.]

Subdivision 1. [DEFINITIONS.] (a) "Gas utility" means a public utility as defined in section 216B.02, subdivision 4, that furnishes natural gas service to retail customers.

(b) "Gas utility infrastructure costs" or "GUIC" means gas utility projects that:

(1) do not serve to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) are in service but were not included in the gas utility's rate base in its most recent general rate case; and

(3) replace or modify existing infrastructure if the replacement or modification does not constitute a betterment, unless the betterment is required by a political subdivision, as evidenced by specific documentation from the government entity requiring the replacement or modification of infrastructure.

(c) "Gas utility projects" means relocation and replacement of natural gas facilities located in the public right-of-way required by the construction or improvement of a highway, road, street, public building, or other public work by or on behalf of the United States, the state of Minnesota, or a political subdivision.

Subd. 2. [FILING.] (a) The commission may approve a gas utility's petition for a rate schedule to recover GUIC under this section. A gas utility may petition the commission to recover a rate of return, income taxes on the rate of return, incremental property taxes, plus incremental depreciation expense associated with GUIC.

(b) The filing is subject to the following:

(1) a gas utility may submit a filing under this section no more than once per year;

(2) a gas utility must file sufficient information to satisfy the commission regarding the proposed GUIC or be subject to denial by the commission. The information includes, but is not limited to:

(i) the government entity ordering the gas utility project and the purpose for which the project is undertaken;

- (ii) the location, description, and costs associated with the project;
- (iii) a description of the costs and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project;
- (iv) the proposed rate design and an explanation of why the proposed rate design is in the public interest;
- (v) the magnitude and timing of any known future gas utility projects that the utility may seek to recover under this section;
- (vi) the magnitude of GUIC in relation to the gas utility's base revenue as approved by the commission in the gas utility's most recent general rate case, exclusive of gas purchase costs and transportation charges;
- (vii) the magnitude of GUIC in relation to the gas utility's capital expenditures since its most recent general rate case;
- (viii) the amount of time since the utility last filed a general rate case and the utility's reasons for seeking recovery outside of a general rate case; and
- (ix) documentation supporting the calculation of the GUIC.

Subd. 3. [COMMISSION AUTHORITY.] The commission may issue orders and adopt rules necessary to implement and administer this section.

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

Sec. 2. [REPORT TO LEGISLATURE.]

The Department of Commerce shall review the operation and impact of the GUIC recovery mechanism established under Minnesota Statutes, section 216B.1635, on ratepayers and the utility and submit a report of its findings and recommendations to the legislature four years after the effective date of this section.

Sec. 3. [SUNSET.]

Sections 1 and 2 expire on June 30, 2015."

Page 29, line 17, delete "4" and insert "5"

Page 35, lines 7 to 14, delete the new language and reinstate the stricken language

Page 40, line 19, after the second period, insert "No more than \$25,000 may be expended for the analysis."

Page 40, after line 23, insert:

"Sec. 10. [JOINT VENTURE AUTHORITY.]

(a) The city of Alexandria may enter into a joint venture or joint ventures with one, two, or three of the entities known as Runestone Telephone Association, Runestone Electric Association, and Gardonville Telephone Cooperative for the purpose of providing local niche service, including Internet services, and point-to-point transmission of digital information.

(b) For purposes of this section, with respect to the services described in paragraph (a), the city of Alexandria and a joint venture to which it is a party shall have the rights and authority granted by, and be subject to, Minnesota Statutes 2001 Supplement, section 452.25, except for the provisions of that section which relate specifically and only to electric utilities.

(c) For the purposes of this section, "local niche service" refers to point-to-point connections between end-user locations within a service area and any telecommunications services under the Public Utilities Commission's jurisdiction under Minnesota Statutes, chapter 237, that do not fall within the definition of local service or the definition of interexchange service.

(d) If the city of Alexandria obtains authority to provide local service or interexchange service under Minnesota Statutes, chapter 237, it may enter into a joint venture with the entities identified in paragraph (a) for those purposes.

[EFFECTIVE DATE; LOCAL APPROVAL.] This section is effective as to the city of Alexandria the day after the city of Alexandria's governing body and its chief clerical officer timely complete compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 11. [REPEALER.]

Laws 1999, chapter 125, section 4, as amended by Laws 2002, chapter 398, section 7, is repealed.

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 14, after the semicolon, insert "regulating gas infrastructure cost recovery;"

Page 1, line 20, after "116C.58;" insert "116C.61, subdivision 3;"

Page 1, line 25, after "6," insert "7,"

Page 1, line 29, before the period, insert "; repealing Laws 1999, chapter 125, section 4, as amended"

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.

Wilkin from the Committee on Commerce and Financial Institutions to which was referred:

H. F. No. 1583, A bill for an act relating to consumer protection; regulating membership travel contracts; amending Minnesota Statutes 2004, sections 325G.50; 325G.505, subdivision 3; 325G.51; proposing coding for new law in Minnesota Statutes, chapter 325G.

Reported the same back with the following amendments:

Page 1, line 11, after the headnote, insert "(a)"

Page 1, line 14, strike "(a)" and insert "(1)"

Page 1, line 19, strike "(b)" and insert "(2)"

Page 1, line 22, strike "(c)" and insert "(3)"

Page 1, line 26, delete "(d)" and insert "(4)"

Page 2, line 6, delete "(e)" and insert "(5)"

Page 2, after line 9, insert:

"(b) The definitions in paragraph (a) do not apply to the offer, sale, or use of a timeshare interest, as defined in section 83.20, subdivision 13."

With the recommendation that when so amended the bill pass.

The report was adopted.

Buesgens from the Committee on Education Policy and Reform to which was referred:

H. F. No. 1680, A bill for an act relating to education; providing for student access to licensed student support services.

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

The report was adopted.

Erhardt from the Committee on Transportation to which was referred:

H. F. No. 1794, A bill for an act relating to railroads; establishing speed limit of 30 miles per hour for trains operated within the city of Orr.

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

The report was adopted.

Davids from the Committee on Agriculture and Rural Development to which was referred:

H. F. No. 1895, A bill for an act relating to agriculture; expanding the definition of shade tree; appropriating money; amending Minnesota Statutes 2004, section 18G.16, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 18G.16, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Metropolitan area" means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

(c) "Municipality" means a home rule charter or statutory city or a town located in the metropolitan area that exercises municipal powers under section 368.01 or any general or special law; a special park district organized under chapter 398; a special-purpose park and recreation board organized under the city charter of a city of the first class located in the metropolitan area; a county in the metropolitan area for the purposes of county-owned property or any portion of a county located outside the geographic boundaries of a city or a town exercising municipal powers; and a municipality or county located outside the metropolitan area with an approved ~~disease pest~~ control program.

(d) "Shade tree ~~disease pest~~" means ~~Dutch elm disease, oak wilt, or any disorder~~ pests or pathogens affecting the growth and life of shade trees.

(e) "Wood utilization or disposal system" means facilities, equipment, or systems used for the removal and disposal of diseased or pest-infested shade trees, including collection, transportation, processing, or storage of wood and assisting in the recovery of materials or energy from wood.

(f) "Approved ~~disease pest~~ control program" means a municipal plan approved by the commissioner to control or eradicate a shade tree ~~disease pest~~.

(g) "~~Disease Pest~~ control area" means an area approved by the commissioner within which a municipality will conduct an approved ~~disease pest~~ control program.

(h) "Sanitation" means the identification, inspection, disruption of a common root system, girdling, trimming, removal, and disposal of dead, pest-infested or diseased wood of shade trees, including subsidies for trees removed pursuant to subdivision 4, on public or private property within a disease control area.

(i) "Reforestation" means the replacement of shade trees removed from public property and the planting of a tree as part of a municipal disease control program. For purposes of this paragraph, "public property" includes private property within five feet of the boulevard or street terrace in a city that enacted an ordinance on or before January 1, 1977, that prohibits or requires a permit for the planting of trees in the public right-of-way.

(j) "Shade tree" means a woody perennial grown primarily for aesthetic or environmental purposes.

Sec. 2. Minnesota Statutes 2004, section 18G.16, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER TO ADOPT RULES.] The commissioner may adopt rules relating to shade tree pest and disease control in any municipality. The rules must prescribe control measures to be used to prevent the spread of shade tree pests and diseases and must include the following:

(1) a definition of shade tree;

(2) qualifications for tree inspectors;

- (3) methods of identifying diseased or ~~infested~~ pest-infested shade trees;
- (4) procedures for giving reasonable notice of inspection of private real property;
- (5) measures for the removal of any shade tree which may contribute to the spread of shade tree pests or disease and for reforestation of pest or disease control areas;
- (6) approved methods of treatment of shade trees;
- (7) criteria for priority designation areas in an approved pest or disease control program; and
- (8) any other matters determined necessary by the commissioner to prevent the spread of shade tree pests or disease and enforce this section.

Sec. 3. Minnesota Statutes 2004, section 18G.16, subdivision 3, is amended to read:

Subd. 3. [DIAGNOSTIC LABORATORY.] The commissioner shall operate a diagnostic laboratory for culturing diseased or ~~infested~~ pest-infested trees for positive identification of diseased or ~~infested~~ pest-infested shade trees.

Sec. 4. Minnesota Statutes 2004, section 18G.16, subdivision 4, is amended to read:

Subd. 4. [COOPERATION BY UNIVERSITY.] The University of Minnesota College of Natural Resources shall cooperate with the department in control of shade tree disease, pests, and disorders and management of shade tree populations. The College of Natural Resources shall cooperate with the department to conduct tree inspector certification and recertification workshops for certified tree inspectors. The College of Natural Resources shall also conduct research into means for identifying diseased or pest-infested shade trees, develop and evaluate control measures, and develop means for disposing of and using diseased or pest-infested shade trees.

Sec. 5. Minnesota Statutes 2004, section 18G.16, subdivision 5, is amended to read:

Subd. 5. [EXPERIMENTAL PROGRAMS.] The commissioner may establish experimental programs for sanitation or treatment of shade tree diseases and for research into tree varieties most suitable for municipal reforestation. The research must include considerations of disease resistance, energy conservation, and other factors considered appropriate. The commissioner may make grants to municipalities or enter into contracts with municipalities, nurseries, colleges, universities, or state or federal agencies in connection with experimental shade tree programs including research to assist municipalities in establishing priority designation areas for shade tree ~~disease~~ pest control and energy conservation.

Sec. 6. Minnesota Statutes 2004, section 18G.16, subdivision 6, is amended to read:

Subd. 6. [REMOVAL OF DISEASED OR ~~INFESTED~~ PEST-INFESTED TREES.] After reasonable notice of inspection, an owner of real property containing a shade tree that is diseased, infested, or may contribute to the spread of pests or disease, must remove or treat the tree within the period of time and in the manner established by the commissioner. Trees that are not removed in compliance with the commissioner's rules must be declared a public nuisance and removed or treated by approved methods by the municipality, which may assess all or part of the expense, limited to the lowest contract rates available that include wage levels which meet Minnesota minimum wage standards, to the property and the expense becomes a lien on the property. A municipality may assess not more than 50 percent of the expense of treating with an approved method or removing diseased or pest-infested shade trees located on street terraces or boulevards to the abutting properties and the assessment becomes a lien on the property.

Sec. 7. Minnesota Statutes 2004, section 18G.16, subdivision 7, is amended to read:

Subd. 7. [RULES; APPLICABILITY TO MUNICIPALITIES.] The rules of the commissioner apply in a municipality unless the municipality adopts an ordinance determined by the commissioner to be more stringent than the rules of the commissioner. The rules of the commissioner or the municipality apply to all state agencies, special purpose districts, and metropolitan commissions as defined in section 473.121, subdivision 5a, that own or control land adjacent to or within a shade tree ~~disease~~ pest control area.

Sec. 8. Minnesota Statutes 2004, section 18G.16, subdivision 8, is amended to read:

Subd. 8. [GRANTS TO MUNICIPALITIES.] (a) The commissioner may, in the name of the state and within the limit of appropriations provided, make a grant to a municipality with an approved ~~disease~~ pest control program for the partial funding of municipal sanitation and reforestation programs to replace trees lost to pest, disease, or natural disaster. The commissioner may make a grant to a home rule charter or statutory city, a special purpose park and recreation board organized under a charter of a city of the first class, a nonprofit corporation serving a city of the first class, or a county having an approved ~~disease~~ pest control program for the acquisition or implementation of a wood use or disposal system.

(b) The commissioner shall adopt rules for the administration of grants under this subdivision. The rules must contain:

- (1) procedures for grant applications;
- (2) conditions and procedures for the administration of grants;
- (3) criteria of eligibility for grants including, but not limited to, those specified in this subdivision; and
- (4) other matters the commissioner may find necessary to the proper administration of the grant program.

(c) Grants for wood utilization and disposal systems made by the commissioner under this subdivision must not exceed 50 percent of the total cost of the system. Grants for sanitation and reforestation must be combined into one grant program. Grants to a municipality for sanitation must not exceed 50 percent of sanitation costs approved by the commissioner including any amount of sanitation costs paid by special assessments, ad valorem taxes, federal grants, or other funds. A municipality must not specially assess a property owner an amount greater than the amount of the tree's sanitation cost minus the amount of the tree's sanitation cost reimbursed by the commissioner. Grants to municipalities for reforestation must not exceed 50 percent of the wholesale cost of the trees planted under the reforestation program; provided that a reforestation grant to a county may include 90 percent of the cost of the first 50 trees planted on public property in a town not included in the definition of municipality in subdivision 1 and with less than 1,000 population when the town applies to the county. Reforestation grants to towns and home rule charter or statutory cities of less than 4,000 population with an approved ~~disease~~ pest control program may include 90 percent of the cost of the first 50 trees planted on public property. The governing body of a municipality that receives a reforestation grant under this section must appoint up to seven residents of the municipality or designate an existing municipal board or committee to serve as a reforestation advisory committee to advise the governing body of the municipality in the administration of the reforestation program. For the purpose of this subdivision, "cost" does not include the value of a gift or dedication of trees required by a municipal ordinance but does include documented "in-kind" services or voluntary work for municipalities with a population of less than 1,000 according to the most recent federal census.

(d) Based upon estimates submitted by the municipality to the commissioner, which state the estimated costs of sanitation and reforestation in the succeeding quarter under an approved program, the commissioner shall direct quarterly advance payments to be made by the state to the municipality commencing April 1. The commissioner shall direct adjustment of any overestimate in a succeeding quarter. A municipality may elect to receive the proceeds of its sanitation and reforestation grants on a periodic cost reimbursement basis.

(e) A home rule charter or statutory city, county outside the metropolitan area, or any municipality, as defined in subdivision 1, may submit an application for a grant authorized by this subdivision concurrently with its request for approval of a ~~disease~~ pest control program.

(f) The commissioner shall not make grants for sanitation and reforestation or wood utilization and disposal systems in excess of ~~67~~ 50 percent of the amounts appropriated for those purposes to the municipalities located within the metropolitan area, as defined in subdivision 1.

Sec. 9. Minnesota Statutes 2004, section 18G.16, subdivision 9, is amended to read:

Subd. 9. [SUBSIDIES TO CERTAIN OWNERS.] A municipality may provide subsidies to nonprofit organizations, to owners of private residential property of five acres or less, to owners of property used for a homestead of more than five acres but less than 20 acres, and to nonprofit cemeteries for the approved treatment or removal of diseased or pest-infested shade trees.

Notwithstanding any law to the contrary, an owner of property on which shade trees are located may contract with a municipality to provide protection against the cost of approved treatment or removal of diseased or pest-infested shade trees or shade trees that will contribute to the spread of shade tree diseases or pest infestations. Under the contract, the municipality must pay for the removal or approved treatment under terms and conditions determined by its governing body.

Sec. 10. Minnesota Statutes 2004, section 18G.16, subdivision 14, is amended to read:

Subd. 14. [MUNICIPAL OPTION TO PARTICIPATE IN PROGRAM.] The term "municipality" shall include only those municipalities which have informed the commissioner of their intent to continue an approved ~~disease pest~~ control program. Any municipality desiring to participate in the grants-in-aid for the partial funding of municipal sanitation and reforestation programs must notify the commissioner in writing before the beginning of the calendar year in which it wants to participate and must have an approved ~~disease pest~~ control program during any year in which it receives grants-in-aid. Notwithstanding the provisions of any law to the contrary, no municipality shall be required to have an approved ~~disease pest~~ control program after December 31, 1981.

Sec. 11. [APPROPRIATION.]

\$..... is appropriated from the general fund to the commissioner of agriculture for the shade tree pest control program under Minnesota Statutes, section 18G.16. This appropriation is available until expended."

Delete the title and insert:

"A bill for an act relating to agriculture; changing certain pest control programs; expanding the definition of shade tree; appropriating money; amending Minnesota Statutes 2004, section 18G.16, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 14."

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

The report was adopted.

Davids from the Committee on Agriculture and Rural Development to which was referred:

H. F. No. 2045, A bill for an act relating to ethanol fuels; establishing a program of small grants to stimulate research on improved combustion of agriculturally derived ethanol in motor vehicle engines; appropriating money; amending Minnesota Statutes 2004, section 41A.09, by adding subdivisions.

Reported the same back with the following amendments:

Page 1, line 12, delete "for" and insert "in" and delete "to"

Page 1, delete line 13

Page 1, line 14, delete "other appropriated money" and insert "for purposes of this subdivision"

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

The report was adopted.

Johnson, J., from the Committee on Civil Law and Elections to which was referred:

H. F. No. 2075, A bill for an act relating to human services; limiting a contracting agreement between health plans or pharmacy benefits manager and pharmacies; amending Minnesota Statutes 2004, section 295.582.

Reported the same back with the following amendments:

Page 2, line 3, before "must" insert "and a pharmacy benefits manager"

Page 2, line 11, before the period, insert "and for purposes of this section, a pharmacy benefits manager means an entity that performs pharmacy benefits management"

Page 2, line 22, after the period, insert "Nothing shall prohibit a pharmacy from passing on additional fees or charges to a pharmacy benefits manager."

Page 3, lines 13, 20, and 25, delete "its contracted" and insert "a"

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

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 2279, A bill for an act relating to the city of Cologne; providing exemption to wetland replacement requirements.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [WETLAND REPLACEMENT REQUIREMENT EXEMPTION.]

Notwithstanding any law to the contrary, due to the construction of a trail in or near the city of Cologne on type I and type III wetlands in the area between the improved portion of marked State Highway 284 and Benton Lake, wetland replacement is eligible for replacement under Minnesota Statutes, section 103G.222, subdivision 1, paragraph (1)."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Dauids from the Committee on Agriculture and Rural Development to which was referred:

H. F. No. 2382, A memorial resolution asking the residents of Minnesota for tolerance of different views on animal agriculture production practices; making 2005 the year the Minnesota feedlot war ended, and a new era beginning for Minnesota livestock farmers characterized by peace, love, harmony, and acceptance of diversity.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Agriculture, Environment and Natural Resources Finance.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 225, 731, 761, 949 and 1583 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Gunther and Cornish introduced:

H. F. No. 2422, A bill for an act relating to human services; providing a rate increase for nursing facilities in Martin and Faribault Counties; amending Minnesota Statutes 2004, section 256B.431, by adding a subdivision.

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

Hornstein introduced:

H. F. No. 2423, A bill for an act relating to arts assistance; establishing a music industry fund; providing for music industry grants and support services; providing for rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 129D.

The bill was read for the first time and referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

Cornish, Howes, Smith, Eastlund, Dill, Hackbarth, Simpson, Kohls, Gunther, Hamilton, Erickson, Soderstrom, Vandever, Beard, Demmer, Marquart, Westerberg, Brod, Finstad, Bradley, Heidgerken, Urdahl and Peppin introduced:

H. F. No. 2424, A bill for an act relating to public safety; reenacting the Minnesota Citizens' Personal Protection Act of 2003; recognizing the inherent right of law-abiding citizens to self-protection through the lawful use of self-defense; providing a system under which responsible, competent adults can exercise their right to self-protection by authorizing them to obtain a permit to carry a pistol; providing criminal penalties; amending Minnesota Statutes 2004, section 624.714, subdivision 17, as reenacted.

The bill was read for the first time and referred to the Committee on Civil Law and Elections.

Finstad; Sviggum; Kelliher; Sertich; Marquart; Garofalo; Lanning; Simpson; Magnus; Lillie; Brod; Hamilton; Dill; Blaine; Juhnke; Hilstrom; Westerberg; Hosch; Moe; Fritz; Nelson, P.; Meslow; Koenen; Wardlow; Slawik; Demmer; Dorn and Hilty introduced:

H. F. No. 2425, A bill for an act relating to state and local government operations; providing a process for developing a new baseball stadium; establishing a metropolitan stadium authority; providing for the membership and powers of the authority; authorizing the Metropolitan Council to issue bonds; providing powers of the host communities; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 2004, sections 473L.01; 473L.02; 473L.03; 473L.04; 473L.05; 473L.06; 473L.07; 473L.08; 473L.09; 473L.10; 473L.11; 473L.12; 473L.13.

The bill was read for the first time and referred to the Committee on Local Government.

Jaros, Howes, Davids, Magnus, Rukavina, Hackbarth, Smith, Juhnke, Urdahl, Dill, Solberg and Powell introduced:

H. F. No. 2426, A bill for an act relating to elections; changing certain gift ban exceptions; amending Minnesota Statutes 2004, section 10A.071, subdivision 3.

The bill was read for the first time and referred to the Committee on Civil Law and Elections.

Gunther, Lanning, Sertich, Clark, Mahoney and Nelson, M., introduced:

H. F. No. 2427, A bill for an act relating to housing; providing rental housing assistance; appropriating money; amending Minnesota Statutes 2004, sections 287.21, subdivision 1; 462A.201, by adding a subdivision; 462A.33, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

Howes, Cornish, Moe, Holberg, Hackbarth, Garofalo, Gazelka, Urdahl, Davids, Juhnke, Marquart, Peppin, Ozment, Dempsey, Rukavina, Newman, Severson, Emmer, Hoppe, Dill, Blaine, Sviggum, Kohls, Vandever, Erickson, Soderstrom, Nornes, Penas and Tingelstad introduced:

H. F. No. 2428, A bill for an act relating to public safety; reenacting the Minnesota Citizens' Personal Protection Act of 2003; recognizing the inherent right of law-abiding citizens to self-protection through the lawful use of self-defense; providing a system under which responsible, competent adults can exercise their right to self-protection by authorizing them to obtain a permit to carry a pistol; providing criminal penalties; amending Minnesota Statutes 2004, section 624.714, subdivision 17, as reenacted.

The bill was read for the first time and referred to the Committee on Civil Law and Elections.

Simpson, Gazelka and Howes introduced:

H. F. No. 2429, A bill for an act relating to taxation; requiring a report by the Department of Revenue; creating a credit for contributions to the Explore Minnesota Tourism additional source fund; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 290.

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

Ellison, Klinzing, Buesgens, Greiling, Thao, Paymar and Clark introduced:

H. F. No. 2430, A bill for an act relating to education; appropriating money for the quantum opportunities program.

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

Paulsen, Hackbarth, McNamara, Smith and Hoppe introduced:

H. F. No. 2431, A bill for an act relating to game and fish; prohibiting computer-assisted remote hunting; proposing coding for new law in Minnesota Statutes, chapter 97B.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 1064.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1064, A bill for an act relating to telecommunications; establishing an accessible electronic information service for blind and disabled persons; providing closed-captioning for certain local news programming; appropriating money; amending Minnesota Statutes 2004, section 237.52, subdivisions 2, 4; proposing coding for new law in Minnesota Statutes, chapters 248; 256C.

The bill was read for the first time and referred to the Committee on Ways and Means.

CONSENT CALENDAR

S. F. No. 271 was reported to the House.

There being no objection, S. F. No. 271 was temporarily laid over on the Consent Calendar.

CALENDAR FOR THE DAY

S. F. No. 1535, A bill for an act relating to liquor; authorizing the city of Minneapolis to issue an on-sale license; amending Minnesota Statutes 2004, section 340A.404, subdivision 2.

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 118 yeas and 8 nays as follows:

Those who voted in the affirmative were:

Abrams	Dorn	Hilty	Lenczewski	Ozment	Simpson
Anderson, I.	Eken	Hoppe	Lesch	Paulsen	Slawik
Atkins	Ellison	Hornstein	Liebling	Paymar	Smith
Bernardy	Emmer	Hortman	Lieder	Pelowski	Soderstrom
Blaine	Entenza	Hosch	Lillie	Penas	Solberg
Bradley	Erhardt	Howes	Loeffler	Peterson, A.	Sykora
Brod	Erickson	Huntley	Magnus	Peterson, N.	Thao
Buesgens	Finstad	Jaros	Mahoney	Peterson, S.	Thissen
Carlson	Fritz	Johnson, J.	Marquart	Poppe	Tingelstad
Charron	Garofalo	Johnson, R.	McNamara	Powell	Urdahl
Clark	Gazelka	Johnson, S.	Meslow	Rukavina	Wagenius
Cornish	Goodwin	Juhnke	Moe	Ruth	Wardlow
Cox	Greiling	Kahn	Mullery	Ruud	Welti
Cybart	Gunther	Kelliher	Murphy	Sailer	Westerberg
Davids	Hackbarth	Klinzing	Nelson, M.	Samuelson	Westrom
DeLaForest	Hamilton	Knoblach	Nelson, P.	Scalze	Wilkin
Demmer	Hansen	Koenen	Newman	Sertich	Zellers
Dempsey	Hausman	Kohls	Nornes	Severson	Spk. Sviggum
Dill	Heidgerken	Lanning	Opatz	Sieben	
Dittrich	Hilstrom	Latz	Otremba	Simon	

Those who voted in the negative were:

Anderson, B.	Eastlund	Krinkie	Peppin
Dean	Holberg	Larson	Seifert

The bill was passed and its title agreed to.

S. F. No. 171, A bill for an act relating to liquor; providing for conformity in license fees and production levels for brewpubs and small brewers; authorizing issuance of temporary licenses to small brewers; authorizing off-sale of growlers by small brewers; providing that the on-sale license for Elko Speedway authorizes sales on all days of the week; changing the issuer of a certain license at the state fair; authorizing the city of Duluth to issue a liquor license for Wade Municipal Stadium; authorizing the city of St. Paul to issue a liquor license for special events at the State Capitol; amending Minnesota Statutes 2004, sections 340A.301, subdivisions 6, 7; 340A.404, subdivision 10; Laws 2003, chapter 126, sections 28, 29; proposing coding for new law in Minnesota Statutes, chapter 340A.

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 108 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Abrams	Dill	Hosch	Loeffler	Penas	Soderstrom
Anderson, B.	Dorman	Howes	Magnus	Peppin	Solberg
Anderson, I.	Dorn	Huntley	Mahoney	Peterson, A.	Sykora
Atkins	Eken	Jaros	Mariani	Peterson, N.	Thao
Blaine	Emmer	Johnson, J.	Marquart	Poppe	Tingelstad
Bradley	Entenza	Johnson, R.	McNamara	Powell	Urdahl
Brod	Erhardt	Johnson, S.	Meslow	Rukavina	Wardlow
Buesgens	Erickson	Juhnke	Moe	Ruth	Welti
Carlson	Finstad	Kahn	Mullery	Ruud	Westerberg
Charron	Gazelka	Kelliher	Murphy	Sailer	Westrom
Clark	Gunther	Klinzing	Nelson, M.	Samuelson	Wilkin
Cornish	Hackbarth	Kohls	Newman	Scalze	Zellers
Cox	Hamilton	Lanning	Nornes	Seifert	Spk. Sviggum
Cybart	Hansen	Latz	Opatz	Sertich	
Davids	Heidgerken	Lenczewski	Otremba	Severson	
Dean	Hilstrom	Lesch	Ozment	Sieben	
DeLaForest	Hilty	Liebling	Paulsen	Simon	
Demmer	Hoppe	Lieder	Paymar	Simpson	
Dempsey	Hortman	Lillie	Pelowski	Smith	

Those who voted in the negative were:

Abeler	Ellison	Greiling	Knoblach	Nelson, P.	Thissen
Bernardy	Fritz	Hausman	Koenen	Olson	Wagenius
Dittrich	Garofalo	Holberg	Krinkie	Peterson, S.	
Eastlund	Goodwin	Hornstein	Larson	Slawik	

The bill was passed and its title agreed to.

H. F. No. 128, A bill for an act relating to civil actions; authorizing the recovery of attorney fees by funeral providers in actions to recover costs of services; proposing coding for new law in Minnesota Statutes, chapter 149A.

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 90 yeas and 41 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Hilstrom	Magnus	Peppin	Smith
Abrams	Eastlund	Holberg	Mahoney	Peterson, A.	Soderstrom
Anderson, B.	Eken	Howes	McNamara	Peterson, N.	Solberg
Atkins	Ellison	Huntley	Meslow	Peterson, S.	Sykora
Blaine	Erhardt	Johnson, J.	Moe	Poppe	Thissen
Bradley	Erickson	Juhnke	Murphy	Powell	Tingelstad
Brod	Finstad	Knoblach	Nelson, M.	Ruth	Urdahl
Cornish	Garofalo	Kohls	Nelson, P.	Ruud	Wagenius
Cox	Gazelka	Lanning	Nornes	Sailer	Wardlow
Cybart	Greiling	Larson	Olson	Samuelson	Welti
Davids	Gunther	Lenczewski	Opatz	Scalze	Westerberg
Dean	Hackbarth	Liebling	Ozment	Seifert	Westrom
Demmer	Hamilton	Lieder	Paulsen	Severson	Wilkin
Dempsey	Hansen	Lillie	Pelowski	Sieben	Zellers
Dill	Heidgerken	Loeffler	Penas	Simpson	Spk. Sviggum

Those who voted in the negative were:

Anderson, I.	Dittrich	Hilty	Johnson, S.	Lesch	Rukavina
Bernardy	Dorn	Hoppe	Kahn	Mariani	Sertich
Buesgens	Emmer	Hornstein	Kelliher	Marquart	Simon
Carlson	Entenza	Hortman	Klinzing	Mullery	Slawik
Charron	Fritz	Hosch	Koenen	Newman	Thao
Clark	Goodwin	Jaros	Krinkie	Otremba	Walker
DeLaForest	Hausman	Johnson, R.	Latz	Paymar	

The bill was passed and its title agreed to.

H. F. No. 742, A bill for an act relating to employment; providing exemptions from employment agency licensing requirements; prohibiting certain fee payments; amending Minnesota Statutes 2004, section 184.22, by adding subdivisions.

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 125 yeas and 6 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Bradley	Carlson	Cornish	Davids
Abrams	Bernardy	Brod	Charron	Cox	Dean
Anderson, I.	Blaine	Buesgens	Clark	Cybart	DeLaForest

Demmer	Gunther	Juhnke	McNamara	Peterson, N.	Soderstrom
Dempsey	Hackbarth	Kahn	Meslow	Peterson, S.	Solberg
Dill	Hamilton	Kelliher	Moe	Poppe	Sykora
Dittrich	Hansen	Klinzing	Mullery	Powell	Thao
Dorman	Hausman	Knoblach	Murphy	Rukavina	Thissen
Dorn	Heidgerken	Koenen	Nelson, M.	Ruth	Tingelstad
Eastlund	Hilstrom	Kohls	Nelson, P.	Ruud	Urdahl
Eken	Hilty	Lanning	Newman	Sailer	Vandever
Ellison	Hoppe	Larson	Nornes	Samuelson	Wagenius
Emmer	Hornstein	Lenczewski	Opatz	Scalze	Walker
Entenza	Hortman	Lesch	Otremba	Seifert	Wardlow
Erickson	Hosch	Liebling	Ozment	Sertich	Welti
Finstad	Howes	Lieder	Paulsen	Severson	Westerberg
Fritz	Huntley	Lillie	Paymar	Sieben	Westrom
Garofalo	Jaros	Loeffler	Pelowski	Simon	Wilkin
Gazelka	Johnson, J.	Magnus	Penas	Simpson	Zellers
Goodwin	Johnson, R.	Mahoney	Peppin	Slawik	Spk. Sviggum
Greiling	Johnson, S.	Marquart	Peterson, A.	Smith	

Those who voted in the negative were:

Anderson, B.	Holberg	Latz
Erhardt	Krinkie	Olson

The bill was passed and its title agreed to.

H. F. No. 892, A bill for an act relating to elections; prohibiting unauthorized removal of campaign material; providing a penalty; proposing coding for new law in Minnesota Statutes, chapter 204B.

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 128 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Goodwin	Johnson, S.	Magnus	Paymar
Abrams	Demmer	Greiling	Juhnke	Mahoney	Pelowski
Anderson, B.	Dempsey	Gunther	Kahn	Mariani	Penas
Anderson, I.	Dill	Hackbarth	Kelliher	Marquart	Peppin
Atkins	Dittrich	Hamilton	Klinzing	McNamara	Peterson, A.
Bernardy	Dorman	Hansen	Knoblach	Meslow	Peterson, N.
Blaine	Dorn	Hausman	Koenen	Moe	Peterson, S.
Bradley	Eastlund	Heidgerken	Kohls	Mullery	Poppe
Brod	Eken	Hilstrom	Krinkie	Murphy	Powell
Buesgens	Ellison	Hilty	Lanning	Nelson, M.	Ruth
Carlson	Emmer	Holberg	Larson	Nelson, P.	Ruud
Charron	Entenza	Hoppe	Latz	Newman	Sailer
Clark	Erhardt	Hornstein	Lenczewski	Nornes	Samuelson
Cornish	Erickson	Hortman	Lesch	Olson	Scalze
Cox	Finstad	Hosch	Liebling	Opatz	Seifert
Cybart	Fritz	Howes	Lieder	Otremba	Sertich
Davids	Garofalo	Johnson, J.	Lillie	Ozment	Severson
Dean	Gazelka	Johnson, R.	Loeffler	Paulsen	Sieben

Simon	Soderstrom	Tingelstad	Walker	Westrom
Simpson	Solberg	Urdahl	Wardlow	Wilkin
Slawik	Sykora	Vandever	Walti	Zellers
Smith	Thissen	Wagenius	Westerberg	Spk. Sviggum

Those who voted in the negative were:

Huntley	Jaros	Rukavina	Thao
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The bill was passed and its title agreed to.

H. F. No. 1922, A bill for an act relating to state government; authorizing the commissioner of administration to transfer state surplus computers to Minnesota Computers for Schools; amending Minnesota Statutes 2004, section 16C.23, by adding a subdivision.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilty	Lenczewski	Paulsen	Smith
Abrams	Dorman	Holberg	Lesch	Paymar	Soderstrom
Anderson, B.	Dorn	Hoppe	Liebling	Pelowski	Solberg
Anderson, I.	Eastlund	Hornstein	Lieder	Penas	Sykora
Atkins	Eken	Hortman	Lillie	Peppin	Thao
Beard	Ellison	Hosch	Loeffler	Peterson, A.	Thissen
Bernardy	Emmer	Howes	Magnus	Peterson, N.	Tingelstad
Blaine	Entenza	Huntley	Mahoney	Peterson, S.	Urdahl
Bradley	Erhardt	Jaros	Mariani	Poppe	Vandever
Brod	Erickson	Johnson, J.	Marquart	Powell	Wagenius
Buesgens	Finstad	Johnson, R.	McNamara	Rukavina	Walker
Carlson	Fritz	Johnson, S.	Meslow	Ruth	Wardlow
Charron	Garofalo	Juhnke	Moe	Ruud	Walti
Clark	Gazelka	Kahn	Mullery	Sailer	Westerberg
Cornish	Goodwin	Kelliher	Murphy	Samuelson	Westrom
Cox	Greiling	Klinzing	Nelson, M.	Scalze	Wilkin
Cybart	Gunther	Knoblach	Nelson, P.	Seifert	Zellers
Davids	Hackbarth	Koenen	Newman	Sertich	Spk. Sviggum
Dean	Hamilton	Kohls	Nornes	Severson	
DeLaForest	Hansen	Krinkie	Olson	Sieben	
Demmer	Hausman	Lanning	Opatz	Simon	
Dempsey	Heidgerken	Larson	Otremba	Simpson	
Dill	Hilstrom	Latz	Ozment	Slawik	

The bill was passed and its title agreed to.

Smith was excused between the hours of 3:40 p.m. and 4:15 p.m.

H. F. No. 1334 was reported to the House.

Mariani moved to amend H. F. No. 1334 as follows:

Page 3, after line 9, insert:

"Sec. 2. Minnesota Statutes 2004, section 116.915, subdivision 3, is amended to read:

Subd. 3. [PROGRESS REPORTS.] The commissioner, in cooperation with the director of the Office of Environmental Assistance, shall submit progress reports to the legislature on October 15, 2001, and October 15, 2005. The reports shall address the state's success in meeting the mercury release reduction goals of subdivision 1, and discuss whether different voluntary or mandatory reduction strategies are needed. The reports shall also discuss whether the reduction goals are still appropriate given the most recent information regarding mercury risks. In the report due October 15, 2005, the commissioner shall describe the reductions made in mercury emissions since 1990 by each individual sector, including, but not limited to, materials processing, energy production, and intentional use, and shall estimate the amount of the reduction achieved in each sector overall and specifically as a result of implementing a voluntary reduction plan. The report must also contain revised estimates of mercury emissions by individual sectors in 1990, 1995, 2000, and 2005."

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

H. F. No. 1334, A bill for an act relating to natural resources; modifying certain exemptions for an iron nugget production scale demonstration facility; amending Laws 2004, chapter 220, section 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 89 yeas and 42 nays as follows:

Those who voted in the affirmative were:

Abrams	Dempsey	Hamilton	Krinkie	Paulsen	Simpson
Anderson, B.	Dill	Heidgerken	Lanning	Pelowski	Soderstrom
Anderson, I.	Dorman	Hilty	Lieder	Penas	Solberg
Beard	Dorn	Hoppe	Magnus	Peppin	Sykora
Blaine	Eastlund	Hortman	Marquart	Peterson, A.	Tingelstad
Bradley	Eken	Hosch	McNamara	Peterson, N.	Urdahl
Brod	Emmer	Howes	Moe	Poppe	Vandever
Buesgens	Erhardt	Huntley	Murphy	Powell	Wardlow
Charron	Erickson	Jaros	Nelson, M.	Rukavina	Welti
Cornish	Finstad	Johnson, J.	Nelson, P.	Ruth	Westerberg
Cybart	Fritz	Juhnke	Newman	Samuelson	Westrom
Davids	Garofalo	Klinzing	Nornes	Seifert	Wilkin
Dean	Gazelka	Knoblach	Olson	Sertich	Zellers
DeLaForest	Gunther	Koenen	Otremba	Severson	Spk. Sviggum
Demmer	Hackbarth	Kohls	Ozment	Simon	

Those who voted in the negative were:

Abeler	Ellison	Hornstein	Lenczewski	Meslow	Scalze
Atkins	Entenza	Johnson, R.	Lesch	Mullery	Sieben
Bernardy	Goodwin	Johnson, S.	Liebling	Opatz	Slawik
Carlson	Greiling	Kahn	Lillie	Paymar	Thao
Clark	Hansen	Kelliher	Loeffler	Peterson, S.	Thissen
Cox	Hausman	Larson	Mahoney	Ruud	Wagenius
Dittrich	Hilstrom	Latz	Mariani	Sailer	Walker

The bill was passed and its title agreed to.

H. F. No. 1480, A bill for an act relating to drainage; allowing an outlet fee to be charged for use of an established drainage system in Red Lake County as an outlet for drainage originating in Pennington County.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Larson	Opatz	Sieben
Abrams	Dittrich	Hilstrom	Latz	Otremba	Simon
Anderson, B.	Dorman	Hilty	Lenczewski	Ozment	Simpson
Anderson, I.	Dorn	Hoppe	Lesch	Paulsen	Slawik
Atkins	Eastlund	Hornstein	Liebling	Paymar	Soderstrom
Beard	Eken	Hortman	Lieder	Pelowski	Solberg
Bernardy	Ellison	Hosch	Lillie	Penas	Sykora
Blaine	Emmer	Howes	Loeffler	Peppin	Thao
Bradley	Entenza	Huntley	Magnus	Peterson, A.	Thissen
Brod	Erhardt	Jaros	Mahoney	Peterson, N.	Tingelstad
Buesgens	Erickson	Johnson, J.	Mariani	Peterson, S.	Urdahl
Carlson	Finstad	Johnson, R.	Marquart	Poppe	Vandever
Charron	Fritz	Johnson, S.	McNamara	Powell	Wagenius
Clark	Garofalo	Juhnke	Meslow	Rukavina	Walker
Cornish	Gazelka	Kahn	Moe	Ruth	Wardlow
Cox	Goodwin	Kelliher	Mullery	Ruud	Welti
Cybart	Greiling	Klinzing	Murphy	Sailer	Westerberg
Davids	Gunther	Knoblach	Nelson, M.	Samuelson	Westrom
Dean	Hackbarth	Koenen	Nelson, P.	Scalze	Wilkin
DeLaForest	Hamilton	Kohls	Newman	Seifert	Zellers
Demmer	Hansen	Krinkie	Nornes	Sertich	Spk. Sviggum
Dempsey	Hausman	Lanning	Olson	Severson	

The bill was passed and its title agreed to.

H. F. No. 820 was reported to the House.

Ellison; Hortman; Simon; Thao; Hilstrom; Kahn; Hausman; Johnson, S.; Nelson, M.; Greiling; Clark; Slawik; Latz; Johnson, R., and Kelliher moved to amend H. F. No. 820, the second engrossment, as follows:

Page 3, line 10, before the period insert "or diminish or limit issues of human and civil rights as set forth in Minnesota Statutes 2004, Chapter 363A"

A roll call was requested and properly seconded.

The question was taken on the Ellison et al amendment and the roll was called. There were 61 yeas and 72 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Fritz	Johnson, R.	Lieder	Paymar	Solberg
Atkins	Goodwin	Johnson, S.	Lillie	Peterson, S.	Thao
Bernardy	Greiling	Juhnke	Loeffler	Poppe	Thissen
Carlson	Hansen	Kahn	Mahoney	Rukavina	Wagenius
Clark	Hausman	Kelliher	Mariani	Ruud	Walker
Dill	Hilstrom	Koenen	Moe	Sailer	Welti
Dittrich	Hilty	Larson	Mullery	Scalze	
Dorn	Hornstein	Latz	Murphy	Sertich	
Eken	Hortman	Lenczewski	Nelson, M.	Sieben	
Ellison	Hosch	Lesch	Opatz	Simon	
Entenza	Jaros	Liebling	Otremba	Slawik	

Those who voted in the negative were:

Abeler	Davids	Gazelka	Kohls	Paulsen	Smith
Abrams	Dean	Gunther	Krinkie	Pelowski	Soderstrom
Anderson, B.	DeLaForest	Hackbarth	Lanning	Penas	Sykora
Beard	Demmer	Hamilton	Magnus	Peppin	Tingelstad
Blaine	Dempsey	Heidgerken	Marquart	Peterson, A.	Urdahl
Bradley	Dorman	Holberg	McNamara	Peterson, N.	Vandever
Brod	Eastlund	Hoppe	Meslow	Powell	Wardlow
Buesgens	Emmer	Howes	Nelson, P.	Ruth	Westerberg
Charron	Erhardt	Huntley	Newman	Samuelson	Westrom
Cornish	Erickson	Johnson, J.	Nornes	Seifert	Wilkin
Cox	Finstad	Klinzing	Olson	Severson	Zellers
Cybart	Garofalo	Knoblach	Ozment	Simpson	Spk. Sviggum

The motion did not prevail and the amendment was not adopted.

H. F. No. 820, A bill for an act proposing an amendment to the Minnesota Constitution; adding a section to article IV to provide for initiative and referendum; providing procedures for initiative and referendum; providing penalties; amending Minnesota Statutes 2004, sections 204C.33, subdivisions 1, 3; 204D.11, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 3B.

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 68 yeas and 65 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Gazelka	Larson	Peppin	Urdahl
Abrams	Dean	Gunther	Magnus	Peterson, N.	Vandev eer
Anderson, B.	DeLaForest	Hackbarth	McNamara	Powell	Wardlow
Beard	Demmer	Hamilton	Meslow	Ruth	Westerberg
Blaine	Dempsey	Holberg	Nelson, P.	Seifert	Westrom
Bradley	Dorman	Hoppe	Newman	Severson	Wilkin
Brod	Eastlund	Howes	Nornes	Simpson	Zellers
Buesgens	Emmer	Johnson, J.	Olson	Smith	Spk. Sviggum
Charron	Erhardt	Klinzing	Ozment	Soderstrom	
Cornish	Erickson	Knoblach	Paulsen	Sykora	
Cox	Finstad	Kohls	Pelowski	Thissen	
Cybart	Garofalo	Krinkie	Penas	Tingelstad	

Those who voted in the negative were:

Anderson, I.	Fritz	Huntley	Lesch	Nelson, M.	Scalze
Atkins	Goodwin	Jaros	Liebling	Opatz	Sertich
Bernardy	Greiling	Johnson, R.	Lieder	Otremba	Sieben
Carlson	Hansen	Johnson, S.	Lillie	Paymar	Simon
Clark	Hausman	Juhnke	Loeffler	Peterson, A.	Slawik
Dill	Heidgerken	Kahn	Mahoney	Peterson, S.	Solberg
Dittrich	Hilstrom	Kelliher	Mariani	Poppe	Thao
Dorn	Hilty	Koenen	Marquart	Rukavina	Wagenius
Eken	Hornstein	Lanning	Moe	Ruud	Walker
Ellison	Hortman	Latz	Mullery	Sailer	Wolti
Entenza	Hosch	Lenczewski	Murphy	Samuelson	

The bill was passed and its title agreed to.

H. F. No. 369 was reported to the House.

Howes moved to amend H. F. No. 369, the first engrossment, as follows:

Page 12, line 19, after the period, insert "Before recording any CIC or amended CIC plat subdividing or converting shoreland, as defined in section 103F.205, subdivision 4, a land owner must submit the proposed subdivision or conversion to the local government where the unit is located for review and approval for compliance with the local government's ordinances regulating shoreland."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 369, A bill for an act relating to real property; amending the Minnesota Common Interest Ownership Act; amending Minnesota Statutes 2004, sections 515B.1-102; 515B.1-103; 515B.1-106; 515B.1-107; 515B.1-116; 515B.2-101; 515B.2-102; 515B.2-104; 515B.2-106; 515B.2-108; 515B.2-110; 515B.2-111; 515B.2-112; 515B.2-113; 515B.2-118; 515B.2-119; 515B.2-121; 515B.2-123; 515B.2-124; 515B.3-101; 515B.3-102; 515B.3-103; 515B.3-105; 515B.3-106; 515B.3-110; 515B.3-112; 515B.3-113; 515B.3-114; 515B.3-115; 515B.3-116; 515B.3-117; 515B.3-120; 515B.4-101; 515B.4-102; 515B.4-105; 515B.4-106; 515B.4-107; 515B.4-108; 515B.4-109; 515B.4-111; 515B.4-115.

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 126 yeas and 7 nays as follows:

Those who voted in the affirmative were:

Abeler	Eastlund	Hornstein	Liebling	Pelowski	Soderstrom
Anderson, I.	Eken	Hortman	Lieder	Penas	Solberg
Atkins	Ellison	Hosch	Lillie	Peppin	Sykora
Beard	Emmer	Howes	Loeffler	Peterson, A.	Thao
Bernardy	Entenza	Huntley	Magnus	Peterson, N.	Thissen
Blaine	Erhardt	Jaros	Mahoney	Peterson, S.	Tingelstad
Bradley	Finstad	Johnson, J.	Mariani	Poppe	Urdahl
Buesgens	Fritz	Johnson, R.	Marquart	Powell	Wagenius
Carlson	Garofalo	Johnson, S.	McNamara	Rukavina	Walker
Charron	Gazelka	Juhnke	Meslow	Ruth	Wardlow
Clark	Goodwin	Kahn	Moe	Ruud	Welti
Cornish	Greiling	Kelliher	Mullery	Sailer	Westerberg
Cox	Gunther	Klinzing	Murphy	Samuelson	Westrom
Cybart	Hackbarth	Knoblauch	Nelson, M.	Scalze	Wilkin
Davids	Hamilton	Koenen	Nelson, P.	Seifert	Zellers
DeLaForest	Hansen	Kohls	Newman	Sertich	Spk. Sviggum
Demmer	Hausman	Krinkie	Nornes	Severson	
Dempsey	Heidgerken	Lanning	Opatz	Sieben	
Dill	Hilstrom	Larson	Otremba	Simon	
Dittrich	Hilty	Latz	Ozment	Simpson	
Dorman	Holberg	Lenczewski	Paulsen	Slawik	
Dorn	Hoppe	Lesch	Paymar	Smith	

Those who voted in the negative were:

Abrams	Brod	Erickson	Vandever
Anderson, B.	Dean	Olson	

The bill was passed, as amended, and its title agreed to.

S. F. No. 392, A bill for an act relating to probate; changing and clarifying certain venue, trustee powers, and omitted beneficiary provisions; amending Minnesota Statutes 2004, sections 501B.17; 501B.705, subdivisions 2, 3, 4, 5; 524.2-302.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilty	Lenczewski	Paulsen	Smith
Abrams	Dorman	Holberg	Lesch	Paymar	Soderstrom
Anderson, B.	Dorn	Hoppe	Liebling	Pelowski	Solberg
Anderson, I.	Eastlund	Hornstein	Lieder	Penas	Sykora
Atkins	Eken	Hortman	Lillie	Peppin	Thao
Beard	Ellison	Hosch	Loeffler	Peterson, A.	Thissen
Bernardy	Emmer	Howes	Magnus	Peterson, N.	Tingelstad
Blaine	Entenza	Huntley	Mahoney	Peterson, S.	Urdahl
Bradley	Erhardt	Jaros	Mariani	Poppe	Vandever
Brod	Erickson	Johnson, J.	Marquart	Powell	Wagenius
Buesgens	Finstad	Johnson, R.	McNamara	Rukavina	Walker
Carlson	Fritz	Johnson, S.	Meslow	Ruth	Wardlow
Charron	Garofalo	Juhnke	Moe	Ruud	Welti
Clark	Gazelka	Kahn	Mullery	Sailer	Westerberg
Cornish	Goodwin	Kelliher	Murphy	Samuelson	Westrom
Cox	Greiling	Klinzing	Nelson, M.	Scalze	Wilkin
Cybart	Gunther	Knoblach	Nelson, P.	Seifert	Zellers
Davids	Hackbarth	Koenen	Newman	Sertich	Spk. Sviggum
Dean	Hamilton	Kohls	Nornes	Severson	
DeLaForest	Hansen	Krinkie	Olson	Sieben	
Demmer	Hausman	Lanning	Opatz	Simon	
Dempsey	Heidgerken	Larson	Otremba	Simpson	
Dill	Hilstrom	Latz	Ozment	Slawik	

The bill was passed and its title agreed to.

Paulsen moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

There being no objection, the order of business reverted to the Consent Calendar.

CONSENT CALENDAR

S. F. No. 271, which was temporarily laid over earlier today, was again reported to the House.

S. F. No. 271, A bill for an act relating to health; modifying access to certified death records; amending Minnesota Statutes 2004, section 144.225, subdivision 7.

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 122 yeas and 9 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, I.	Bernardy	Brod	Clark	Cybart
Abrams	Atkins	Blaine	Carlson	Cornish	Dean
Anderson, B.	Beard	Bradley	Charron	Cox	DeLaForest

Demmer	Gunther	Kelliher	McNamara	Peterson, N.	Thao
Dempsey	Hackbarth	Klinzing	Meslow	Poppe	Thissen
Dill	Hamilton	Knoblach	Moe	Powell	Tingelstad
Dittrich	Hansen	Koenen	Mullery	Rukavina	Urdahl
Dorman	Hausman	Kohls	Murphy	Ruth	Vandever
Dorn	Heidgerken	Lanning	Nelson, M.	Ruud	Wagenius
Eastlund	Hilstrom	Larson	Nelson, P.	Sailer	Walker
Eken	Hilty	Latz	Newman	Samuelson	Wardlow
Ellison	Hornstein	Lenczewski	Nornes	Scalze	Walti
Entenza	Hortman	Lesch	Opatz	Seifert	Westerberg
Erhardt	Hosch	Liebling	Otremba	Sertich	Westrom
Erickson	Howes	Lieder	Ozment	Sieben	Wilkin
Finstad	Huntley	Lillie	Paulsen	Simon	Zellers
Fritz	Jaros	Loeffler	Paymar	Simpson	Spk. Sviggum
Garofalo	Johnson, J.	Magnus	Pelowski	Slawik	
Gazelka	Johnson, R.	Mahoney	Penas	Soderstrom	
Goodwin	Johnson, S.	Mariani	Peppin	Solberg	
Greiling	Juhnke	Marquart	Peterson, A.	Sykora	

Those who voted in the negative were:

Buesgens	Emmer	Hoppe	Olson	Smith
Dauids	Holberg	Krinkie	Severson	

The bill was passed and its title agreed to.

MOTIONS AND RESOLUTIONS

Cox moved that the name of Pelowski be added as an author on H. F. No. 419. The motion prevailed.

Ellison moved that the name of Klinzing be added as an author on H. F. No. 714. The motion prevailed.

Cornish moved that the name of Tingelstad be added as an author on H. F. No. 806. The motion prevailed.

Beard moved that the name of Cox be added as an author on H. F. No. 914. The motion prevailed.

Brod moved that the name of Soderstrom be added as an author on H. F. No. 934. The motion prevailed.

Nelson, P., moved that the name of McNamara be added as an author on H. F. No. 1392. The motion prevailed.

Westrom moved that the name of Soderstrom be added as an author on H. F. No. 1678. The motion prevailed.

Westrom moved that the name of Soderstrom be added as an author on H. F. No. 1679. The motion prevailed.

Clark moved that the name of Westerberg be added as an author on H. F. No. 1806. The motion prevailed.

Holberg moved that the name of Soderstrom be added as an author on H. F. No. 1810. The motion prevailed.

Holberg moved that the name of Severson be added as an author on H. F. No. 1948. The motion prevailed.

Hornstein moved that his name be stricken as an author on H. F. No. 2373. The motion prevailed.

Anderson, B., moved that the name of Erickson be added as an author on H. F. No. 2418. The motion prevailed.

Heidgerken moved that the name of Erickson be added as an author on H. F. No. 2421. The motion prevailed.

Thissen moved that H. F. No. 61 be recalled from the Committee on Commerce and Financial Institutions and be re-referred to the Committee on Taxes. The motion prevailed.

Ruud moved that H. F. No. 1210 be recalled from the Committee on Governmental Operations and Veterans Affairs and be re-referred to the Committee on Education Finance. The motion prevailed.

Hornstein, Sieben, Ellison, Mariani, Walker and Paymar introduced:

House Resolution No. 10, A House resolution affirming the Minnesota House of Representatives' commitment to the civil freedoms guaranteed by the Constitutions of the State of Minnesota and the United States.

The resolution was referred to the Committee on Public Safety Policy and Finance.

ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 3:00 p.m., Monday, April 18, 2005. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 3:00 p.m., Monday, April 18, 2005.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives