

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 208 - Relating to Northwest Airlines

Author: Senator Satveer Chaudhary

Prepared by: Daniel P. McGowan, Senate Counsel (651/296-4397) *DPM*

Date: April 4, 2005

The proposed bill prohibits the Metropolitan Airports Commission from taking any action on the Northwest Airlines expansion plan 20/20 vision or allow demolition of the Northwest Airlines maintenance or hangar facilities at the Minneapolis-St. Paul International Airport until Northwest Airlines has submitted a report to the Legislature with certain enumerated items, including:

- (1) an explanation of the current and projected future compliance by Northwest Airlines with all commitments, provisions, and covenants of the financing agreement between the State of Minnesota, Northwest Airlines, and other parties;
- (2) the present and future impact of the demolition of building B hangars on airport employment;
- (3) identify the companies that currently perform or will perform aircraft maintenance work that was previously done at Minneapolis-St. Paul International Airport;
- (4) identify countries other than the United States in which the maintenance work will be done; and
- (5) explain the applicable requirements for aircraft maintenance employees or contract workers relating to drug and alcohol testing and criminal background checks with respect to the companies and countries referenced in clauses (3) and (4).

DPM:vs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

A bill for an act

relating to transportation; prohibiting Metropolitan
Airports Commission from authorizing facility
demolition or further consideration of Northwest
Airlines 20/20 vision without legislative
authorization.

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

Section 1. [MORATORIUM ON AIRPORT PLANNING AND FACILITIES
DEMOLITION.]

The Metropolitan Airports Commission must not officially
consider, plan for, or authorize work on the Northwest Airlines
expansion plan 20/20 vision or allow demolition of Northwest
Airlines maintenance or hangar facilities at the Minneapolis-St.
Paul International Airport without specific authorization of the
legislature.

Sec. 2. [EFFECTIVE DATE.]

This act is effective the day following final enactment.

1 Senator moves to amend S.F. No. 208 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 473.608,
4 subdivision 15, is amended to read:

5 Subd. 15. [CONTRACTS TO FURTHER AERONAUTICS, FOR
6 PASSENGERS.] Without limitation upon any other powers in
7 sections 473.601 to 473.679, it may contract with any person for
8 the use by the person of any property and facilities under its
9 control, for such purposes, and to an extent as will, in the
10 opinion of the commissioners, further the interests of
11 aeronautics in this state and particularly within the
12 metropolitan area, including, but not limited to, the right to
13 lease property or facilities, or any part thereof, for a term
14 not to exceed 99 years, to any person, the national government,
15 or any foreign government, or any department of either, or to
16 the state or any municipality. Notwithstanding any contrary
17 law, the commission may not enter into a lease agreement with an
18 airline if, after the effective date of the lease agreement,
19 more than 50 percent of the gates in a terminal are leased by
20 the prospective lessee airline and its partners in an airline
21 alliance. The corporation shall not have the authority to
22 lease, in its entirety, any municipal airport taken over by it
23 under the provisions of sections 473.601 to 473.679. The
24 commission may contract with any person for the use or lease in
25 accordance with this subdivision of any property and facilities
26 under its control for motel, hotel and garage purposes, and for
27 other purposes as, in the opinion of the commissioners, are
28 desirable to furnish goods, wares, services and accommodations
29 to or for the passengers and other users of airports under the
30 control of the corporation. Nothing in this subdivision shall
31 be interpreted to permit the sale of intoxicating liquor upon
32 the property or facilities except as authorized in chapter 340.
33 [EFFECTIVE DATE.] This section is effective the day
34 following final enactment and applies to leases entered into on
35 and after the effective date.

36 Sec. 2. Minnesota Statutes 2004, section 473.608, is

1 amended by adding a subdivision to read:

2 Subd. 24a. [AIRCRAFT MAINTENANCE.] The commission shall
3 prohibit an airline that, in the previous 12 months, operated an
4 average weekday minimum of 45 departing flights from
5 Minneapolis-St. Paul International Airport and transported
6 passengers by nonstop flights to a minimum of 15 destinations
7 from:

8 (1) performing overhaul maintenance on its aircraft outside
9 the United States; and

10 (2) performing, outside the state of Minnesota, a greater
11 percentage of its total overhaul maintenance than the percentage
12 of the airline's total operations that utilize Minnesota
13 airports."

14 Amend the title accordingly

Economic Impacts of Minneapolis-St. Paul International Airport

John C. Martin Associates LLC recently completed a study of Minneapolis-St. Paul International Airport's economic impacts on Minnesota in calendar year 2004. The study measured the airport's impact on jobs, personal income, state and local taxes, and business revenues. Following are highlights of the study's findings.

Jobs

- In, 2004, MSP generated 66,215 jobs:
 - 28,545 direct jobs (those that would immediately disappear if the airport were to go away)
 - 26,406 induced jobs (those jobs created in the community by the direct employees' local expenditures for goods and services)
 - 11,264 indirect jobs (those jobs created from purchases of goods and services by firms dependent on MSP)
- The visitor industry – hotels, restaurants, shops, entertainment venues and transportation services – provide another 87,161 direct, indirect and induced jobs.
Note: visitor industry impacts measured in the study are limited to those generated by the 6.5 million visitors who come to Minnesota via MSP.
- The combined impact of MSP to airport- and visitor-related industries is the creation of 153,376 jobs in the region.

Personal Income

- The airport generates personal income of nearly \$4.1 billion – including about \$1.5 billion in wages and salaries to direct employees.
- MSP produces nearly \$1.9 billion in personal income for those who hold jobs in the visitor industry.
- When you combine airport and visitor industry activities, the airport supports a total of nearly \$6 billion in personal income.
- The average income per direct employee in airport-related industries is over \$51,000.

Business Revenue

- MSP generates more than \$7 billion in business revenue to firms providing services at the airport.
- The airport also generates more than \$3.6 billion in business revenue in the visitor industry.
- All together, MSP generates nearly \$10.7 billion in revenue to airport and visitor industry firms.

Local Purchases

- Firms dependent on the airport spend more than \$1.1 billion on purchases from local office supply firms, retail outlets, maintenance and repair firms, and machine and parts firms.
- The visitor industry spends another \$154.5 million on purchases from local firms.
- All together, companies doing business at MSP and in the related visitor industry make nearly \$1.3 billion in local purchases.

Taxes

- MSP generates \$626.3 million in state and local taxes, including:
 - \$429.7 million in taxes from airport activity (of which \$284 million goes to the state, \$139 million to county governments and \$7 million to municipal governments)
 - \$196.6 million in taxes from visitor industry activities related to the 6.5 million visitors who come to the Twin Cities via MSP
- MSP also generates \$391.3 million in federal aviation-related taxes on air cargo, domestic passengers, international passengers, and security charges.

IMPACTS	AIRPORT GENERATED	VISITOR INDUSTRY	TOTAL IMPACT
JOBS			
DIRECT	28,545	60,516	89,061
INDUCED	26,406	22,072	48,478
INDIRECT	11,264	4,573	15,837
TOTAL	66,215	87,161	153,376
PERSONAL INCOME (MILLIONS)			
DIRECT	\$1,456.3	\$988.2	\$2,444.5
INDUCED	\$2,197.7	\$788.4	\$2,986.1
INDIRECT	\$438.7	\$95.6	\$534.3
TOTAL	\$4,092.7	\$1,872.2	\$5,964.9
AVERAGE INCOME/DIRECT EMPLOYEE	\$51,017.4	\$16,329.6	
BUSINESS REVENUE (MILLIONS)	\$7,039.5	\$3,649.2	\$10,688.7
LOCAL PURCHASES (MILLIONS)	\$1,105.8	\$154.5	\$1,260.3
STATE AND LOCAL TAXES (MILLIONS)	\$429.7	\$196.6	\$626.3
FEDERAL GOVERNMENT AVIATION-SPECIFIC TAXES (MILLIONS)	\$391.4	NA	\$391.4

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1794 - Insurance Verification Program

Author: Senator Steve Murphy

Prepared by: Bonnie Berezovsky, Senate Counsel (651/296-9191)
Amy Vennewitz, Fiscal Analyst (651/296-7681)

Date: March 17, 2005

Section 1, Subdivision 1 requires each insurance company that issues motor vehicle insurance in the state to provide, at least monthly, to the agent of the Commissioner of Public Safety, a record of each vehicle insurance policy in force.

Subdivision 2 exempts reporting insurance companies and administrators of self-insurance plans from liability for complying with subdivision 1.

Section 2 directs the commissioner to impose a 50-cent surcharge on registration taxes effective January 1, 2006. The surcharge is reduced to 25 cents on and after January 1, 2007. The surcharge proceeds are credited in the vehicle insurance verification account and appropriated to the commissioner to administer the vehicle insurance verification program.

Section 3 includes a cross-reference.

Section 4 grants rulemaking authority to the commissioner to implement statutory sections in sections 6-8 of this bill.

Section 5 allows an insurance company to release information to the department's designated agent to verify insurance coverage.

Section 6 requires a vehicle owner to provide any information the commissioner reasonably requires to determine that a vehicle is covered by insurance.

Section 7 creates the vehicle insurance verification program.

Subdivision 1 directs the commissioner to contract with an agent to administer the program, which will involve creating a vehicle insurance and registration database to verify compliance with insurance requirements.

Subdivision 2 defines the agent's duties, to maintain a vehicle insurance database and a vehicle registration database, and compare them monthly to identify registered vehicles with owners who have not complied with insurance requirements. The agent must transmit on a monthly basis a list of registered, uninsured vehicles, to the commissioner, and issue noncompliance notices.

Subdivision 3 requires the commissioner to transmit certain information at least monthly to the agent, concerning registered vehicles and self-insurers.

Subdivision 4 directs the agent to mail a notice of noncompliance to a vehicle owner who, for two consecutive months, has not provided insurance for a registered vehicle. The notice must direct the owner to provide proof of insurance within 45 days, or proof of exemption from the requirement, and it must explain penalties for operating a vehicle without insurance. The envelope must clearly state that the contents of the envelope are time-sensitive and require a response, and the envelope must display information to enable the post office to forward or return it to the sender.

Subdivision 5 requires the agent to issue an additional notice of noncompliance, containing information on applicable penalties, to a vehicle owner who has not provided proof of required insurance within 45 days of the date of the first notice. The commissioner must record the issuance of the additional notice on the vehicle record.

Section 8 relates to insurance information disclosure and penalties.

Subdivision 1 restricts disclosure of information in the database except for enumerated exceptions:

- (a) The agent must verify coverage for a state or local government agency that is litigating or enforcing the insurance requirement;
- (b) The agent must issue a certification of insurance status of an individual or vehicle for a designated time period to a state or local government agency that is litigating or enforcing the insurance requirement; and
- (c) The department shall disclose on request a person's insurance status to that person, a minor's parent or legal guardian, an incapacitated person's legal guardian, a person with power-of-attorney from the insured, a person with a notarized release from the insured person; or a person suffering loss or injury in a motor vehicle accident involving the insured.

Subdivision 2 makes it a gross misdemeanor to knowingly release information from the database for an unauthorized purpose or to an unauthorized recipient.

Subdivision 3 exempts an insurer from liability for complying with this section by providing information to the agent.

Subdivision 4 exempts that the state and department's agent from liability for utilizing the database as authorized by law.

Section 9 directs the commissioner to reinstate, without proof of insurance or payment of a reinstatement fee, any driver's license suspended under the current sampling program, which is repealed in this bill.

Section 10 declares all charges, complaints, and citations issued under the current sampling program and related violations, including driving after suspension, to be void.

Section 11 requires the commissioner to purge from a person's driving record, any notation of a violation of the sampling program or related violation. An insurer may not increase an insurance policy premium for a violation of the sampling program by a named insured. Any previous increases based on violations related to the sampling program must be rescinded.

Section 12 requires the commissioner to report to the Legislature by September 1, 2007, concerning the operation of the vehicle insurance verification program, and its impact on the identification and number of uninsured motorists.

Section 13 repeals the insurance verification sampling program.

Section 14 gives immediate effect to sections 9, 10, 11, and 13. Remaining provisions are effective on August 1, 2005.

BB/AV:rer

1 A bill for an act

2 relating to motor vehicles; requiring insurance
3 companies to report information; creating vehicle
4 insurance verification program and special revenue
5 account; requiring preparation of database to identify
6 uninsured motorists; requiring commissioner of public
7 safety to discontinue insurance verification sampling
8 program; declaring charges for violations of sampling
9 program laws to be void; reinstating certain drivers'
10 licenses; authorizing rulemaking; requiring report;
11 imposing criminal penalty; appropriating money;
12 amending Minnesota Statutes 2004, sections 168.013, by
13 adding a subdivision; 169.09, subdivision 13; 169.795;
14 169.796, subdivision 1; proposing coding for new law
15 in Minnesota Statutes, chapters 65B; 169; repealing
16 Minnesota Statutes 2004, section 169.796, subdivision
17 3.

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

19 Section 1. [65B.90] [MANDATORY DISCLOSURE.]

20 Subdivision 1. [INFORMATION REPORTING REQUIREMENT.] On at
21 least a monthly basis, each insurance company that issues
22 policies of reparation security in this state and each
23 administrator of a self-insurance plan registered with the
24 commissioner of public safety must provide to the agent
25 designated by the commissioner of public safety under section
26 169.7991 a record of each reparation security policy in force,
27 with the exception of policies that insure vehicles rated on a
28 commercial or fleet basis. The record must include the name,
29 date of birth, and driver's license number of each named insured
30 individual; make, year, and identification number of each
31 insured vehicle; and policy number, effective date, and

1 expiration date of each policy.

2 Subd. 2. [NONLIABILITY.] Neither an insurance company nor
3 an administrator of a self-insurance plan is liable to any
4 person for complying with this section.

5 Sec. 2. Minnesota Statutes 2004, section 168.013, is
6 amended by adding a subdivision to read:

7 Subd. 8a. [VEHICLE INSURANCE VERIFICATION ACCOUNT;
8 SURCHARGE.] The commissioner shall impose a surcharge of 50
9 cents on registration taxes authorized under this section for
10 registration taxes collected January 1, 2006, or later. For
11 registration taxes collected on and after January 1, 2007, the
12 surcharge is reduced to 25 cents. The commissioner shall
13 forward the proceeds of the surcharge to the commissioner of
14 finance on a monthly basis. Upon receipt, the commissioner of
15 finance shall credit the surcharge proceeds to a special revenue
16 account, to be known as the vehicle insurance verification
17 account. Money in the account is appropriated to the
18 commissioner of public safety to be used to administer the
19 vehicle insurance verification program, including to contract
20 with an agent to carry out this program.

21 Sec. 3. Minnesota Statutes 2004, section 169.09,
22 subdivision 13, is amended to read:

23 Subd. 13. [REPORTS CONFIDENTIAL; EVIDENCE, FEE, PENALTY,
24 APPROPRIATION.] (a) All written reports and supplemental reports
25 required under this section shall be for the use of the
26 commissioner of public safety and other appropriate state,
27 federal, county, and municipal governmental agencies for
28 accident analysis purposes, except:

29 (1) the commissioner of public safety or any law
30 enforcement agency shall, upon written request of any person
31 involved in an accident or upon written request of the
32 representative of the person's estate, surviving spouse, or one
33 or more surviving next of kin, or a trustee appointed pursuant
34 to section 573.02, disclose to the requester, the requester's
35 legal counsel, or a representative of the requester's insurer
36 the report required under subdivision 8;

1 (2) the commissioner of public safety shall, upon written
2 request, provide the driver filing a report under subdivision 7
3 with a copy of the report filed by the driver;

4 (3) the commissioner of public safety may verify with
5 insurance companies vehicle insurance information to enforce
6 sections 65B.48, 169.792, 169.793, 169.796, and 169.797, and
7 169.7991;

8 (4) the commissioner of public safety shall provide the
9 commissioner of transportation the information obtained for each
10 traffic accident involving a commercial motor vehicle, for
11 purposes of administering commercial vehicle safety regulations;
12 and

13 (5) the commissioner of public safety may give to the
14 United States Department of Transportation commercial vehicle
15 accident information in connection with federal grant programs
16 relating to safety.

17 (b) Accident reports and data contained in the reports
18 shall not be discoverable under any provision of law or rule of
19 court. No report shall be used as evidence in any trial, civil
20 or criminal, arising out of an accident, except that the
21 commissioner of public safety shall furnish upon the demand of
22 any person who has, or claims to have, made a report, or, upon
23 demand of any court, a certificate showing that a specified
24 accident report has or has not been made to the commissioner
25 solely to prove compliance or failure to comply with the
26 requirements that the report be made to the commissioner.

27 (c) Nothing in this subdivision prevents any person who has
28 made a report pursuant to this section from providing
29 information to any persons involved in an accident or their
30 representatives or from testifying in any trial, civil or
31 criminal, arising out of an accident, as to facts within the
32 person's knowledge. It is intended by this subdivision to
33 render privileged the reports required, but it is not intended
34 to prohibit proof of the facts to which the reports relate.

35 (d) Disclosing any information contained in any accident
36 report, except as provided in this subdivision, section 13.82,

1 subdivision 3 or 6, or other statutes, is a misdemeanor.

2 (e) The commissioner of public safety may charge authorized
3 persons a \$5 fee for a copy of an accident report. The
4 commissioner may also furnish copies of the modified accident
5 records database to private agencies as provided in paragraph
6 (g), for not less than the cost of preparing the copies on a
7 bulk basis.

8 (f) The commissioner and law enforcement agencies may
9 charge commercial users who request access to response or
10 incident data relating to accidents a fee not to exceed 50 cents
11 per report. "Commercial user" is a user who in one location
12 requests access to data in more than five accident reports per
13 month, unless the user establishes that access is not for a
14 commercial purpose. Money collected by the commissioner under
15 this paragraph is appropriated to the commissioner.

16 (g) The commissioner may provide a modified copy of the
17 accident records database that does not contain names, driver's
18 license numbers, vehicle license plate numbers, addresses, or
19 other identifying data to the public upon request. However,
20 unless the accident records data base includes the motor vehicle
21 identification number, the commissioner shall include the
22 vehicle license plate number if a private agency certifies and
23 agrees that the agency:

24 (1) is in the business of collecting accident and damage
25 information on vehicles;

26 (2) will use the vehicle license plate number only for the
27 purpose of identifying vehicles that have been involved in
28 accidents or damaged in order to provide this information to
29 persons seeking access to a vehicle's history and not for the
30 purpose of identifying individuals or for any other purpose; and

31 (3) will be subject to the penalties and remedies under
32 sections 13.08 and 13.09.

33 Sec. 4. Minnesota Statutes 2004, section 169.795, is
34 amended to read:

35 169.795 [VEHICLE INSURANCE RULES.]

36 The commissioner of public safety shall adopt rules

1 necessary to implement sections 168.041, subdivision 4; 169.09,
2 subdivision 14; and 169.791 to ~~169.796~~ 169.7992.

3 Sec. 5. Minnesota Statutes 2004, section 169.796,
4 subdivision 1, is amended to read:

5 Subdivision 1. [RELEASE OF INFORMATION.] An insurance
6 company shall release information to the Department of Public
7 Safety, its agent designated under section 169.7991, or the law
8 enforcement authorities necessary to the verification of
9 insurance coverage. An insurance company or its agent acting on
10 its behalf, or an authorized person who releases the above
11 information, whether oral or written, acting in good faith, is
12 immune from any liability, civil or criminal, arising in
13 connection with the release of the information.

14 Sec. 6. [169.7967] [INFORMATION MAY BE REQUIRED.]

15 A vehicle owner shall provide any information the
16 commissioner reasonably requires to determine that a motor
17 vehicle or motorcycle is covered by a plan of reparation
18 security. This information includes the name and address of the
19 owner, the name of the reparation obligor, the insurance policy
20 number, and any other data the commissioner requires.

21 Sec. 7. [169.7991] [VEHICLE INSURANCE VERIFICATION
22 PROGRAM.]

23 Subdivision 1. [ADMINISTRATION OF PROGRAM; CONTRACT.] The
24 commissioner of public safety shall contract with an agent to
25 create and administer a vehicle insurance verification program.
26 The program will involve the establishment of a vehicle
27 insurance and registration database to verify compliance with a
28 motor vehicle owner's or operator's security requirements under
29 section 65B.48.

30 Subd. 2. [AGENT DUTIES.] The agent shall:

31 (1) create, maintain, and update monthly a database of
32 vehicle insurance policies in force in this state from
33 information provided by insurance companies, administrators of
34 self-insurance plans under section 65B.90, and the commissioner
35 of public safety with regard to self-insurers;

36 (2) create, maintain, and update monthly a database of

1 vehicles registered in this state from information supplied by
2 the commissioner of public safety;

3 (3) compare, on a monthly basis, the vehicle registration
4 database with the vehicle insurance database to identify
5 vehicles registered in this state with owners who are not in
6 compliance with security requirements under section 65B.48;

7 (4) transmit, on a monthly basis, to the commissioner a
8 record of all vehicles registered in this state, but not insured
9 in this state; and

10 (5) issue notices as described in subdivisions 4 and 5.

11 Subd. 3. [COMMISSIONER DUTIES.] The commissioner of public
12 safety shall provide the agent, at least monthly, with the
13 following information:

14 (1) on each vehicle registered within the state: vehicle
15 make, model, and identification number; owner's name, date of
16 birth, address, and driver's license number; and date of next
17 required registration renewal; and

18 (2) on each individual self-insurer registered with the
19 department under section 65B.48, subdivision 3: name and date
20 of birth; driver's license number; and make, year, and
21 identification number of each insured vehicle.

22 Subd. 4. [NONCOMPLIANCE NOTICE.] When a comparison under
23 subdivision 2 identifies a vehicle registered within this state
24 without a plan of reparation security required under section
25 65B.48 for two consecutive months, the agent shall mail notice
26 of noncompliance to the vehicle owner stating that the owner
27 must provide to the agent within 45 days proof of reparation
28 security required by section 65B.48 or proof of exemption from
29 the compulsory reparation security requirement. The notice must
30 state that operation of a vehicle without required insurance may
31 subject the owner to criminal penalties, driver's license
32 revocation, vehicle registration revocation, and reinstatement
33 fees. The envelope in which the notice is mailed must clearly
34 state on the front that the contents of the envelope are
35 time-sensitive and a response is required. The envelope must
36 display information necessary to enable the postal service to

1 return undeliverable mail to the sender. The commissioner may
2 not block forwarding of the mailed notice.

3 Subd. 5. [ADDITIONAL NOTICE.] If, at least 45 days after
4 the date of a notice to a vehicle owner issued under subdivision
5 4, the agent has not received proof of required reparation
6 security or exemption from the requirement, the agent shall
7 issue an additional notice of noncompliance to the vehicle
8 owner. The notice must contain a statement of the applicable
9 penalties, including criminal penalties, driver's license
10 revocation, vehicle registration revocation, and reinstatement
11 fees for operating a vehicle without required insurance. The
12 agent shall notify the commissioner of the issuance of an
13 additional notice of noncompliance. The commissioner shall
14 record the issuance of the notice and date of issuance on the
15 vehicle record.

16 Sec. 8. [169.7992] [INSURANCE INFORMATION DISCLOSURE;
17 PENALTY.]

18 Subdivision 1. [RESTRICTION ON DISCLOSURE.] The
19 information in the database established in section 169.7991 may
20 not be disclosed under chapter 13 or otherwise, except as
21 follows:

22 (a) For investigating, litigating, or enforcing the
23 compulsory reparation security requirement under section 65B.48,
24 the agent shall verify insurance coverage for a state or local
25 government agency.

26 (b) For investigating, litigating, or enforcing the
27 compulsory reparation security requirement under section 65B.48,
28 the agent, upon request of a state or local government agency,
29 shall issue to the requesting agency a certification of
30 insurance status, as contained in the database, of a specific
31 individual or vehicle for a time period designated by the
32 government agency.

33 (c) Upon request, the department shall disclose whether or
34 not a person is insured to:

35 (1) that person;

36 (2) the parent or legal guardian of that person, if the

1 person is an unemancipated minor;

2 (3) the legal guardian of that person, if the person is
3 legally incapacitated;

4 (4) a person who has power of attorney from the insured
5 person;

6 (5) a person who submits a notarized release from the
7 insured person dated no more than 90 days before the date the
8 request is made; or

9 (6) a person suffering loss or injury in a motor vehicle
10 accident in which the insured person is involved, but only as
11 part of an accident report as authorized in section 169.09.

12 Subd. 2. [CRIMINAL PENALTY.] A person who knowingly
13 releases or discloses information from the database for a
14 purpose other than those authorized in this section, or to a
15 person who is not entitled to it, is guilty of a gross
16 misdemeanor.

17 Subd. 3. [INSURER NONLIABILITY.] An insurer is not liable
18 to any person for complying with this section by providing
19 information to the agent.

20 Subd. 4. [STATE AND DEPARTMENT NONLIABILITY.] Neither the
21 state nor the department's agent is liable to any person for
22 gathering, managing, or using the information in the database as
23 provided in this section and section 169.7991, or for the
24 consequences of any act carried out under the authority of
25 section 169.796, subdivision 3.

26 Sec. 9. [REINSTATEMENT OF SUSPENDED LICENSES.]

27 The commissioner of public safety, without requiring proof
28 of insurance or payment of a reinstatement fee, shall reinstate
29 the driver's license of every vehicle owner whose license is
30 suspended under Minnesota Statutes, section 169.796, subdivision
31 3.

32 Sec. 10. [DISMISSAL OF CHARGES.]

33 All charges, complaints, and citations issued for a
34 violation of Minnesota Statutes, section 169.796, subdivision 3,
35 or a related violation, including driving after a license
36 suspension imposed for failure to comply with the provisions of

1 Minnesota Statutes, section 169.796, subdivision 3, are void and
2 must be dismissed.

3 Sec. 11. [REMOVAL OF PREVIOUS VIOLATIONS.]

4 The commissioner shall purge from a person's driving record
5 any notation of a violation of Minnesota Statutes, section
6 169.796, subdivision 3, and any notation of a related violation,
7 including driving after a license suspension imposed for failure
8 to comply with the provisions of Minnesota Statutes, section
9 169.796, subdivision 3. An insurer may not increase a premium
10 for a policy of vehicle insurance on the basis of a violation
11 described in this section by a named insured if the violation
12 occurred before the effective date of this section, and any such
13 increase previously imposed must be rescinded.

14 Sec. 12. [REPORT TO LEGISLATURE.]

15 The commissioner of public safety shall report to the
16 chairs of the house of representatives and senate committees
17 with jurisdiction over transportation policy by September 1,
18 2007, concerning the operation of the vehicle insurance
19 verification program, and the impact of the program on the
20 identification and number of uninsured motorists.

21 Sec. 13. [REPEALER.]

22 Minnesota Statutes 2004, section 169.796, subdivision 3, is
23 repealed.

24 Sec. 14. [EFFECTIVE DATE.]

25 Sections 9, 10, 11, and 13 are effective the day following
26 final enactment.

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was re-referred

3 S.F. No. 1794: A bill for an act relating to motor
4 vehicles; requiring insurance companies to report information;
5 creating vehicle insurance verification program and special
6 revenue account; requiring preparation of database to identify
7 uninsured motorists; requiring commissioner of public safety to
8 discontinue insurance verification sampling program; declaring
9 charges for violations of sampling program laws to be void;
10 reinstating certain drivers' licenses; authorizing rulemaking;
11 requiring report; imposing criminal penalty; appropriating
12 money; amending Minnesota Statutes 2004, sections 168.013, by
13 adding a subdivision; 169.09, subdivision 13; 169.795; 169.796,
14 subdivision 1; proposing coding for new law in Minnesota
15 Statutes, chapters 65B; 169; repealing Minnesota Statutes 2004,
16 section 169.796, subdivision 3.

17 Reports the same back with the recommendation that the bill
18 do pass. Report adopted.

19

20

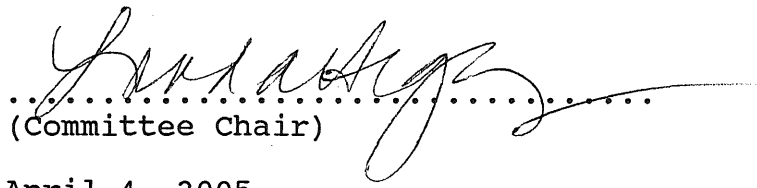
21

22

23

24

25


.....
(Committee Chair)

April 4, 2005.....
(Date of Committee recommendation)

1 A bill for an act

2 relating to airports; requiring supplemental chapter
3 in state aviation system plan; creating advisory
4 council on aviation planning; amending Minnesota
5 Statutes 2004, section 174.03, by adding a
6 subdivision; proposing coding for new law in Minnesota
7 Statutes, chapter 174.

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

9 Section 1. Minnesota Statutes 2004, section 174.03, is
10 amended by adding a subdivision to read:

11 Subd. 2a. [STATE AVIATION PLAN.] (a) Each revision of the
12 state aviation system plan must comply with the Federal Aviation
13 Administration requirements and include a supplemental chapter.
14 The supplemental chapter must include the following:

15 (1) an analysis of the projected commercial aviation needs
16 of the state over the next 20 years;

17 (2) a description of the present capacity, function, and
18 levels of activity at each commercial service airport as
19 designated by the Federal Aviation Administration, each airport
20 that the commissioner determines is likely to become a
21 commercial service airport in the next 20 years, and any other
22 airport that the commissioner determines should be included by
23 reason of commercial passenger or cargo service levels; and

24 (3) a description of the capacity, function, and levels of
25 activity that each airport identified in clause (2) must have in
26 order to carry out the plan's goal and objectives and meet the

1 needs described under clause (1).

2 (b) In assessing aviation needs and the capacity, function,
3 and level of activity at any airport, the plan must consider
4 both commercial passenger service and cargo service.

5 Sec. 2. [174.032] [ADVISORY COUNCIL ON AVIATION PLANNING.]

6 Subdivision 1. [ADVISORY COUNCIL CREATED.] (a) The
7 commissioner shall create an advisory council on aviation
8 planning to advise the commissioner on the supplemental chapter
9 of the state aviation system plan. The council consists of the
10 following members appointed by the commissioner except where
11 otherwise provided:

12 (1) one member of the Metropolitan Airports Commission;

13 (2) one representative of major commercial airlines;

14 (3) one representative of independent pilots who fly for
15 small business;

16 (4) one representative of the air cargo industry;

17 (5) two representatives of the business community unrelated
18 to aviation, one of whom must reside within the seven-county
19 metropolitan area and one of whom must reside outside that area;

20 (6) one representative of environmental interests;

21 (7) one employee of the Department of Transportation's
22 Office of Aeronautics;

23 (8) two representatives of neighborhoods that are
24 significantly affected by airplane noise appointed by community
25 representatives on the Noise Oversight Committee;

26 (9) one representative of tier-two airports (St. Cloud,
27 Duluth, Willmar, and Rochester);

28 (10) one member of the senate committee having jurisdiction
29 over transportation policy, appointed by the chair of that
30 committee;

31 (11) one member of the house of representatives committee
32 having jurisdiction over transportation policy, appointed by the
33 chair of that committee;

34 (12) one representative of the local Airline Service Action
35 Committee;

36 (13) one representative of the Citizens League of the Twin

1 Cities;

2 (14) one representative of the Association of Minnesota

3 Counties;

4 (15) one representative of the League of Minnesota Cities;

5 (16) one representative of the Minnesota Department of

6 Employment and Economic Development; and

7 (17) one representative of the Metropolitan Council.

8 (b) Members of the advisory council serve at the pleasure

9 of the appointing authority. Members shall serve without

10 compensation.

11 Subd. 2. [ADVISORY COUNCIL DUTIES.] (a) The advisory

12 council on aviation planning shall advise the commissioner on

13 the aviation planning chapter of the state aviation system

14 plan. The advisory council shall assist in the development of

15 the state aviation system plan by reviewing the work and making

16 recommendations. The state aviation system plan must consist of:

17 (1) an inventory of airport facilities, based aircraft and

18 operations;

19 (2) a forecast of aviation activities;

20 (3) a needs assessment to determine improvements needed and

21 recommendations for each airport by five-year, ten-year, and

22 20-year forecast periods;

23 (4) present and anticipated capacity needs of commercial

24 service airports, including limitations on expanding the

25 capacity of individual commercial service airports imposed by

26 state or local regulations, safety or environmental concerns,

27 and land uses near the airport that are incompatible with

28 airport operations;

29 (5) the needs of Minnesota residents and businesses for

30 passenger and cargo service, from both a statewide and regional

31 perspective;

32 (6) anticipated changes in commercial aircraft types and

33 characteristics;

34 (7) noise and other environmental impacts of aviation at

35 commercial service airports;

36 (8) trends in the aviation and airline industries; and

1 (9) relationship between aviation and other forms of
2 transportation covered by the state transportation plan.

3 (b) The advisory council may also make recommendations to
4 the commissioner, the Metropolitan Airports Commission, and the
5 legislature concerning the policy steps needed to implement the
6 chapter.

7 Subd. 3. [TERM OF COUNCIL; EXPIRATION; RECONVENING.] (a)
8 The commissioner shall appoint the first advisory council by
9 July 1, 2005. The council shall submit any recommendations it
10 makes to the legislature by January 15, 2006. The terms of all
11 members of the advisory council serving on July 1, 2005, expire
12 on January 1, 2007.

13 (b) The commissioner shall appoint and convene a new
14 advisory council not less than two years before the date on
15 which each revision of the state aviation system plan is
16 required under section 174.03, subdivision 1a. Each such
17 advisory council must consist of members as prescribed in
18 subdivision 1, who shall serve on the same terms as set forth
19 under subdivision 1. Each such advisory council expires on the
20 date on which the revision of the state aviation system plan
21 becomes final.

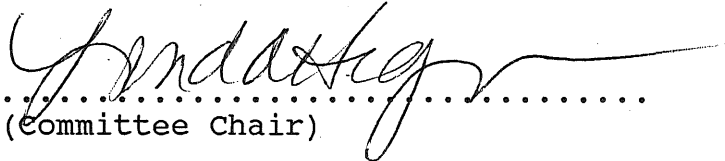
1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was re-referred

3 S.F. No. 981: A bill for an act relating to airports;
4 requiring supplemental chapter in state aviation system plan;
5 creating advisory council on aviation planning; amending
6 Minnesota Statutes 2004, section 174.03, by adding a
7 subdivision; proposing coding for new law in Minnesota Statutes,
8 chapter 174.

9 Reports the same back with the recommendation that the bill
10 do pass and be re-referred to the Committee on Rules and
11 Administration. Report adopted.

12

13


.....
(Committee Chair)

14

15

16

17

18

April 4, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate
State of Minnesota

S.F. No. 1552 - Relating to Cities of the First Class

Author: Senator D. Scott Dibble

Prepared by: Daniel P. McGowan, Senate Counsel (651/296-4397)

DPM

Date: April 4, 2005

Section 1 authorizes a city of the first class by ordinance to establish a civil rights or human rights department, director, or commission, or grant additional powers to existing civil rights or human rights departments, director, or commission, so that the rights and remedies afforded to persons claiming discriminatory housing practices qualify the city department as a substantially equivalent agency under federal HUD regulations.

Section 2 authorizes a civil rights or human rights department, director, or commission authorized by section 1 to impose and enforce through the district court any remedy, sanction, or penalty enumerated in federal housing discrimination statutes.

Subdivision 2 gives a district court jurisdiction to enforce the penalties when they are imposed by a civil rights or human rights department, director, or commission operating under this act and the district court may also enforce the remedies, sanctions, and penalties in the exercise of its own jurisdiction to enforce the housing discrimination provisions if the ordinance provides that the original enforcement is in the district court.

Subdivision 3 requires that a claim filed under this bill to be filed within one year, the same time for filing a claim under the Minnesota Human Rights Act.

Subdivision 4 authorizes an appeal to the district court for any person receiving an adverse ruling from a civil rights or human rights department, director, or commission.

Section 3 is the effective date provision of the day following final enactment.

DPM:vs

Senators Dibble, Cohen and Higgins introduced--

S.F. No. 1552: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to local government; authorizing city
3 councils in cities of the first class to establish
4 civil rights or human rights departments; providing
5 enforcement powers for housing discrimination cases.

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

7 Section 1. [CIVIL RIGHTS ORDINANCE.]

8 Notwithstanding any statute, city charter provision, or
9 ordinance to the contrary, and in addition to all other powers
10 conferred by statute or charter, the city council of a city of
11 the first class may, by ordinance, establish a civil rights or
12 human rights department, director, or commission, or grant
13 additional powers to an existing civil rights or human rights
14 department, director, or commission so that the rights and
15 remedies afforded to persons claiming discriminatory housing
16 practices qualify the civil rights or human rights department,
17 director, or commission as a substantially equivalent agency
18 under the regulations of the federal Department of Housing and
19 Urban Development in Code of Federal Regulations, title 24, part
20 115, subpart B.

21 Sec. 2. [REMEDIES; ENFORCEMENT.]

22 Subdivision 1. [HOUSING DISCRIMINATION ENFORCEMENT.] A
23 civil rights or human rights department, director, or commission
24 authorized by this act may impose and, through the district
25 court, enforce any remedy, sanction, or penalty enumerated in

1 Code of Federal Regulations, title 24, section 115.202, in
2 housing discrimination cases.

3 Subd. 2. [DISTRICT COURT JURISDICTION.] The district court
4 has jurisdiction to enforce the remedies, sanctions, or
5 penalties when they are imposed by a civil rights or human
6 rights department, director, or commission operating under this
7 act in housing discrimination cases. The district court also
8 has jurisdiction to impose and enforce the remedies, sanctions,
9 or penalties in the exercise of its own jurisdiction to enforce
10 the housing discrimination provisions of a human rights or civil
11 rights ordinance of a city of the first class, if the ordinance
12 provides that original enforcement jurisdiction is in the
13 district court.

14 Subd. 3. [TIME LIMIT FOR FILING CLAIM.] The time for
15 filing a claim with a civil rights or human rights department,
16 director, or commission, or as an original civil action in the
17 district court, cannot exceed the time for filing a claim under
18 Minnesota Statutes, section 363A.28, subdivision 3.

19 Subd. 4. [JUDICIAL REVIEW.] A party aggrieved by a final
20 decision or order of a civil rights or human rights department,
21 director, or commission may seek judicial review in the district
22 court within the time provided in cases of district court
23 judicial review of local government action.

24 Sec. 3. [EFFECTIVE DATE.]

25 Sections 1 and 2 are effective the day following final
26 enactment.

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1552: A bill for an act relating to local
4 government; authorizing city councils in cities of the first
5 class to establish civil rights or human rights departments;
6 providing enforcement powers for housing discrimination cases.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

9

10


.....
(Committee Chair)

11

12

13

14

15

April 4, 2005.....
(Date of Committee recommendation)

1

A bill for an act

2 relating to health; recodifying statutes and rules
3 relating to social work; authorizing rulemaking;
4 providing penalties; modifying provisions relating to
5 physical therapists; providing penalties; modifying
6 the Psychology Practice Act; phasing out licensure as
7 a licensed psychological practitioner; modifying
8 dental licensure provisions; establishing fees;
9 modifying provisions for licensed professional
10 counselors; authorizing certain rulemaking; modifying
11 physician review; modifying information contained on
12 prescriptions; providing recognition for the practice
13 of respiratory therapy in emergency situations;
14 providing that audiologists need not obtain hearing
15 instrument dispenser certification; providing
16 penalties; transferring oversight authority for the
17 Office of Mental Health Practice; requiring a report;
18 establishing penalty fees for certain credentialed
19 health occupations; providing criminal penalties;
20 appropriating money; amending Minnesota Statutes 2004,
21 sections 13.383, subdivision 10; 13.411, subdivision
22 5; 144.335, subdivision 1; 144A.46, subdivision 2;
23 147.09; 147A.18, subdivisions 1, 3; 147C.05; 148.512,
24 subdivision 6, by adding subdivisions; 148.515, by
25 adding a subdivision; 148.5194, by adding
26 subdivisions; 148.5195, subdivision 3; 148.6445, by
27 adding a subdivision; 148.65, by adding subdivisions;
28 148.706; 148.75; 148.89, subdivision 5; 148.90,
29 subdivision 1; 148.907, by adding a subdivision;
30 148.908, subdivision 2, by adding a subdivision;
31 148.909; 148.916, subdivision 2; 148.925, subdivision
32 6; 148.941, subdivision 2; 148.96, subdivision 3;
33 148B.53, subdivisions 1, 3; 148B.54, subdivision 2;
34 148B.59; 148B.60; 148B.61; 148C.03, subdivision 1;
35 148C.04, subdivisions 3, 4, 6; 148C.091, subdivision
36 1; 148C.10, subdivision 2; 148C.11, subdivisions 1, 4,
37 5, 6; 148C.12, subdivision 3, by adding a subdivision;
38 150A.01, subdivision 6a; 150A.06, subdivision 1a;
39 150A.10, subdivision 1a; 153A.13, subdivision 5;
40 153A.14, subdivisions 2i, 4, 4c; 153A.15, subdivision
41 1; 153A.20, subdivision 1; 214.01, subdivision 2;
42 214.103, subdivision 1; 245.462, subdivision 18;
43 245.4871, subdivision 27; 256B.0625, subdivision 38;
44 256J.08, subdivision 73a; 319B.02, subdivision 19;
45 319B.40; Laws 2003, chapter 118, section 29, as
46 amended; proposing coding for new law in Minnesota

1 Statutes, chapters 148; 148B; 148C; 150A; 153A;
2 providing coding for new law as Minnesota Statutes,
3 chapter 148D; repealing Minnesota Statutes 2004,
4 sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21;
5 148B.215; 148B.22; 148B.224; 148B.225; 148B.226;
6 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281;
7 148B.282; 148B.283; 148B.284; 148B.285; 148B.286;
8 148B.287; 148B.288; 148B.289; 148C.02; 148C.12,
9 subdivision 4; 153A.14, subdivision 2a; Minnesota
10 Rules, parts 4747.0030, subparts 11, 16; 4747.1200;
11 4747.1300; 5601.0100, subparts 3, 4; 8740.0100;
12 8740.0110; 8740.0120; 8740.0122; 8740.0130; 8740.0155;
13 8740.0185; 8740.0187; 8740.0200; 8740.0240; 8740.0260;
14 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320;
15 8740.0325; 8740.0330; 8740.0335; 8740.0340; 8740.0345.

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

17 ARTICLE 1

18 BOARD OF SOCIAL WORK

19 Section 1. Minnesota Statutes 2004, section 13.383,
20 subdivision 10, is amended to read:

21 Subd. 10. [SOCIAL WORKERS.] (a) [DISCIPLINARY DATA
22 GENERALLY.] Data held by the Board of Social Work in connection
23 with disciplinary matters are classified under
24 sections ~~148B.281, subdivisions 2 and 5, and 148B.285~~ 148D.255
25 to 148D.270.

26 (b) [REPORTS OF VIOLATIONS.] Certain reports of violations
27 submitted to the Board of Social Work are classified
28 under ~~section 148B.284~~ sections 148D.240 to 148D.250.

29 (c) [CLIENT RECORDS.] Client records of a patient cared
30 for by a social worker who is under review by the Board of
31 Social Work are classified under ~~sections 148B.282 and 148B.286,~~
32 ~~subdivision 3~~ section 148D.230.

33 Sec. 2. Minnesota Statutes 2004, section 13.411,
34 subdivision 5, is amended to read:

35 Subd. 5. [SOCIAL WORKERS.] Residence addresses and
36 telephone numbers of social worker licensees are classified
37 under ~~section 148B.285, subdivision 5~~ chapter 148D.

38 Sec. 3. Minnesota Statutes 2004, section 144.335,
39 subdivision 1, is amended to read:

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

42 (a) "Patient" means a natural person who has received
43 health care services from a provider for treatment or

1 examination of a medical, psychiatric, or mental condition, the
2 surviving spouse and parents of a deceased patient, or a person
3 the patient appoints in writing as a representative, including a
4 health care agent acting pursuant to chapter 145C, unless the
5 authority of the agent has been limited by the principal in the
6 principal's health care directive. Except for minors who have
7 received health care services pursuant to sections 144.341 to
8 144.347, in the case of a minor, patient includes a parent or
9 guardian, or a person acting as a parent or guardian in the
10 absence of a parent or guardian.

11 (b) "Provider" means (1) any person who furnishes health
12 care services and is regulated to furnish the services pursuant
13 to chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148C, 148D,
14 150A, 151, 153, or 153A, or Minnesota Rules, chapter 4666; (2) a
15 home care provider licensed under section 144A.46; (3) a health
16 care facility licensed pursuant to this chapter or chapter 144A;
17 (4) a physician assistant registered under chapter 147A; and (5)
18 an unlicensed mental health practitioner regulated pursuant to
19 sections 148B.60 to 148B.71.

20 (c) "Individually identifiable form" means a form in which
21 the patient is or can be identified as the subject of the health
22 records.

23 Sec. 4. Minnesota Statutes 2004, section 144A.46,
24 subdivision 2, is amended to read:

25 Subd. 2. [EXEMPTIONS.] The following individuals or
26 organizations are exempt from the requirement to obtain a home
27 care provider license:

28 (1) a person who is licensed as a registered nurse under
29 sections 148.171 to 148.285 and who independently provides
30 nursing services in the home without any contractual or
31 employment relationship to a home care provider or other
32 organization;

33 (2) a personal care assistant who provides services to only
34 one individual under the medical assistance program as
35 authorized under sections 256B.0625, subdivision 19a, and
36 256B.04, subdivision 16;

1 (3) a person or organization that exclusively offers,
2 provides, or arranges for personal care assistant services to
3 only one individual under the medical assistance program as
4 authorized under sections 256B.0625, subdivision 19a, and
5 256B.04, subdivision 16;

6 (4) a person who is licensed under sections 148.65 to
7 148.78 and who independently provides physical therapy services
8 in the home without any contractual or employment relationship
9 to a home care provider or other organization;

10 (5) a provider that is licensed by the commissioner of
11 human services to provide semi-independent living services under
12 Minnesota Rules, parts 9525.0500 to 9525.0660 when providing
13 home care services to a person with a developmental disability;

14 (6) a provider that is licensed by the commissioner of
15 human services to provide home and community-based services
16 under Minnesota Rules, parts 9525.2000 to 9525.2140 when
17 providing home care services to a person with a developmental
18 disability;

19 (7) a person or organization that provides only home
20 management services, if the person or organization is registered
21 under section 144A.461; or

22 (8) a person who is licensed as a social worker under
23 ~~sections 148B.18 to 148B.289~~ chapter 148D and who provides
24 social work services in the home independently and not through
25 any contractual or employment relationship with a home care
26 provider or other organization.

27 An exemption under this subdivision does not excuse the
28 individual from complying with applicable provisions of the home
29 care bill of rights.

30 Sec. 5. Minnesota Statutes 2004, section 147.09, is
31 amended to read:

32 147.09 [EXEMPTIONS.]

33 Section 147.081 does not apply to, control, prevent or
34 restrict the practice, service, or activities of:

35 (1) A person who is a commissioned medical officer of, a
36 member of, or employed by, the armed forces of the United

1 States, the United States Public Health Service, the Veterans
2 Administration, any federal institution or any federal agency
3 while engaged in the performance of official duties within this
4 state, if the person is licensed elsewhere.

5 (2) A licensed physician from a state or country who is in
6 actual consultation here.

7 (3) A licensed or registered physician who treats the
8 physician's home state patients or other participating patients
9 while the physicians and those patients are participating
10 together in outdoor recreation in this state as defined by
11 section 86A.03, subdivision 3. A physician shall first register
12 with the board on a form developed by the board for that
13 purpose. The board shall not be required to promulgate the
14 contents of that form by rule. No fee shall be charged for this
15 registration.

16 (4) A student practicing under the direct supervision of a
17 preceptor while the student is enrolled in and regularly
18 attending a recognized medical school.

19 (5) A student who is in continuing training and performing
20 the duties of an intern or resident or engaged in postgraduate
21 work considered by the board to be the equivalent of an
22 internship or residency in any hospital or institution approved
23 for training by the board, provided the student has a residency
24 permit issued by the board under section 147.0391.

25 (6) A person employed in a scientific, sanitary, or
26 teaching capacity by the state university, the Department of
27 Education, a public or private school, college, or other bona
28 fide educational institution, a nonprofit organization, which
29 has tax-exempt status in accordance with the Internal Revenue
30 Code, section 501(c)(3), and is organized and operated primarily
31 for the purpose of conducting scientific research directed
32 towards discovering the causes of and cures for human diseases,
33 or the state Department of Health, whose duties are entirely of
34 a research, public health, or educational character, while
35 engaged in such duties; provided that if the research includes
36 the study of humans, such research shall be conducted under the

1 supervision of one or more physicians licensed under this
2 chapter.

3 (7) Physician's assistants registered in this state.

4 (8) A doctor of osteopathy duly licensed by the state Board
5 of Osteopathy under Minnesota Statutes 1961, sections 148.11 to
6 148.16, prior to May 1, 1963, who has not been granted a license
7 to practice medicine in accordance with this chapter provided
8 that the doctor confines activities within the scope of the
9 license.

10 (9) Any person licensed by a health related licensing
11 board, as defined in section 214.01, subdivision 2, or
12 registered by the commissioner of health pursuant to section
13 214.13, including psychological practitioners with respect to
14 the use of hypnosis; provided that the person confines
15 activities within the scope of the license.

16 (10) A person who practices ritual circumcision pursuant to
17 the requirements or tenets of any established religion.

18 (11) A Christian Scientist or other person who endeavors to
19 prevent or cure disease or suffering exclusively by mental or
20 spiritual means or by prayer.

21 (12) A physician licensed to practice medicine in another
22 state who is in this state for the sole purpose of providing
23 medical services at a competitive athletic event. The physician
24 may practice medicine only on participants in the athletic
25 event. A physician shall first register with the board on a
26 form developed by the board for that purpose. The board shall
27 not be required to adopt the contents of the form by rule. The
28 physician shall provide evidence satisfactory to the board of a
29 current unrestricted license in another state. The board shall
30 charge a fee of \$50 for the registration.

31 (13) A psychologist licensed under section 148.907 or a
32 social worker licensed under ~~section 148B-21~~ chapter 148D who
33 uses or supervises the use of a penile or vaginal plethysmograph
34 in assessing and treating individuals suspected of engaging in
35 aberrant sexual behavior and sex offenders.

36 (14) Any person issued a training course certificate or

1 credentialed by the Emergency Medical Services Regulatory Board
2 established in chapter 144E, provided the person confines
3 activities within the scope of training at the certified or
4 credentialed level.

5 (15) An unlicensed complementary and alternative health
6 care practitioner practicing according to chapter 146A.

7 Sec. 6. [148D.001] [CITATION.]

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

10 Sec. 7. [148D.010] [DEFINITIONS.]

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

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

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

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

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

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

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

1 worker.

2 Subd. 8. [PERSON-IN-ENVIRONMENT PERSPECTIVE.]

3 "Person-in-environment perspective" means viewing human
4 behavior, development, and function in the context of one or
5 more of the following: the environment, social functioning,
6 mental health, and physical health.

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

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

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

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

33 (ii) conducting research related to social work services;

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

36 (iv) engaging in community organization to address social

1 problems through planned collective action;

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

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

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

9 (3) engaging in clinical practice.

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

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

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

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

32 (1) is licensed as a social worker; or

33 (2) has obtained a social work degree from a program
34 accredited by the Council on Social Work Education, the Canadian
35 Association of Schools of Social Work, or a similar
36 accreditation body designated by the board and engages in the

1 practice of social work.

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

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

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

17 Sec. 8. [148D.015] [SCOPE.]

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

23 Sec. 9. [148D.020] [CHAPTER 214.]

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

26 Sec. 10. [148D.025] [BOARD OF SOCIAL WORK.]

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

30 (1) ten social workers licensed pursuant to section
31 148D.055; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 Sec. 11. [148D.030] [DUTIES OF THE BOARD.]

35 Subdivision 1. [DUTIES.] The board must perform the duties
36 necessary to promote and protect the public health, safety, and

1 welfare through the licensure and regulation of persons who
2 practice social work in this state. These duties include, but
3 are not limited to:

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

6 (2) establishing standards of practice for social workers;

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

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

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

16 (6) assessing fees pursuant to sections 148D.175 and
17 148D.180; and

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

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

22 Sec. 12. [148D.035] [VARIANCES.]

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

30 Sec. 13. [148D.040] [IMMUNITY.]

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

36 Sec. 14. [148D.045] [CONTESTED CASE HEARING.]

1 An applicant or a licensee who is the subject of a
2 disciplinary or adversarial action by the board pursuant to this
3 chapter may request a contested case hearing under sections
4 14.57 to 14.62. An applicant or a licensee who desires to
5 request a contested case hearing must submit a written request
6 to the board within 90 days after the date on which the board
7 mailed the notification of the adverse action, except as
8 otherwise provided in this chapter.

9 Sec. 15. [148D.050] [LICENSING; SCOPE OF PRACTICE.]

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

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

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

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

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

30 Sec. 16. [148D.055] [LICENSE REQUIREMENTS.]

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

35 (b) Individuals who teach professional social work
36 knowledge, skills, and values to students and who have a social

1 work degree from a program accredited by the Council on Social
2 Work Education, the Canadian Association of Schools of Social
3 Work, or a similar accreditation body designated by the board
4 must have a social work license under this section or section
5 148D.060, except when the individual is exempt from licensure
6 pursuant to section 148D.065.

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

12 (1) has received a baccalaureate degree in social work from
13 a program accredited by the Council on Social Work Education,
14 the Canadian Association of Schools of Social Work, or a similar
15 accreditation body designated by the board;

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

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

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

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

34 (6) has not engaged in conduct that was or would be in
35 violation of the standards of practice specified in sections
36 148D.195 to 148D.240. If the applicant has engaged in conduct

1 that was or would be in violation of the standards of practice,
2 the board may take action pursuant to sections 148D.255 to
3 148D.270.

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

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

12 (d) By submitting an application for licensure, an
13 applicant authorizes the board to investigate any information
14 provided or requested in the application. The board may request
15 that the applicant provide additional information, verification,
16 or documentation.

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

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

34 (g) Notwithstanding paragraph (f), the board may allow an
35 applicant to take, for a fourth or subsequent time, the
36 bachelors or equivalent examination administered by the

1 Association of Social Work Boards or a similar examination body
2 designated by the board if the applicant:

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

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

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

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

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

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

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

36 This paragraph expires August 1, 2007.

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

6 (1) has received a graduate degree in social work from a
7 program accredited by the Council on Social Work Education, the
8 Canadian Association of Schools of Social Work, or a similar
9 accreditation body designated by the board;

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

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

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

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

29 (6) has not engaged in conduct that was or would be in
30 violation of the standards of practice specified in sections
31 148D.195 to 148D.240. If the applicant has engaged in conduct
32 that was or would be in violation of the standards of practice,
33 the board may take action pursuant to sections 148D.255 to
34 148D.270.

35 (b) An application which is not completed and signed, or
36 which is not accompanied by the correct fee, must be returned to

1 the applicant, along with any fee submitted, and is void.

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

7 (d) By submitting an application for licensure, an
8 applicant authorizes the board to investigate any information
9 provided or requested in the application. The board may request
10 that the applicant provide additional information, verification,
11 or documentation.

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

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

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

34 (1) meets all requirements specified in paragraphs (a) to
35 (e) other than passing the masters or equivalent examination
36 administered by the Association of Social Work boards or a

1 similar examination body designated by the board;

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

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

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

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

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

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

31 This paragraph expires August 1, 2007.

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

1 (1) has received a graduate degree in social work from a
2 program accredited by the Council on Social Work Education, the
3 Canadian Association of Schools of Social Work, or a similar
4 accreditation body designated by the board;

5 (2) has practiced social work as defined in section
6 148D.010, and has met the supervised practice requirements
7 specified in sections 148D.100 to 148D.125;

8 (3) has passed the advanced generalist or equivalent
9 examination administered by the Association of Social Work
10 Boards or a similar examination body designated by the board.

11 Unless an applicant applies for licensure by endorsement
12 pursuant to subdivision 7, an examination is not valid if it was
13 taken and passed eight or more years prior to submitting a
14 completed, signed application form provided by the board;

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

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

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

25 (7) has not engaged in conduct that was or would be in
26 violation of the standards of practice specified in sections
27 148D.195 to 148D.240. If the applicant has engaged in conduct
28 that was or would be in violation of the standards of practice,
29 the board may take action pursuant to sections 148D.255 to
30 148D.270.

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

34 (c) A licensed independent social worker who practices
35 clinical social work must meet the supervised practice
36 requirements specified in sections 148D.100 to 148D.125. If a

1 licensee does not meet the supervised practice requirements, the
2 board may take action pursuant to sections 148D.255 to 148D.270.

3 (d) By submitting an application for licensure, an
4 applicant authorizes the board to investigate any information
5 provided or requested in the application. The board may request
6 that the applicant provide additional information, verification,
7 or documentation.

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

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

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

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

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

1 likely to improve the score; and

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

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

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

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

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

28 This paragraph expires August 1, 2007.

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

35 (1) has received a graduate degree in social work from a
36 program accredited by the Council on Social Work Education, the

1 Canadian Association of Schools of Social Work, or a similar
2 accreditation body designated by the board;

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

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

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

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

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

24 (7) has not engaged in conduct that was or would be in
25 violation of the standards of practice specified in sections
26 148D.195 to 148D.240. If the applicant has engaged in conduct
27 that was or would be in violation of the standards of practice,
28 the board may take action pursuant to sections 148D.255 to
29 148D.270.

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

33 (c) By submitting an application for licensure, an
34 applicant authorizes the board to investigate any information
35 provided or requested in the application. The board may request
36 that the applicant provide additional information, verification,

1 or documentation.

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

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

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

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

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

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

36 (g) An individual must not practice social work until the

1 individual passes the examination and receives a social work
2 license under this section or section 148D.060. If the board
3 has reason to believe that an applicant may be practicing social
4 work without a license, and the applicant has failed the
5 clinical or equivalent examination administered by the
6 Association of Social Work Boards or a similar examination body
7 designated by the board, the board may notify the applicant's
8 employer that the applicant is not licensed as a social worker.

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

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

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

21 This paragraph expires August 1, 2007.

22 Subd. 6. [DEGREES FROM OUTSIDE THE UNITED STATES OR
23 CANADA.] If an applicant receives a degree from a program
24 outside the United States or Canada that is not accredited by
25 the Council on Social Work Education, the Canadian Association
26 of Schools of Social Work, or a similar examination body
27 designated by the board, the degree does not fulfill the
28 requirements specified in subdivision 2, paragraph (a), clause
29 (1); 3, paragraph (a), clause (1); 4, paragraph (a), clause (1);
30 or 5, paragraph (a), clause (1), unless the Council on Social
31 Work Education or a similar accreditation body designated by the
32 board has determined through the council's international
33 equivalency determination service that the degree earned is
34 equivalent to the degree required.

35 Subd. 7. [LICENSURE BY ENDORSEMENT.] (a) An applicant for
36 licensure by endorsement must hold a current license or

1 credential to practice social work in another jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 Sec. 17. [148D.060] [TEMPORARY LICENSES.]

15 Subdivision 1. [STUDENTS AND OTHER PERSONS NOT CURRENTLY
16 LICENSED IN ANOTHER JURISDICTION.] The board may issue a
17 temporary license to practice social work to an applicant who is
18 not licensed or credentialed to practice social work in any
19 jurisdiction but has:

20 (1) applied for a license under section 148D.055;

21 (2) applied for a temporary license on a form provided by
22 the board;

23 (3) submitted a form provided by the board authorizing the
24 board to complete a criminal background check;

25 (4) passed the applicable licensure examination provided
26 for in section 148D.055;

27 (5) attested on a form provided by the board that the
28 applicant has completed the requirements for a baccalaureate or
29 graduate degree in social work from a program accredited by the
30 Council on Social Work Education, the Canadian Association of
31 Schools of Social Work, or a similar accreditation body
32 designated by the board; and

33 (6) not engaged in conduct that was or would be in
34 violation of the standards of practice specified in sections
35 148D.195 to 148D.240. If the applicant has engaged in conduct
36 that was or would be in violation of the standards of practice,

1 the board may take action pursuant to sections 148D.255 to
2 148D.270.

3 Subd. 2. [EMERGENCY SITUATIONS AND PERSONS CURRENTLY
4 LICENSED IN ANOTHER JURISDICTION.] The board may issue a
5 temporary license to practice social work to an applicant who is
6 licensed or credentialed to practice social work in another
7 jurisdiction, may or may not have applied for a license under
8 section 148D.055, and has:

9 (1) applied for a temporary license on a form provided by
10 the board;

11 (2) submitted a form provided by the board authorizing the
12 board to complete a criminal background check;

13 (3) submitted evidence satisfactory to the board that the
14 applicant is currently licensed or credentialed to practice
15 social work in another jurisdiction;

16 (4) attested on a form provided by the board that the
17 applicant has completed the requirements for a baccalaureate or
18 graduate degree in social work from a program accredited by the
19 Council on Social Work Education, the Canadian Association of
20 Schools of Social Work, or a similar accreditation body
21 designated by the board; and

22 (5) not engaged in conduct that was or would be in
23 violation of the standards of practice specified in sections
24 148D.195 to 148D.240. If the applicant has engaged in conduct
25 that was or would be in violation of the standards of practice,
26 the board may take action pursuant to sections 148D.255 to
27 148D.270.

28 Subd. 3. [TEACHERS.] The board may issue a temporary
29 license to practice social work to an applicant whose permanent
30 residence is outside the United States, who is teaching social
31 work at an academic institution in Minnesota for a period not to
32 exceed 12 months, who may or may not have applied for a license
33 under section 148D.055, and who has:

34 (1) applied for a temporary license on a form provided by
35 the board;

36 (2) submitted a form provided by the board authorizing the

1 board to complete a criminal background check;

2 (3) attested on a form provided by the board that the
3 applicant has completed the requirements for a baccalaureate or
4 graduate degree in social work; and

5 (4) has not engaged in conduct that was or would be in
6 violation of the standards of practice specified in sections
7 148D.195 to 148D.240. If the applicant has engaged in conduct
8 that was or would be in violation of the standards of practice,
9 the board may take action pursuant to sections 148D.255 to
10 148D.270.

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

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

23 (b) A temporary license issued pursuant to subdivision 1 or
24 2 expires after six months.

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

27 Subd. 6. [LICENSEE WITH A TEMPORARY LICENSE WHO HAS
28 COMPLETED REQUIREMENTS FOR A BACCALAUREATE DEGREE.] A licensee
29 with a temporary license who has provided evidence to the board
30 that the licensee has completed the requirements for a
31 baccalaureate degree in social work from a program accredited by
32 the Council on Social Work Education, the Canadian Association
33 of Schools of Social Work, or a similar accreditation body
34 designated by the board may temporarily engage in social work
35 practice except that a licensee with a temporary license may not
36 engage in clinical social work practice.

1 Subd. 7. [LICENSEE WITH A TEMPORARY LICENSE WHO HAS
2 COMPLETED REQUIREMENTS FOR A GRADUATE DEGREE.] A licensee with a
3 temporary license who has provided evidence to the board that
4 the licensee has completed the requirements for a graduate
5 degree in social work from a program accredited by the Council
6 on Social Work Education, the Canadian Association of Schools of
7 Social Work, or a similar accreditation body designated by the
8 board may temporarily engage in social work practice, including
9 clinical practice.

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

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

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

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

36 Subd. 11. [STANDARDS OF PRACTICE.] A licensee with a

1 temporary license must conduct all professional activities as a
2 social worker in accordance with the requirements of sections
3 148D.195 to 148D.240.

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

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

14 Sec. 18. [148D.065] [EXEMPTIONS.]

15 Subdivision 1. [OTHER PROFESSIONALS.] Nothing in this
16 chapter may be construed to prevent members of other professions
17 or occupations from performing functions for which they are
18 qualified or licensed. This exception includes but is not
19 limited to: licensed physicians, registered nurses, licensed
20 practical nurses, licensed psychologists, psychological
21 practitioners, probation officers, members of the clergy and
22 Christian Science practitioners, attorneys, marriage and family
23 therapists, alcohol and drug counselors, professional
24 counselors, school counselors, and registered occupational
25 therapists or certified occupational therapist assistants.
26 These persons must not, however, hold themselves out to the
27 public by any title or description stating or implying that they
28 are engaged in the practice of social work, or that they are
29 licensed to engage in the practice of social work. Persons
30 engaged in the practice of social work are not exempt from the
31 board's jurisdiction solely by the use of one of the titles in
32 this subdivision.

33 Subd. 2. [STUDENTS.] An internship, externship, or any
34 other social work experience that is required for the completion
35 of an accredited program of social work does not constitute the
36 practice of social work under this chapter.

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

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

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

19 Sec. 19. [148D.070] [LICENSE RENEWALS.]

20 Subdivision 1. [LICENSE RENEWAL TERM.] (a) If a license is
21 renewed, the license must be renewed for a two-year renewal
22 term. The renewal term is the period from the effective date of
23 an initial or renewed license to the expiration date of the
24 license.

25 (b) The effective date of a renewed license is the day
26 following the expiration date of the expired license.

27 (c) The expiration date of a renewed license is the last
28 day of the licensee's birth month in the second calendar year
29 following the effective date of the renewed license.

30 Subd. 2. [MAILING LICENSE RENEWAL NOTICES.] The board must
31 mail a notice for license renewal to a licensee at least 45 days
32 before the expiration date of the license. Mailing the notice
33 by United States mail to the licensee's last known mailing
34 address constitutes valid mailing. Failure to receive the
35 renewal notice does not relieve a licensee of the obligation to
36 renew a license and to pay the renewal fee.

1 Subd. 3. [SUBMITTING LICENSE RENEWAL APPLICATIONS.] (a) In
2 order to renew a license, a licensee must submit:

3 (1) a completed, signed application for license renewal;

4 and

5 (2) the applicable renewal fee specified in section
6 148D.180.

7 The completed, signed application and renewal fee must be
8 received by the board prior to midnight of the day of the
9 license expiration date. For renewals submitted electronically,
10 a "signed application" means providing an attestation as
11 specified by the board.

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

15 (c) The completed, signed application must include
16 documentation that the licensee has met the continuing education
17 requirements specified in sections 148D.130 to 148D.170 and, if
18 applicable, the supervised practice requirements specified in
19 sections 148D.100 to 148D.125.

20 (d) By submitting a renewal application, an applicant
21 authorizes the board to:

22 (1) investigate any information provided or requested in
23 the application. The board may request that the applicant
24 provide additional information, verification, or documentation;

25 (2) conduct an audit to determine if the applicant has met
26 the continuing education requirements specified in sections
27 148D.130 to 148D.170; and

28 (3) if applicable, conduct an audit to determine whether
29 the applicant has met the supervision requirements specified in
30 sections 148D.100 to 148D.125.

31 (e) If a licensee's application for license renewal meets
32 the requirements specified in paragraph (a), the licensee may
33 continue to practice after the license expiration date until the
34 board approves or denies the application.

35 Subd. 4. [RENEWAL LATE FEE.] An application that is
36 received after the license expiration date must be accompanied

1 by the renewal late fee specified in section 148D.180 in
2 addition to the applicable renewal fee. The application,
3 renewal fee, and renewal late fee must be received by the board
4 within 60 days of the license expiration date, or the license
5 automatically expires.

6 Subd. 5. [EXPIRED LICENSE.] (a) If an application does not
7 meet the requirements specified in subdivisions 3 and 4, the
8 license automatically expires. A licensee whose license has
9 expired may reactivate a license by meeting the requirements in
10 section 148D.080 or be relicensed by meeting the requirements
11 specified in section 148D.055.

12 (b) The board may take action pursuant to sections 148D.255
13 to 148D.270 based on a licensee's conduct before the expiration
14 of the license.

15 (c) An expired license may be reactivated within one year
16 of the expiration date specified in section 148D.080. After one
17 year of the expiration date, an individual may apply for a new
18 license pursuant to section 148D.055.

19 Sec. 20. [148D.075] [INACTIVE LICENSES.]

20 Subdivision 1. [INACTIVE STATUS.] (a) A licensee qualifies
21 for inactive status under either of the circumstances described
22 in paragraph (b) or (c).

23 (b) A licensee qualifies for inactive status when the
24 licensee is granted temporary leave from active practice. A
25 licensee qualifies for temporary leave from active practice if
26 the licensee demonstrates to the satisfaction of the board that
27 the licensee is not engaged in the practice of social work in
28 any setting, including settings in which social workers are
29 exempt from licensure pursuant to section 148D.065. A licensee
30 who is granted temporary leave from active practice may
31 reactivate the license pursuant to section 148D.080.

32 (c) A licensee qualifies for inactive status when a
33 licensee is granted an emeritus license. A licensee qualifies
34 for an emeritus license if the licensee demonstrates to the
35 satisfaction of the board that:

36 (i) the licensee is retired from social work practice; and

1 (ii) the licensee is not engaged in the practice of social
2 work in any setting, including settings in which social workers
3 are exempt from licensure pursuant to section 148D.065.

4 A licensee who possesses an emeritus license may reactivate the
5 license pursuant to section 148D.080.

6 Subd. 2. [APPLICATION.] A licensee may apply for inactive
7 status:

8 (1) at any time by submitting an application for a
9 temporary leave from active practice or for an emeritus license;
10 or

11 (2) as an alternative to applying for the renewal of a
12 license by so recording on the application for license renewal
13 and submitting the completed, signed application to the board.

14 An application that is not completed or signed, or that is
15 not accompanied by the correct fee, must be returned to the
16 applicant, along with any fee submitted, and is void. For
17 applications submitted electronically, a "signed application"
18 means providing an attestation as specified by the board.

19 Subd. 3. [FEE.] (a) Regardless of when the application for
20 inactive status is submitted, the temporary leave or emeritus
21 license fee specified in section 148D.180, whichever is
22 applicable, must accompany the application. A licensee who is
23 approved for inactive status before the license expiration date
24 is not entitled to receive a refund for any portion of the
25 license or renewal fee.

26 (b) If an application for temporary leave is received after
27 the license expiration date, the licensee must pay a renewal
28 late fee as specified in section 148D.180 in addition to the
29 temporary leave fee.

30 Subd. 4. [TIME LIMITS FOR TEMPORARY LEAVES.] A licensee
31 may maintain an inactive license on temporary leave for no more
32 than five consecutive years. If a licensee does not apply for
33 reactivation within 60 days following the end of the consecutive
34 five-year period, the license automatically expires.

35 Subd. 5. [TIME LIMITS FOR AN EMERITUS LICENSE.] A licensee
36 with an emeritus license may not apply for reactivation pursuant

1 to section 148D.080 after five years following the granting of
2 the emeritus license. However, after five years following the
3 granting of the emeritus license, an individual may apply for
4 new licensure pursuant to section 148D.055.

5 Subd. 6. [PROHIBITION ON PRACTICE.] (a) Except as provided
6 in paragraph (b), a licensee whose license is inactive must not
7 practice, attempt to practice, offer to practice, or advertise
8 or hold out as authorized to practice social work.

9 (b) The board may grant a variance to the requirements of
10 paragraph (a) if a licensee on inactive status provides
11 emergency social work services. A variance is granted only if
12 the board provides the variance in writing to the licensee. The
13 board may impose conditions or restrictions on the variance.

14 Subd. 7. [REPRESENTATIONS OF PROFESSIONAL STATUS.] In
15 making representations of professional status to the public, a
16 licensee whose license is inactive must state that the license
17 is inactive and that the licensee cannot practice social work.

18 Subd. 8. [DISCIPLINARY OR OTHER ACTION.] The board may
19 resolve any pending complaints against a licensee before
20 approving an application for inactive status. The board may
21 take action pursuant to sections 148D.255 to 148D.270 against a
22 licensee whose license is inactive based on conduct occurring
23 before the license is inactive or conduct occurring while the
24 license is inactive.

25 Sec. 21. [148D.080] [REACTIVATIONS.]

26 Subdivision 1. [MAILING NOTICES TO LICENSEES ON TEMPORARY
27 LEAVE.] The board must mail a notice for reactivation to a
28 licensee on temporary leave at least 45 days before the
29 expiration date of the license pursuant to section 148D.075,
30 subdivision 4. Mailing the notice by United States mail to the
31 licensee's last known mailing address constitutes valid
32 mailing. Failure to receive the reactivation notice does not
33 relieve a licensee of the obligation to comply with the
34 provisions of this section to reactivate a license.

35 Subd. 2. [REACTIVATION FROM A TEMPORARY LEAVE OR EMERITUS
36 STATUS.] To reactivate a license from a temporary leave or

1 emeritus status, a licensee must do the following within the
2 time period specified in section 148D.075, subdivisions 4 and 5:

3 (1) complete an application form specified by the board;

4 (2) document compliance with the continuing education

5 requirements specified in subdivision 4;

6 (3) submit a supervision plan, if required;

7 (4) pay the reactivation of an inactive licensee fee

8 specified in section 148D.180; and

9 (5) pay the wall certificate fee in accordance with section
10 148D.095, subdivision 1, paragraph (b) or (c), if the licensee
11 needs a duplicate license.

12 Subd. 3. [REACTIVATION OF AN EXPIRED LICENSE.] To
13 reactivate an expired license, a licensee must do the following
14 within one year of the expiration date:

15 (1) complete an application form specified by the board;

16 (2) document compliance with the continuing education

17 requirements that were in effect at the time the license

18 expired;

19 (3) document compliance with the supervision requirements,

20 if applicable, that were in effect at the time the license

21 expired; and

22 (4) pay the reactivation of an expired license fee

23 specified in section 148D.180.

24 Subd. 4. [CONTINUING EDUCATION REQUIREMENTS.] (a) A
25 licensee who is on temporary leave or who has an emeritus
26 license must obtain the continuing education hours that would be
27 required if the license was active. At the time of
28 reactivation, the licensee must document compliance with the
29 continuing education requirements specified in sections 148D.130
30 to 148D.170.

31 (b) A licensee applying for reactivation pursuant to
32 subdivision 2 or 3 may apply for a variance to the continuing
33 education requirements pursuant to sections 148D.130 to 148D.170.

34 Subd. 5. [REACTIVATION OF A VOLUNTARILY TERMINATED
35 LICENSE.] To reactivate a voluntarily terminated license, a
36 licensee must do the following within one year of the date the

1 voluntary termination takes effect:

2 (1) complete an application form specified by the board;

3 (2) document compliance with the continued education
4 requirements that were in effect at the time the license was
5 voluntarily terminated;

6 (3) document compliance with the supervision requirements,
7 if applicable, that were in effect at the time the license was
8 voluntarily terminated; and

9 (4) pay the reactivation of an expired or voluntarily
10 terminated license fee specified in section 148D.180.

11 Sec. 22. [148D.085] [VOLUNTARY TERMINATIONS.]

12 Subdivision 1. [REQUESTS FOR VOLUNTARY TERMINATION.] (a) A
13 licensee may request voluntary termination of a license if the
14 licensee demonstrates to the satisfaction of the board that the
15 licensee is not engaged in the practice of social work in any
16 setting except settings in which social workers are exempt from
17 licensure pursuant to section 148D.065.

18 (b) A licensee may apply for voluntary termination:

19 (1) at any time by submitting an application; or

20 (2) as an alternative to applying for the renewal of a
21 license by so recording on the application for license renewal
22 and submitting the completed, signed application to the board.

23 For applications submitted electronically, a "signed
24 application" means providing an attestation as specified by the
25 board. An application that is not completed and signed must be
26 returned to the applicant and is void.

27 (c) The board may resolve any pending complaints against a
28 licensee before approving a request for voluntary termination.

29 Subd. 2. [APPLICATION FOR NEW LICENSURE.] A licensee who
30 has voluntarily terminated a license may not reactivate the
31 license after one year following the date the voluntary
32 termination takes effect. However, a licensee who has
33 voluntarily terminated a license may apply for a new license
34 pursuant to section 148D.055.

35 Subd. 3. [PROHIBITION ON PRACTICE.] A licensee who has
36 voluntarily terminated a license must not practice, attempt to

1 practice, offer to practice, or advertise or hold out as
2 authorized to practice social work, except when the individual
3 is exempt from licensure pursuant to section 148D.065.

4 Subd. 4. [DISCIPLINARY OR OTHER ACTION.] The board may
5 take action pursuant to sections 148D.255 to 148D.270 against a
6 licensee whose license has been terminated based on conduct
7 occurring before the license is terminated or for practicing
8 social work without a license.

9 Sec. 23. [148D.090] [NAME; CHANGE OF NAME OR ADDRESS.]

10 Subdivision 1. [NAME.] A licensee must use the licensee's
11 legal name or a professional name. If the licensee uses a
12 professional name, the licensee must inform the board in writing
13 of both the licensee's professional name and legal name and must
14 comply with the requirements of this section.

15 Subd. 2. [LEGAL NAME CHANGE.] Within 30 days after
16 changing the licensee's legal name, a licensee must:

- 17 (1) request a new license wall certificate;
18 (2) provide legal verification of the name change; and
19 (3) pay the license wall certificate fee specified in
20 section 148D.180.

21 Subd. 3. [PROFESSIONAL NAME CHANGE.] Within 30 days after
22 changing the licensee's professional name, a licensee must:

- 23 (1) request a new license wall certificate;
24 (2) provide a notarized statement attesting to the name
25 change; and

26 (3) pay the license wall certificate fee specified in
27 section 148D.180.

28 Subd. 4. [ADDRESS OR TELEPHONE CHANGE.] When a licensee
29 changes a mailing address, home address, work address, e-mail
30 address, or daytime public telephone number, the licensee must
31 notify the board of the change electronically or in writing no
32 more than 30 days after the date of the change.

33 Sec. 24. [148D.095] [LICENSE CERTIFICATE OR CARD.]

34 Subdivision 1. [LICENSE WALL CERTIFICATE.] (a) The board
35 must issue a new license wall certificate when the board issues
36 a new license. No fee in addition to the applicable license fee

1 specified in section 148D.180 is required.

2 (b) The board must replace a license wall certificate when:

3 (1) a licensee submits an affidavit to the board that the
4 original license wall certificate was lost, stolen, or
5 destroyed; and

6 (2) the licensee submits the license wall certificate fee
7 specified in section 148D.180.

8 (c) The board must issue a revised license wall certificate
9 when:

10 (1) a licensee requests a revised license wall certificate
11 pursuant to section 148D.095; and

12 (2) submits the license wall certificate fee specified in
13 section 148D.180.

14 (d) The board must issue an additional license wall
15 certificate when:

16 (1) a licensee submits a written request for a new
17 certificate because the licensee practices in more than one
18 location; and

19 (2) the licensee submits the license wall certificate fee
20 specified in section 148D.180.

21 Subd. 2. [LICENSE CARD.] (a) The board must issue a new
22 license card when the board issues a new license. No fee in
23 addition to the applicable license fee specified in section
24 148D.180 is required.

25 (b) The board must replace a license card when a licensee
26 submits:

27 (1) an affidavit to the board that the original license
28 card was lost, stolen, or destroyed; and

29 (2) the license card fee specified in section 148D.180.

30 (c) The board must issue a revised license card when the
31 licensee submits a written request for a new license wall
32 certificate because of a new professional or legal name pursuant
33 to section 148D.090, subdivision 2 or 3. No fee in addition to
34 the one specified in subdivision 1, paragraph (b), is required.

35 Sec. 25. [148D.100] [LICENSED SOCIAL WORKERS; SUPERVISED
36 PRACTICE.]

1 Subdivision 1. [SUPERVISION REQUIRED AFTER LICENSURE.]
2 After receiving a license from the board as a licensed social
3 worker, the licensed social worker must obtain at least 75 hours
4 of supervision in accordance with the requirements of this
5 section.

6 Subd. 2. [PRACTICE REQUIREMENTS.] The supervision required
7 by subdivision 1 must be obtained during the first 4,000 hours
8 of postbaccalaureate social work practice authorized by law. At
9 least three hours of supervision must be obtained during every
10 160 hours of practice.

11 Subd. 3. [TYPES OF SUPERVISION.] (a) Thirty-seven and
12 one-half hours of the supervision required by subdivision 1 must
13 consist of one-on-one in-person supervision.

14 (b) Thirty-seven and one-half hours must consist of one or
15 more of the following types of supervision, subject to the
16 limitation in clause (3):

17 (1) one-on-one in-person supervision;

18 (2) in-person group supervision; or

19 (3) electronic supervision such as by telephone or video
20 conferencing, provided that electronic supervision must not
21 exceed 25 hours.

22 (c) To qualify as in-person group supervision, the group
23 must not exceed seven members including the supervisor.

24 Subd. 4. [SUPERVISOR REQUIREMENTS.] The supervision
25 required by subdivision 1 must be provided by a supervisor who:

26 (1) is a licensed social worker who has completed the
27 supervised practice requirements;

28 (2) is a licensed graduate social worker, licensed
29 independent social worker, or licensed independent clinical
30 social worker; or

31 (3) meets the requirements specified in section 148D.120,
32 subdivision 2.

33 Subd. 5. [SUPERVISEE REQUIREMENTS.] The supervisee must:

34 (1) to the satisfaction of the supervisor, practice
35 competently and ethically in accordance with professional social
36 work knowledge, skills, and values;

- 1 (2) receive supervision in the following content areas:
2 (i) development of professional values and
3 responsibilities;
4 (ii) practice skills;
5 (iii) authorized scope of practice;
6 (iv) ensuring continuing competence; and
7 (v) ethical standards of practice;
8 (3) submit a supervision plan in accordance with section
9 148D.125, subdivision 1; and
10 (4) if the board audits the supervisee's supervised
11 practice, submit verification of supervised practice in
12 accordance with section 148D.125, subdivision 3.

13 Subd. 6. [AFTER COMPLETION OF SUPERVISION REQUIREMENTS.] A
14 licensed social worker who fulfills the supervision requirements
15 specified in subdivisions 1 to 5 is not required to be
16 supervised after completion of the supervision requirements.

17 Subd. 7. [ATTESTATION.] The social worker and the social
18 worker's supervisor must attest that the supervisee has met or
19 has made progress on meeting the applicable supervision
20 requirements in accordance with section 148D.125, subdivision 2.

21 Sec. 26. [148D.105] [LICENSED GRADUATE SOCIAL WORKERS;
22 SUPERVISED PRACTICE.]

23 Subdivision 1. [SUPERVISION REQUIRED AFTER
24 LICENSURE.] After receiving a license from the board as a
25 licensed graduate social worker, a licensed graduate social
26 worker must obtain at least 75 hours of supervision in
27 accordance with the requirements of this section.

28 Subd. 2. [PRACTICE REQUIREMENTS.] The supervision required
29 by subdivision 1 must be obtained during the first 4,000 hours
30 of postgraduate social work practice authorized by law. At
31 least three hours of supervision must be obtained during every
32 160 hours of practice.

33 Subd. 3. [TYPES OF SUPERVISION.] (a) Thirty-seven and
34 one-half hours of the supervision required by subdivision 1 must
35 consist of one-on-one in-person supervision.

36 (b) Thirty-seven and one-half hours must consist of one or

1 more of the following types of supervision, subject to the
2 limitation in clause (3):

3 (1) one-on-one in-person supervision;
4 (2) in-person group supervision; or
5 (3) electronic supervision such as by telephone or video
6 conferencing, provided that electronic supervision must not
7 exceed 25 hours.

8 (c) To qualify as in-person group supervision, the group
9 must not exceed seven members including the supervisor.

10 Subd. 4. [SUPERVISOR REQUIREMENTS.] The supervision
11 required by subdivision 1 must be provided by a supervisor who
12 meets the requirements specified in section 148D.120. The
13 supervision must be provided:

14 (1) if the supervisee is not engaged in clinical practice,
15 by a (i) licensed independent social worker, (ii) licensed
16 graduate social worker who has completed the supervised practice
17 requirements, or (iii) licensed independent clinical social
18 worker;

19 (2) if the supervisee is engaged in clinical practice, by a
20 licensed independent clinical social worker; or

21 (3) by a supervisor who meets the requirements specified in
22 section 148D.120, subdivision 2.

23 Subd. 5. [SUPERVISEE REQUIREMENTS.] The supervisee must:

24 (1) to the satisfaction of the supervisor, practice
25 competently and ethically in accordance with professional social
26 work knowledge, skills, and values;

27 (2) receive supervision in the following content areas:

28 (i) development of professional values and
29 responsibilities;

30 (ii) practice skills;

31 (iii) authorized scope of practice;

32 (iv) ensuring continuing competence; and

33 (v) ethical standards of practice;

34 (3) submit a supervision plan in accordance with section
35 148D.125, subdivision 1; and

36 (4) verify supervised practice in accordance with section

1 148D.125, subdivision 3, if:

2 (i) the board audits the supervisee's supervised practice;

3 or

4 (ii) a licensed graduate social worker applies for a
5 licensed independent social worker or licensed independent
6 clinical social worker license.

7 Subd. 6. [LICENSED GRADUATE SOCIAL WORKERS WHO PRACTICE
8 CLINICAL SOCIAL WORK.] (a) A licensed graduate social worker
9 must not engage in clinical social work practice except under
10 supervision by a licensed independent clinical social worker or
11 an alternate supervisor designated pursuant to section 148D.120,
12 subdivision 2.

13 (b) Except as provided in paragraph (c), a licensed
14 graduate social worker must not engage in clinical social work
15 practice under supervision for more than 8,000 hours. In order
16 to practice clinical social work for more than 8,000 hours, a
17 licensed graduate social worker must obtain a licensed
18 independent clinical social worker license.

19 (c) Notwithstanding the requirements of paragraph (b), the
20 board may grant a licensed graduate social worker permission to
21 engage in clinical social work practice for more than 8,000
22 hours if the licensed graduate social worker petitions the board
23 and demonstrates to the board's satisfaction that for reasons of
24 personal hardship the licensed graduate social worker should be
25 granted an extension to continue practicing clinical social work
26 under supervision for up to an additional 2,000 hours.

27 (d) Upon completion of 4,000 hours of clinical social work
28 practice and 75 hours of supervision in accordance with the
29 requirements of this section, a licensed graduate social worker
30 is eligible to apply for a licensed independent clinical social
31 worker license pursuant to section 148D.115, subdivision 1.

32 Subd. 7. [LICENSED GRADUATE SOCIAL WORKERS WHO DO NOT
33 PRACTICE CLINICAL SOCIAL WORK.] A licensed graduate social
34 worker who fulfills the supervision requirements specified in
35 subdivisions 1 to 5, and who does not practice clinical social
36 work, is not required to be supervised after completion of the

1 supervision requirements.

2 Subd. 8. [ATTESTATION.] A social worker and the social
3 worker's supervisor must attest that the supervisee has met or
4 has made progress on meeting the applicable supervision
5 requirements in accordance with section 148D.125, subdivision 2.

6 Sec. 27. [148D.110] [LICENSED INDEPENDENT SOCIAL WORKERS;
7 SUPERVISED PRACTICE.]

8 Subdivision 1. [SUPERVISION REQUIRED BEFORE
9 LICENSURE.] Before becoming licensed as a licensed independent
10 social worker, a person must have obtained at least 75 hours of
11 supervision during 4,000 hours of postgraduate social work
12 practice authorized by law in accordance with the requirements
13 of section 148D.105, subdivisions 3, 4, and 5. At least three
14 hours of supervision must be obtained during every 160 hours of
15 practice.

16 Subd. 2. [LICENSED INDEPENDENT SOCIAL WORKERS WHO PRACTICE
17 CLINICAL SOCIAL WORK AFTER LICENSURE.] (a) After licensure, a
18 licensed independent social worker must not engage in clinical
19 social work practice except under supervision by a licensed
20 independent clinical social worker or an alternate supervisor
21 designated pursuant to section 148D.120, subdivision 2.

22 (b) Except as provided in paragraph (c), a licensed
23 independent social worker must not engage in clinical social
24 work practice under supervision for more than 8,000 hours. In
25 order to practice clinical social work for more than 8,000
26 hours, a licensed independent social worker must obtain a
27 licensed independent clinical social worker license.

28 (c) Notwithstanding the requirements of paragraph (b), the
29 board may grant a licensed independent social worker permission
30 to engage in clinical social work practice for more than 8,000
31 hours if the licensed independent social worker petitions the
32 board and demonstrates to the board's satisfaction that for
33 reasons of personal hardship the licensed independent social
34 worker should be granted an extension to continue practicing
35 clinical social work under supervision for up to an additional
36 2,000 hours.

1 Subd. 3. [LICENSED INDEPENDENT SOCIAL WORKERS WHO DO NOT
2 PRACTICE CLINICAL SOCIAL WORK AFTER LICENSURE.] After licensure,
3 a licensed independent social worker is not required to be
4 supervised if the licensed independent social worker does not
5 practice clinical social work.

6 Sec. 28. [148D.115] [LICENSED INDEPENDENT CLINICAL SOCIAL
7 WORKERS; SUPERVISED PRACTICE.]

8 Subdivision 1. [SUPERVISION REQUIRED BEFORE
9 LICENSURE.] Before becoming licensed as a licensed independent
10 clinical social worker, a person must have obtained at least 75
11 hours of supervision during 4,000 hours of postgraduate clinical
12 practice authorized by law in accordance with the requirements
13 of section 148D.105, subdivisions 3, 4, and 5. At least three
14 hours of supervision must be obtained during every 160 hours of
15 practice.

16 Subd. 2. [NO SUPERVISION REQUIRED AFTER LICENSURE.] After
17 licensure, a licensed independent clinical social worker is not
18 required to be supervised.

19 Sec. 29. [148D.120] [REQUIREMENTS OF SUPERVISORS.]

20 Subdivision 1. [SUPERVISORS LICENSED AS SOCIAL WORKERS.]
21 (a) Except as provided in paragraph (b), to be eligible to
22 provide supervision under this section, a social worker must
23 attest, on a form provided by the board, that he or she has met
24 the applicable licensure requirements specified in sections
25 148D.100 to 148D.115.

26 (b) If the board determines that supervision is not
27 obtainable from an individual meeting the requirements specified
28 in paragraph (a), the board may approve an alternate supervisor
29 pursuant to subdivision 2.

30 Subd. 2. [ALTERNATE SUPERVISORS.] (a) The board may
31 approve an alternate supervisor if:

32 (1) the board determines that supervision is not obtainable
33 pursuant to paragraph (b);

34 (2) the licensee requests in the supervision plan submitted
35 pursuant to section 148D.125, subdivision 1, that an alternate
36 supervisor conduct the supervision;

1 (3) the licensee describes the proposed supervision and the
2 name and qualifications of the proposed alternate supervisor;
3 and

4 (4) the requirements of paragraph (d) are met.

5 (b) The board may determine that supervision is not
6 obtainable if:

7 (1) the licensee provides documentation as an attachment to
8 the supervision plan submitted pursuant to section 148D.125,
9 subdivision 1, that the licensee has conducted a thorough search
10 for a supervisor meeting the applicable licensure requirements
11 specified in sections 148D.100 to 148D.115;

12 (2) the licensee demonstrates to the board's satisfaction
13 that the search was unsuccessful; and

14 (3) the licensee describes the extent of the search and the
15 names and locations of the persons and organizations contacted.

16 (c) The following are not grounds for a determination that
17 supervision is unobtainable:

18 (1) obtaining a supervisor who meets the requirements of
19 subdivision 1 would present the licensee with a financial
20 hardship;

21 (2) the licensee is unable to obtain a supervisor who meets
22 the requirements of subdivision 1 within the licensee's agency
23 or organization and the agency or organization will not allow
24 outside supervision; or

25 (3) the specialized nature of the licensee's practice
26 requires supervision from a practitioner other than an
27 individual licensed as a social worker.

28 (d) An alternate supervisor must:

29 (1) be an unlicensed social worker who is employed in, and
30 provides the supervision in, a setting exempt from licensure by
31 section 148D.065, and who has qualifications equivalent to the
32 applicable requirements specified in sections 148D.100 to
33 148D.115; or

34 (2) be a licensed marriage and family therapist or a mental
35 health professional as established by section 245.462,
36 subdivision 18, or 245.4871, subdivision 27, or an equivalent

1 mental health professional, as determined by the board, who is
2 licensed or credentialed by a state, territorial, provincial, or
3 foreign licensing agency.

4 In order to qualify to provide clinical supervision of a
5 licensed graduate social worker or licensed independent social
6 worker engaged in clinical practice, the alternate supervisor
7 must be a mental health professional as established by section
8 245.462, subdivision 18, or 245.4871, subdivision 27, or an
9 equivalent mental health professional, as determined by the
10 board, who is licensed or credentialed by a state, territorial,
11 provincial, or foreign licensing agency.

12 Sec. 30. [148D.125] [DOCUMENTATION OF SUPERVISION.]

13 Subdivision 1. [SUPERVISION PLAN.] (a) A social worker
14 must submit, on a form provided by the board, a supervision plan
15 for meeting the supervision requirements specified in sections
16 148D.100 to 148D.120.

17 (b) The supervision plan must be submitted no later than 90
18 days after the licensee begins a social work practice position
19 after becoming licensed.

20 (c) For failure to submit the supervision plan within 90
21 days after beginning a social work practice position, a licensee
22 must pay the supervision plan late fee specified in section
23 148D.180 when the licensee applies for license renewal.

24 (d) A license renewal application submitted pursuant to
25 paragraph (a) must not be approved unless the board has received
26 a supervision plan.

27 (e) The supervision plan must include the following:

28 (1) the name of the supervisee, the name of the agency in
29 which the supervisee is being supervised, and the supervisee's
30 position title;

31 (2) the name and qualifications of the person providing the
32 supervision;

33 (3) the number of hours of one-on-one in-person supervision
34 and the number and type of additional hours of supervision to be
35 completed by the supervisee;

36 (4) the supervisee's position description;

1 (5) a brief description of the supervision the supervisee
2 will receive in the following content areas:

3 (i) clinical practice, if applicable;
4 (ii) development of professional social work knowledge,
5 skills, and values;

6 (iii) practice methods;
7 (iv) authorized scope of practice;
8 (v) ensuring continuing competence; and
9 (vi) ethical standards of practice; and

10 (6) if applicable, a detailed description of the
11 supervisee's clinical social work practice, addressing:

12 (i) the client population, the range of presenting issues,
13 and the diagnoses;

14 (ii) the clinical modalities that were utilized; and

15 (iii) the process utilized for determining clinical
16 diagnoses, including the diagnostic instruments used and the
17 role of the supervisee in the diagnostic process.

18 (f) The board must receive a revised supervision plan
19 within 90 days of any of the following changes:

20 (1) the supervisee has a new supervisor;

21 (2) the supervisee begins a new social work position;

22 (3) the scope or content of the supervisee's social work
23 practice changes substantially;

24 (4) the number of practice or supervision hours changes
25 substantially; or

26 (5) the type of supervision changes as supervision is
27 described in section 148D.100, subdivision 3, or 148D.105,
28 subdivision 3, or as required in section 148D.115, subdivision 4.

29 (g) For failure to submit a revised supervised plan as
30 required in paragraph (f), a supervisee must pay the supervision
31 plan late fee specified in section 148D.180, when the supervisee
32 applies for license renewal.

33 (h) The board must approve the supervisor and the
34 supervision plan.

35 Subd. 2. [ATTESTATION.] (a) When a supervisee submits
36 renewal application materials to the board, the supervisee and

1 supervisor must submit an attestation providing the following
2 information on a form provided by the board:

3 (1) the name of the supervisee, the name of the agency in
4 which the supervisee is being supervised, and the supervisee's
5 position title;

6 (2) the name and qualifications of the supervisor;

7 (3) the number of hours and dates of each type of
8 supervision completed;

9 (4) the supervisee's position description;

10 (5) a declaration that the supervisee has not engaged in
11 conduct in violation of the standards of practice specified in
12 sections 148D.195 to 148D.240;

13 (6) a declaration that the supervisee has practiced
14 competently and ethically in accordance with professional social
15 work knowledge, skills, and values; and

16 (7) a list of the content areas in which the supervisee has
17 received supervision, including the following:

18 (i) clinical practice, if applicable;

19 (ii) development of professional social work knowledge,
20 skills, and values;

21 (iii) practice methods;

22 (iv) authorized scope of practice;

23 (v) ensuring continuing competence; and

24 (vi) ethical standards of practice.

25 (b) The information provided on the attestation form must
26 demonstrate to the board's satisfaction that the supervisee has
27 met or has made progress on meeting the applicable supervised
28 practice requirements.

29 Subd. 3. [VERIFICATION OF SUPERVISED PRACTICE.] (a) In
30 addition to receiving the attestation required pursuant to
31 subdivision 2, the board must receive verification of supervised
32 practice if:

33 (1) the board audits the supervision of a supervisee
34 pursuant to section 148D.070, subdivision 3; or

35 (2) an applicant applies for a license as a licensed
36 independent social worker or as a licensed independent clinical

1 social worker.

2 (b) When verification of supervised practice is required
3 pursuant to paragraph (a), the board must receive from the
4 supervisor the following information on a form provided by the
5 board:

6 (1) the name of the supervisee, the name of the agency in
7 which the supervisee is being supervised, and the supervisee's
8 position title;

9 (2) the name and qualifications of the supervisor;

10 (3) the number of hours and dates of each type of
11 supervision completed;

12 (4) the supervisee's position description;

13 (5) a declaration that the supervisee has not engaged in
14 conduct in violation of the standards of practice specified in
15 sections 148D.195 to 148D.240;

16 (6) a declaration that the supervisee has practiced
17 ethically and competently in accordance with professional social
18 work knowledge, skills, and values;

19 (7) a list of the content areas in which the supervisee has
20 received supervision, including the following:

21 (i) clinical practice, if applicable;

22 (ii) development of professional social work knowledge,
23 skills, and values;

24 (iii) practice methods;

25 (iv) authorized scope of practice;

26 (v) ensuring continuing competence; and

27 (vi) ethical standards of practice; and

28 (8) if applicable, a detailed description of the
29 supervisee's clinical social work practice, addressing:

30 (i) the client population, the range of presenting issues,
31 and the diagnoses;

32 (ii) the clinical modalities that were utilized; and

33 (iii) the process utilized for determining clinical
34 diagnoses, including the diagnostic instruments used and the
35 role of the supervisee in the diagnostic process.

36 (c) The information provided on the verification form must

1 demonstrate to the board's satisfaction that the supervisee has
2 met the applicable supervised practice requirements.

3 Subd. 4. [ALTERNATIVE VERIFICATION OF SUPERVISED
4 PRACTICE.] Notwithstanding the requirements of subdivision 3,
5 the board may accept alternative verification of supervised
6 practice if a supervisee demonstrates to the satisfaction of the
7 board that the supervisee is unable to locate a former
8 supervisor to provide the required information.

9 Sec. 31. [148D.130] [CLOCK HOURS REQUIRED.]

10 Subdivision 1. [TOTAL CLOCK HOURS REQUIRED.] At the time
11 of license renewal, a licensee must provide evidence
12 satisfactory to the board that the licensee has, during the
13 renewal term, completed at least 30 clock hours of continuing
14 education.

15 Subd. 2. [ETHICS REQUIREMENT.] At least two of the clock
16 hours required under subdivision 1 must be in social work ethics.

17 Subd. 3. [INDEPENDENT STUDY.] Independent study must not
18 consist of more than ten clock hours of continuing education per
19 renewal term. Independent study must be for publication, public
20 presentation, or professional development. Independent study
21 includes, but is not limited to, electronic study.

22 Subd. 4. [COURSEWORK.] One credit of coursework in a
23 semester-based academic institution is the equivalent of 15
24 clock hours.

25 Subd. 5. [PRORATED RENEWAL TERM.] If the licensee's
26 renewal term is prorated to be less or more than 24 months, the
27 required number of continuing education clock hours is prorated
28 proportionately.

29 Sec. 32. [148D.135] [APPROVAL OF CLOCK HOURS.]

30 Subdivision 1. [WAYS OF APPROVING CLOCK HOURS.] The clock
31 hours required under section 148D.130 must be approved in one or
32 more of the following ways:

33 (1) the hours must be offered by a continuing education
34 provider approved by the board;

35 (2) the hours must be offered by a continuing education
36 provider approved by the Association of Social Work Boards or a

1 similar examination body designated by the board;

2 (3) the hours must be earned through a continuing education
3 program approved by the National Association of Social Workers;

4 or

5 (4) the hours must be earned through a continuing education
6 program approved by the board.

7 Subd. 2. [PREAPPROVAL NOT REQUIRED.] Providers and
8 programs are not required to be preapproved but must meet the
9 requirements specified in this section.

10 Sec. 33. [148D.140] [VARIANCES.]

11 The board may grant a variance to the continuing education
12 requirements specified in section 148D.130, when a licensee
13 demonstrates to the satisfaction of the board that the licensee
14 is unable to complete the required number of clock hours during
15 the renewal term. The board may allow a licensee to complete
16 the required number of clock hours within a time frame specified
17 by the board. The board must not allow a licensee to complete
18 less than the required number of clock hours.

19 Sec. 34. [148D.145] [CONTINUING EDUCATION PROVIDERS
20 APPROVED BY THE BOARD.]

21 Subdivision 1. [BOARD APPROVAL.] (a) The board must
22 approve a continuing education provider who:

23 (1) submits a completed application to the board which
24 provides the information required by subdivision 2 and which
25 meets the criteria specified in subdivision 3; and

26 (2) pays the provider fee specified in section 148D.180.

27 (b) An approval is valid for programs offered no later than
28 one year from the date the application is approved by the board.

29 Subd. 2. [INFORMATION REQUIRED.] The information that must
30 be provided to the board includes, but is not limited to, the
31 following:

32 (1) the name of the continuing education provider;

33 (2) the address, telephone number, and e-mail address of a
34 contact person for the provider;

35 (3) a signed statement that indicates the provider
36 understands and agrees to abide by the criteria specified in

1 subdivision 3; and

2 (4) a signed statement that indicates the provider agrees
3 to furnish a certificate of attendance to each participant in a
4 program offered by the provider.

5 Subd. 3. [CRITERIA FOR PROGRAMS OFFERED BY CONTINUING
6 EDUCATION PROVIDERS.] (a) A continuing education provider must
7 employ the following criteria in determining whether to offer a
8 continuing education program:

9 (1) whether the material to be presented will promote the
10 standards of practice described in sections 148D.195 to
11 148D.240;

12 (2) whether the material to be presented will contribute to
13 the practice of social work as defined in section 148D.010;

14 (3) whether the material to be presented is intended for
15 the benefit of practicing social workers; and

16 (4) whether the persons presenting the program are
17 qualified in the subject matter being presented.

18 (b) The material presented must not be primarily procedural
19 or primarily oriented towards business practices or
20 self-development.

21 Subd. 4. [AUDITS.] (a) The board may audit programs
22 offered by a continuing education provider approved by the board
23 to determine compliance with the requirements of this section.

24 (b) A continuing education provider audited by the board
25 must provide the documentation specified in subdivision 5.

26 Subd. 5. [INFORMATION REQUIRED TO BE MAINTAINED BY
27 CONTINUING EDUCATION PROVIDERS.] For three years following the
28 end of each program offered by a continuing education provider,
29 the provider must maintain the following information:

30 (1) the title of the program;

31 (2) a description of the content and objectives of the
32 program;

33 (3) the date of the program;

34 (4) the number of clock hours credited for participation in
35 the program;

36 (5) the program location;

1 (6) the names and qualifications of the primary presenters;

2 (7) a description of the primary audience the program was
3 designed for; and

4 (8) a list of the participants in the program.

5 Sec. 35. [148D.150] [CONTINUING EDUCATION PROVIDERS
6 APPROVED BY THE ASSOCIATION OF SOCIAL WORK BOARDS.]

7 In order to receive credit for a program offered by a
8 continuing education provider approved by the Association of
9 Social Work Boards or a similar examination body designated by
10 the board, the provider must be listed on the Association of
11 Social Work Boards Web site as a provider currently approved by
12 the Association of Social Work Boards or a similar examination
13 body designated by the board.

14 Sec. 36. [148D.155] [CONTINUING EDUCATION PROGRAMS
15 APPROVED BY THE NATIONAL ASSOCIATION OF SOCIAL WORKERS.]

16 In order to receive credit for a program approved by the
17 National Association of Social Workers, the program must be
18 listed on the National Association of Social Workers Web site as
19 a program currently approved by the National Association of
20 Social Workers.

21 Sec. 37. [148D.160] [CONTINUING EDUCATION PROGRAMS
22 APPROVED BY THE BOARD.]

23 Subdivision 1. [REQUIRED PROGRAM CONTENT.] In order to be
24 approved by the board, a continuing education program must:

25 (1) promote the standards of practice described in sections
26 148D.195 to 148D.240;

27 (2) contribute to the practice of social work as defined in
28 section 148D.010; and

29 (3) not be primarily procedural or be primarily oriented
30 towards business practices or self-development.

31 Subd. 2. [TYPES OF CONTINUING EDUCATION PROGRAMS.] In
32 order to be approved by the board, a continuing education
33 program must be one of the following: academic coursework
34 offered by an institution of higher learning; educational
35 workshops, seminars, or conferences offered by an organization
36 or individual; staff training offered by a public or private

1 employer; or independent study.

2 Sec. 38. [148D.165] [CONTINUING EDUCATION REQUIREMENTS OF
3 LICENSEES.]

4 Subdivision 1. [INFORMATION REQUIRED TO BE MAINTAINED BY
5 LICENSEES.] For one year following the expiration date of a
6 license, the licensee must maintain documentation of clock hours
7 earned during the previous renewal term. The documentation must
8 include the following:

9 (1) for educational workshops or seminars offered by an
10 organization or at a conference, a copy of the certificate of
11 attendance issued by the presenter or sponsor giving the
12 following information:

13 (i) the name of the sponsor or presenter of the program;

14 (ii) the title of the workshop or seminar;

15 (iii) the dates the licensee participated in the program;

16 and

17 (iv) the number of clock hours completed;

18 (2) for academic coursework offered by an institution of
19 higher learning, a copy of a transcript giving the following
20 information:

21 (i) the name of the institution offering the course;

22 (ii) the title of the course;

23 (iii) the dates the licensee participated in the course;

24 and

25 (iv) the number of credits completed;

26 (3) for staff training offered by public or private

27 employers, a copy of the certificate of attendance issued by the
28 employer giving the following information:

29 (i) the name of the employer;

30 (ii) the title of the staff training;

31 (iii) the dates the licensee participated in the program;

32 and

33 (iv) the number of clock hours completed; and

34 (4) for independent study, including electronic study, a
35 written summary of the study conducted, including the following
36 information:

- 1 (i) the topics studied;
2 (ii) a description of the applicability of the study to the
3 licensee's authorized scope of practice;
4 (iii) the titles and authors of books and articles
5 consulted or the name of the organization offering the study;
6 (iv) the dates the licensee conducted the study; and
7 (v) the number of clock hours the licensee conducted the
8 study.

9 Subd. 2. [AUDITS.] The board may audit license renewal and
10 reactivation applications to determine compliance with the
11 requirements of sections 148D.130 to 148D.170. A licensee
12 audited by the board must provide the documentation specified in
13 subdivision 1 regardless of whether the provider or program has
14 been approved by the board, the Association of Social Work
15 Boards, or a similar examination body designated by the board,
16 or the National Association of Social Workers.

17 Sec. 39. [148D.170] [REVOCATION OF CONTINUING EDUCATION
18 APPROVALS.]

19 The board may revoke approval of a provider or of a program
20 offered by a provider, or of an individual program approved by
21 the board, if the board determines subsequent to the approval
22 that the provider or program failed to meet the requirements of
23 sections 148D.130 to 148D.170.

24 Sec. 40. [148D.175] [FEES.]

25 The fees specified in section 148D.180 are nonrefundable
26 and must be deposited in the state government special revenue
27 fund.

28 Sec. 41. [148D.180] [FEE AMOUNTS.]

29 Subdivision 1. [APPLICATION FEES.] Application fees for
30 licensure are as follows:

- 31 (1) for a licensed social worker, \$45;
32 (2) for a licensed graduate social worker, \$45;
33 (3) for a licensed independent social worker, \$90;
34 (4) for a licensed independent clinical social worker, \$90;
35 (5) for a temporary license, \$50; and
36 (6) for a licensure by endorsement, \$150.

1 The fee for criminal background checks is the fee charged
2 by the Bureau of Criminal Apprehension. The criminal background
3 check fee must be included with the application fee as required
4 pursuant to section 148D.055.

5 Subd. 2. [LICENSE FEES.] License fees are as follows:

6 (1) for a licensed social worker, \$115.20;

7 (2) for a licensed graduate social worker, \$201.60;

8 (3) for a licensed independent social worker, \$302.40;

9 (4) for a licensed independent clinical social worker,
10 \$331.20;

11 (5) for an emeritus license, \$43.20; and

12 (6) for a temporary leave fee, the same as the renewal fee
13 specified in subdivision 3.

14 If the licensee's initial license term is less or more than
15 24 months, the required license fees must be prorated
16 proportionately.

17 Subd. 3. [RENEWAL FEES.] Renewal fees for licensure are as
18 follows:

19 (1) for a licensed social worker, \$115.20;

20 (2) for a licensed graduate social worker, \$201.60;

21 (3) for a licensed independent social worker, \$302.40; and

22 (4) for a licensed independent clinical social worker,
23 \$331.20.

24 Subd. 4. [CONTINUING EDUCATION PROVIDER FEES.] Continuing
25 education provider fees are as follows:

26 (1) for a provider who offers programs totaling one to
27 eight clock hours in a one-year period pursuant to section
28 148D.145, \$50;

29 (2) for a provider who offers programs totaling nine to 16
30 clock hours in a one-year period pursuant to section 148D.145,
31 \$100;

32 (3) for a provider who offers programs totaling 17 to 32
33 clock hours in a one-year period pursuant to section 148D.145,
34 \$200;

35 (4) for a provider who offers programs totaling 33 to 48
36 clock hours in a one-year period pursuant to section 148D.145,

1 \$400; and

2 (5) for a provider who offers programs totaling 49 or more
3 clock hours in a one-year period pursuant to section 148D.145,
4 \$600.

5 Subd. 5. [LATE FEES.] Late fees are as follows:

6 (1) renewal late fee, one-half of the renewal fee specified
7 in subdivision 3; and

8 (2) supervision plan late fee, \$40.

9 Subd. 6. [LICENSE CARDS AND WALL CERTIFICATES.] (a) The
10 fee for a license card as specified in section 148D.095 is \$10.

11 (b) The fee for a license wall certificate as specified in
12 section 148D.095 is \$30.

13 Subd. 7. [REACTIVATION FEES.] Reactivation fees are as
14 follows:

15 (1) reactivation from a temporary leave or emeritus status,
16 the prorated share of the renewal fee specified in subdivision
17 3; and

18 (2) reactivation of an expired license, 1-1/2 times the
19 renewal fees specified in subdivision 3.

20 Sec. 42. [148D.185] [PURPOSE OF COMPLIANCE LAWS.]

21 The purpose of sections 148D.185 to 148D.290 is to protect
22 the public by ensuring that all persons licensed as social
23 workers meet minimum standards of practice. The board shall
24 promptly and fairly investigate and resolve all complaints
25 alleging violations of statutes and rules that the board is
26 empowered to enforce and (1) take appropriate disciplinary
27 action, adversarial action, or other action justified by the
28 facts, or (2) enter into corrective action agreements or
29 stipulations to cease practice, when doing so is consistent with
30 the board's obligation to protect the public.

31 Sec. 43. [148D.190] [GROUNDS FOR ACTION.]

32 Subdivision 1. [SCOPE.] The grounds for action in
33 subdivisions 2 to 4 and the standards of practice requirements
34 in sections 148D.195 to 148D.240 apply to all licensees and
35 applicants.

36 Subd. 2. [VIOLATIONS.] The board has grounds to take

1 action pursuant to sections 148D.255 to 148D.270 when a social
2 worker violates:

3 (1) a statute or rule enforced by the board, including this
4 section and sections 148D.195 to 148D.240;

5 (2) a federal or state law or rule related to the practice
6 of social work; or

7 (3) an order, stipulation, or agreement agreed to or issued
8 by the board.

9 Subd. 3. [CONDUCT BEFORE LICENSURE.] A violation of the
10 requirements specified in this section and sections 148D.195 to
11 148D.240 is grounds for the board to take action under sections
12 148D.255 to 148D.270. The board's jurisdiction to exercise the
13 powers provided in this section extends to an applicant or
14 licensee's conduct that occurred before licensure if:

15 (1) the conduct did not meet the minimum accepted and
16 prevailing standards of professional social work practice at the
17 time the conduct occurred; or

18 (2) the conduct adversely affects the applicant or
19 licensee's present ability to practice social work in conformity
20 with the requirements of sections 148D.195 to 148D.240.

21 Subd. 4. [UNAUTHORIZED PRACTICE.] The board has grounds to
22 take action pursuant to sections 148D.255 to 148D.270 when a
23 social worker:

24 (1) practices outside the scope of practice authorized by
25 section 148D.050;

26 (2) engages in the practice of social work without a social
27 work license under section 148D.055 or 148D.060, except when the
28 social worker is exempt from licensure pursuant to section
29 148D.065;

30 (3) provides social work services to a client who receives
31 social work services in this state, and is not licensed pursuant
32 to section 148D.055 or 148D.060, except when the social worker
33 is exempt from licensure pursuant to section 148D.065.

34 Sec. 44. [148D.195] [REPRESENTATIONS TO CLIENTS AND
35 PUBLIC.]

36 Subdivision 1. [REQUIRED DISPLAYS AND INFORMATION FOR

1 CLIENTS.] (a) A social worker must conspicuously display at the
2 social worker's places of practice, or make available as a
3 handout for all clients, information that the client has the
4 right to the following:

5 (1) to be informed of the social worker's license status,
6 education, training, and experience;

7 (2) to examine public data on the social worker maintained
8 by the board;

9 (3) to report a complaint about the social worker's
10 practice to the board; and

11 (4) to be informed of the board's mailing address, e-mail
12 address, Web site address, and telephone number.

13 (b) A social worker must conspicuously display the social
14 worker's wall certificate at the social worker's places of
15 practice and office locations. Additional wall certificates may
16 be requested pursuant to section 148D.095.

17 Subd. 2. [REPRESENTATIONS.] (a) No applicant or other
18 individual may be represented to the public by any title
19 incorporating the words "social work" or "social worker" unless
20 the individual holds a license pursuant to sections 148D.055 and
21 148D.060 or practices in a setting exempt from licensure
22 pursuant to section 148D.065.

23 (b) In all professional use of a social worker's name, the
24 social worker must use the license designation "LSW" or
25 "licensed social worker" for a licensed social worker, "LGSW" or
26 "licensed graduate social worker" for a licensed graduate social
27 worker, "LISW" or "licensed independent social worker" for a
28 licensed independent social worker, or "LICSW" or "licensed
29 independent clinical social worker" for a licensed independent
30 clinical social worker.

31 (c) Public statements or advertisements must not be
32 untruthful, misleading, false, fraudulent, deceptive, or
33 potentially exploitative of clients, former clients, interns,
34 students, supervisees, or the public.

35 (d) A social worker must not:

36 (1) use licensure status as a claim, promise, or guarantee

1 of successful service;

2 (2) obtain a license by cheating or employing fraud or
3 deception;

4 (3) make false statements or misrepresentations to the
5 board or in materials submitted to the board; or

6 (4) engage in conduct that has the potential to deceive or
7 defraud a social work client, intern, student, supervisee, or
8 the public.

9 Subd. 3. [INFORMATION ON CREDENTIALS.] (a) A social worker
10 must provide accurate and factual information concerning the
11 social worker's credentials, education, training, and experience
12 when the information is requested by clients, potential clients,
13 or other persons or organizations.

14 (b) A social worker must not misrepresent directly or by
15 implication the social worker's license, degree, professional
16 certifications, affiliations, or other professional
17 qualifications in any oral or written communications to clients,
18 potential clients, or other persons or organizations. A social
19 worker must take reasonable steps to prevent such
20 misrepresentations by other social workers.

21 (c) A social worker must not hold out as a person licensed
22 as a social worker without having a social work license pursuant
23 to sections 148D.055 and 148D.060.

24 (d) A social worker must not misrepresent directly or by
25 implication (1) affiliations with institutions or organizations,
26 or (2) purposes or characteristics of institutions or
27 organizations with which the social worker is or has been
28 affiliated.

29 Sec. 45. [148D.200] [COMPETENCE.]

30 Subdivision 1. [COMPETENCE.] (a) A social worker must
31 provide services and hold out as competent only to the extent
32 the social worker's education, training, license, consultation
33 received, supervision experience, or other relevant professional
34 experience demonstrate competence in the services provided. A
35 social worker must make a referral to a competent professional
36 when the services required are beyond the social worker's

1 competence or authorized scope of practice.

2 (b) When generally recognized standards do not exist with
3 respect to an emerging area of practice, including but not
4 limited to providing social work services through electronic
5 means, a social worker must take the steps necessary, such as
6 consultation or supervision, to ensure the competence of the
7 social worker's work and to protect clients from harm.

8 Subd. 2. [SUPERVISION OR CONSULTATION.] Notwithstanding
9 the completion of supervision requirements as specified in
10 sections 148D.100 to 148D.125, a social worker must obtain
11 supervision or engage in consultation when appropriate or
12 necessary for competent and ethical practice.

13 Subd. 3. [DELEGATION OF SOCIAL WORK RESPONSIBILITIES.] (a)
14 A social worker must not delegate a social work responsibility
15 to another individual when the social worker knows or reasonably
16 should know that the individual is not licensed when required to
17 be licensed pursuant to sections 148D.055 and 148D.060.

18 (b) A social worker must not delegate a social work
19 responsibility to another individual when the social worker
20 knows or reasonably should know that the individual is not
21 competent to assume the responsibility or perform the task.

22 Sec. 46. [148D.205] [IMPAIRMENT.]

23 Subdivision 1. [GROUNDS FOR ACTION.] The board has grounds
24 to take action under sections 148D.255 to 148D.270 when a social
25 worker is unable to practice with reasonable skill and safety by
26 reason of illness, use of alcohol, drugs, chemicals, or any
27 other materials, or as a result of any mental, physical, or
28 psychological condition.

29 Subd. 2. [SELF-REPORTING.] A social worker regulated by
30 the board who is unable to practice with reasonable skill and
31 safety by reason of illness, use of alcohol, drugs, chemicals,
32 or any other materials, or as a result of any mental, physical,
33 or psychological condition, must report to the board or the
34 health professionals services program.

35 Sec. 47. [148D.210] [PROFESSIONAL AND ETHICAL CONDUCT.]

36 The board has grounds to take action under sections

1 148D.255 to 148D.270 when a social worker:

2 (1) engages in unprofessional or unethical conduct,
3 including any departure from or failure to conform to the
4 minimum accepted ethical and other prevailing standards of
5 professional social work practice, without actual injury to a
6 social work client, intern, student, supervisee or the public
7 needing to be established;

8 (2) engages in conduct that has the potential to cause harm
9 to a client, intern, student, supervisee, or the public;

10 (3) demonstrates a willful or careless disregard for the
11 health, welfare, or safety of a client, intern, student, or
12 supervisee; or

13 (4) engages in acts or conduct adversely affecting the
14 applicant or licensee's current ability or fitness to engage in
15 social work practice, whether or not the acts or conduct
16 occurred while engaged in the practice of social work.

17 Sec. 48. [148D.215] [RESPONSIBILITIES TO CLIENTS.]

18 Subdivision 1. [RESPONSIBILITY TO CLIENTS.] A social
19 worker's primary professional responsibility is to the client.
20 A social worker must respect the client's interests, including
21 the interest in self-determination, except when required to do
22 otherwise by law.

23 Subd. 2. [NONDISCRIMINATION.] A social worker must not
24 discriminate against a client, intern, student, or supervisee or
25 in providing services to a client, intern, or supervisee on the
26 basis of age, gender, sexual orientation, race, color, national
27 origin, religion, illness, disability, political affiliation, or
28 social or economic status.

29 Subd. 3. [RESEARCH.] When undertaking research activities,
30 a social worker must use accepted protocols for the protection
31 of human subjects, including (1) establishing appropriate
32 safeguards to protect the subject's vulnerability, and (2)
33 obtaining the subjects' informed consent.

34 Sec. 49. [148D.220] [RELATIONSHIPS WITH CLIENTS, FORMER
35 CLIENTS, AND OTHER INDIVIDUALS.]

36 Subdivision 1. [SOCIAL WORKER RESPONSIBILITY.] (a) A

1 social worker is responsible for acting professionally in
2 relationships with clients or former clients. A client or a
3 former client's initiation of, or attempt to engage in, or
4 request to engage in, a personal, sexual, or business
5 relationship is not a defense to a violation of this section.

6 (b) When a relationship is permitted by this section,
7 social workers who engage in such a relationship assume the full
8 burden of demonstrating that the relationship will not be
9 detrimental to the client or the professional relationship.

10 Subd. 2. [PROFESSIONAL BOUNDARIES.] A social worker must
11 maintain appropriate professional boundaries with a client. A
12 social worker must not engage in practices with clients that
13 create an unacceptable risk of client harm or of impairing a
14 social worker's objectivity or professional judgment. A social
15 worker must not act or fail to act in a way that, as judged by a
16 reasonable and prudent social worker, inappropriately encourages
17 the client to relate to the social worker outside of the
18 boundaries of the professional relationship, or in a way that
19 interferes with the client's ability to benefit from social work
20 services from the social worker.

21 Subd. 3. [MISUSE OF PROFESSIONAL RELATIONSHIP.] A social
22 worker must not use the professional relationship with a client,
23 student, supervisee, or intern to further the social worker's
24 personal, emotional, financial, sexual, religious, political, or
25 business benefit or interests.

26 Subd. 4. [IMPROPER TERMINATION.] A social worker must not
27 terminate a professional relationship for the purpose of
28 beginning a personal, sexual, or business relationship with a
29 client.

30 Subd. 5. [PERSONAL RELATIONSHIP WITH A CLIENT.] (a) Except
31 as provided in paragraph (b), a social worker must not engage in
32 a personal relationship with a client that creates a risk of
33 client harm or of impairing a social worker's objectivity or
34 professional judgment.

35 (b) Notwithstanding paragraph (a), if a social worker is
36 unable to avoid a personal relationship with a client, the

1 social worker must take appropriate precautions, such as
2 consultation or supervision, to address the potential for risk
3 of client harm or of impairing a social worker's objectivity or
4 professional judgment.

5 Subd. 6. [PERSONAL RELATIONSHIP WITH A FORMER CLIENT.] A
6 social worker may engage in a personal relationship with a
7 former client after appropriate termination of the professional
8 relationship, except:

9 (1) as prohibited by subdivision 8; or

10 (2) if a reasonable and prudent social worker would
11 conclude after appropriate assessment that (i) the former client
12 is emotionally dependent on the social worker or continues to
13 relate to the social worker as a client, or (ii) the social
14 worker is emotionally dependent on the client or continues to
15 relate to the former client as a social worker.

16 Subd. 7. [SEXUAL CONDUCT WITH A CLIENT.] A social worker
17 must not engage in or suggest sexual conduct with a client.

18 Subd. 8. [SEXUAL CONDUCT WITH A FORMER CLIENT.] (a) A
19 social worker who has engaged in diagnosing, counseling, or
20 treating a client with mental, emotional, or behavioral
21 disorders must not engage in or suggest sexual conduct with the
22 former client under any circumstances unless:

23 (1) the social worker did not intentionally or
24 unintentionally coerce, exploit, deceive, or manipulate the
25 former client at any time;

26 (2) the social worker did not represent to the former
27 client that sexual conduct with the social worker is consistent
28 with or part of the client's treatment;

29 (3) the social worker's sexual conduct was not detrimental
30 to the former client at any time;

31 (4) the former client is not emotionally dependent on the
32 social worker and does not continue to relate to the social
33 worker as a client; and

34 (5) the social worker is not emotionally dependent on the
35 client and does not continue to relate to the former client as a
36 social worker.

1 (b) If there is an alleged violation of paragraph (a), the
2 social worker assumes the full burden of demonstrating to the
3 board that the social worker did not intentionally or
4 unintentionally coerce, exploit, deceive, or manipulate the
5 client, and the social worker's sexual conduct was not
6 detrimental to the client at any time. Upon request, a social
7 worker must provide information to the board addressing:

8 (1) the amount of time that has passed since termination of
9 services;

10 (2) the duration, intensity, and nature of services;

11 (3) the circumstances of termination of services;

12 (4) the former client's emotional, mental, and behavioral
13 history;

14 (5) the former client's current emotional, mental, and
15 behavioral status;

16 (6) the likelihood of adverse impact on the former client;

17 and

18 (7) the existence of actions, conduct, or statements made
19 by the social worker during the course of services suggesting or
20 inviting the possibility of a sexual relationship with the
21 client following termination of services.

22 (c) A social worker who has provided social work services
23 other than those described in paragraph (a) to a client must not
24 engage in or suggest sexual conduct with the former client if a
25 reasonable and prudent social worker would conclude after
26 appropriate assessment that engaging in such behavior with the
27 former client would create an unacceptable risk of harm to the
28 former client.

29 Subd. 9. [SEXUAL CONDUCT WITH A STUDENT, SUPERVISEE, OR
30 INTERN.] (a) A social worker must not engage in or suggest
31 sexual conduct with a student while the social worker has
32 authority over any part of the student's academic program.

33 (b) A social worker supervising an intern must not engage
34 in or suggest sexual conduct with the intern during the course
35 of the internship.

36 (c) A social worker practicing social work as a supervisor

1 must not engage in or suggest sexual conduct with a supervisee
2 during the period of supervision.

3 Subd. 10. [SEXUAL HARASSMENT.] A social worker must not
4 engage in any physical, oral, written, or electronic behavior
5 that a client, former client, student, supervisee, or intern may
6 reasonably interpret as sexually harassing or sexually demeaning.

7 Subd. 11. [BUSINESS RELATIONSHIP WITH A CLIENT.] A social
8 worker must not purchase goods or services from a client or
9 otherwise engage in a business relationship with a client except
10 when:

11 (1) a social worker purchases goods or services from the
12 client and a reasonable and prudent social worker would
13 determine that it is not practical or reasonable to obtain the
14 goods or services from another provider; and

15 (2) engaging in the business relationship will not be
16 detrimental to the client or the professional relationship.

17 Subd. 12. [BUSINESS RELATIONSHIP WITH A FORMER CLIENT.] A
18 social worker may purchase goods or services from a former
19 client or otherwise engage in a business relationship with a
20 former client after appropriate termination of the professional
21 relationship unless a reasonable and prudent social worker would
22 conclude after appropriate assessment that:

23 (1) the former client is emotionally dependent on the
24 social worker and purchasing goods or services from the former
25 client or otherwise engaging in a business relationship with the
26 former client would be detrimental to the former client; or

27 (2) the social worker is emotionally dependent on the
28 former client and purchasing goods or services from the former
29 client or otherwise engaging in a business relationship with the
30 former client would be detrimental to the former client.

31 Subd. 13. [PREVIOUS SEXUAL, PERSONAL, OR BUSINESS
32 RELATIONSHIP.] (a) A social worker must not engage in a social
33 worker/client relationship with an individual with whom the
34 social worker had a previous sexual relationship.

35 (b) A social worker must not engage in a social
36 worker/client relationship with an individual with whom the

1 social worker had a previous personal or business relationship
2 if a reasonable and prudent social worker would conclude after
3 appropriate assessment that the social worker/client
4 relationship would create an unacceptable risk of client harm or
5 that the social worker's objectivity or professional judgment
6 may be impaired.

7 Subd. 14. [GIVING ALCOHOL OR OTHER DRUGS TO A CLIENT.] (a)
8 Unless authorized by law, a social worker must not offer
9 medication or controlled substances to a client.

10 (b) A social worker must not accept medication or
11 controlled substances from a client except that if authorized by
12 law, a social worker may accept medication or controlled
13 substances from a client for purposes of disposal or to monitor
14 use.

15 (c) A social worker must not offer alcoholic beverages to a
16 client except when such an offer is authorized or prescribed by
17 a physician or is in accordance with a client's care plan.

18 (d) A social worker must not accept alcoholic beverages
19 from a client.

20 Subd. 15. [RELATIONSHIP WITH A CLIENT'S FAMILY OR
21 HOUSEHOLD MEMBER.] Subdivisions 1 to 14 apply to a social
22 worker's relationship with a client's family or household member
23 when a reasonable and prudent social worker would conclude after
24 appropriate assessment that a relationship with a family or
25 household member would create an unacceptable risk of harm to
26 the client.

27 Sec. 50. [148D.225] [TREATMENT AND INTERVENTION SERVICES.]

28 Subdivision 1. [ASSESSMENT OR DIAGNOSIS.] A social worker
29 must base treatment and intervention services on an assessment
30 or diagnosis. A social worker must evaluate, on an ongoing
31 basis, the appropriateness of the assessment or diagnosis.

32 Subd. 2. [ASSESSMENT OR DIAGNOSTIC INSTRUMENTS.] A social
33 worker must not use an assessment or diagnostic instrument
34 without adequate training. A social worker must follow
35 standards and accepted procedures for using an assessment or
36 diagnostic instrument. A social worker must inform a client of

1 the purpose before administering the instrument and must make
2 the results available to the client.

3 Subd. 3. [PLAN FOR SERVICES.] A social worker must develop
4 a plan for services that includes goals based on the assessment
5 or diagnosis. A social worker must evaluate, on an ongoing
6 basis, the appropriateness of the plan and the client's progress
7 toward the goals.

8 Subd. 4. [RECORDS.] (a) A social worker must make and
9 maintain current and accurate records, appropriate to the
10 circumstances, of all services provided to a client. At a
11 minimum, the records must contain documentation of:

12 (1) the assessment or diagnosis;

13 (2) the content of the service plan;

14 (3) progress with the plan and any revisions of assessment,
15 diagnosis, or plan;

16 (4) any fees charged and payments made;

17 (5) copies of all client-written authorizations for release
18 of information; and

19 (6) other information necessary to provide appropriate
20 services.

21 (b) These records must be maintained by the social worker
22 for at least seven years after the last date of service to the
23 client. Social workers who are employed by an agency or other
24 entity are not required to:

25 (1) maintain personal or separate records; or

26 (2) personally retain records at the conclusion of their
27 employment.

28 Subd. 5. [TERMINATION OF SERVICES.] A social worker must
29 terminate a professional relationship with a client when the
30 social worker reasonably determines that the client is not
31 likely to benefit from continued services or the services are no
32 longer needed, unless the social worker is required by law to
33 provide services. A social worker who anticipates terminating
34 services must give reasonable notice to the client in a manner
35 that is appropriate to the needs of the client. The social
36 worker must provide appropriate referrals as needed or upon

1 request of the client.

2 Sec. 51. [148D.230] [CONFIDENTIALITY AND RECORDS.]

3 Subdivision 1. [INFORMED CONSENT.] (a) A social worker
4 must obtain valid, informed consent, appropriate to the
5 circumstances, before providing services to clients. When
6 obtaining informed consent, the social worker must determine
7 whether the client has the capacity to provide informed
8 consent. If the client does not have the capacity to provide
9 consent, the social worker must obtain consent for the services
10 from the client's legal representative. The social worker must
11 not provide services, unless authorized or required by law, if
12 the client or the client's legal representative does not consent
13 to the services.

14 (b) If a social worker determines that a client does not
15 have the capacity to provide consent, and the client does not
16 have a legal representative, the social worker:

17 (1) must, except as provided in clause (2), secure a legal
18 representative for a client before providing services; or

19 (2) may, notwithstanding clause (1), provide services,
20 except when prohibited by other applicable law, that are
21 necessary to ensure the client's safety or to preserve the
22 client's property or financial resources.

23 (c) A social worker must use clear and understandable
24 language, including using an interpreter proficient in the
25 client's primary language as necessary, to inform clients of the
26 plan of services, risks related to the plan, limits to services,
27 relevant costs, terms of payment, reasonable alternatives, the
28 client's right to refuse or withdraw consent, and the time frame
29 covered by the consent.

30 Subd. 2. [MANDATORY REPORTING AND DISCLOSURE OF CLIENT
31 INFORMATION.] At the beginning of a professional relationship
32 and during the professional relationship as necessary and
33 appropriate, a social worker must inform the client of those
34 circumstances under which the social worker may be required to
35 disclose client information specified in subdivision 3,
36 paragraph (a), without the client's consent.

1 Subd. 3. [CONFIDENTIALITY OF CLIENT INFORMATION.] (a) A
2 social worker must ensure the confidentiality of all client
3 information obtained in the course of the social worker/client
4 relationship and all client information otherwise obtained by
5 the social worker that is relevant to the social worker/client
6 relationship. Except as provided in this section, client
7 information may be disclosed or released only with the client's
8 or the client's legal representative's valid informed consent,
9 appropriate to the circumstances, except when otherwise required
10 by law. A social worker must seek consent to disclose or
11 release client information only when such disclosure or release
12 is necessary to provide social work services.

13 (b) A social worker must continue to maintain
14 confidentiality of the client information specified in paragraph
15 (a) upon termination of the professional relationship including
16 upon the death of the client, except as provided under this
17 section or other applicable law.

18 (c) A social worker must limit access to the client
19 information specified in paragraph (a) in a social worker's
20 agency to appropriate agency staff whose duties require access.

21 Subd. 4. [RELEASE OF CLIENT INFORMATION WITH WRITTEN
22 INFORMED CONSENT.] (a) Except as provided in subdivision 5,
23 client information specified in subdivision 3, paragraph (a),
24 may be released only with the client's or the client's legal
25 representative's written informed consent. The written informed
26 consent must:

27 (1) explain to whom the client's records may be released;
28 (2) explain the purpose for the release; and
29 (3) state an expiration date for the authorized release of
30 the records.

31 (b) A social worker may provide client information
32 specified in subdivision 3, paragraph (a), to a third party for
33 the purpose of payment for services rendered only with the
34 client's written informed consent.

35 (c) Except as provided in subdivision 5, a social worker
36 may disclose client information specified in subdivision 3,

1 paragraph (a), only with the client's or the client's legal
2 representative's written informed consent. When it is not
3 practical to obtain written informed consent before providing
4 necessary services, a social worker may disclose or release
5 client information with the client's or the client's legal
6 representative's oral informed consent.

7 (d) Unless otherwise authorized by law, a social worker
8 must obtain a client's written informed consent before taking a
9 photograph of the client or making an audio or video recording
10 of the client, or allowing a third party to do the same. The
11 written informed consent must explain:

12 (1) the purpose of the photograph or the recording and how
13 the photograph or recording will be used, how it will be stored,
14 and when it will be destroyed; and

15 (2) how the client may have access to the photograph or
16 recording.

17 Subd. 5. [RELEASE OF CLIENT INFORMATION WITHOUT WRITTEN
18 INFORMED CONSENT.] (a) A social worker may disclose client
19 information specified in subdivision 3, paragraph (a), without
20 the written consent of the client or the client's legal
21 representative only under the following circumstances or under
22 the circumstances described in paragraph (b):

23 (1) when mandated or authorized by federal or state law,
24 including the mandatory reporting requirements under the duty to
25 warn, maltreatment of minors, and vulnerable adult laws
26 specified in section 148D.240, subdivisions 6 to 8;

27 (2) when the board issues a subpoena to the social worker;
28 or

29 (3) when a court of competent jurisdiction orders release
30 of the client records or information.

31 (b) When providing services authorized or required by law
32 to a client who does not have the capacity to provide consent
33 and who does not have a legal representative, a social worker
34 must disclose or release client records or information as
35 necessary to provide services to ensure the client's safety or
36 to preserve the client's property or financial resources.

1 Subd. 6. [RELEASE OF CLIENT RECORDS OR INFORMATION.] When
2 releasing client records or information under this section, a
3 social worker must release current, accurate, and complete
4 records or information.

5 Sec. 52. [148D.235] [FEES AND BILLING PRACTICES.]

6 Subdivision 1. [FEES AND PAYMENTS.] (a) A social worker
7 must ensure that a client or a client's legal representative is
8 informed of all fees at the initial session or meeting with the
9 client, and that payment for services is arranged with the
10 client or the client's legal representative at the beginning of
11 the professional relationship. Upon request from a client or a
12 client's legal representative, a social worker must provide in a
13 timely manner a written payment plan or a written explanation of
14 the charges for any services rendered.

15 (b) When providing services authorized or required by law
16 to a client who does not have the capacity to provide consent
17 and who does not have a legal representative, a social worker
18 may submit reasonable bills to an appropriate payer for services
19 provided.

20 Subd. 2. [BILLING FOR SERVICES NOT PROVIDED.] A social
21 worker must not bill for services that have not been provided
22 except that, with prior notice to the client, a social worker
23 may bill for failed appointments or for cancellations without
24 sufficient notice. A social worker may bill only for provided
25 services which are necessary and appropriate.

26 Subd. 3. [NO PAYMENT FOR REFERRALS.] A social worker must
27 not accept or give a commission, rebate, or other form of
28 remuneration solely or primarily to profit from the referral of
29 a client.

30 Subd. 4. [FEES AND BILLING PRACTICES.] A social worker
31 must not engage in improper or fraudulent billing practices,
32 including, but not limited to, violations of the federal
33 Medicare and Medicaid laws or state medical assistance laws.

34 Sec. 53. [148D.240] [REPORTING REQUIREMENTS.]

35 Subdivision 1. [FAILURE TO SELF-REPORT ADVERSE
36 ACTIONS.] The board has grounds to take action under sections

1 148D.255 to 148D.270 when a social worker fails to report to the
2 board within 90 days:

3 (1) having been disciplined, sanctioned, or found to have
4 violated a state, territorial, provincial, or foreign licensing
5 agency's laws or rules;

6 (2) having been convicted of committing a felony, gross
7 misdemeanor, or misdemeanor reasonably related to the practice
8 of social work;

9 (3) having had a finding or verdict of guilt, whether or
10 not the adjudication of guilt is withheld or not entered, of
11 committing a felony, gross misdemeanor, or misdemeanor
12 reasonably related to the practice of social work;

13 (4) having admitted to committing, or entering a no contest
14 plea to committing, a felony, gross misdemeanor, or misdemeanor
15 reasonably related to the practice of social work; or

16 (5) having been denied licensure by a state, territorial,
17 provincial, or foreign licensing agency.

18 Subd. 2. [FAILURE TO SUBMIT APPLICATION INFORMATION.] The
19 board has grounds to take action under sections 148D.255 to
20 148D.270 when an applicant or licensee fails to submit with an
21 application the following information:

22 (1) the dates and dispositions of any malpractice
23 settlements or awards made relating to the social work services
24 provided by the applicant or licensee; or

25 (2) the dates and dispositions of any civil litigations or
26 arbitrations relating to the social work services provided by
27 the applicant or licensee.

28 Subd. 3. [REPORTING OTHER LICENSED HEALTH
29 PROFESSIONALS.] An applicant or licensee must report to the
30 appropriate health-related licensing board conduct by a licensed
31 health professional which would constitute grounds for
32 disciplinary action under the statutes and rules enforced by
33 that board.

34 Subd. 4. [REPORTING UNLICENSED PRACTICE.] An applicant or
35 licensee must report to the board conduct by an unlicensed
36 person which constitutes the practice of social work, as defined

1 in section 148D.010, except when the unlicensed person is exempt
2 from licensure pursuant to section 148D.065.

3 Subd. 5. [FAILURE TO REPORT OTHER APPLICANTS OR LICENSEES
4 AND UNLICENSED PRACTICE.] The board has grounds to take action
5 under sections 148D.255 to 148.270 when an applicant or licensee
6 fails to report to the board conduct:

7 (1) by another licensee or applicant which the applicant or
8 licensee has reason to believe may reasonably constitute grounds
9 for disciplinary action under this section; or

10 (2) by an unlicensed person that constitutes the practice
11 of social work when a license is required to practice social
12 work.

13 Subd. 6. [DUTY TO WARN.] A licensee must comply with the
14 duty to warn established by section 148.975.

15 Subd. 7. [REPORTING MALTREATMENT OF MINORS.] An applicant
16 or licensee must comply with the reporting of maltreatment of
17 minors established by section 626.556.

18 Subd. 8. [REPORTING MALTREATMENT OF VULNERABLE ADULTS.] An
19 applicant or licensee must comply with the reporting of
20 maltreatment of vulnerable adults established by section 626.557.

21 Subd. 9. [SUBPOENAS.] The board may issue subpoenas
22 pursuant to section 148D.245 and chapter 214 for the production
23 of any reports required by this section or any related documents.

24 Sec. 54. [148D.245] [INVESTIGATIVE POWERS AND PROCEDURES.]

25 Subdivision 1. [SUBPOENAS.] (a) The board may issue
26 subpoenas and compel the attendance of witnesses and the
27 production of all necessary papers, books, records, documents,
28 and other evidentiary material as part of its investigation of
29 an applicant or licensee under this section or chapter 214.

30 (b) If any person fails or refuses to appear or testify
31 regarding any matter about which the person may be lawfully
32 questioned, or fails or refuses to produce any papers, books,
33 records, documents, or other evidentiary materials in the matter
34 to be heard, after having been required by order of the board or
35 by a subpoena of the board to do so, the board may institute a
36 proceeding in any district court to enforce the board's order or

1 subpoena.

2 (c) The board or a designated member of the board acting on
3 behalf of the board may issue subpoenas or administer oaths to
4 witnesses or take affirmations. Depositions may be taken within
5 or out of the state in the manner provided by law for the taking
6 of depositions in civil actions.

7 (d) A subpoena or other process or paper may be served upon
8 any person named therein, by mail or by any officer authorized
9 to serve subpoenas or other process or paper in civil actions,
10 with the same fees and mileage and in the same manner as
11 prescribed by law for service of process issued out of the
12 district court of this state.

13 (e) Fees, mileage, and other costs must be paid as the
14 board directs.

15 Subd. 2. [CLASSIFICATION OF DATA.] (a) Any records
16 obtained as part of an investigation must be treated as
17 investigative data under section 13.41 and be classified as
18 confidential data.

19 (b) Notwithstanding paragraph (a), client records must be
20 treated as private data under chapter 13. Client records must
21 be protected as private data in the records of the board and in
22 administrative or judicial proceedings unless the client
23 authorizes the board in writing to make public the identity of
24 the client or a portion or all of the client's records.

25 Subd. 3. [MENTAL OR PHYSICAL EXAMINATION; CHEMICAL
26 DEPENDENCY EVALUATION.] (a) If the board has (1) probable cause
27 to believe that an applicant or licensee has violated a statute
28 or rule enforced by the board, or an order issued by the board
29 and (2) the board believes the applicant may have a
30 health-related condition relevant to the violation, the board
31 may issue an order directing the applicant or licensee to submit
32 to one or more of the following: a mental examination, a
33 physical examination, or a chemical dependency evaluation.

34 (b) An examination or evaluation order issued by the board
35 must include:

36 (1) factual specifications on which the order is based;

1 (2) the purpose of the examination or evaluation;

2 (3) the name of the person or entity that will conduct the
3 examination or evaluation; and

4 (4) the means by which the examination or evaluation will
5 be paid for.

6 (c) Every applicant or licensee must submit to a mental
7 examination, a physical examination, or a chemical dependency
8 evaluation when ordered to do so in writing by the board.

9 (d) By submitting to a mental examination, a physical
10 examination, or a chemical dependency evaluation, an applicant
11 or licensee waives all objections to the admissibility of the
12 examiner or evaluator's testimony or reports on the grounds that
13 the testimony or reports constitute a privileged communication.

14 Subd. 4. [FAILURE TO SUBMIT TO AN EXAMINATION.] (a) If an
15 applicant or licensee fails to submit to an examination or
16 evaluation ordered by the board pursuant to subdivision 3,
17 unless the failure was due to circumstances beyond the control
18 of the applicant or licensee, the failure is an admission that
19 the applicant or licensee violated a statute or rule enforced by
20 the board as specified in the examination or evaluation order
21 issued by the board. The failure may result in an application
22 being denied or other adversarial, corrective, or disciplinary
23 action being taken by the board without a contested case hearing.

24 (b) If an applicant or licensee requests a contested case
25 hearing after the board denies an application or takes other
26 disciplinary or adversarial action, the only issues which may be
27 determined at the hearing are:

28 (1) whether the board had probable cause to issue the
29 examination or evaluation order; and

30 (2) whether the failure to submit to the examination or
31 evaluation was due to circumstances beyond the control of the
32 applicant or licensee.

33 (c) Neither the record of a proceeding under this
34 subdivision nor an order issued by the board may be admissible,
35 subject to subpoena, or be used against the applicant or
36 licensee in a proceeding in which the board is not a party or

1 decision maker.

2 (d) Information obtained under this subdivision must be
3 treated as private data under chapter 13. An order issued by
4 the board as the result of an applicant's or licensee's failure
5 to submit to an examination or evaluation must be treated as
6 public data under chapter 13.

7 Subd. 5. [ACCESS TO DATA AND RECORDS.] (a) In addition to
8 ordering a physical or mental examination or chemical dependency
9 evaluation, and notwithstanding section 13.384, 144.651, 595.02,
10 or any other statute limiting access to health records, the
11 board or a designated member of the board acting on behalf of
12 the board may subpoena physical, mental, and chemical dependency
13 health records relating to an applicant or licensee without the
14 applicant's or licensee's consent if:

15 (1) the board has probable cause to believe that the
16 applicant or licensee has violated chapter 214, a statute or
17 rule enforced by the board, or an order issued by the board; and

18 (2) the board has reason to believe that the records are
19 relevant and necessary to the investigation.

20 (b) An applicant, licensee, insurance company, government
21 agency, health care facility, or provider as defined in section
22 144.335, subdivision 1, paragraph (b), must comply with any
23 subpoena of the board under this subdivision and is not liable
24 in any action for damages for releasing information subpoenaed
25 by the board under this subdivision unless the information
26 provided is false and the person or entity providing the
27 information knew or had reason to know that the information was
28 false.

29 (c) Information on individuals obtained under this
30 subdivision must be treated as investigative data under section
31 13.41 and be classified as confidential data.

32 (d) If an applicant, licensee, person, or entity does not
33 comply with any subpoena of the board under this subdivision,
34 the board may institute a proceeding in any district court to
35 enforce the board's subpoena.

36 Subd. 6. [EVIDENCE OF PAST SEXUAL CONDUCT.] If, in a

1 proceeding for taking action against an applicant or licensee
2 under this section, the charges involve sexual contact with a
3 client or former client, the board or administrative law judge
4 must not consider evidence of the client's or former client's
5 previous sexual conduct. Reference to the client's or former
6 client's previous sexual conduct must not be made during the
7 proceedings or in the findings, except by motion of the
8 complainant, unless the evidence would be admissible under the
9 applicable provisions of section 609.347, subdivision 3.

10 Subd. 7. [INVESTIGATIONS INVOLVING VULNERABLE ADULTS OR
11 CHILDREN IN NEED OF PROTECTION.] (a) Except as provided in
12 paragraph (b), if the board receives a complaint about a social
13 worker regarding the social worker's involvement in a case of
14 vulnerable adults or children in need of protection, the county
15 or other appropriate public authority may request that the board
16 suspend its investigation, and the board must comply until such
17 time as the court issues its findings on the case.

18 (b) Notwithstanding paragraph (a), the board may continue
19 with an investigation if the board determines that doing so is
20 in the best interests of the vulnerable adult or child and is
21 consistent with the board's obligation to protect the public.
22 If the board chooses to continue an investigation, the board
23 must notify the county or other appropriate public authority in
24 writing and state its reasons for doing so.

25 Subd. 8. [NOTIFICATION OF COMPLAINANT.] (a) In no more
26 than 14 calendar days after receiving a complaint regarding a
27 licensee, the board must notify the complainant that the board
28 has received the complaint.

29 (b) The board must periodically notify the complainant of
30 the status of the complaint.

31 Subd. 9. [NOTIFICATION OF LICENSEE.] (a) Except as
32 provided in paragraph (b), in no more than 60 calendar days
33 after receiving a complaint regarding a licensee, the board must
34 notify the licensee that the board has received the complaint
35 and inform the licensee of:

36 (1) the substance of the complaint;

1 (2) the sections of the law that allegedly have been
2 violated; and

3 (3) whether an investigation is being conducted.

4 (b) Paragraph (a) does not apply if:

5 (1) the board determines that such notice would compromise
6 the board's investigation pursuant to section 214.10; or

7 (2) the board determines that such notice cannot reasonably
8 be accomplished within this time.

9 (c) The board must periodically notify the licensee of the
10 status of the complaint.

11 Subd. 10. [RESOLUTION OF COMPLAINTS.] In no more than one
12 year after receiving a complaint regarding a licensee, the board
13 must resolve or dismiss the complaint unless the board
14 determines that resolving or dismissing the complaint cannot
15 reasonably be accomplished within this time.

16 Sec. 55. [148D.250] [OBLIGATION TO COOPERATE.]

17 Subdivision 1. [OBLIGATION TO COOPERATE.] An applicant or
18 licensee who is the subject of an investigation, or who is
19 questioned by or on behalf of the board in connection with an
20 investigation, must cooperate fully with the investigation.
21 Cooperation includes, but is not limited to:

22 (1) responding fully and promptly to any question relating
23 to the investigation;

24 (2) as reasonably requested by the board, providing copies
25 of client and other records in the applicant's or licensee's
26 possession relating to the investigation;

27 (3) executing release of records as reasonably requested by
28 the board; and

29 (4) appearing at conferences, hearings, or meetings
30 scheduled by the board, as required in sections 148D.255 to
31 148D.270 and chapter 214.

32 Subd. 2. [INVESTIGATION.] A social worker must not
33 knowingly withhold relevant information, give false or
34 misleading information, or do anything to obstruct an
35 investigation of the social worker or another social worker by
36 the board or by another state or federal regulatory or law

1 enforcement authority.

2 Subd. 3. [PAYMENT FOR COPIES.] The board must pay for
3 copies requested by the board.

4 Subd. 4. [ACCESS TO CLIENT RECORDS.] Notwithstanding any
5 law to the contrary, an applicant or licensee must allow the
6 board access to any records of a client provided services by the
7 applicant or licensee under investigation. If the client has
8 not signed a consent permitting access to the client's records,
9 the applicant or licensee must delete any data in the records
10 that identifies the client before providing the records to the
11 board.

12 Subd. 5. [CLASSIFICATION OF DATA.] Any records obtained
13 pursuant to this subdivision must be treated as investigative
14 data pursuant to section 13.41 and be classified as confidential
15 data.

16 Sec. 56. [148D.255] [TYPES OF ACTIONS.]

17 Subdivision 1. [ACTIONS.] The board may take disciplinary
18 action pursuant to section 148D.260, adversarial but
19 nondisciplinary action pursuant to section 148D.265, or
20 voluntary action pursuant to section 148D.270. Any action taken
21 under sections 148D.260 to 148D.270 is public data.

22 Subd. 2. [DISCIPLINARY ACTION.] For purposes of section
23 148D.260, "disciplinary action" means an action taken by the
24 board against an applicant or licensee that addresses a
25 complaint alleging a violation of a statute or rule the board is
26 empowered to enforce.

27 Subd. 3. [ADVERSARIAL BUT NONDISCIPLINARY ACTION.] For
28 purposes of section 148D.265, "adversarial but nondisciplinary
29 action" means a nondisciplinary action taken by the board that
30 addresses a complaint alleging a violation of a statute or rule
31 the board is empowered to enforce.

32 Subd. 4. [VOLUNTARY ACTION.] For purposes of section
33 148D.270, "voluntary action" means a nondisciplinary action
34 agreed to by the board or a designated board member and an
35 applicant or licensee that, through educational or other
36 corrective means, addresses a complaint alleging a violation of

1 a statute or rule that the board is empowered to enforce.

2 Sec. 57. [148D.260] [DISCIPLINARY ACTIONS.]

3 Subdivision 1. [GENERAL DISCIPLINARY ACTIONS.] (a) When
4 the board has grounds for disciplinary actions under this
5 chapter, the board may take one or more of the following
6 disciplinary actions:

7 (1) deny an application;

8 (2) permanently revoke a license to practice social work;

9 (3) indefinitely or temporarily suspend a license to
10 practice social work;

11 (4) impose restrictions on a licensee's scope of practice;

12 (5) impose conditions required for the licensee to maintain
13 licensure, including, but not limited to, additional education,
14 supervision, and requiring the passing of an examination
15 provided for in section 148D.055;

16 (6) reprimand a licensee;

17 (7) impose a civil penalty of up to \$10,000 for each
18 violation in order to discourage future violations or to deprive
19 the licensee of any economic advantage gained by reason of the
20 violation; or

21 (8) impose a fee to reimburse the board for all or part of
22 the cost of the proceedings resulting in disciplinary action,
23 including, but not limited to, the amount paid by the board for
24 services received from or expenses incurred by the Office of
25 Administrative Hearings, the Office of the Attorney General,
26 court reporters, witnesses, board members, board staff, or the
27 amount paid by the board for reproducing records.

28 (b) Disciplinary action taken by the board under this
29 subdivision is in effect pending determination of an appeal
30 unless the court, upon petition and for good cause shown,
31 decides otherwise.

32 Subd. 2. [REPRIMANDS.] (a) In addition to the board's
33 authority to issue a reprimand pursuant to subdivision 1, a
34 designated board member reviewing a complaint as provided for in
35 chapter 214 may issue a reprimand to a licensee. The designated
36 board member must notify the licensee that the reprimand will

1 become final disciplinary action unless the licensee requests a
2 hearing by the board within 14 calendar days.

3 (b) If the licensee requests a hearing within 14 calendar
4 days, the board must schedule a hearing unless the designated
5 board member withdraws the reprimand.

6 (c) The hearing must be scheduled within 14 working days of
7 the time the licensee submits a request for the hearing.

8 (d) The designated board member who issued the reprimand
9 may participate in the hearing but must not deliberate or vote
10 on the decision by the board.

11 (e) The only evidence permitted at the hearing is
12 affidavits or other documents except for testimony by the
13 licensee or other witnesses whose testimony the board chair has
14 authorized for good cause.

15 (f) If testimony is authorized, the testimony is subject to
16 cross-examination.

17 (g) After the hearing, the board must affirm or dismiss the
18 reprimand.

19 Subd. 3. [TEMPORARY SUSPENSIONS.] (a) In addition to any
20 other remedy provided by statute, the board or a designated
21 board member may, without a hearing, temporarily suspend a
22 license to practice social work if the board or the designated
23 board member finds that:

24 (1) the licensee has violated a statute or rule enforced by
25 the board, any other federal or state law or rule related to the
26 practice of social work, or an order, stipulation, or agreement
27 agreed to or issued by the board; and

28 (2) continued practice by the licensee would create a
29 serious risk of harm to others.

30 (b) The suspension is in effect upon service of a written
31 order on the licensee specifying the statute, rule, order,
32 stipulation, or agreement violated. Service of the order is
33 effective if the order is served on the licensee or the
34 licensee's attorney personally or by first class mail to the
35 most recent address provided to the board for the licensee or
36 the licensee's attorney.

1 (c) The temporary suspension remains in effect until after
2 the board issues an order pursuant to paragraph (e), or if there
3 is a contested case hearing, after the board issues a written
4 final order pursuant to paragraph (g).

5 (d) If the licensee requests in writing within five
6 calendar days of service of the order that the board hold a
7 hearing, the board must hold a hearing on the sole issue of
8 whether to continue, modify, or lift the suspension. The board
9 must hold the hearing within ten working days of receipt of the
10 licensee's written request. Evidence presented by the board or
11 licensee must be in affidavit form only, except that the
12 licensee or the licensee's attorney may present oral argument.

13 (e) Within five working days after the hearing, the board
14 must issue its order. If the licensee contests the order, the
15 board must schedule a contested case hearing under chapter 14.
16 The contested case hearing must be scheduled to occur within 45
17 calendar days after issuance of the order.

18 (f) The administrative law judge must issue a report within
19 30 calendar days after the contested case hearing is concluded.

20 (g) The board must issue a final order within 30 calendar
21 days after the board receives the administrative law judge's
22 report.

23 Sec. 58. [148D.265] [ADVERSARIAL BUT NONDISCIPLINARY
24 ACTIONS.]

25 Subdivision 1. [AUTOMATIC SUSPENSIONS.] (a) A license to
26 practice social work is automatically suspended if:

27 (1) a guardian of a licensee is appointed by order of a
28 court pursuant to sections 524.5-101 and 524.5.102; or

29 (2) the licensee is committed by order of a court pursuant
30 to chapter 253B.

31 (b) A license remains suspended until:

32 (1) the licensee is restored to capacity by a court; and

33 (2) upon petition by the licensee and after a hearing or an
34 agreement with the licensee, the board terminates the suspension.

35 (c) If the board terminates the suspension, it may do so
36 with or without conditions or restrictions, including, but not

1 limited to, participation in the health professional services
2 program.

3 Subd. 2. [CEASE AND DESIST ORDERS.] (a) The board or a
4 designated board member may issue a cease and desist order to
5 stop a person from engaging in unauthorized practice or from
6 violating or threatening to violate a statute or rule enforced
7 by the board or an order, stipulation, or agreement agreed to or
8 issued by the board.

9 (b) The cease and desist order must state the reason for
10 its issuance and give notice of the person's right to request a
11 hearing under sections 14.57 to 14.62. If the person fails to
12 request a hearing in writing postmarked within 15 calendar days
13 after service of the cease and desist order, the order is the
14 final order of the board and is not reviewable by a court or
15 agency.

16 (c) If the board receives a written request for a hearing
17 postmarked within 15 calendar days after service of the cease
18 and desist order, the board must schedule a hearing within 30
19 calendar days of receiving the request.

20 (d) The administrative law judge must issue a report within
21 30 calendar days after the contested case hearing is concluded.

22 (e) Within 30 calendar days after the board receives the
23 administrative law judge's report, the board must issue a final
24 order modifying, vacating, or making permanent the cease and
25 desist order. The final order remains in effect until modified
26 or vacated by the board.

27 (f) If a person does not comply with a cease and desist
28 order, the board may institute a proceeding in any district
29 court to obtain injunctive relief or other appropriate relief,
30 including but not limited to, a civil penalty payable to the
31 board of up to \$10,000 for each violation.

32 (g) A cease and desist order issued pursuant to this
33 subdivision does not relieve a person from criminal prosecution
34 by a competent authority or from disciplinary action by the
35 board.

36 Subd. 3. [INJUNCTIVE RELIEF.] (a) In addition to any other

1 remedy provided by law, the board may bring an action in
2 district court for injunctive relief to restrain any
3 unauthorized practice or violation or threatened violation of
4 any statute or rule, stipulation, or agreement agreed to or
5 enforced by the board or an order issued by the board.

6 (b) A temporary restraining order may be granted in the
7 proceeding if continued activity by a person would create an
8 imminent risk of harm to others.

9 (c) Injunctive relief granted pursuant to this subdivision
10 does not relieve a person from criminal prosecution by a
11 competent authority or from disciplinary action by the board.

12 (d) In bringing an action for injunctive relief, the board
13 need not show irreparable harm.

14 Sec. 59. [148D.270] [VOLUNTARY ACTIONS.]

15 Subdivision 1. [AGREEMENTS FOR CORRECTIVE ACTION.] (a) The
16 board or a designated board member may enter into an agreement
17 for corrective action with an applicant or licensee when the
18 board or a designated board member determines that a complaint
19 alleging a violation of a statute or rule enforced by the board
20 or an order issued by the board may best be resolved through an
21 agreement for corrective action when disciplinary action is not
22 required to protect the public.

23 (b) An agreement for corrective action must:

24 (1) be in writing;

25 (2) specify the facts upon which the agreement is based;

26 (3) clearly indicate the corrective action agreed upon; and

27 (4) provide that the complaint that resulted in the

28 agreement must be dismissed by the board or the designated board
29 member upon successful completion of the corrective action.

30 (c) The board or designated board member may determine
31 successful completion when the applicant or licensee submits a
32 request for dismissal that documents the applicant's or
33 licensee's successful completion of the corrective action. The
34 burden of proof is on the applicant or licensee to prove
35 successful completion.

36 (d) An agreement for corrective action is not disciplinary

1 action but must be treated as public data under chapter 13.

2 (e) The board may impose a fee to reimburse the board for
3 all or part of the costs of the proceedings resulting in a
4 corrective action, including, but not limited to, the amount
5 paid by the board for services received from or expenses
6 incurred by the Office of the Attorney General, board members,
7 board staff, or the amount paid by the board for reproducing
8 records.

9 (f) The board or designated board member must not enter
10 into an agreement for corrective action when the complaint
11 alleged sexual conduct with a client unless there is
12 insufficient evidence to justify disciplinary action but there
13 is a basis for corrective action.

14 Subd. 2. [STIPULATIONS TO CEASE PRACTICING SOCIAL
15 WORK.] (a) The board or a designated board member may enter into
16 a stipulation to cease practicing social work with a licensee if
17 the board or designated board member determines that the
18 licensee is unable to practice social work competently or safely
19 or that the social worker's continued practice creates an
20 unacceptable risk of safety to clients, potential clients, or
21 the public.

22 (b) A stipulation to cease practicing social work must:
23 (1) be in writing;
24 (2) specify the facts upon which the stipulation is based;
25 (3) clearly indicate that the licensee must not practice
26 social work and must not hold out to the public that the social
27 worker is licensed; and

28 (4) specify the term of the stipulation or when and under
29 what circumstances the licensee may petition the board for
30 termination of the stipulation.

31 (c) A stipulation to cease practicing social work is not
32 disciplinary action but must be treated as public data under
33 chapter 13.

34 (d) Nothing in this subdivision prevents the board or
35 designated board member from taking any other disciplinary or
36 adversarial action authorized by sections 148D.255 to 148D.265

1 in lieu of or in addition to entering into a stipulation to
2 cease practicing social work.

3 Sec. 60. [148D.275] [UNAUTHORIZED PRACTICE.]

4 No individual may:

5 (1) engage in the practice of social work without a social
6 work license under sections 148D.055 and 148D.060, except when
7 the individual is exempt from licensure pursuant to section
8 148D.065;

9 (2) provide social work services to a client who resides in
10 this state when the individual providing the services is not
11 licensed as a social worker pursuant to sections 148D.055 to
12 148D.060, except when the individual is exempt from licensure
13 pursuant to section 148D.065.

14 Sec. 61. [148D.280] [USE OF TITLES.]

15 No individual may be presented to the public by any title
16 incorporating the words "social work" or "social worker" or in
17 the titles in section 148D.195, unless that individual holds a
18 license pursuant to sections 148D.055 and 148D.060, or practices
19 in a setting exempt from licensure pursuant to section 148D.065.

20 Sec. 62. [148D.285] [REPORTING REQUIREMENTS.]

21 Subdivision 1. [INSTITUTIONS.] A state agency, political
22 subdivision, agency of a local unit of government, private
23 agency, hospital, clinic, prepaid medical plan, or other health
24 care institution or organization must report to the board:

25 (1) any adversarial action, disciplinary action, or other
26 sanction for conduct that might constitute grounds for action
27 under section 148D.190;

28 (2) the resignation of any applicant or licensee prior to
29 the conclusion of any proceeding for adversarial action,
30 disciplinary action, or other sanction for conduct that might
31 constitute grounds for action under section 148D.190; or

32 (3) the resignation of any applicant or licensee prior to
33 the commencement of a proceeding for adversarial action,
34 disciplinary action, or other sanction for conduct that might
35 constitute grounds for action under section 148D.190, but after
36 the applicant or licensee had knowledge that a proceeding was

1 contemplated or in preparation.

2 Subd. 2. [PROFESSIONAL SOCIETIES AND ASSOCIATIONS.] A
3 state or local professional society or association whose members
4 consist primarily of licensed social workers must report to the
5 board any adversarial action, disciplinary action, or other
6 sanction taken against a member.

7 Subd. 3. [IMMUNITY.] An individual, professional society
8 or association, state agency, political subdivision, agency of a
9 local unit of government, private agency, hospital, clinic,
10 prepaid medical plan, other health care institution or
11 organization or other entity is immune from civil liability or
12 criminal prosecution for submitting in good faith a report under
13 subdivision 1 or 2 or for otherwise reporting, providing
14 information, or testifying about violations or alleged
15 violations of this chapter.

16 Sec. 63. [148D.290] [PENALTIES.]

17 An individual or other entity that violates section
18 148D.275, 148D.280, or 148D.285 is guilty of a misdemeanor.

19 Sec. 64. Minnesota Statutes 2004, section 214.01,
20 subdivision 2, is amended to read:

21 Subd. 2. [HEALTH-RELATED LICENSING BOARD.] "Health-related
22 licensing board" means the Board of Examiners of Nursing Home
23 Administrators established pursuant to section 144A.19, the
24 Office of Unlicensed Complementary and Alternative Health Care
25 Practice established pursuant to section 146A.02, the Board of
26 Medical Practice created pursuant to section 147.01, the Board
27 of Nursing created pursuant to section 148.181, the Board of
28 Chiropractic Examiners established pursuant to section 148.02,
29 the Board of Optometry established pursuant to section 148.52,
30 the Board of Physical Therapy established pursuant to section
31 148.67, the Board of Psychology established pursuant to section
32 148.90, the Board of Social Work pursuant to section ~~148B.19~~
33 148D.025, the Board of Marriage and Family Therapy pursuant to
34 section 148B.30, the Office of Mental Health Practice
35 established pursuant to section 148B.61, the Board of Behavioral
36 Health and Therapy established by section 148B.51, the Alcohol

1 and Drug Counselors Licensing Advisory Council established
2 pursuant to section 148C.02, the Board of Dietetics and
3 Nutrition Practice established under section 148.622, the Board
4 of Dentistry established pursuant to section 150A.02, the Board
5 of Pharmacy established pursuant to section 151.02, the Board of
6 Podiatric Medicine established pursuant to section 153.02, and
7 the Board of Veterinary Medicine, established pursuant to
8 section 156.01.

9 Sec. 65. Minnesota Statutes 2004, section 245.462,
10 subdivision 18, is amended to read:

11 Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health
12 professional" means a person providing clinical services in the
13 treatment of mental illness who is qualified in at least one of
14 the following ways:

15 (1) in psychiatric nursing: a registered nurse who is
16 licensed under sections 148.171 to 148.285; and:

17 (i) who is certified as a clinical specialist or as a nurse
18 practitioner in adult or family psychiatric and mental health
19 nursing by a national nurse certification organization; or

20 (ii) who has a master's degree in nursing or one of the
21 behavioral sciences or related fields from an accredited college
22 or university or its equivalent, with at least 4,000 hours of
23 post-master's supervised experience in the delivery of clinical
24 services in the treatment of mental illness;

25 (2) in clinical social work: a person licensed as an
26 independent clinical social worker under ~~section-148B-217~~
27 ~~subdivision-6~~ chapter 148D, or a person with a master's degree
28 in social work from an accredited college or university, with at
29 least 4,000 hours of post-master's supervised experience in the
30 delivery of clinical services in the treatment of mental
31 illness;

32 (3) in psychology: an individual licensed by the Board of
33 Psychology under sections 148.88 to 148.98 who has stated to the
34 Board of Psychology competencies in the diagnosis and treatment
35 of mental illness;

36 (4) in psychiatry: a physician licensed under chapter 147

1 and certified by the American Board of Psychiatry and Neurology
2 or eligible for board certification in psychiatry;

3 (5) in marriage and family therapy: the mental health
4 professional must be a marriage and family therapist licensed
5 under sections 148B.29 to 148B.39 with at least two years of
6 post-master's supervised experience in the delivery of clinical
7 services in the treatment of mental illness; or

8 (6) in allied fields: a person with a master's degree from
9 an accredited college or university in one of the behavioral
10 sciences or related fields, with at least 4,000 hours of
11 post-master's supervised experience in the delivery of clinical
12 services in the treatment of mental illness.

13 Sec. 66. Minnesota Statutes 2004, section 245.4871,
14 subdivision 27, is amended to read:

15 Subd. 27. [MENTAL HEALTH PROFESSIONAL.] "Mental health
16 professional" means a person providing clinical services in the
17 diagnosis and treatment of children's emotional disorders. A
18 mental health professional must have training and experience in
19 working with children consistent with the age group to which the
20 mental health professional is assigned. A mental health
21 professional must be qualified in at least one of the following
22 ways:

23 (1) in psychiatric nursing, the mental health professional
24 must be a registered nurse who is licensed under sections
25 148.171 to 148.285 and who is certified as a clinical specialist
26 in child and adolescent psychiatric or mental health nursing by
27 a national nurse certification organization or who has a
28 master's degree in nursing or one of the behavioral sciences or
29 related fields from an accredited college or university or its
30 equivalent, with at least 4,000 hours of post-master's
31 supervised experience in the delivery of clinical services in
32 the treatment of mental illness;

33 (2) in clinical social work, the mental health professional
34 must be a person licensed as an independent clinical social
35 worker under ~~section 148B.217, subdivision 6~~ chapter 148D, or a
36 person with a master's degree in social work from an accredited

1 college or university, with at least 4,000 hours of
2 post-master's supervised experience in the delivery of clinical
3 services in the treatment of mental disorders;

4 (3) in psychology, the mental health professional must be
5 an individual licensed by the board of psychology under sections
6 148.88 to 148.98 who has stated to the board of psychology
7 competencies in the diagnosis and treatment of mental disorders;

8 (4) in psychiatry, the mental health professional must be a
9 physician licensed under chapter 147 and certified by the
10 American board of psychiatry and neurology or eligible for board
11 certification in psychiatry;

12 (5) in marriage and family therapy, the mental health
13 professional must be a marriage and family therapist licensed
14 under sections 148B.29 to 148B.39 with at least two years of
15 post-master's supervised experience in the delivery of clinical
16 services in the treatment of mental disorders or emotional
17 disturbances; or

18 (6) in allied fields, the mental health professional must
19 be a person with a master's degree from an accredited college or
20 university in one of the behavioral sciences or related fields,
21 with at least 4,000 hours of post-master's supervised experience
22 in the delivery of clinical services in the treatment of
23 emotional disturbances.

24 Sec. 67. Minnesota Statutes 2004, section 256B.0625,
25 subdivision 38, is amended to read:

26 Subd. 38. [PAYMENTS FOR MENTAL HEALTH SERVICES.] Payments
27 for mental health services covered under the medical assistance
28 program that are provided by masters-prepared mental health
29 professionals shall be 80 percent of the rate paid to
30 doctoral-prepared professionals. Payments for mental health
31 services covered under the medical assistance program that are
32 provided by masters-prepared mental health professionals
33 employed by community mental health centers shall be 100 percent
34 of the rate paid to doctoral-prepared professionals. For
35 purposes of reimbursement of mental health professionals under
36 the medical assistance program, all social workers who:

1 (1) have received a master's degree in social work from a
2 program accredited by the Council on Social Work Education;

3 (2) are licensed at the level of graduate social worker or
4 independent social worker; and

5 (3) are practicing clinical social work under appropriate
6 supervision, as defined by ~~section 148B.18~~ chapter 148D; meet
7 all requirements under Minnesota Rules, part 9505.0323, subpart
8 24, and shall be paid accordingly.

9 Sec. 68. Minnesota Statutes 2004, section 256J.08,
10 subdivision 73a, is amended to read:

11 Subd. 73a. [QUALIFIED PROFESSIONAL.] (a) For physical
12 illness, injury, or incapacity, a "qualified professional" means
13 a licensed physician, a physician's assistant, a nurse
14 practitioner, or a licensed chiropractor.

15 (b) For mental retardation and intelligence testing, a
16 "qualified professional" means an individual qualified by
17 training and experience to administer the tests necessary to
18 make determinations, such as tests of intellectual functioning,
19 assessments of adaptive behavior, adaptive skills, and
20 developmental functioning. These professionals include licensed
21 psychologists, certified school psychologists, or certified
22 psychometrists working under the supervision of a licensed
23 psychologist.

24 (c) For learning disabilities, a "qualified professional"
25 means a licensed psychologist or school psychologist with
26 experience determining learning disabilities.

27 (d) For mental health, a "qualified professional" means a
28 licensed physician or a qualified mental health professional. A
29 "qualified mental health professional" means:

30 (1) for children, in psychiatric nursing, a registered
31 nurse who is licensed under sections 148.171 to 148.285, and who
32 is certified as a clinical specialist in child and adolescent
33 psychiatric or mental health nursing by a national nurse
34 certification organization or who has a master's degree in
35 nursing or one of the behavioral sciences or related fields from
36 an accredited college or university or its equivalent, with at

1 least 4,000 hours of post-master's supervised experience in the
2 delivery of clinical services in the treatment of mental
3 illness;

4 (2) for adults, in psychiatric nursing, a registered nurse
5 who is licensed under sections 148.171 to 148.285, and who is
6 certified as a clinical specialist in adult psychiatric and
7 mental health nursing by a national nurse certification
8 organization or who has a master's degree in nursing or one of
9 the behavioral sciences or related fields from an accredited
10 college or university or its equivalent, with at least 4,000
11 hours of post-master's supervised experience in the delivery of
12 clinical services in the treatment of mental illness;

13 (3) in clinical social work, a person licensed as an
14 independent clinical social worker under ~~section 148B.217~~
15 ~~subdivision 6~~ chapter 148D, or a person with a master's degree
16 in social work from an accredited college or university, with at
17 least 4,000 hours of post-master's supervised experience in the
18 delivery of clinical services in the treatment of mental
19 illness;

20 (4) in psychology, an individual licensed by the Board of
21 Psychology under sections 148.88 to 148.98, who has stated to
22 the Board of Psychology competencies in the diagnosis and
23 treatment of mental illness;

24 (5) in psychiatry, a physician licensed under chapter 147
25 and certified by the American Board of Psychiatry and Neurology
26 or eligible for board certification in psychiatry; and

27 (6) in marriage and family therapy, the mental health
28 professional must be a marriage and family therapist licensed
29 under sections 148B.29 to 148B.39, with at least two years of
30 post-master's supervised experience in the delivery of clinical
31 services in the treatment of mental illness.

32 Sec. 69. Minnesota Statutes 2004, section 319B.02,
33 subdivision 19, is amended to read:

34 Subd. 19. [PROFESSIONAL SERVICES.] "Professional services"
35 means services of the type required or permitted to be furnished
36 by a professional under a license, registration, or certificate

1 issued by the state of Minnesota to practice medicine and
2 surgery under sections 147.01 to 147.22, as a physician
3 assistant pursuant to sections 147A.01 to 147A.27, chiropractic
4 under sections 148.01 to 148.105, registered nursing under
5 sections 148.171 to 148.285, optometry under sections 148.52 to
6 148.62, psychology under sections 148.88 to 148.98, social work
7 under ~~sections 148B.18 to 148B.289~~ chapter 148D, dentistry and
8 dental hygiene under sections 150A.01 to 150A.12, pharmacy under
9 sections 151.01 to 151.40, podiatric medicine under sections
10 153.01 to 153.25, veterinary medicine under sections 156.001 to
11 156.14, architecture, engineering, surveying, landscape
12 architecture, geoscience, and certified interior design under
13 sections 326.02 to 326.15, accountancy under chapter 326A, or
14 law under sections 481.01 to 481.17, or under a license or
15 certificate issued by another state under similar laws.

16 Professional services includes services of the type required to
17 be furnished by a professional pursuant to a license or other
18 authority to practice law under the laws of a foreign nation.

19 Sec. 70. Minnesota Statutes 2004, section 319B.40, is
20 amended to read:

21 319B.40 [PROFESSIONAL HEALTH SERVICES.]

22 (a) Individuals who furnish professional services pursuant
23 to a license, registration, or certificate issued by the state
24 of Minnesota to practice medicine pursuant to sections 147.01 to
25 147.22, as a physician assistant pursuant to sections 147A.01 to
26 147A.27, chiropractic pursuant to sections 148.01 to 148.106,
27 registered nursing pursuant to sections 148.171 to 148.285,
28 optometry pursuant to sections 148.52 to 148.62, psychology
29 pursuant to sections 148.88 to 148.98, social work pursuant to
30 ~~sections 148B.18 to 148B.289~~ chapter 148D, dentistry pursuant to
31 sections 150A.01 to 150A.12, pharmacy pursuant to sections
32 151.01 to 151.40, or podiatric medicine pursuant to sections
33 153.01 to 153.26 are specifically authorized to practice any of
34 these categories of services in combination if the individuals
35 are organized under this chapter.

36 (b) This authorization does not authorize an individual to

1 practice any profession, or furnish a professional service, for
2 which the individual is not licensed, registered, or certified,
3 but otherwise applies regardless of any contrary provision of a
4 licensing statute or rules adopted pursuant to that statute,
5 related to practicing and organizing in combination with other
6 health services professionals.

7 Sec. 71. [REPEALER.]

8 Subdivision 1. [REPEAL OF STATUTES.] Minnesota Statutes
9 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21;
10 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24;
11 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282;
12 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; and
13 148B.289, are repealed.

14 Subd. 2. [REPEAL OF RULES.] Minnesota Rules, parts
15 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130;
16 8740.0155; 8740.0185; 8740.0187; 8740.0200; 8740.0240;
17 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315;
18 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; and
19 8740.0345, are repealed.

20 Sec. 72. [EFFECTIVE DATE.]

21 This article is effective January 1, 2006.

22 ARTICLE 2

23 BOARD OF PHYSICAL THERAPY

24 Section 1. Minnesota Statutes 2004, section 148.65, is
25 amended by adding a subdivision to read:

26 Subd. 3. [PHYSICAL THERAPIST ASSISTANT.] "Physical
27 therapist assistant" means a graduate of a physical therapist
28 assistant educational program accredited by the Commission on
29 Accreditation in Physical Therapy Education (CAPTE) or a
30 recognized comparable national accrediting agency approved by
31 the board. The physical therapist assistant, under the
32 direction and supervision of the physical therapist, performs
33 physical therapy interventions and assists with coordination,
34 communication, and documentation; and patient-client-related
35 instruction. The physical therapist is not required to be
36 on-site except as required under Minnesota Rules, part

1 5601.1500, but must be easily available by telecommunications.

2 Sec. 2. Minnesota Statutes 2004, section 148.65, is
3 amended by adding a subdivision to read:

4 Subd. 4. [PHYSICAL THERAPY AIDE.] "Physical therapy aide"
5 means a person, working under the direct supervision of a
6 physical therapist, who is not a physical therapist assistant as
7 defined in subdivision 3, who performs tasks as provided under
8 Minnesota Rules, part 5601.1400.

9 Sec. 3. Minnesota Statutes 2004, section 148.65, is
10 amended by adding a subdivision to read:

11 Subd. 5. [STUDENT PHYSICAL THERAPIST.] "Student physical
12 therapist" means a person in a professional educational program,
13 approved by the board under section 148.705, who is satisfying
14 supervised clinical education requirements by performing
15 physical therapy under the on-site supervision of a licensed
16 physical therapist. "On-site supervision" means the physical
17 therapist is easily available for instruction to the student
18 physical therapist. The physical therapist shall have direct
19 contact with the patient during at least every second treatment
20 session by the student physical therapist. Telecommunications,
21 except within the facility, does not meet the requirement of
22 on-site supervision.

23 Sec. 4. Minnesota Statutes 2004, section 148.65, is
24 amended by adding a subdivision to read:

25 Subd. 6. [STUDENT PHYSICAL THERAPIST ASSISTANT.] "Student
26 physical therapist assistant" means a person in a physical
27 therapist assistant educational program accredited by the
28 Commission on Accreditation in Physical Therapy Education
29 (CAPTE) or a recognized comparable national accrediting agency
30 approved by the board. The student physical therapist
31 assistant, under the direct supervision of the physical
32 therapist, or the direct supervision of the physical therapist
33 and physical therapist assistant, performs physical therapy
34 interventions and assists with coordination, communication,
35 documentation, and patient-client-related instruction. "Direct
36 supervision" means the physical therapist is physically present

1 and immediately available to provide instruction to the student
2 physical therapist assistant.

3 Sec. 5. Minnesota Statutes 2004, section 148.65, is
4 amended by adding a subdivision to read:

5 Subd. 7. [SUPPORTIVE PERSONNEL.] "Supportive personnel"
6 means a physical therapist assistant and a physical therapy aide.

7 Sec. 6. Minnesota Statutes 2004, section 148.706, is
8 amended to read:

9 148.706 [SUPERVISION OF ASSISTANTS AND, AIDES, AND
10 STUDENTS.]

11 Every physical therapist who uses the services of an a
12 physical therapist assistant or physical therapy aide for the
13 purpose of assisting in the practice of physical therapy is
14 responsible for functions performed by the assistant or aide
15 while engaged in such assistance. The physical therapist shall
16 ~~permit-the-assistant-or-aide-to-perform-only-those-functions~~
17 ~~which-the-therapist-is-authorized-by-rule-to-delegate-to-a~~
18 ~~physical-therapist-assistant-or-assign-to-a-physical-therapy~~
19 ~~aide-and-shall-provide-supervision-as-specified~~ delegate duties
20 to the physical therapist assistant and assign tasks to the
21 physical therapy aide in accordance with Minnesota Rules, part
22 5601.1400. Physical therapists who instruct student physical
23 therapists and student physical therapist assistants are
24 responsible for the functions performed by the students and
25 shall supervise the students as provided under section 148.65,
26 subdivisions 5 and 6.

27 Sec. 7. [148.735] [CANCELLATION OF LICENSE IN GOOD
28 STANDING.]

29 Subdivision 1. [BOARD APPROVAL; REPORTING.] A physical
30 therapist holding an active license to practice physical therapy
31 in the state may, upon approval of the board, be granted license
32 cancellation if the board is not investigating the person as a
33 result of a complaint or information received or if the board
34 has not begun disciplinary proceedings against the person. Such
35 action by the board shall be reported as a cancellation of a
36 license in good standing.

1 Subd. 2. [FEES NONREFUNDABLE.] A physical therapist who
2 receives board approval for license cancellation is not entitled
3 to a refund of any license fees paid for the licensure year in
4 which cancellation of the license occurred.

5 Subd. 3. [NEW LICENSE AFTER CANCELLATION.] If a physical
6 therapist who has been granted board approval for license
7 cancellation desires to resume the practice of physical therapy
8 in Minnesota, that physical therapist must obtain a new license
9 by applying for licensure and fulfilling the requirements then
10 in existence for obtaining an initial license to practice
11 physical therapy in Minnesota.

12 Sec. 8. [148.736] [CANCELLATION OF CREDENTIALS UNDER
13 DISCIPLINARY ORDER.]

14 Subdivision 1. [BOARD APPROVAL; REPORTING.] A physical
15 therapist, whose right to practice is under suspension,
16 condition, limitation, qualification, or restriction by the
17 board may be granted cancellation of credentials by approval of
18 the board. Such action by the board shall be reported as
19 cancellation while under discipline. Credentials, for purposes
20 of this section, means board authorized documentation of the
21 privilege to practice physical therapy.

22 Subd. 2. [FEES NONREFUNDABLE.] A physical therapist who
23 receives board approval for credential cancellation is not
24 entitled to a refund of any fees paid for the credentialing year
25 in which cancellation of the credential occurred.

26 Subd. 3. [NEW CREDENTIAL AFTER CANCELLATION.] If a
27 physical therapist who has been granted board approval for
28 credential cancellation desires to resume the practice of
29 physical therapy in Minnesota, that physical therapist must
30 obtain a new credential by applying to the board and fulfilling
31 the requirements then in existence for obtaining an initial
32 credential to practice physical therapy in Minnesota.

33 Sec. 9. [148.737] [CANCELLATION OF LICENSE FOR
34 NONRENEWAL.]

35 The Board of Physical Therapy shall not renew, reissue,
36 reinstate, or restore a license that has lapsed on or after

1 January 1, 2006, and has not been renewed within two annual
2 license renewal cycles starting January 1, 2008. A licensee
3 whose license is canceled for nonrenewal must obtain a new
4 license by applying for licensure and fulfilling all
5 requirements then in existence for an initial license to
6 practice physical therapy in Minnesota.

7 Sec. 10. Minnesota Statutes 2004, section 148.75, is
8 amended to read:

9 148.75 [LICENSES; DENIAL, SUSPENSION, REVOCATION.]

10 (a) The state Board of Physical Therapy may refuse to grant
11 a license to any physical therapist, or may suspend or revoke
12 the license of any physical therapist for any of the following
13 grounds:

14 (1) using drugs or intoxicating liquors to an extent which
15 affects professional competence;

16 (2) conviction of a felony;

17 (3) conviction for violating any state or federal narcotic
18 law;

19 (4) obtaining a license or attempting to obtain a license
20 by fraud or deception;

21 (5) conduct unbecoming a person licensed as a physical
22 therapist or conduct detrimental to the best interests of the
23 public;

24 (6) gross negligence in the practice of physical therapy as
25 a physical therapist;

26 (7) treating human ailments by physical therapy after an
27 initial 30-day period of patient admittance to treatment has
28 lapsed, except by the order or referral of a person licensed in
29 this state in the practice of medicine as defined in section
30 147.081, the practice of chiropractic as defined in section
31 148.01, the practice of podiatry as defined in section 153.01,
32 or the practice of dentistry as defined in section 150A.05 and
33 whose license is in good standing; or when a previous diagnosis
34 exists indicating an ongoing condition warranting physical
35 therapy treatment, subject to periodic review defined by board
36 of physical therapy rule;

1 (8) treating human ailments, without referral, by physical
2 therapy treatment without first having practiced one year under
3 a physician's orders as verified by the board's records;

4 (9) failing to consult with the patient's health care
5 provider who prescribed the physical therapy treatment if the
6 treatment is altered by the physical therapist from the original
7 written order. The provision does not include written orders to
8 "evaluate and treat";

9 (10) treating human ailments other than by physical therapy
10 unless duly licensed or registered to do so under the laws of
11 this state;

12 (11) inappropriate delegation to a physical therapist
13 assistant or inappropriate task assignment to an aide or
14 inadequate supervision of ~~either-level-of-supportive-personnel~~ a
15 student physical therapist, physical therapist assistant,
16 student physical therapist assistant, or a physical therapy
17 aide;

18 (12) practicing as a physical therapist performing medical
19 diagnosis, the practice of medicine as defined in section
20 147.081, or the practice of chiropractic as defined in section
21 148.01;

22 (13) failing to comply with a reasonable request to obtain
23 appropriate clearance for mental or physical conditions that
24 would interfere with the ability to practice physical therapy,
25 and that may be potentially harmful to patients;

26 (14) dividing fees with, or paying or promising to pay a
27 commission or part of the fee to, any person who contacts the
28 physical therapist for consultation or sends patients to the
29 physical therapist for treatment;

30 (15) engaging in an incentive payment arrangement, other
31 than that prohibited by clause (14), that tends to promote
32 physical therapy overuse, that allows the referring person or
33 person who controls the availability of physical therapy
34 services to a client to profit unreasonably as a result of
35 patient treatment;

36 (16) practicing physical therapy and failing to refer to a

1 licensed health care professional a patient whose medical
2 condition at the time of evaluation has been determined by the
3 physical therapist to be beyond the scope of practice of a
4 physical therapist; and

5 (17) failing to report to the board other licensed physical
6 therapists who violate this section; and

7 (18) practice of physical therapy under lapsed or
8 nonrenewed credentials.

9 (b) A license to practice as a physical therapist is
10 suspended if (1) a guardian of the physical therapist is
11 appointed by order of a court pursuant to sections 524.5-101 to
12 524.5-502, for reasons other than the minority of the physical
13 therapist; or (2) the physical therapist is committed by order
14 of a court pursuant to chapter 253B. The license remains
15 suspended until the physical therapist is restored to capacity
16 by a court and, upon petition by the physical therapist, the
17 suspension is terminated by the Board of Physical Therapy after
18 a hearing.

19 Sec. 11. [148.754] [EXAMINATION; ACCESS TO MEDICAL DATA.]

20 (a) If the board has probable cause to believe that a
21 physical therapist comes under section 148.75, paragraph (a), it
22 may direct the physical therapist to submit to a mental or
23 physical examination. For the purpose of this paragraph, every
24 physical therapist is deemed to have consented to submit to a
25 mental or physical examination when directed in writing by the
26 board and further to have waived all objections to the
27 admissibility of the examining physicians' testimony or
28 examination reports on the ground that they constitute a
29 privileged communication. Failure of the physical therapist to
30 submit to an examination when directed constitutes an admission
31 of the allegations against the person, unless the failure was
32 due to circumstances beyond the person's control, in which case
33 a default and final order may be entered without the taking of
34 testimony or presentation of evidence. A physical therapist
35 affected under this paragraph shall, at reasonable intervals, be
36 given an opportunity to demonstrate that the person can resume

1 the competent practice of physical therapy with reasonable skill
2 and safety to the public.

3 (b) In any proceeding under paragraph (a), neither the
4 record of proceedings nor the orders entered by the board shall
5 be used against a physical therapist in any other proceeding.

6 (c) In addition to ordering a physical or mental
7 examination, the board may, notwithstanding section 13.384,
8 144.651, or any other law limiting access to medical or other
9 health data, obtain medical data and health records relating to
10 a physical therapist or applicant without the person's or
11 applicant's consent if the board has probable cause to believe
12 that a physical therapist comes under paragraph (a). The
13 medical data may be requested from a provider, as defined in
14 section 144.335, subdivision 1, paragraph (b), an insurance
15 company, or a government agency, including the Department of
16 Human Services. A provider, insurance company, or government
17 agency shall comply with any written request of the board under
18 this paragraph and is not liable in any action for damages for
19 releasing the data requested by the board if the data are
20 released pursuant to a written request under this paragraph,
21 unless the information is false and the provider giving the
22 information knew, or had reason to believe, the information was
23 false. Information obtained under this paragraph is classified
24 as private under sections 13.01 to 13.87.

25 Sec. 12. [148.755] [TEMPORARY SUSPENSION OF LICENSE.]

26 In addition to any other remedy provided by law, the board
27 may, without a hearing, temporarily suspend the license of a
28 physical therapist if the board finds that the physical
29 therapist has violated a statute or rule which the board is
30 empowered to enforce and continued practice by the physical
31 therapist would create a serious risk of harm to the public.
32 The suspension shall take effect upon written notice to the
33 physical therapist, specifying the statute or rule violated.
34 The suspension shall remain in effect until the board issues a
35 final order in the matter after a hearing. At the time it
36 issues the suspension notice, the board shall schedule a

1 disciplinary hearing to be held pursuant to the Administrative
2 Procedure Act, chapter 14. The physical therapist shall be
3 provided with at least 20 days' notice of any hearing held
4 pursuant to this section. The hearing shall be scheduled to
5 begin no later than 30 days after the issuance of the suspension
6 order.

7 Sec. 13. [LICENSE ISSUANCE.]

8 Notwithstanding Minnesota Statutes, sections 148.65 to
9 148.78, the Board of Physical Therapy shall grant a physical
10 therapist license to an individual who has been issued physical
11 therapy licenses between 1980 and 1995 in at least three other
12 states and at least one foreign country and who applies before
13 August 1, 2005.

14 Sec. 14. [REPEALER.]

15 Minnesota Rules, part 5601.0100, subparts 3 and 4, are
16 repealed.

17 ARTICLE 3

18 BOARD OF PSYCHOLOGY

19 Section 1. Minnesota Statutes 2004, section 148.89,
20 subdivision 5, is amended to read:

21 Subd. 5. [PRACTICE OF PSYCHOLOGY.] "Practice of
22 psychology" means the observation, description, evaluation,
23 interpretation, or modification of human behavior by the
24 application of psychological principles, methods, or
25 procedures for any reason, including to prevent, eliminate, or
26 manage symptomatic, maladaptive, or undesired behavior and to
27 enhance interpersonal relationships, work, life and
28 developmental adjustment, personal and organizational
29 effectiveness, behavioral health, and mental health. The
30 practice of psychology includes, but is not limited to, the
31 following services, regardless of whether the provider receives
32 payment for the services:

33 (1) psychological research and teaching of psychology;

34 (2) assessment, including psychological testing and other

35 means of evaluating personal characteristics such as

36 intelligence, personality, abilities, interests, aptitudes, and

1 neuropsychological functioning;

2 (3) a psychological report, whether written or oral,
3 including testimony of a provider as an expert witness,
4 concerning the characteristics of an individual or entity;

5 (4) psychotherapy, including but not limited to, categories
6 such as behavioral, cognitive, emotive, systems,
7 psychophysiological, or insight-oriented therapies; counseling;
8 hypnosis; and diagnosis and treatment of:

9 (i) mental and emotional disorder or disability;

10 (ii) alcohol and substance dependence or abuse;

11 (iii) disorders of habit or conduct;

12 (iv) the psychological aspects of physical illness or
13 condition, accident, injury, or disability;

14 (v) life adjustment issues, including work-related and
15 bereavement issues; and

16 (vi) child, family, or relationship issues;

17 (5) psychoeducational services and treatment; and

18 (6) consultation and supervision.

19 Sec. 2. Minnesota Statutes 2004, section 148.90,
20 subdivision 1, is amended to read:

21 Subdivision 1. [BOARD OF PSYCHOLOGY.] (a) The Board of
22 Psychology is created with the powers and duties described in
23 this section. The board has 11 members who consist of:

24 (1) three ~~persons~~ individuals licensed as licensed
25 psychologists who have a doctoral ~~degree~~ degrees in psychology;

26 (2) two ~~persons~~ individuals licensed as licensed
27 psychologists who have a master's ~~degree~~ degrees in psychology;

28 (3) two psychologists, not necessarily licensed, one with a
29 doctoral degree in psychology who represents a doctoral training
30 program in psychology, and one who represents a master's degree
31 training program in psychology;

32 (4) one ~~person~~ individual licensed or qualified to be
33 licensed as: (i) through December 31, 2010, a licensed
34 psychological practitioner; and (ii) after December 31, 2010, a
35 licensed psychologist; and

36 (5) three public members.

1 (b) After the date on which fewer than 30 percent of the
2 persons individuals licensed by the board as licensed
3 psychologists qualify for licensure under section 148.907,
4 subdivision 3, paragraph (b), ~~the-first-vacancy vacancies~~ filled
5 under paragraph (a), clause (2), shall be filled by a-person an
6 individual with either a master's or doctoral degree in
7 psychology licensed or qualified to be licensed as a
8 ~~licensed psychological-practitioner---From-this-date-on7-this~~
9 ~~position-when-vacant-shall-be-filled-by-a-person-licensed-or~~
10 ~~qualified-to-be-licensed-as-a-licensed-psychological~~
11 ~~practitioner~~ psychologist.

12 (c) After the date on which fewer than 15 percent of the
13 persons individuals licensed by the board as licensed
14 psychologists qualify for licensure under section 148.907,
15 subdivision 3, paragraph (b), ~~the-first-vacancy vacancies~~ under
16 paragraph (a), clause (2), ~~for-a-licensed-psychologist~~ shall be
17 filled by an individual with either a master's or doctoral
18 degree in psychology shall-be-filled-by-a licensed or qualified
19 to be licensed as a licensed psychologist. ~~From-this-date-on7~~
20 ~~this-position-when-vacant-shall-be-filled-by-a-person-licensed~~
21 ~~as-a-licensed-psychologist-~~

22 Sec. 3. Minnesota Statutes 2004, section 148.907, is
23 amended by adding a subdivision to read:

24 Subd. 5. [CONVERTING FROM A LICENSED PSYCHOLOGICAL
25 PRACTITIONER TO A LICENSED PSYCHOLOGIST.] Notwithstanding
26 subdivision 3, to convert from licensure as a licensed
27 psychological practitioner to licensure as a licensed
28 psychologist, a licensed psychological practitioner shall have:

29 (1) completed an application provided by the board for
30 conversion from licensure as a licensed psychological
31 practitioner to licensure as a licensed psychologist;

32 (2) paid a nonrefundable fee of \$500;

33 (3) documented successful completion of two full years, or
34 the equivalent, of supervised postlicensure employment meeting
35 the requirements of section 148.925, subdivision 5, as it
36 relates to preparation for licensure as a licensed psychologist

1 as follows:

2 (i) for individuals licensed as licensed psychological
3 practitioners on or before December 31, 2006, the supervised
4 practice must be completed by December 31, 2010; and

5 (ii) for individuals licensed as licensed psychological
6 practitioners after December 31, 2006, the supervised practice
7 must be completed within four years from the date of licensure;
8 and

9 (4) no unresolved disciplinary action or complaints
10 pending, or incomplete disciplinary orders or corrective action
11 agreements in Minnesota or any other jurisdiction.

12 Sec. 4. Minnesota Statutes 2004, section 148.908,
13 subdivision 2, is amended to read:

14 Subd. 2. [REQUIREMENTS FOR LICENSURE AS A LICENSED
15 PSYCHOLOGICAL PRACTITIONER.] To become licensed by the board as
16 a licensed psychological practitioner, an applicant shall comply
17 with the following requirements:

18 ~~(1) pass-an-examination-in-psychology;~~

19 ~~(2)-pass-a-professional-responsibility-examination-on-the~~
20 ~~practice-of-psychology;~~

21 ~~(3)-pass-any-other-examinations-as-required-by-board-rules;~~

22 ~~(4)-pay-nonrefundable-fees-to-the-board-for-applications,~~
23 ~~processing,-testing,-renewals,-and-materials;~~

24 ~~(5)-have-attained-the-age-of-majority,-be-of-good-moral~~
25 ~~character,-and-have-no-unresolved-disciplinary-action-or~~
26 ~~complaints-pending-in-the-state-of-Minnesota-or-any-other~~
27 ~~jurisdiction;-and~~

28 ~~(6) have earned a doctoral or master's degree or the~~
29 ~~equivalent of a master's degree in a doctoral program with a~~
30 ~~major in psychology from a regionally accredited educational~~
31 ~~institution meeting the standards the board has established by~~
32 ~~rule. The degree requirements must be completed by December 31,~~
33 ~~2005;~~

34 (2) complete an application for admission to the
35 examination for professional practice in psychology and pay the
36 nonrefundable application fee by December 31, 2005;

1 (3) complete an application for admission to the
2 professional responsibility examination and pay the
3 nonrefundable application fee by December 31, 2005;

4 (4) pass the examination for professional practice in
5 psychology by December 31, 2006;

6 (5) pass the professional responsibility examination by
7 December 31, 2006;

8 (6) complete an application for licensure as a licensed
9 psychological practitioner and pay the nonrefundable application
10 fee by March 1, 2007; and

11 (7) have attained the age of majority, be of good moral
12 character, and have no unresolved disciplinary action or
13 complaints pending in the state of Minnesota or any other
14 jurisdiction.

15 Sec. 5. Minnesota Statutes 2004, section 148.908, is
16 amended by adding a subdivision to read:

17 Subd. 3. [TERMINATION OF LICENSURE.] Effective December
18 31, 2011, the licensure of all licensed psychological
19 practitioners shall be terminated without further notice and
20 licensure as a licensed psychological practitioner in Minnesota
21 shall be eliminated.

22 Sec. 6. Minnesota Statutes 2004, section 148.909, is
23 amended to read:

24 148.909 [LICENSURE FOR VOLUNTEER PRACTICE.]

25 The board, at its discretion, may grant licensure for
26 volunteer practice to an applicant who:

27 (1) ~~is-a-former-licensee-who~~ is completely retired from the
28 practice of psychology;

29 (2) has no unresolved disciplinary action or complaints
30 pending in the state of Minnesota or any other jurisdiction; and

31 (3) has held a license, certificate, or registration to
32 practice psychology in any jurisdiction ~~for-at-least-15-years.~~

33 Sec. 7. Minnesota Statutes 2004, section 148.916,
34 subdivision 2, is amended to read:

35 Subd. 2. [PSYCHOLOGICAL CONSULTATIONS.] Notwithstanding
36 subdivision 1, a nonresident of the state of Minnesota, who is

1 not seeking licensure in this state, may serve as an expert
2 witness, organizational consultant, presenter, or educator
3 without obtaining guest licensure, provided the person is
4 appropriately trained, educated, or has been issued a license,
5 certificate, or registration by another jurisdiction.

6 Sec. 8. Minnesota Statutes 2004, section 148.925,
7 subdivision 6, is amended to read:

8 Subd. 6. [SUPERVISEE DUTIES.] Individuals preparing for
9 licensure as a licensed psychologist during their postdegree
10 supervised employment may perform as part of their training any
11 functions specified in section 148.89, subdivision 5, but only
12 under qualified supervision.

13 Sec. 9. Minnesota Statutes 2004, section 148.941,
14 subdivision 2, is amended to read:

15 Subd. 2. [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF
16 DISCIPLINARY ACTION.] (a) The board may impose disciplinary
17 action as described in paragraph (b) against an applicant or
18 licensee whom the board, by a preponderance of the evidence,
19 determines:

20 (1) has violated a statute, rule, or order that the board
21 issued or is empowered to enforce;

22 (2) has engaged in fraudulent, deceptive, or dishonest
23 conduct, whether or not the conduct relates to the practice of
24 psychology, that adversely affects the person's ability or
25 fitness to practice psychology;

26 (3) has engaged in unprofessional conduct or any other
27 conduct which has the potential for causing harm to the public,
28 including any departure from or failure to conform to the
29 minimum standards of acceptable and prevailing practice without
30 actual injury having to be established;

31 (4) has been convicted of or has pled guilty or nolo
32 contendere to a felony or other crime, an element of which is
33 dishonesty or fraud, or has been shown to have engaged in acts
34 or practices tending to show that the applicant or licensee is
35 incompetent or has engaged in conduct reflecting adversely on
36 the applicant's or licensee's ability or fitness to engage in

1 the practice of psychology;

2 (5) has employed fraud or deception in obtaining or
3 renewing a license, in requesting approval of continuing
4 education activities, or in passing an examination;

5 (6) has had a license, certificate, charter, registration,
6 privilege to take an examination, or other similar authority
7 denied, revoked, suspended, canceled, limited, reprimanded, or
8 otherwise disciplined, or not renewed for cause in any
9 jurisdiction; or has surrendered or voluntarily terminated a
10 license or certificate during a board investigation of a
11 complaint, as part of a disciplinary order, or while under a
12 disciplinary order;

13 (7) has been subject to a corrective action or similar
14 action in another jurisdiction or by another regulatory
15 authority;

16 (8) has failed to meet any requirement for the issuance or
17 renewal of the person's license. The burden of proof is on the
18 applicant or licensee to demonstrate the qualifications or
19 satisfy the requirements for a license under the Psychology
20 Practice Act;

21 (9) has failed to cooperate with an investigation of the
22 board as required under subdivision 4;

23 (10) has demonstrated an inability to practice psychology
24 with reasonable skill and safety to clients due to any mental or
25 physical illness or condition; or

26 (11) has engaged in fee splitting. This clause does not
27 apply to the distribution of revenues from a partnership, group
28 practice, nonprofit corporation, or professional corporation to
29 its partners, shareholders, members, or employees if the
30 revenues consist only of fees for services performed by the
31 licensee or under a licensee's administrative authority. This
32 clause also does not apply to the charging of a general
33 membership fee by a licensee or applicant to health care
34 providers, as defined in section 144.335, for participation in a
35 referral service, provided that the licensee or applicant
36 discloses in advance to each referred client the financial

1 nature of the referral arrangement. Fee splitting includes, but
2 is not limited to:

3 (i) paying, offering to pay, receiving, or agreeing to
4 receive a commission, rebate, or remuneration, directly or
5 indirectly, primarily for the referral of clients;

6 (ii) dividing client fees with another individual or
7 entity, unless the division is in proportion to the services
8 provided and the responsibility assumed by each party;

9 (iii) referring an individual or entity to any health care
10 provider, as defined in section 144.335, or for other
11 professional or technical services in which the referring
12 licensee or applicant has a significant financial interest
13 unless the licensee has disclosed the financial interest in
14 advance to the client; and

15 (iv) dispensing for profit or recommending any instrument,
16 test, procedure, or device that for commercial purposes the
17 licensee or applicant has developed or distributed, unless the
18 licensee or applicant has disclosed any profit interest in
19 advance to the client.

20 (b) If grounds for disciplinary action exist under
21 paragraph (a), the board may take one or more of the following
22 actions:

23 (1) refuse to grant or renew a license;

24 (2) revoke a license;

25 (3) suspend a license;

26 (4) impose limitations or conditions on a licensee's
27 practice of psychology, including, but not limited to, limiting
28 the scope of practice to designated competencies, imposing
29 retraining or rehabilitation requirements, requiring the
30 licensee to practice under supervision, or conditioning
31 continued practice on the demonstration of knowledge or skill by
32 appropriate examination or other review of skill and competence;

33 (5) censure or reprimand the licensee;

34 (6) refuse to permit an applicant to take the licensure
35 examination or refuse to release an applicant's examination
36 grade if the board finds that it is in the public interest; or

1 (7) impose a civil penalty not exceeding \$7,500 for each
2 separate violation. The amount of the penalty shall be fixed so
3 as to deprive the applicant or licensee of any economic
4 advantage gained by reason of the violation charged, to
5 discourage repeated violations, or to recover the board's costs
6 that occur in bringing about a disciplinary order. For purposes
7 of this clause, costs are limited to legal, paralegal, and
8 investigative charges billed to the board by the Attorney
9 General's Office, witness costs, consultant and expert witness
10 fees, and charges attendant to the use of an administrative law
11 judge.

12 (c) In lieu of or in addition to paragraph (b), the board
13 may require, as a condition of ~~continued~~ licensure, termination
14 of suspension, reinstatement of license, examination, or release
15 of examination grades, that the applicant or licensee:

16 (1) submit to a quality review, as specified by the board,
17 of the applicant's or licensee's ability, skills, or quality of
18 work;

19 (2) complete to the satisfaction of the board educational
20 courses specified by the board; and

21 (3) reimburse to the board all costs incurred by the board
22 that are the result of a provider failing, neglecting, or
23 refusing to fully comply, or not complying in a timely manner,
24 with any part of the remedy section of a stipulation and consent
25 order or the corrective action section of an agreement for
26 corrective action. For purposes of this clause, costs are
27 limited to legal, paralegal, and investigative charges billed to
28 the board by the Attorney General's Office, witness costs,
29 consultant and expert witness fees, and charges attendant to the
30 use of an administrative law judge.

31 (d) Service of the order is effective if the order is
32 served on the applicant, licensee, or counsel of record
33 personally or by mail to the most recent address provided to the
34 board for the licensee, applicant, or counsel of record. The
35 order shall state the reasons for the entry of the order.

36 Sec. 10. Minnesota Statutes 2004, section 148.96,

1 subdivision 3, is amended to read:

2 Subd. 3. [REQUIREMENTS FOR REPRESENTATIONS TO PUBLIC.] (a)

3 Unless licensed under sections 148.88 to 148.98, except as
4 provided in paragraphs (b) through (e), persons shall not
5 represent themselves or permit themselves to be represented to
6 the public by:

7 (1) using any title or description of services
8 incorporating the words "psychology," "psychological,"
9 "psychological practitioner," or "psychologist"; or

10 (2) representing that the person has expert qualifications
11 in an area of psychology.

12 (b) Psychologically trained individuals who are employed by
13 an educational institution recognized by a regional accrediting
14 organization, by a federal, state, county, or local government
15 institution, ~~by-agencies~~ agency, or by research
16 ~~facilities~~ facility, may represent themselves by the title
17 designated by that organization provided that the title does not
18 indicate that the individual is credentialed by the board.

19 (c) A psychologically trained individual from an
20 institution described in paragraph (b) may offer lecture
21 services and is exempt from the provisions of this section.

22 (d) A person who is preparing for the practice of
23 psychology under supervision in accordance with board statutes
24 and rules may be designated as a "psychological intern,"
25 "psychological trainee," or by other terms clearly describing
26 the person's training status.

27 (e) Former licensees who are completely retired from the
28 practice of psychology may represent themselves using the
29 descriptions in paragraph (a), clauses (1) and (2), but shall
30 not represent themselves or allow themselves to be represented
31 as current licensees of the board.

32 (f) Nothing in this section shall be construed to prohibit
33 the practice of school psychology by a person licensed in
34 accordance with chapters 122A and 129.

35 Section 11. [EFFECTIVE DATE.]

36 Sections 1 to 10 are effective the day following final

1 enactment.

2 ARTICLE 4

3 BOARD OF DENTAL PRACTICE

4 Section 1. Minnesota Statutes 2004, section 150A.01,
5 subdivision 6a, is amended to read:

6 Subd. 6a. [FACULTY DENTIST.] "Faculty dentist" means a
7 person who is licensed to practice dentistry as a faculty member
8 of a school of dentistry, pursuant to section 150A.06,
9 subdivision 1a.

10 Sec. 2. Minnesota Statutes 2004, section 150A.06,
11 subdivision 1a, is amended to read:

12 Subd. 1a. [FACULTY DENTISTS.] (a) Faculty members of a
13 school of dentistry must be licensed in order to practice
14 dentistry as defined in section 150A.05. The board may issue to
15 members of the faculty of a school of dentistry a license
16 designated as either a "limited faculty license" or a "full
17 faculty license" entitling the holder to practice dentistry
18 within the terms described in paragraph (b) or (c). The dean of
19 a school of dentistry and program directors of a Minnesota
20 dental hygiene or dental assisting school accredited by the
21 Commission on Dental Accreditation of the American Dental
22 Association shall certify to the board those members of the
23 school's faculty who practice dentistry but are not licensed to
24 practice dentistry in Minnesota. A faculty member who practices
25 dentistry as defined in section 150A.05, before beginning duties
26 in a school of dentistry or a dental hygiene or dental assisting
27 school, shall apply to the board for a limited or full faculty
28 license. ~~The license expires the next July 1 and may, at the~~
29 ~~discretion of the board, be renewed on a yearly basis.~~ Pursuant
30 to Minnesota Rules, chapter 3100, and at the discretion of the
31 board, a limited faculty license must be renewed annually and a
32 full faculty license must be renewed biennially. The faculty
33 applicant shall pay a nonrefundable fee set by the board for
34 issuing and renewing the faculty license. The faculty license
35 is valid during the time the holder remains a member of the
36 faculty of a school of dentistry or a dental hygiene or dental

1 assisting school and subjects the holder to this chapter.

2 (b) The board may issue to dentist members of the faculty
3 of a Minnesota school of dentistry, dental hygiene, or dental
4 assisting accredited by the Commission on Dental Accreditation
5 of the American Dental Association, a license designated as a
6 limited faculty license entitling the holder to practice
7 dentistry within the school and its affiliated teaching
8 facilities, but only for the purposes of teaching or conducting
9 research. The practice of dentistry at a school facility for
10 purposes other than teaching or research is not allowed unless
11 the dentist was a faculty member on August 1, 1993.

12 (c) The board may issue to dentist members of the faculty
13 of a Minnesota school of dentistry, dental hygiene, or dental
14 assisting accredited by the Commission on Dental Accreditation
15 of the American Dental Association a license designated as a
16 full faculty license entitling the holder to practice dentistry
17 within the school and its affiliated teaching facilities and
18 elsewhere if the holder of the license is employed 50 percent
19 time or more by the school in the practice of teaching or
20 research, and upon successful review by the board of the
21 applicant's qualifications as described in subdivisions 1, 1c,
22 and 4 and board rule. The board, at its discretion, may waive
23 specific licensing prerequisites.

24 Sec. 3. [150A.091] [FEES.]

25 Subdivision 1. [FEE REFUNDS.] No fee may be refunded for
26 any reason.

27 Subd. 2. [APPLICATION FEES.] Each applicant for licensure
28 or registration shall submit with a license or registration
29 application a nonrefundable fee in the following amounts in
30 order to administratively process an application:

31 (1) dentist, \$140;

32 (2) limited faculty dentist, \$140;

33 (3) resident dentist, \$55;

34 (4) dental hygienist, \$55;

35 (5) registered dental assistant, \$35; and

36 (6) dental assistant with a limited registration, \$15.

1 Subd. 3. [INITIAL LICENSE OR REGISTRATION FEES.] Along
2 with the application fee, each of the following licensees or
3 registrants shall submit a separate prorated initial license or
4 registration fee. The prorated initial fee shall be established
5 by the board based on the number of months of the licensee's or
6 registrant's initial term as described in Minnesota Rules, part
7 3100.1700, subpart 1a, not to exceed the following monthly fee
8 amounts:

9 (1) dentist, \$14 times the number of months of the initial
10 term;

11 (2) dental hygienist, \$5 times the number of months of the
12 initial term;

13 (3) registered dental assistant, \$3 times the number of
14 months of initial term; and

15 (4) dental assistant with a limited registration, \$1 times
16 the number of months of the initial term.

17 Subd. 4. [ANNUAL LICENSE FEES.] Each limited faculty or
18 resident dentist shall submit with an annual license renewal
19 application a fee established by the board not to exceed the
20 following amounts:

21 (1) limited faculty dentist, \$168; and

22 (2) resident dentist, \$59.

23 Subd. 5. [BIENNIAL LICENSE OR REGISTRATION FEES.] Each of
24 the following licensees or registrants shall submit with a
25 biennial license or registration renewal application a fee as
26 established by the board, not to exceed the following amounts:

27 (1) dentist, \$336;

28 (2) dental hygienist, \$118;

29 (3) registered dental assistant, \$80; and

30 (4) dental assistant with a limited registration, \$24.

31 Subd. 6. [ANNUAL LICENSE LATE FEE.] Applications for
32 renewal of any license received after the time specified in
33 Minnesota Rules, part 3100.1750, must be assessed a late fee
34 equal to 50 percent of the annual renewal fee.

35 Subd. 7. [BIENNIAL LICENSE OR REGISTRATION LATE
36 FEE.] Applications for renewal of any license or registration

1 received after the time specified in Minnesota Rules, part
2 3100.1700, must be assessed a late fee equal to 25 percent of
3 the biennial renewal fee.

4 Subd. 8. [DUPLICATE LICENSE OR REGISTRATION FEE.] Each
5 licensee or registrant shall submit, with a request for issuance
6 of a duplicate of the original license or registration, or of an
7 annual or biennial renewal of it, a fee in the following amounts:

8 (1) original dentist or dental hygiene license, \$35; and

9 (2) initial and renewal registration certificates and
10 license renewal certificates, \$10.

11 Subd. 9. [LICENSURE AND REGISTRATION BY CREDENTIALS.] Each
12 applicant for licensure as a dentist or dental hygienist or for
13 registration as a registered dental assistant by credentials
14 pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota
15 Rules, part 3100.1400, shall submit with the license or
16 registration application a fee in the following amounts:

17 (1) dentist, \$725;

18 (2) dental hygienist, \$175; and

19 (3) registered dental assistant, \$35.

20 Subd. 10. [REINSTATEMENT FEE.] No dentist, dental
21 hygienist, or registered dental assistant whose license or
22 registration has been suspended or revoked may have the license
23 or registration reinstated or a new license or registration
24 issued until a fee has been submitted to the board in the
25 following amounts:

26 (1) dentist, \$140;

27 (2) dental hygienist, \$55; and

28 (3) registered dental assistant, \$35.

29 Subd. 11. [CERTIFICATE APPLICATION FEE FOR
30 ANESTHESIA/SEDATION.] Each dentist shall submit with a general
31 anesthesia or conscious sedation application a fee as
32 established by the board not to exceed the following amounts:

33 (1) for both a general anesthesia and conscious sedation
34 application, \$50;

35 (2) for a general anesthesia application only, \$50; and

36 (3) for a conscious sedation application only, \$50.

1 Subd. 12. [DUPLICATE CERTIFICATE FEE FOR
2 ANESTHESIA/SEDATION.] Each dentist shall submit with a request
3 for issuance of a duplicate of the original general anesthesia
4 or conscious sedation certificate a fee in the amount of \$10.

5 Subd. 13. [ON-SITE INSPECTION FEE.] An on-site inspection
6 fee must be paid to the individual, organization, or agency
7 conducting the inspection and be limited to a maximum fee as
8 determined by the board. Travel, lodging, and other expenses
9 are not part of the on-site inspection fee.

10 Subd. 14. [AFFIDAVIT OF LICENSURE.] Each licensee or
11 registrant shall submit with a request for an affidavit of
12 licensure a fee in the amount of \$10.

13 Subd. 15. [VERIFICATION OF LICENSURE.] Each institution or
14 corporation shall submit with a request for verification of a
15 license or registration a fee in the amount of \$5 for each
16 license or registration to be verified.

17 Sec. 4. Minnesota Statutes 2004, section 150A.10,
18 subdivision 1a, is amended to read:

19 Subd. 1a. [LIMITED AUTHORIZATION FOR DENTAL HYGIENISTS.]

20 (a) Notwithstanding subdivision 1, a dental hygienist licensed
21 under this chapter may be employed or retained by a health care
22 facility, program, or nonprofit organization to perform dental
23 hygiene services described under paragraph (b) without the
24 patient first being examined by a licensed dentist if the dental
25 hygienist:

26 (1) has been engaged in the active practice of clinical
27 dental hygiene for not less than 2,400 hours in the past 18
28 months or a career total of 3,000 hours, including a minimum of
29 200 hours of clinical practice in two of the past three years;

30 (2) has entered into a collaborative agreement with a
31 licensed dentist that designates authorization for the services
32 provided by the dental hygienist;

33 (3) has documented participation in courses in infection
34 control and medical emergencies within each continuing education
35 cycle; and

36 (4) maintains current certification in advanced or basic

1 cardiac life support as recognized by the American Heart
2 Association, the American Red Cross, or another agency that is
3 equivalent to the American Heart Association or the American Red
4 Cross.

5 (b) The dental hygiene services authorized to be performed
6 by a dental hygienist under this subdivision are limited to:

7 (1) oral health promotion and disease prevention education;

8 (2) removal of deposits and stains from the surfaces of the
9 teeth;

10 (3) application of topical preventive or prophylactic
11 agents, including fluoride varnishes and pit and fissure
12 sealants;

13 (4) polishing and smoothing restorations;

14 (5) removal of marginal overhangs;

15 (6) performance of preliminary charting;

16 (7) taking of radiographs; and

17 (8) performance of scaling and root planing.

18 The dental hygienist shall not perform injections of anesthetic
19 agents or the administration of nitrous oxide unless
20 under either the indirect or general supervision of a licensed
21 dentist. Collaborating dental hygienists may work with
22 unregistered and registered dental assistants who may only
23 perform duties for which registration is not required. The
24 performance of dental hygiene services in a health care
25 facility, program, or nonprofit organization as authorized under
26 this subdivision is limited to patients, students, and residents
27 of the facility, program, or organization.

28 (c) A collaborating dentist must be licensed under this
29 chapter and may enter into a collaborative agreement with no
30 more than four dental hygienists unless otherwise authorized by
31 the board. The board shall develop parameters and a process for
32 obtaining authorization to collaborate with more than four
33 dental hygienists. The collaborative agreement must include:

34 (1) consideration for medically compromised patients and
35 medical conditions for which a dental evaluation and treatment
36 plan must occur prior to the provision of dental hygiene

1 services;

2 (2) age- and procedure-specific standard collaborative
3 practice protocols, including recommended intervals for the
4 performance of dental hygiene services and a period of time in
5 which an examination by a dentist should occur;

6 (3) copies of consent to treatment form provided to the
7 patient by the dental hygienist;

8 (4) specific protocols for the placement of pit and fissure
9 sealants and requirements for follow-up care to assure the
10 efficacy of the sealants after application; and

11 (5) a procedure for creating and maintaining dental records
12 for the patients that are treated by the dental hygienist. This
13 procedure must specify where these records are to be located.
14 The collaborative agreement must be signed and maintained by the
15 dentist, the dental hygienist, and the facility, program, or
16 organization; must be reviewed annually by the collaborating
17 dentist and dental hygienist; and must be made available to the
18 board upon request.

19 (d) Before performing any services authorized under this
20 subdivision, a dental hygienist must provide the patient with a
21 consent to treatment form which must include a statement
22 advising the patient that the dental hygiene services provided
23 are not a substitute for a dental examination by a licensed
24 dentist. If the dental hygienist makes any referrals to the
25 patient for further dental procedures, the dental hygienist must
26 fill out a referral form and provide a copy of the form to the
27 collaborating dentist.

28 (e) For the purposes of this subdivision, a "health care
29 facility, program, or nonprofit organization" is limited to a
30 hospital; nursing home; home health agency; group home serving
31 the elderly, disabled, or juveniles; state-operated facility
32 licensed by the commissioner of human services or the
33 commissioner of corrections; and federal, state, or local public
34 health facility, community clinic, tribal clinic, school
35 authority, Head Start program, or nonprofit organization that
36 serves individuals who are uninsured or who are Minnesota health

1 care public program recipients.

2 (f) For purposes of this subdivision, a "collaborative
3 agreement" means a written agreement with a licensed dentist who
4 authorizes and accepts responsibility for the services performed
5 by the dental hygienist. The services authorized under this
6 subdivision and the collaborative agreement may be performed
7 without the presence of a licensed dentist and may be performed
8 at a location other than the usual place of practice of the
9 dentist or dental hygienist and without a dentist's diagnosis
10 and treatment plan, unless specified in the collaborative
11 agreement.

12 ARTICLE 5

13 BOARD OF BEHAVIORAL THERAPY AND HEALTH

14 (LICENSED PROFESSIONAL COUNSELORS AND

15 ALCOHOL AND DRUG COUNSELORS)

16 Section 1. Minnesota Statutes 2004, section 148B.53,
17 subdivision 1, is amended to read:

18 Subdivision 1. [GENERAL REQUIREMENTS.] (a) To be licensed
19 as a licensed professional counselor (LPC), an applicant must
20 provide evidence satisfactory to the board that the applicant:

21 (1) is at least 18 years of age;

22 (2) is of good moral character;

23 (3) has completed a master's or doctoral degree program in
24 counseling or a related field, as determined by the board based
25 on the criteria in paragraph (b), that includes a minimum of 48
26 semester hours or 72 quarter hours and a supervised field
27 experience of not fewer than 700 hours that is counseling in
28 nature;

29 (4) has submitted to the board a plan for supervision
30 during the first 2,000 hours of professional practice or has
31 submitted proof of supervised professional practice that is
32 acceptable to the board; and

33 (5) has demonstrated competence in professional counseling
34 by passing the National Counseling Exam (NCE) administered by
35 the National Board for Certified Counselors, Inc. (NBCC)
36 ~~including-obtaining-a-passing-score-on-the-examination-accepted~~

1 ~~by-the-board-based-on-the-determinations-made-by-the-NBCE~~ or an
2 equivalent national examination as determined by the board, and
3 ethical, oral, and situational examinations if prescribed by the
4 board.

5 (b) The degree described in paragraph (a), clause (3), must
6 be from a counseling program recognized by the Council for
7 Accreditation of Counseling and Related Education Programs
8 (CACREP) or from an institution of higher education that is
9 accredited by a regional accrediting organization recognized by
10 the Council for Higher Education Accreditation (CHEA). Specific
11 academic course content and training must ~~meet-standards~~
12 ~~established-by-the-CACREP,~~ including include course work in each
13 of the following subject areas:

14 (1) the helping relationship, including counseling theory
15 and practice;

16 (2) human growth and development;

17 (3) lifestyle and career development;

18 (4) group dynamics, processes, counseling, and consulting;

19 (5) assessment and appraisal;

20 (6) social and cultural foundations, including
21 multicultural issues;

22 (7) principles of etiology, treatment planning, and
23 prevention of mental and emotional disorders and dysfunctional
24 behavior;

25 (8) family counseling and therapy;

26 (9) research and evaluation; and

27 (10) professional counseling orientation and ethics.

28 (c) To be licensed as a professional counselor, a
29 psychological practitioner licensed under section 148.908 need
30 only show evidence of licensure under that section and is not
31 required to comply with paragraph (a), clauses (1) to (3) and
32 (5), or paragraph (b).

33 (d) To be licensed as a professional counselor, a Minnesota
34 licensed psychologist need only show evidence of licensure from
35 the Minnesota Board of Psychology and is not required to comply
36 with paragraph (a) or (b).

1 Sec. 2. Minnesota Statutes 2004, section 148B.53,
2 subdivision 3, is amended to read:

3 Subd. 3. [~~FEE.~~] ~~Each applicant shall pay a~~
4 ~~Nonrefundable fee~~ fees are as follows:

- 5 (1) initial license application fee for licensed
- 6 professional counseling (LPC) - \$250;
- 7 (2) annual active license renewal fee for LPC - \$200 or
- 8 equivalent;
- 9 (3) annual inactive license renewal fee for LPC - \$100;
- 10 (4) license renewal late fee - \$100 per month or portion
- 11 thereof;
- 12 (5) copy of board order or stipulation - \$10;
- 13 (6) certificate of good standing or license verification -
- 14 \$10;
- 15 (7) duplicate certificate fee - \$10;
- 16 (8) professional firm renewal fee - \$25;
- 17 (9) initial registration fee - \$50; and
- 18 (10) annual registration renewal fee - \$25.

19 Sec. 3. [148B.531] [POSTDEGREE COMPLETION OF DEGREE
20 REQUIREMENTS FOR LICENSURE.]

21 An individual whose degree upon which licensure is to be
22 based included less than 48 semester hours or 72 quarter hours,
23 who did not complete 700 hours of supervised professional
24 practice as part of the degree program, or who did not complete
25 course work in all of the content areas required by section
26 148B.53, subdivision 1, paragraph (b), may complete these
27 requirements postdegree in order to obtain licensure, if:

28 (1) all course work and field experiences are completed
29 through an institution of higher education that is accredited by
30 a regional accrediting organization recognized by the Council
31 for Higher Education Accreditation (CHEA) or through a
32 counseling program recognized by the Council for Accreditation
33 of Counseling and Related Education Programs (CACREP);

34 (2) all course work and field experiences are taken and
35 passed for credit; and

36 (3) no more than 20 semester credits or 30 quarter credits

1 are completed postdegree for purposes of licensure unless the
2 credits are earned as part of an organized sequence of study.

3 Sec. 4. Minnesota Statutes 2004, section 148B.54,
4 subdivision 2, is amended to read:

5 Subd. 2. [CONTINUING EDUCATION.] At the completion of the
6 first ~~two~~ four years of licensure, a licensee must provide
7 evidence satisfactory to the board of completion of 12
8 additional postgraduate semester credit hours or its equivalent
9 in counseling as determined by the board, except that no
10 licensee shall be required to show evidence of greater than 60
11 semester hours or its equivalent. Thereafter, at the time of
12 renewal, each licensee shall provide evidence satisfactory to
13 the board that the licensee has completed during each two-year
14 period at least the equivalent of 40 clock hours of professional
15 postdegree continuing education in programs approved by the
16 board and continues to be qualified to practice under sections
17 148B.50 to 148B.593.

18 Sec. 5. [148B.555] [EXPERIENCED COUNSELOR TRANSITION.]

19 (a) An applicant for licensure who, prior to December 31,
20 2003, completed a master's or doctoral degree program in
21 counseling or a related field, as determined by the board, and
22 whose degree was from a counseling program recognized by the
23 Council for Accreditation of Counseling and Related Education
24 Programs (CACREP) or from an institution of higher education
25 that is accredited by a regional accrediting organization
26 recognized by the Council for Higher Education Accreditation
27 (CHEA), need not comply with the requirements of section
28 148B.53, subdivision 1, paragraph (a), clause (3), or (b), so
29 long as the applicant can document five years of full-time
30 postdegree work experience within the practice of professional
31 counseling as defined under section 148B.50, subdivisions 4 and
32 5.

33 (b) This section expires July 1, 2007.

34 Sec. 6. [148B.561] [RETALIATORY PROVISIONS.]

35 If by the laws of any state or the rulings or decisions of
36 the appropriate officers or boards thereof, any burden,

1 obligation, requirement, disqualification, or disability is put
2 upon licensed professional counselors licensed and in good
3 standing in this state, affecting the right of these licensed
4 professional counselors to be registered or licensed in that
5 state, then the same or like burden, obligation, requirement,
6 disqualification, or disability may be put upon the licensure in
7 this state of licensed professional counselors registered in
8 that state.

9 Sec. 7. Minnesota Statutes 2004, section 148B.59, is
10 amended to read:

11 148B.59 [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF
12 DISCIPLINARY ACTION; RESTORATION OF LICENSE.]

13 (a) The board may impose disciplinary action as described
14 in paragraph (b) against an applicant or licensee whom the
15 board, by a preponderance of the evidence, determines:

16 (1) has violated a statute, rule, or order that the board
17 issued or is empowered to enforce;

18 (2) has engaged in fraudulent, deceptive, or dishonest
19 conduct, whether or not the conduct relates to the practice of
20 licensed professional counseling, that adversely affects the
21 person's ability or fitness to practice professional counseling;

22 (3) has engaged in unprofessional conduct or any other
23 conduct which has the potential for causing harm to the public,
24 including any departure from or failure to conform to the
25 minimum standards of acceptable and prevailing practice without
26 actual injury having to be established;

27 (4) has been convicted of or has pled guilty or nolo
28 contendere to a felony or other crime, an element of which is
29 dishonesty or fraud, or has been shown to have engaged in acts
30 or practices tending to show that the applicant or licensee is
31 incompetent or has engaged in conduct reflecting adversely on
32 the applicant's or licensee's ability or fitness to engage in
33 the practice of professional counseling;

34 (5) has employed fraud or deception in obtaining or
35 renewing a license, or in passing an examination;

36 (6) has had any counseling license, certificate,

1 registration, privilege to take an examination, or other similar
2 authority denied, revoked, suspended, canceled, limited, or not
3 renewed for cause in any jurisdiction or has surrendered or
4 voluntarily terminated a license or certificate during a board
5 investigation of a complaint, as part of a disciplinary order,
6 or while under a disciplinary order;

7 (7) has failed to meet any requirement for the issuance or
8 renewal of the person's license. The burden of proof is on the
9 applicant or licensee to demonstrate the qualifications or
10 satisfy the requirements for a license under the Licensed
11 Professional Counseling Act;

12 (8) has failed to cooperate with an investigation of the
13 board;

14 (9) has demonstrated an inability to practice professional
15 counseling with reasonable skill and safety to clients due to
16 any mental or physical illness or condition;

17 (10) has engaged in fee splitting. This clause does not
18 apply to the distribution of revenues from a partnership, group
19 practice, nonprofit corporation, or professional corporation to
20 its partners, shareholders, members, or employees if the
21 revenues consist only of fees for services performed by the
22 licensee or under a licensee's administrative authority. Fee
23 splitting includes, but is not limited to:

24 (i) dividing fees with another person or a professional
25 corporation, unless the division is in proportion to the
26 services provided and the responsibility assumed by each
27 professional; and

28 (ii) referring a client to any health care provider as
29 defined in section 144.335 in which the referring licensee has a
30 significant financial interest, unless the licensee has
31 disclosed in advance to the client the licensee's own financial
32 interest; or and

33 (iii) paying, offering to pay, receiving, or agreeing to
34 receive a commission, rebate, or remuneration, directly or
35 indirectly, primarily for the referral of clients;

36 (11) has engaged in conduct with a patient client that is

1 sexual or may reasonably be interpreted by the patient client as
2 sexual, or in any verbal behavior that is seductive or sexually
3 demeaning to a patient client;

4 (12) has been subject to a corrective action or similar
5 action in another jurisdiction or by another regulatory
6 authority; or

7 (13) has been adjudicated as mentally incompetent, mentally
8 ill, or mentally retarded or as a chemically dependent person, a
9 person dangerous to the public, a sexually dangerous person, or
10 a person who has a sexual psychopathic personality by a court of
11 competent jurisdiction within this state or an equivalent
12 adjudication from another state. Adjudication automatically
13 suspends a license for the duration thereof unless the board
14 orders otherwise.

15 (b) If grounds for disciplinary action exist under
16 paragraph (a), the board may take one or more of the following
17 actions:

18 (1) refuse to grant or renew a license;

19 (2) revoke a license;

20 (3) suspend a license;

21 (4) impose limitations or conditions on a licensee's
22 practice of professional counseling, including, but not limited
23 to, limiting the scope of practice to designated competencies,
24 imposing retraining or rehabilitation requirements, requiring
25 the licensee to practice under supervision, or conditioning
26 continued practice on the demonstration of knowledge or skill by
27 appropriate examination or other review of skill and competence;

28 (5) censure or reprimand the licensee;

29 (6) refuse to permit an applicant to take the licensure
30 examination or refuse to release an applicant's examination
31 grade if the board finds that it is in the public interest; or

32 (7) impose a civil penalty not exceeding \$10,000 for each
33 separate violation, the amount of the civil penalty to be fixed
34 so as to deprive the applicant or licensee of any economic
35 advantage gained by reason of the violation charged, to
36 discourage similar violations or to reimburse the board for the

1 cost of the investigation and proceeding, including, but not
2 limited to, fees paid for services provided by the Office of
3 Administrative Hearings, legal and investigative services
4 provided by the Office of the Attorney General, court reporters,
5 witnesses, reproduction of records, board members' per diem
6 compensation, board staff time, and travel costs and expenses
7 incurred by board staff and board members.

8 (c) In lieu of or in addition to paragraph (b), the board
9 may require, as a condition of continued licensure, termination
10 of suspension, reinstatement of license, examination, or release
11 of examination grades, that the applicant or licensee:

12 (1) submit to a quality review, as specified by the board,
13 of the applicant's or licensee's ability, skills, or quality of
14 work; and

15 (2) complete to the satisfaction of the board educational
16 courses specified by the board.

17 The board may also refer a licensee, if appropriate, to the
18 health professionals services program described in sections
19 214.31 to 214.37.

20 (d) Service of the order is effective if the order is
21 served on the applicant, licensee, or counsel of record
22 personally or by mail to the most recent address provided to the
23 board for the licensee, applicant, or counsel of record. The
24 order shall state the reasons for the entry of the order.

25 Sec. 8. [148B.5901] [TEMPORARY SUSPENSION OF LICENSE.]

26 (a) In addition to any other remedy provided by law, the
27 board may issue an order to temporarily suspend the credentials
28 of a licensee after conducting a preliminary inquiry to
29 determine if the board reasonably believes that the licensee has
30 violated a statute or rule that the board is empowered to
31 enforce and whether continued practice by the licensee would
32 create an imminent risk of harm to others.

33 (b) The order may prohibit the licensee from engaging in
34 the practice of licensed professional counseling in whole or in
35 part and may condition the end of a suspension on the licensee's
36 compliance with a statute, rule, or order that the board has

1 issued or is empowered to enforce.

2 (c) The order shall give notice of the right to a hearing
3 according to this subdivision and shall state the reasons for
4 the entry of the order.

5 (d) Service of the order is effective when the order is
6 served on the licensee personally or by certified mail, which is
7 complete upon receipt, refusal, or return for nondelivery to the
8 most recent address provided to the board for the licensee.

9 (e) At the time the board issues a temporary suspension
10 order, the board shall schedule a hearing to be held before its
11 own members. The hearing shall begin no later than 60 days
12 after issuance of the temporary suspension order or within 15
13 working days of the date of the board's receipt of a request for
14 hearing by a licensee, on the sole issue of whether there is a
15 reasonable basis to continue, modify, or lift the temporary
16 suspension. The hearing is not subject to chapter 14. Evidence
17 presented by the board or the licensee shall be in affidavit
18 form only. The licensee or counsel of record may appear for
19 oral argument.

20 (f) Within five working days of the hearing, the board
21 shall issue its order and, if the suspension is continued,
22 schedule a contested case hearing within 30 days of the issuance
23 of the order. Notwithstanding chapter 14, the administrative
24 law judge shall issue a report within 30 days after closing the
25 contested case hearing record. The board shall issue a final
26 order within 30 days of receipt of the administrative law
27 judge's report.

28 Sec. 9. [148B.5905] [MENTAL, PHYSICAL, OR CHEMICAL
29 DEPENDENCY EXAMINATION OR EVALUATION; ACCESS TO MEDICAL DATA.]

30 (a) If the board has probable cause to believe section
31 148B.59, paragraph (a), clause (9), applies to a licensee or
32 applicant, the board may direct the person to submit to a
33 mental, physical, or chemical dependency examination or
34 evaluation. For the purpose of this section, every licensee and
35 applicant is deemed to have consented to submit to a mental,
36 physical, or chemical dependency examination or evaluation when

1 directed in writing by the board and to have waived all
2 objections to the admissibility of the examining professionals'
3 testimony or examination reports on the grounds that the
4 testimony or examination reports constitute a privileged
5 communication. Failure of a licensee or applicant to submit to
6 an examination when directed by the board constitutes an
7 admission of the allegations against the person, unless the
8 failure was due to circumstances beyond the person's control, in
9 which case a default and final order may be entered without the
10 taking of testimony or presentation of evidence. A licensee or
11 applicant affected under this paragraph shall at reasonable
12 intervals be given an opportunity to demonstrate that the person
13 can resume the competent practice of licensed professional
14 counseling with reasonable skill and safety to the public. In
15 any proceeding under this paragraph, neither the record of
16 proceedings nor the orders entered by the board shall be used
17 against a licensee or applicant in any other proceeding.

18 (b) In addition to ordering a physical or mental
19 examination, the board may, notwithstanding section 13.384,
20 144.651, or any other law limiting access to medical or other
21 health data, obtain medical data and health records relating to
22 a licensee or applicant without the licensee's or applicant's
23 consent if the board has probable cause to believe that section
24 148B.59, paragraph (a), clause (9), applies to the licensee or
25 applicant. The medical data may be requested from a provider,
26 as defined in section 144.335, subdivision 1, paragraph (b); an
27 insurance company; or a government agency, including the
28 Department of Human Services. A provider, insurance company, or
29 government agency shall comply with any written request of the
30 board under this subdivision and is not liable in any action for
31 damages for releasing the data requested by the board if the
32 data are released pursuant to a written request under this
33 subdivision, unless the information is false and the provider
34 giving the information knew, or had reason to believe, the
35 information was false. Information obtained under this
36 subdivision is classified as private under sections 13.01 to

1 13.87.

2 Sec. 10. [148B.5925] [ASSESSMENT TOOL SECURITY.]

3 Notwithstanding section 144.335, subdivision 2, paragraphs
4 (a) and (b), a provider shall not be required to provide copies
5 of assessment tools, assessment tool materials, or scoring keys
6 to any individual who has completed an assessment tool or to an
7 individual not qualified to administer, score, and interpret the
8 assessment tool, if the provider reasonably determines that
9 access would compromise the objectivity, fairness, or integrity
10 of the testing process for the individual or others. If the
11 provider makes this determination, the provider shall, at the
12 discretion of the individual who has completed the assessment
13 tool, release the information either to another provider who is
14 qualified to administer, score, and interpret the assessment
15 tool or furnish a summary of the assessment tool results to the
16 individual or to a third party designated by the individual.

17 Sec. 11. Minnesota Statutes 2004, section 148C.03,
18 subdivision 1, is amended to read:

19 Subdivision 1. [GENERAL.] The commissioner shall~~after~~
20 ~~consultation with the advisory council or a committee~~
21 ~~established by rule:~~

22 (a) adopt and enforce rules for licensure of alcohol and
23 drug counselors, including establishing standards and methods of
24 determining whether applicants and licensees are qualified under
25 section 148C.04. The rules must provide for examinations and
26 establish standards for the regulation of professional conduct.
27 The rules must be designed to protect the public;

28 (b) ~~develop and, at least twice a year, administer an~~
29 ~~examination to assess applicants' knowledge and skills. The~~
30 ~~commissioner may contract for the administration of an~~
31 ~~examination with an entity designated by the commissioner. The~~
32 ~~examinations must be psychometrically valid and reliable, must~~
33 ~~be written and oral, with the oral examination based on a~~
34 ~~written case presentation, must minimize cultural bias, and must~~
35 ~~be balanced in various theories relative to the practice of~~
36 ~~alcohol and drug counseling;~~

1 ~~(c)~~ issue licenses to individuals qualified under sections
2 148C.01 to 148C.11;

3 ~~(d)~~ (c) issue copies of the rules for licensure to all
4 applicants;

5 ~~(e)~~ (d) adopt rules to establish and implement procedures,
6 including a standard disciplinary process and rules of
7 professional conduct;

8 ~~(f)~~ (e) carry out disciplinary actions against licensees;

9 ~~(g)~~ (f) ~~establish, with the advice and recommendations of~~
10 ~~the advisory council,~~ written internal operating procedures for
11 receiving and investigating complaints and for taking
12 disciplinary actions as appropriate;

13 ~~(h)~~ (g) educate the public about the existence and content
14 of the rules for alcohol and drug counselor licensing to enable
15 consumers to file complaints against licensees who may have
16 violated the rules;

17 ~~(i)~~ (h) evaluate the rules in order to refine and improve
18 the methods used to enforce the commissioner's standards; and

19 ~~(j)~~ (i) collect license fees for alcohol and drug
20 counselors.

21 Sec. 12. Minnesota Statutes 2004, section 148C.04,
22 subdivision 3, is amended to read:

23 Subd. 3. [REQUIREMENTS FOR LICENSURE BEFORE JULY 1, 2008.]
24 An applicant for a license must furnish evidence satisfactory to
25 the commissioner that the applicant has met all the requirements
26 in clauses (1) to (3). The applicant must have:

27 (1) received an associate degree, or an equivalent number
28 of credit hours, and a certificate in alcohol and drug
29 counseling, including 18 semester credits or 270 clock hours of
30 academic course work in accordance with subdivision 5a,
31 paragraph (a), from an accredited school or educational program
32 and 880 clock hours of supervised alcohol and drug counseling
33 practicum;

34 (2) completed one of the following:

35 (i) a written case presentation and satisfactorily passed
36 an oral examination ~~established by the commissioner~~ that

1 demonstrates competence in the core functions as determined by
2 the board; or

3 (ii) satisfactorily completed 2,000 hours of supervised
4 postdegree equivalent professional practice in accordance with
5 section 148C.044; and

6 (3) satisfactorily passed a written examination-as
7 ~~established-by-the-commissioner~~ examinations for licensure as
8 determined by the board.

9 Sec. 13. Minnesota Statutes 2004, section 148C.04,
10 subdivision 4, is amended to read:

11 Subd. 4. [REQUIREMENTS FOR LICENSURE AFTER JULY 1, 2008.]

12 An applicant for a license must submit evidence to the
13 commissioner that the applicant has met one of the following
14 requirements:

15 (1) the applicant must have:

16 (i) received a bachelor's degree from an accredited school
17 or educational program, including 18 semester credits or 270
18 clock hours of academic course work in accordance with
19 subdivision 5a, paragraph (a), from an accredited school or
20 educational program and 880 clock hours of supervised alcohol
21 and drug counseling practicum;

22 (ii) completed a written case presentation and
23 satisfactorily passed an oral examination established by the
24 commissioner that demonstrates competence in the core functions;
25 or submitted to the board a plan for supervision during the
26 first 2,000 hours of professional practice, or submitted proof
27 of supervised professional practice that is acceptable to the
28 commissioner; and

29 (iii) satisfactorily passed a written examination as
30 established by the commissioner; or

31 (2) the applicant must meet the requirements of section
32 148C.07.

33 Sec. 14. Minnesota Statutes 2004, section 148C.04,
34 subdivision 6, is amended to read:

35 Subd. 6. [TEMPORARY PERMIT REQUIREMENTS.] (a) The
36 commissioner shall issue a temporary permit to practice alcohol

1 and drug counseling prior to being licensed under this chapter
2 if the person:

3 (1) either:

4 (i) submits verification of a current and unrestricted
5 credential for the practice of alcohol and drug counseling from
6 a national certification body or a certification or licensing
7 body from another state, United States territory, or federally
8 recognized tribal authority;

9 (ii) submits verification of the completion of at least 64
10 semester credits, including 270 clock hours or 18 semester
11 credits of formal classroom education in alcohol and drug
12 counseling and at least 880 clock hours of alcohol and drug
13 counseling practicum from an accredited school or educational
14 program;

15 (iii) applies to renew a lapsed license according to the
16 requirements of section 148C.055, subdivision 3, clauses (1) and
17 (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

18 (iv) meets the requirements of section 148C.11, subdivision
19 1, paragraph (c), or 6, clauses (1), (2), and (5);

20 (2) applies, in writing, on an application form provided by
21 the commissioner, which includes the nonrefundable temporary
22 permit fee as specified in section 148C.12 and an affirmation by
23 the person's supervisor, as defined in paragraph (c), clause
24 (1), which is signed and dated by the person and the person's
25 supervisor; and

26 (3) has not been disqualified to practice temporarily on
27 the basis of a background investigation under section 148C.09,
28 subdivision 1a.

29 (b) The commissioner must notify the person in writing
30 within 90 days from the date the completed application and all
31 required information is received by the commissioner whether the
32 person is qualified to practice under this subdivision.

33 (c) A person practicing under this subdivision:

34 (1) may practice under tribal jurisdiction or under the
35 direct supervision of a person who is licensed under this
36 chapter;

1 (2) is subject to the Rules of Professional Conduct set by
2 rule; and

3 (3) is not subject to the continuing education requirements
4 of section 148C.075.

5 (d) A person practicing under this subdivision must use the
6 title or description stating or implying that the person is a
7 trainee engaged in the practice of alcohol and drug counseling.

8 (e) A person practicing under this subdivision must
9 annually submit a renewal application on forms provided by the
10 commissioner with the renewal fee required in section 148C.12,
11 subdivision 3, and the commissioner may renew the temporary
12 permit if the trainee meets the requirements of this
13 subdivision. A trainee may renew a practice permit no more than
14 five times.

15 (f) A temporary permit expires if not renewed, upon a
16 change of employment of the trainee or upon a change in
17 supervision, or upon the granting or denial by the commissioner
18 of a license.

19 Sec. 15. [148C.044] [SUPERVISED POSTDEGREE PROFESSIONAL
20 PRACTICE.]

21 Subdivision 1. [SUPERVISION.] For the purpose of this
22 section, "supervision" means documented interactive
23 consultation, which, subject to the limitations in subdivision
24 4, paragraph (a), clause (2), may be conducted in person, by
25 telephone, or by audio or audiovisual electronic device, with a
26 supervisor as defined in subdivision 2. The supervision must be
27 adequate to ensure the quality and competence of the activities
28 supervised. Supervisory consultation must include discussions
29 on the nature and content of the practice of the supervisee,
30 including, but not limited to, a review of a representative
31 sample of counseling services in the supervisee's practice.

32 Subd. 2. [POSTDEGREE PROFESSIONAL PRACTICE.] "Postdegree
33 professional practice" means required postdegree paid or
34 volunteer work experience and training that involves the
35 professional oversight by a supervisor approved by the board and
36 that satisfies the supervision requirements in subdivision 4.

1 Subd. 3. [SUPERVISOR REQUIREMENTS.] For purposes of this
2 section, a supervisor shall:

3 (1) be a licensed alcohol and drug counselor or other
4 qualified professional as determined by the board;

5 (2) have four years of experience in providing alcohol and
6 drug counseling;

7 (3) have received a minimum of 12 hours of training in
8 clinical and ethical supervision, which may include graduate
9 course work, continuing education courses, workshops, or a
10 combination thereof; and

11 (4) supervise no more than three persons in postdegree
12 professional practice.

13 Subd. 4. [SUPERVISED PRACTICE REQUIREMENTS FOR
14 LICENSURE.] (a) The content of supervision must include:

15 (1) knowledge, skills, values, and ethics with specific
16 application to the practice issues faced by the supervisee,
17 including the core functions as described in section 148C.01,
18 subdivision 9;

19 (2) the standards of practice and ethical conduct, with
20 particular emphasis given to the counselor's role and
21 appropriate responsibilities, professional boundaries, and power
22 dynamics; and

23 (3) the supervisee's permissible scope of practice, as
24 defined by section 148C.01, subdivision 10.

25 (b) The supervision must be obtained at the rate of one
26 hour of supervision per 40 hours of professional practice, for a
27 total of 50 hours of supervision. The supervision must be
28 evenly distributed over the course of the supervised
29 professional practice. At least 75 percent of the required
30 supervision hours must be received in person. The remaining 25
31 percent of the required hours may be received by telephone or by
32 audio or audiovisual electronic device. At least 50 percent of
33 the required hours of supervision must be received on an
34 individual basis. The remaining 50 percent may be received in a
35 group setting.

36 (c) The supervision must be completed in no fewer than 12

1 consecutive months and no more than 36 consecutive months.

2 (d) The applicant shall include with an application for
3 licensure verification of completion of the 2,000 hours of
4 supervised professional practice. Verification must be on a
5 form specified by the board. The supervisor shall verify that
6 the supervisee has completed the required hours of supervision
7 in accordance with this section. The supervised practice
8 required under this section is unacceptable if the supervisor
9 attests that the supervisee's performance, competence, or
10 adherence to the standards of practice and ethical conduct has
11 been unsatisfactory.

12 Sec. 16. Minnesota Statutes 2004, section 148C.091,
13 subdivision 1, is amended to read:

14 Subdivision 1. [FORMS OF DISCIPLINARY ACTION.] When the
15 commissioner finds that an applicant or a licensed alcohol and
16 drug counselor has violated a provision or provisions of
17 sections 148C.01 to 148C.11, or rules promulgated under this
18 chapter, the commissioner may take one or more of the following
19 actions:

20 (1) refuse to grant a license;

21 (2) revoke the license;

22 (3) suspend the license;

23 (4) impose limitations or conditions;

24 (5) impose a civil penalty not exceeding \$10,000 for each
25 separate violation, the amount of the civil penalty to be fixed
26 so as to deprive the counselor of any economic advantage gained
27 by reason of the violation charged or to reimburse the
28 commissioner for all costs of the investigation and proceeding;
29 including, but not limited to, the amount paid by the
30 commissioner for services from the Office of Administrative
31 Hearings, attorney fees, court reports, witnesses, reproduction
32 of records, ~~advisory-council-members-per-diem-compensation,~~
33 staff time, and expense incurred by ~~advisory-council-members-and~~
34 staff of the department;

35 (6) order the counselor to provide uncompensated
36 professional service under supervision at a designated public

1 hospital, clinic, or other health care institution;

2 (7) censure or reprimand the counselor; or

3 (8) any other action justified by the case.

4 Sec. 17. Minnesota Statutes 2004, section 148C.10,
5 subdivision 2, is amended to read:

6 Subd. 2. [USE OF TITLES.] No person shall present
7 themselves or any other individual to the public by any title
8 incorporating the words "licensed alcohol and drug counselor" or
9 otherwise hold themselves out to the public by any title or
10 description stating or implying that they are licensed or
11 otherwise qualified to practice alcohol and drug counseling
12 unless that individual holds a valid license. Persons issued a
13 temporary permit must use titles consistent with section
14 148C.04, subdivision 6, paragraph ~~(c)~~ (d).

15 Sec. 18. Minnesota Statutes 2004, section 148C.11,
16 subdivision 1, is amended to read:

17 Subdivision 1. [OTHER PROFESSIONALS.] (a) Nothing in this
18 chapter prevents members of other professions or occupations
19 from performing functions for which they are qualified or
20 licensed. This exception includes, but is not limited to:
21 licensed physicians~~;~~; registered nurses~~;~~; licensed practical
22 nurses~~;~~; licensed psychological practitioners~~;~~; members of the
23 clergy~~;~~; American Indian medicine men and women~~;~~; licensed
24 attorneys~~;~~; probation officers~~;~~; licensed marriage and family
25 therapists~~;~~; licensed social workers~~;~~; social workers employed
26 by city, county, or state agencies; licensed professional
27 counselors~~;~~; licensed school counselors~~;~~; registered
28 occupational therapists or occupational therapy assistants~~;~~;
29 city, county, or state employees when providing assessments or
30 case management under Minnesota Rules, chapter 9530; and until
31 July 1, 2005, individuals providing integrated dual-diagnosis
32 treatment in adult mental health rehabilitative programs
33 certified by the Department of Human Services under section
34 256B.0622 or 256B.0623.

35 (b) Nothing in this chapter prohibits technicians and
36 resident managers in programs licensed by the Department of

1 Human Services from discharging their duties as provided in
2 Minnesota Rules, chapter 9530.

3 (c) Any person who is exempt under this ~~section~~ subdivision
4 but who elects to obtain a license under this chapter is subject
5 to this chapter to the same extent as other licensees. The
6 commissioner shall issue a license without examination to an
7 applicant who is licensed or registered in a profession
8 identified in paragraph (a) if the applicant:

9 (1) shows evidence of current licensure or registration;
10 and

11 (2) has submitted to the commissioner a plan for
12 supervision during the first 2,000 hours of professional
13 practice or has submitted proof of supervised professional
14 practice that is acceptable to the commissioner.

15 (d) ~~These persons~~ Any person who is exempt from licensure
16 under this section must not, ~~however,~~ use a title incorporating
17 the words "alcohol and drug counselor" or "licensed alcohol and
18 drug counselor" or otherwise hold themselves out to the public
19 by any title or description stating or implying that they are
20 engaged in the practice of alcohol and drug counseling, or that
21 they are licensed to engage in the practice of alcohol and drug
22 counseling unless that person is also licensed as an alcohol and
23 drug counselor. Persons engaged in the practice of alcohol and
24 drug counseling are not exempt from the commissioner's
25 jurisdiction solely by the use of one of the above titles.

26 Sec. 19. Minnesota Statutes 2004, section 148C.11,
27 subdivision 4, is amended to read:

28 Subd. 4. [HOSPITAL ALCOHOL AND DRUG COUNSELORS.] Effective
29 January 1, ~~2006~~ 2007, hospitals employing alcohol and drug
30 counselors shall be required to employ licensed alcohol and drug
31 counselors. An alcohol or drug counselor employed by a hospital
32 must be licensed as an alcohol and drug counselor in accordance
33 with this chapter.

34 Sec. 20. Minnesota Statutes 2004, section 148C.11,
35 subdivision 5, is amended to read:

36 Subd. 5. [CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG

1 COUNSELORS.] Effective January 1, ~~2006~~ 2007, city, county, and
2 state agencies employing alcohol and drug counselors shall be
3 required to employ licensed alcohol and drug counselors. An
4 alcohol and drug counselor employed by a city, county, or state
5 agency must be licensed as an alcohol and drug counselor in
6 accordance with this chapter.

7 Sec. 21. Minnesota Statutes 2004, section 148C.11,
8 subdivision 6, is amended to read:

9 Subd. 6. [TRANSITION PERIOD FOR HOSPITAL AND CITY, COUNTY,
10 AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.] For the period
11 between July 1, 2003, and January 1, ~~2006~~ 2007, the commissioner
12 shall grant a license to an individual who is employed as an
13 alcohol and drug counselor at a Minnesota school district or
14 hospital, or a city, county, or state agency in Minnesota, if
15 the individual meets the requirements in section 148C.0351 and:

16 (1) was employed as an alcohol and drug counselor at a
17 school district, a hospital, or a city, county, or state agency
18 before August 1, 2002; ~~(2)~~ has 8,000 hours of alcohol and drug
19 counselor work experience; ~~(3)~~ has completed a written case
20 presentation and satisfactorily passed an oral examination
21 established by the commissioner; ~~(4)~~ and has satisfactorily
22 passed a written examination as established by the commissioner;
23 ~~and-(5)-meets-the-requirements-in-section-148C-0351~~ or

24 (2) is credentialed as a board certified counselor (BCC) or
25 board certified counselor reciprocal (BCCR) by the Minnesota
26 Certification Board; or

27 (3) has 14,000 hours of supervised alcohol and drug
28 counselor work experience as documented by the employer.

29 Sec. 22. Minnesota Statutes 2004, section 148C.12,
30 subdivision 3, is amended to read:

31 Subd. 3. [TEMPORARY PERMIT FEE.] The initial fee for
32 applicants under section 148C.04, subdivision 6, paragraph (a),
33 is \$100. The fee for annual renewal of a temporary permit
34 is ~~\$100~~ \$150, but when the first expiration date occurs in less
35 or more than one year, the fee must be prorated.

36 Sec. 23. Minnesota Statutes 2004, section 214.01,

1 subdivision 2, is amended to read:

2 Subd. 2. [HEALTH-RELATED LICENSING BOARD.] "Health-related
3 licensing board" means the Board of Examiners of Nursing Home
4 Administrators established pursuant to section 144A.19, the
5 Office of Unlicensed Complementary and Alternative Health Care
6 Practice established pursuant to section 146A.02, the Board of
7 Medical Practice created pursuant to section 147.01, the Board
8 of Nursing created pursuant to section 148.181, the Board of
9 Chiropractic Examiners established pursuant to section 148.02,
10 the Board of Optometry established pursuant to section 148.52,
11 the Board of Physical Therapy established pursuant to section
12 148.67, the Board of Psychology established pursuant to section
13 148.90, the Board of Social Work pursuant to section 148B.19,
14 the Board of Marriage and Family Therapy pursuant to section
15 148B.30, the Office of Mental Health Practice established
16 pursuant to section 148B.61, the Board of Behavioral Health and
17 Therapy established by section 148B.51, ~~the Alcohol and Drug
18 Counselors Licensing Advisory Council established pursuant to
19 section 148E.02,~~ the Board of Dietetics and Nutrition Practice
20 established under section 148.622, the Board of Dentistry
21 established pursuant to section 150A.02, the Board of Pharmacy
22 established pursuant to section 151.02, the Board of Podiatric
23 Medicine established pursuant to section 153.02, and the Board
24 of Veterinary Medicine, established pursuant to section 156.01.

25 Sec. 24. Minnesota Statutes 2004, section 214.103,
26 subdivision 1, is amended to read:

27 Subdivision 1. [APPLICATION.] For purposes of this
28 section, "board" means "health-related licensing board" and does
29 not include ~~the Alcohol and Drug Counselors Licensing Advisory
30 Council established pursuant to section 148E.02,~~ or the
31 non-health-related licensing boards. Nothing in this section
32 supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as they
33 apply to the health-related licensing boards.

34 Sec. 25. [AUTHORIZATION FOR EXPEDITED RULEMAKING
35 AUTHORITY.]

36 The Board of Behavioral Health and Therapy may use the

1 expedited rulemaking process under Minnesota Statutes, section
2 14.389, for adopting and amending rules to conform with sections
3 1 to 10.

4 Sec. 26. [REPEALER.]

5 (a) Minnesota Statutes 2004, sections 148C.02 and 148C.12,
6 subdivision 4, are repealed.

7 (b) Minnesota Rules, parts 4747.0030, subparts 11 and 16;
8 4747.1200; and 4747.1300, are repealed.

9 Sec. 27. [EFFECTIVE DATE.]

10 This article is effective July 1, 2005.

11 ARTICLE 6

12 BOARD OF MEDICAL PRACTICE

13 (PHYSICIAN ASSISTANTS AND RESPIRATORY CARE PRACTITIONERS)

14 Section 1. Minnesota Statutes 2004, section 147A.18,
15 subdivision 1, is amended to read:

16 Subdivision 1. [DELEGATION.] (a) A supervising physician
17 may delegate to a physician assistant who is registered with the
18 board, certified by the National Commission on Certification of
19 Physician Assistants or successor agency approved by the board,
20 and who is under the supervising physician's supervision, the
21 authority to prescribe, dispense, and administer legend drugs,
22 medical devices, and controlled substances subject to the
23 requirements in this section. The authority to dispense
24 includes, but is not limited to, the authority to request,
25 receive, and dispense sample drugs. This authority to dispense
26 extends only to those drugs described in the written agreement
27 developed under paragraph (b).

28 (b) The agreement between the physician assistant and
29 supervising physician and any alternate supervising physicians
30 must include a statement by the supervising physician regarding
31 delegation or nondelegation of the functions of prescribing,
32 dispensing, and administering of legend drugs and medical
33 devices to the physician assistant. The statement must include
34 a protocol indicating categories of drugs for which the
35 supervising physician delegates prescriptive and dispensing
36 authority. The delegation must be appropriate to the physician

1 assistant's practice and within the scope of the physician
2 assistant's training. Physician assistants who have been
3 delegated the authority to prescribe, dispense, and administer
4 legend drugs and medical devices shall provide evidence of
5 current certification by the National Commission on
6 Certification of Physician Assistants or its successor agency
7 when registering or reregistering as physician assistants.
8 Physician assistants who have been delegated the authority to
9 prescribe controlled substances must present evidence of the
10 certification and hold a valid DEA certificate. Supervising
11 physicians shall retrospectively review the prescribing,
12 dispensing, and administering of legend and controlled drugs and
13 medical devices by physician assistants, when this authority has
14 been delegated to the physician assistant as part of the
15 delegation agreement between the physician and the physician
16 assistant. This review must take place ~~at-least-weekly~~ as
17 outlined in the internal protocol. The process and schedule for
18 the review must be outlined in the delegation agreement.

19 (c) The board may establish by rule:

20 (1) a system of identifying physician assistants eligible
21 to prescribe, administer, and dispense legend drugs and medical
22 devices;

23 (2) a system of identifying physician assistants eligible
24 to prescribe, administer, and dispense controlled substances;

25 (3) a method of determining the categories of legend and
26 controlled drugs and medical devices that each physician
27 assistant is allowed to prescribe, administer, and dispense; and

28 (4) a system of transmitting to pharmacies a listing of
29 physician assistants eligible to prescribe legend and controlled
30 drugs and medical devices.

31 Sec. 2. Minnesota Statutes 2004, section 147A.18,
32 subdivision 3, is amended to read:

33 Subd. 3. [OTHER REQUIREMENTS AND RESTRICTIONS.] (a) The
34 supervising physician and the physician assistant must complete,
35 sign, and date an internal protocol which lists each category of
36 drug or medical device, or controlled substance the physician

1 assistant may prescribe, dispense, and administer. The
2 supervising physician and physician assistant shall submit the
3 internal protocol to the board upon request. The supervising
4 physician may amend the internal protocol as necessary, within
5 the limits of the completed delegation form in subdivision 5.
6 The supervising physician and physician assistant must sign and
7 date any amendments to the internal protocol. Any amendments
8 resulting in a change to an addition or deletion to categories
9 delegated in the delegation form in subdivision 5 must be
10 submitted to the board according to this chapter, along with the
11 fee required.

12 (b) The supervising physician and physician assistant shall
13 review delegation of prescribing, dispensing, and administering
14 authority on an annual basis at the time of reregistration. The
15 internal protocol must be signed and dated by the supervising
16 physician and physician assistant after review. Any amendments
17 to the internal protocol resulting in changes to the delegation
18 form in subdivision 5 must be submitted to the board according
19 to this chapter, along with the fee required.

20 (c) Each prescription initiated by a physician assistant
21 shall indicate the following:

- 22 (1) the date of issue;
- 23 (2) the name and address of the patient;
- 24 (3) the name and quantity of the drug prescribed;
- 25 (4) directions for use; and
- 26 (5) the name, and address, ~~and telephone number~~ of the
27 prescribing physician assistant ~~and of the physician serving as~~
28 supervisor.

29 (d) In prescribing, dispensing, and administering legend
30 drugs and medical devices, including controlled substances as
31 defined in section 152.01, subdivision 4, a physician assistant
32 must conform with the agreement, chapter 151, and this chapter.

33 Sec. 3. Minnesota Statutes 2004, section 147C.05, is
34 amended to read:

35 147C.05 [SCOPE OF PRACTICE.]

36 (a) The practice of respiratory care by a registered

1 respiratory care practitioner includes, but is not limited to,
2 the following services:

3 (1) providing and monitoring therapeutic administration of
4 medical gases, aerosols, humidification, and pharmacological
5 agents related to respiratory care procedures, but not including
6 administration of general anesthesia;

7 (2) carrying out therapeutic application and monitoring of
8 mechanical ventilatory support;

9 (3) providing cardiopulmonary resuscitation and maintenance
10 of natural airways and insertion and maintenance of artificial
11 airways;

12 (4) assessing and monitoring signs, symptoms, and general
13 behavior relating to, and general physical response to,
14 respiratory care treatment or evaluation for treatment and
15 diagnostic testing, including determination of whether the
16 signs, symptoms, reactions, behavior, or general response
17 exhibit abnormal characteristics;

18 (5) obtaining physiological specimens and interpreting
19 physiological data including:

20 (i) analyzing arterial and venous blood gases;

21 (ii) assessing respiratory secretions;

22 (iii) measuring ventilatory volumes, pressures, and flows;

23 (iv) testing pulmonary function;

24 (v) testing and studying the cardiopulmonary system; and

25 (vi) diagnostic testing of breathing patterns related to
26 sleep disorders;

27 (6) assisting hemodynamic monitoring and support of the
28 cardiopulmonary system;

29 (7) assessing and making suggestions for modifications in
30 the treatment regimen based on abnormalities, protocols, or
31 changes in patient response to respiratory care treatment;

32 (8) providing cardiopulmonary rehabilitation including
33 respiratory-care related educational components, postural
34 drainage, chest physiotherapy, breathing exercises, aerosolized
35 administration of medications, and equipment use and
36 maintenance;

1 (9) instructing patients and their families in techniques
2 for the prevention, alleviation, and rehabilitation of
3 deficiencies, abnormalities, and diseases of the cardiopulmonary
4 system; and

5 (10) transcribing and implementing physician orders for
6 respiratory care services.

7 (b) Patient service by a practitioner must be limited to:

8 (1) services within the training and experience of the
9 practitioner; and

10 (2) services within the parameters of the laws, rules, and
11 standards of the facilities in which the respiratory care
12 practitioner practices.

13 (c) Respiratory care services provided by a registered
14 respiratory care practitioner, whether delivered in a health
15 care facility or the patient's residence, must not be provided
16 except upon referral from a physician.

17 (d) This section does not prohibit an individual licensed
18 or registered as a respiratory therapist in another state or
19 country from providing respiratory care in an emergency in this
20 state, providing respiratory care as a member of an organ
21 harvesting team, or from providing respiratory care on board an
22 ambulance as part of an ambulance treatment team.

23 ARTICLE 7

24 COMMISSIONER OF HEALTH - AUDIOLOGISTS

25 Section 1. Minnesota Statutes 2004, section 148.512,
26 subdivision 6, is amended to read:

27 Subd. 6. [AUDIOLOGIST.] "Audiologist" means a natural
28 person who engages in the practice of audiology, meets the
29 qualifications required by sections 148.511 to ~~148.5196~~
30 148.5198, and is licensed by the commissioner under a general,
31 clinical fellowship, doctoral externship, or temporary license.

32 Audiologist also means a natural person using any descriptive
33 word with the title audiologist.

34 Sec. 2. Minnesota Statutes 2004, section 148.512, is
35 amended by adding a subdivision to read:

36 Subd. 10a. [HEARING AID.] "Hearing aid" means an

1 instrument, or any of its parts, worn in the ear canal and
2 designed to or represented as being able to aid or enhance human
3 hearing. "Hearing aid" includes the aid's parts, attachments,
4 or accessories, including, but not limited to, ear molds and
5 behind the ear (BTE) devices with or without an ear mold.
6 Batteries and cords are not parts, attachments, or accessories
7 of a hearing aid. Surgically implanted hearing aids, and
8 assistive listening devices not worn within the ear canal, are
9 not hearing aids.

10 Sec. 3. Minnesota Statutes 2004, section 148.512, is
11 amended by adding a subdivision to read:

12 Subd. 10b. [HEARING AID DISPENSING.] "Hearing aid
13 dispensing" means making ear mold impressions, prescribing, or
14 recommending a hearing aid, assisting the consumer in aid
15 selection, selling hearing aids at retail, or testing human
16 hearing in connection with these activities regardless of
17 whether the person conducting these activities has a monetary
18 interest in the sale of hearing aids to the consumer.

19 Sec. 4. Minnesota Statutes 2004, section 148.515, is
20 amended by adding a subdivision to read:

21 Subd. 6. [AUDIOLOGIST EXAMINATION REQUIREMENTS.] (a) An
22 audiologist who applies for licensure on or after August 1,
23 2005, must achieve a passing score on the examination described
24 in section 153A.14, subdivision 2h, paragraph (a), clause (2),
25 within the time period described in section 153A.14, subdivision
26 2h, paragraph (b).

27 (b) Paragraph (a) does not apply to an audiologist licensed
28 by reciprocity who was licensed before August 1, 2005, in
29 another jurisdiction.

30 (c) Audiologists are exempt from the written examination
31 requirement in section 153A.14, subdivision 2h, paragraph (a),
32 clause (1).

33 Sec. 5. Minnesota Statutes 2004, section 148.5194, is
34 amended by adding a subdivision to read:

35 Subd. 7. [SURCHARGE.] A surcharge of \$..... is added to
36 the audiologist licensure fee for the period of

1 Sec. 6. Minnesota Statutes 2004, section 148.5195,
2 subdivision 3, is amended to read:

3 Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY
4 COMMISSIONER.] The commissioner may take any of the disciplinary
5 actions listed in subdivision 4 on proof that the individual has:

6 (1) intentionally submitted false or misleading information
7 to the commissioner or the advisory council;

8 (2) failed, within 30 days, to provide information in
9 response to a written request, via certified mail, by the
10 commissioner or advisory council;

11 (3) performed services of a speech-language pathologist or
12 audiologist in an incompetent or negligent manner;

13 (4) violated sections 148.511 to ~~148.5196~~ 148.5198;

14 (5) failed to perform services with reasonable judgment,
15 skill, or safety due to the use of alcohol or drugs, or other
16 physical or mental impairment;

17 (6) violated any state or federal law, rule, or regulation,
18 and the violation is a felony or misdemeanor, an essential
19 element of which is dishonesty, or which relates directly or
20 indirectly to the practice of speech-language pathology or
21 audiology. Conviction for violating any state or federal law
22 which relates to speech-language pathology or audiology is
23 necessarily considered to constitute a violation, except as
24 provided in chapter 364;

25 (7) aided or abetted another person in violating any
26 provision of sections 148.511 to ~~148.5196~~ 148.5198;

27 (8) been or is being disciplined by another jurisdiction,
28 if any of the grounds for the discipline is the same or
29 substantially equivalent to those under sections 148.511 to
30 148.5196;

31 (9) not cooperated with the commissioner or advisory
32 council in an investigation conducted according to subdivision
33 1;

34 (10) advertised in a manner that is false or misleading;

35 (11) engaged in conduct likely to deceive, defraud, or harm
36 the public; or demonstrated a willful or careless disregard for

1 the health, welfare, or safety of a client;

2 (12) failed to disclose to the consumer any fee splitting
3 or any promise to pay a portion of a fee to any other
4 professional other than a fee for services rendered by the other
5 professional to the client;

6 (13) engaged in abusive or fraudulent billing practices,
7 including violations of federal Medicare and Medicaid laws, Food
8 and Drug Administration regulations, or state medical assistance
9 laws;

10 (14) obtained money, property, or services from a consumer
11 through the use of undue influence, high pressure sales tactics,
12 harassment, duress, deception, or fraud;

13 (15) performed services for a client who had no possibility
14 of benefiting from the services;

15 (16) failed to refer a client for medical evaluation or to
16 other health care professionals when appropriate or when a
17 client indicated symptoms associated with diseases that could be
18 medically or surgically treated;

19 ~~(17) if-the-individual-is-a-dispenser-of-hearing~~
20 ~~instruments-as-defined-by-section-153A:13,-subdivision-5,-had~~
21 ~~the-certification-required-by-chapter-153A,-denied,-suspended,-~~
22 ~~or-revoked-according-to-chapter-153A,~~

23 ~~(18)~~ used the term doctor of audiology, doctor of
24 speech-language pathology, AuD, or SLPD without having obtained
25 the degree from an institution accredited by the North Central
26 Association of Colleges and Secondary Schools, the Council on
27 Academic Accreditation in Audiology and Speech-Language
28 Pathology, the United States Department of Education, or an
29 equivalent; ~~or~~

30 ~~(19)~~ (18) failed to comply with the requirements of section
31 148.5192 regarding supervision of speech-language pathology
32 assistants;

33 (19) prescribed or otherwise recommended to a consumer or
34 potential consumer the use of a hearing aid, unless the
35 prescription from a physician or recommendation from an
36 audiologist is in writing, is based on an audiogram that is

1 delivered to the consumer or potential consumer when the
2 prescription or recommendation is made, and bears the following
3 information in all capital letters of 12-point or larger
4 boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE
5 FILLED BY, AND HEARING AIDS MAY BE PURCHASED FROM, THE LICENSED
6 AUDIOLOGIST OR CERTIFIED DISPENSER OF YOUR CHOICE";

7 (20) failed to give a copy of the audiogram, upon which the
8 prescription or recommendation is based, to the consumer when
9 the consumer requests a copy;

10 (21) failed to provide the consumer rights brochure
11 required by section 148.5197, subdivision 3;

12 (22) failed to comply with restrictions on sales of hearing
13 aids in sections 148.5197, subdivision 3, and 148.5198;

14 (23) failed to return a consumer's hearing aid used as a
15 trade-in or for a discount in the price of a new hearing aid
16 when requested by the consumer upon cancellation of the purchase
17 agreement;

18 (24) failed to follow Food and Drug Administration or
19 Federal Trade Commission regulations relating to dispensing
20 hearing aids; or

21 (25) failed to dispense a hearing aid in a competent manner
22 or without appropriate training.

23 Sec. 7. [148.5197] [HEARING AID DISPENSING.]

24 Subdivision 1. [CONTENT OF CONTRACTS.] Oral statements
25 made by an audiologist regarding the provision of warranties,
26 refunds, and service on the hearing aid or aids dispensed must
27 be written on, and become part of, the contract of sale, specify
28 the item or items covered, and indicate the person or business
29 entity obligated to provide the warranty, refund, or service.

30 Subd. 2. [REQUIRED USE OF LICENSE NUMBER.] The
31 audiologist's license number must appear on all contracts, bills
32 of sale, and receipts used in the sale of hearing aids.

33 Subd. 3. [CONSUMER RIGHTS INFORMATION.] An audiologist
34 shall, at the time of the recommendation or prescription, give a
35 consumer rights brochure, prepared by the commissioner and
36 containing information about legal requirements pertaining to

1 sales of hearing aids, to each potential buyer of a hearing
2 aid. The brochure must contain information about the consumer
3 information center described in section 153A.18. A sales
4 contract for a hearing aid must note the receipt of the brochure
5 by the buyer, along with the buyer's signature or initials.

6 Subd. 4. [LIABILITY FOR CONTRACTS.] Owners of entities in
7 the business of dispensing hearing aids, employers of
8 audiologists or persons who dispense hearing aids, supervisors
9 of trainees or audiology students, and hearing aid dispensers
10 conducting the sales transaction at issue are liable for
11 satisfying all terms of contracts, written or oral, made by
12 their agents, employees, assignees, affiliates, or trainees,
13 including terms relating to products, repairs, warranties,
14 service, and refunds. The commissioner may enforce the terms of
15 hearing aid sales contracts against the principal, employer,
16 supervisor, or dispenser who conducted the sale and may impose
17 any remedy provided for in this chapter.

18 Sec. 8. [148.5198] [RESTRICTION ON SALE OF HEARING AIDS.]

19 Subdivision 1. [45-CALENDAR-DAY GUARANTEE AND BUYER RIGHT
20 TO CANCEL.] (a) An audiologist dispensing a hearing aid in this
21 state must comply with paragraphs (b) and (c).

22 (b) The audiologist must provide the buyer with a
23 45-calendar-day written money-back guarantee. The guarantee
24 must permit the buyer to cancel the purchase for any reason
25 within 45 calendar days after receiving the hearing aid by
26 giving or mailing written notice of cancellation to the
27 audiologist. If the consumer mails the notice of cancellation,
28 the 45-calendar-day period is counted using the postmark date,
29 to the date of receipt by the audiologist. If the hearing aid
30 must be repaired, remade, or adjusted during the 45-calendar-day
31 money-back guarantee period, the running of the 45-calendar-day
32 period is suspended one day for each 24-hour period that the
33 hearing aid is not in the buyer's possession. A repaired,
34 remade, or adjusted hearing aid must be claimed by the buyer
35 within three business days after notification of availability,
36 after which time the running of the 45-calendar-day period

1 resumes. The guarantee must entitle the buyer, upon
2 cancellation, to receive a refund of payment within 30 days of
3 return of the hearing aid to the audiologist. The audiologist
4 may retain as a cancellation fee no more than \$250 of the
5 buyer's total purchase price of the hearing aid.

6 (c) The audiologist shall provide the buyer with a contract
7 written in plain English, that contains uniform language and
8 provisions that meet the requirements under the Plain Language
9 Contract Act, sections 325G.29 to 325G.36. The contract must
10 include, but is not limited to, the following: in immediate
11 proximity to the space reserved for the signature of the buyer,
12 or on the first page if there is no space reserved for the
13 signature of the buyer, a clear and conspicuous disclosure of
14 the following specific statement in all capital letters of no
15 less than 12-point boldface type: "MINNESOTA STATE LAW GIVES
16 THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT
17 ANY TIME PRIOR TO MIDNIGHT OF THE 45TH CALENDAR DAY AFTER
18 RECEIPT OF THE HEARING AID(S). THIS CANCELLATION MUST BE IN
19 WRITING AND MUST BE GIVEN OR MAILED TO THE AUDIOLOGIST. IF THE
20 BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS
21 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE
22 TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST
23 MAY RETAIN AS A CANCELLATION FEE NO MORE THAN \$250."

24 Subd. 2. [ITEMIZED REPAIR BILL.] Any audiologist or
25 company who agrees to repair a hearing aid must provide the
26 owner of the hearing aid, or the owner's representative, with a
27 bill that describes the repair and services rendered. The bill
28 must also include the repairing audiologist's or company's name,
29 address, and telephone number.

30 This subdivision does not apply to an audiologist or
31 company that repairs a hearing aid pursuant to an express
32 warranty covering the entire hearing aid and the warranty covers
33 the entire cost, both parts and labor, of the repair.

34 Subd. 3. [REPAIR WARRANTY.] Any guarantee of hearing aid
35 repairs must be in writing and delivered to the owner of the
36 hearing aid, or the owner's representative, stating the

1 repairing audiologist's or company's name, address, telephone
2 number, length of guarantee, model, and serial number of the
3 hearing aid and all other terms and conditions of the guarantee.

4 Subd. 4. [MISDEMEANOR.] A person found to have violated
5 this section is guilty of a misdemeanor.

6 Subd. 5. [ADDITIONAL.] In addition to the penalty provided
7 in subdivision 4, a person found to have violated this section
8 is subject to the penalties and remedies provided in section
9 325F.69, subdivision 1.

10 Subd. 6. [ESTIMATES.] Upon the request of the owner of a
11 hearing aid or the owner's representative for a written estimate
12 and prior to the commencement of repairs, a repairing
13 audiologist or company shall provide the customer with a written
14 estimate of the price of repairs. If a repairing audiologist or
15 company provides a written estimate of the price of repairs, it
16 must not charge more than the total price stated in the estimate
17 for the repairs. If the repairing audiologist or company after
18 commencing repairs determines that additional work is necessary
19 to accomplish repairs that are the subject of a written estimate
20 and if the repairing audiologist or company did not unreasonably
21 fail to disclose the possible need for the additional work when
22 the estimate was made, the repairing audiologist or company may
23 charge more than the estimate for the repairs if the repairing
24 audiologist or company immediately provides the owner or owner's
25 representative a revised written estimate pursuant to this
26 section and receives authorization to continue with the
27 repairs. If continuation of the repairs is not authorized, the
28 repairing audiologist or company shall return the hearing aid as
29 close as possible to its former condition and shall release the
30 hearing aid to the owner or owner's representative upon payment
31 of charges for repairs actually performed and not in excess of
32 the original estimate.

33 Sec. 9. Minnesota Statutes 2004, section 153A.13,
34 subdivision 5, is amended to read:

35 Subd. 5. [DISPENSER OF HEARING INSTRUMENTS.] "Dispenser of
36 hearing instruments" means a natural person who engages in

1 hearing instrument dispensing whether or not certified by the
2 commissioner of health or licensed by an existing health-related
3 board, except that a person described as follows is not a
4 dispenser of hearing instruments:

5 (1) a student participating in supervised field work that
6 is necessary to meet requirements of an accredited educational
7 program if the student is designated by a title which clearly
8 indicates the student's status as a student trainee; or

9 (2) a person who helps a dispenser of hearing instruments
10 in an administrative or clerical manner and does not engage in
11 hearing instrument dispensing.

12 A person who offers to dispense a hearing instrument, or a
13 person who advertises, holds out to the public, or otherwise
14 represents that the person is authorized to dispense hearing
15 instruments must be certified by the commissioner except when
16 the person is an audiologist as defined in section 148.512.

17 Sec. 10. Minnesota Statutes 2004, section 153A.14,
18 subdivision 2i, is amended to read:

19 Subd. 2i. [CONTINUING EDUCATION REQUIREMENT.] On forms
20 provided by the commissioner, each certified dispenser must
21 submit with the application for renewal of certification
22 evidence of completion of ten course hours of continuing
23 education earned within the 12-month period of July 1 to June 30
24 immediately preceding renewal. Continuing education courses
25 must be directly related to hearing instrument dispensing and
26 approved by the International Hearing Society ~~or qualify for~~
27 ~~continuing-education-approved-for-Minnesota-licensed~~
28 ~~audiologists~~. Evidence of completion of the ten course hours of
29 continuing education must be submitted with renewal applications
30 by October 1 of each year. This requirement does not apply to
31 dispensers certified for less than one year. The first report
32 of evidence of completion of the continuing education credits
33 shall be due October 1, 1997.

34 Sec. 11. Minnesota Statutes 2004, section 153A.14,
35 subdivision 4, is amended to read:

36 Subd. 4. [DISPENSING OF HEARING INSTRUMENTS WITHOUT

1 CERTIFICATE.] Except as provided in subdivisions 2a, 4a, and 4c,
2 it is unlawful for any person not holding a valid certificate to
3 dispense a hearing instrument as defined in section 153A.13,
4 subdivision 3. A person who dispenses a hearing instrument
5 without the certificate required by this section is guilty of a
6 gross misdemeanor.

7 Sec. 12. Minnesota Statutes 2004, section 153A.14,
8 subdivision 4c, is amended to read:

9 Subd. 4c. [RECIPROCITY.] (a) A person applying for
10 certification as a hearing instrument dispenser under
11 subdivision 1 who has dispensed hearing instruments in another
12 jurisdiction may dispense hearing instruments as a trainee under
13 indirect supervision if the person:

14 (1) satisfies the provisions of subdivision 4a, paragraph
15 (a);

16 (2) submits a signed and dated affidavit stating that the
17 applicant is not the subject of a disciplinary action or past
18 disciplinary action in this or another jurisdiction and is not
19 disqualified on the basis of section 153A.15, subdivision 1; and

20 (3) provides a copy of a current credential as a hearing
21 instrument dispenser~~7-an-audiologist7-or-both7~~ held in the
22 District of Columbia or a state or territory of the United
23 States.

24 (b) A person becoming a trainee under this subdivision who
25 fails to take and pass the practical examination described in
26 subdivision 2h, paragraph (a), clause (2), when next offered
27 must cease dispensing hearing instruments unless under direct
28 supervision.

29 Sec. 13. Minnesota Statutes 2004, section 153A.15,
30 subdivision 1, is amended to read:

31 Subdivision 1. [PROHIBITED ACTS.] The commissioner may
32 take enforcement action as provided under subdivision 2 against
33 a dispenser of hearing instruments for the following acts and
34 conduct:

35 (1) prescribing or otherwise recommending to a consumer or
36 potential consumer the use of a hearing instrument, unless the

1 prescription from a physician or recommendation from a hearing
2 instrument dispenser or audiologist is in writing, is based on
3 an audiogram that is delivered to the consumer or potential
4 consumer when the prescription or recommendation is made, and
5 bears the following information in all capital letters of
6 12-point or larger boldface type: "THIS PRESCRIPTION OR
7 RECOMMENDATION MAY BE FILLED BY, AND HEARING INSTRUMENTS MAY BE
8 PURCHASED FROM, THE CERTIFIED DISPENSER OR LICENSED AUDIOLOGIST
9 OF YOUR CHOICE";

10 (2) failing to give a copy of the audiogram, upon which the
11 prescription or recommendation is based, to the consumer when
12 there has been a charge for the audiogram and the consumer
13 requests a copy;

14 (3) dispensing a hearing instrument to a minor person 18
15 years or younger unless evaluated by an audiologist for hearing
16 evaluation and hearing aid evaluation;

17 (4) failing to provide the consumer rights brochure
18 required by section 153A.14, subdivision 9;

19 (5) being disciplined through a revocation, suspension,
20 restriction, or limitation by another state for conduct subject
21 to action under this chapter;

22 (6) presenting advertising that is false or misleading;

23 (7) providing the commissioner with false or misleading
24 statements of credentials, training, or experience;

25 (8) engaging in conduct likely to deceive, defraud, or harm
26 the public; or demonstrating a willful or careless disregard for
27 the health, welfare, or safety of a consumer;

28 (9) splitting fees or promising to pay a portion of a fee
29 to any other professional other than a fee for services rendered
30 by the other professional to the client;

31 (10) engaging in abusive or fraudulent billing practices,
32 including violations of federal Medicare and Medicaid laws, Food
33 and Drug Administration regulations, or state medical assistance
34 laws;

35 (11) obtaining money, property, or services from a consumer
36 through the use of undue influence, high pressure sales tactics,

1 harassment, duress, deception, or fraud;

2 (12) failing to comply with restrictions on sales of
3 hearing aids in sections 153A.14, subdivision 9, and 153A.19;

4 (13) performing the services of a certified hearing
5 instrument dispenser in an incompetent or negligent manner;

6 (14) failing to comply with the requirements of this
7 chapter as an employer, supervisor, or trainee;

8 (15) failing to provide information in a timely manner in
9 response to a request by the commissioner, commissioner's
10 designee, or the advisory council;

11 (16) being convicted within the past five years of
12 violating any laws of the United States, or any state or
13 territory of the United States, and the violation is a felony,
14 gross misdemeanor, or misdemeanor, an essential element of which
15 relates to hearing instrument dispensing, except as provided in
16 chapter 364;

17 (17) failing to cooperate with the commissioner, the
18 commissioner's designee, or the advisory council in any
19 investigation;

20 (18) failing to perform hearing instrument dispensing with
21 reasonable judgment, skill, or safety due to the use of alcohol
22 or drugs, or other physical or mental impairment;

23 (19) failing to fully disclose actions taken against the
24 applicant or the applicant's legal authorization to dispense
25 hearing instruments in this or another state;

26 (20) violating a state or federal court order or judgment,
27 including a conciliation court judgment, relating to the
28 activities of the applicant in hearing instrument dispensing;

29 (21) having been or being disciplined by the commissioner
30 of the Department of Health, or other authority, in this or
31 another jurisdiction, if any of the grounds for the discipline
32 are the same or substantially equivalent to those in sections
33 153A.13 to 153A.19;

34 (22) misrepresenting the purpose of hearing tests, or in
35 any way communicating that the hearing test or hearing test
36 protocol required by section 153A.14, subdivision 4b, is a

1 medical evaluation, a diagnostic hearing evaluation conducted by
2 an audiologist, or is other than a test to select a hearing
3 instrument, except that the hearing instrument dispenser can
4 determine the need for or recommend the consumer obtain a
5 medical evaluation consistent with requirements of the United
6 States Food and Drug Administration;

7 (23) violating any of the provisions of sections 153A.13 to
8 153A.19; and

9 (24) aiding or abetting another person in violating any of
10 the provisions of sections 153A.13 to 153A.19.

11 Sec. 14. Minnesota Statutes 2004, section 153A.20,
12 subdivision 1, is amended to read:

13 Subdivision 1. [MEMBERSHIP.] The commissioner shall
14 appoint nine persons to a Hearing Instrument Dispenser Advisory
15 Council.

16 (a) The nine persons must include:

17 (1) three public members, as defined in section 214.02. At
18 least one of the public members shall be a hearing instrument
19 user and one of the public members shall be either a hearing
20 instrument user or an advocate of one; and

21 (2) three hearing instrument dispensers certified under
22 sections 153A.14 to 153A.20, each of whom is currently, and has
23 been for the five years immediately preceding their appointment,
24 engaged in hearing instrument dispensing in Minnesota and who
25 represent the occupation of hearing instrument dispensing and
26 who are not audiologists; and

27 (3) ~~three audiologists who are certified hearing instrument~~
28 ~~dispensers or are~~ licensed as audiologists under chapter 148.

29 (b) The factors the commissioner may consider when
30 appointing advisory council members include, but are not limited
31 to, professional affiliation, geographical location, and type of
32 practice.

33 (c) No two members of the advisory council shall be
34 employees of, or have binding contracts requiring sales
35 exclusively for, the same hearing instrument manufacturer or the
36 same employer.

1 Sec. 15. [REVISOR'S INSTRUCTION.]

2 The revisor of statutes shall change references from
3 "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198"
4 wherever they appear in Minnesota Statutes and Minnesota Rules.

5 Sec. 16. [REPEALER.]

6 Minnesota Statutes 2004, section 153A.14, subdivision 2a,
7 is repealed.

8 Sec. 17. [EFFECTIVE DATE.]

9 Sections 1 to 14 and 16 are effective August 1, 2005.

10 ARTICLE 8

11 OFFICE OF MENTAL HEALTH PRACTICES COMMITTEE

12 Section 1. Minnesota Statutes 2004, section 148B.60, is
13 amended to read:

14 148B.60 [DEFINITIONS.]

15 Subdivision 1. [TERMS.] As used in sections 148B.60 to
16 148B.71, the following terms have the meanings given them in
17 this section.

18 Subd. 2. [OFFICE OF MENTAL HEALTH PRACTICE OR OFFICE.]

19 "Office of Mental Health Practice" or "office" means the Office
20 of Mental Health Practice ~~established~~ authorized in section
21 148B.61.

22 Subd. 3. [UNLICENSED MENTAL HEALTH PRACTITIONER OR
23 PRACTITIONER.] "Unlicensed mental health practitioner" or
24 "practitioner" means a person who provides or purports to
25 provide, for remuneration, mental health services as defined in
26 subdivision 4. It does not include persons licensed by the
27 Board of Medical Practice under chapter 147 or registered by the
28 Board of Medical Practice under chapter 147A; the Board of
29 Nursing under sections 148.171 to 148.285; the Board of
30 Psychology under sections 148.88 to 148.98; the Board of Social
31 Work under sections 148B.18 to 148B.289; the Board of Marriage
32 and Family Therapy under sections 148B.29 to 148B.39; the Board
33 of Behavioral Health and Therapy under sections 148B.50 to
34 148B.593 and chapter 148C; or another licensing board if the
35 person is practicing within the scope of the license; members of
36 the clergy who are providing pastoral services in the context of

1 performing and fulfilling the salaried duties and obligations
2 required of a member of the clergy by a religious congregation;
3 American Indian medicine men and women; licensed attorneys;
4 probation officers; licensed school counselors employed by a
5 school district while acting within the scope of employment as
6 school counselors; registered licensed occupational therapists;
7 or licensed occupational therapy assistants. For the purposes
8 of complaint investigation or disciplinary action relating to an
9 individual practitioner, the term includes:

10 (1) persons employed by a program licensed by the
11 commissioner of human services who are acting as mental health
12 practitioners within the scope of their employment;

13 (2) persons employed by a program licensed by the
14 commissioner of human services who are providing chemical
15 dependency counseling services; persons who are providing
16 chemical dependency counseling services in private practice; and

17 (3) clergy who are providing mental health services that
18 are equivalent to those defined in subdivision 4.

19 Subd. 4. [MENTAL HEALTH SERVICES.] "Mental health
20 services" means psychotherapy, behavioral health care, spiritual
21 counseling, hypnosis when not for entertainment, and the
22 professional assessment, treatment, or counseling of another
23 person for a cognitive, behavioral, emotional, social, or mental
24 condition, symptom, or dysfunction, including intrapersonal or
25 interpersonal dysfunctions. The term does not include pastoral
26 services provided by members of the clergy to members of a
27 religious congregation in the context of performing and
28 fulfilling the salaried duties and obligations required of a
29 member of the clergy by that religious congregation.

30 Subd. 5. [MENTAL HEALTH CLIENT OR CLIENT.] "Mental health
31 client" or "client" means a person who receives or pays for the
32 services of a mental health practitioner.

33 Subd. 5a. [MENTAL-HEALTH-RELATED LICENSING
34 BOARDS.] "Mental-health-related licensing boards" means the
35 Boards of Medical Practice, Nursing, Psychology, Social Work,
36 Marriage and Family Therapy, and Behavioral Health and Therapy.

1 Subd. ~~7.~~ ~~{COMMISSIONER.}~~ ~~"Commissioner"~~ means the
2 commissioner of health or the commissioner's designee.

3 Subd. 7a. [COMMITTEE.] "Committee" means the Office of
4 Mental Health Practices Committee, consisting of one person
5 appointed by each of the following licensing boards: the Board
6 of Medical Practice; the Board of Nursing; the Board of
7 Psychology; the Board of Social Work; the Board of Marriage and
8 Family Therapy; and the Board of Behavioral Health and Therapy.

9 Subd. 8. [DISCIPLINARY ACTION.] "Disciplinary action"
10 means an adverse action taken by the commissioner against an
11 unlicensed mental health practitioner relating to the person's
12 right to provide mental health services.

13 Sec. 2. Minnesota Statutes 2004, section 148B.61, is
14 amended to read:

15 148B.61 [OFFICE OF MENTAL HEALTH PRACTICE.]

16 Subdivision 1. [CREATION AUTHORITY.] (a) The Office of
17 Mental Health Practice is ~~created in the Department of Health~~
18 transferred to the mental-health-related licensing boards and
19 authorized to investigate complaints and take and enforce
20 disciplinary actions against all unlicensed mental health
21 practitioners for violations of prohibited conduct, as defined
22 in section 148B.68.

23 (b) The office shall publish a complaint telephone number,
24 provide an informational Web site, and also serve as a referral
25 point and clearinghouse on complaints against mental health
26 ~~services and both licensed and unlicensed mental health~~
27 ~~professionals, through the dissemination of practitioners.~~ The
28 office shall disseminate objective information to consumers and
29 through the development and performance of public education
30 activities, including outreach, regarding the provision of
31 mental health services and both licensed and unlicensed mental
32 health professionals who provide these services.

33 Subd. ~~2.~~ ~~{RULEMAKING.}~~ ~~The commissioner of health shall~~
34 ~~adopt rules necessary to implement, administer, or enforce~~
35 ~~provisions of sections 148B.60 to 148B.71 pursuant to chapter~~
36 ~~14.~~ ~~The commissioner may not adopt rules that restrict or~~

~~1 prohibit persons from providing mental health services on the
2 basis of education, training, experience, or supervision.~~

3 Subd. 4. [MANAGEMENT, REPORT, AND SUNSET OF THE
4 OFFICE.] (a) The committee shall:

5 (1) designate one board to provide administrative
6 management of the program;

7 (2) set the program budget; and

8 (3) ensure that the program's direction is in accord with
9 its authority.

10 (b) If the participating boards change which board is
11 designated to provide administrative management of the program,
12 any appropriation remaining for the program shall transfer to
13 the newly designated board on the effective date of the change.
14 The participating boards must inform the appropriate legislative
15 committees and the commissioner of finance of any change in the
16 designated board and the amount of any appropriation transferred
17 under this provision.

18 (c) The designated board shall hire the office employees
19 and pay expenses of the program from funds appropriated for that
20 purpose.

21 (d) After July 1, 2008, the committee shall prepare and
22 submit a report to the legislature by January 15, 2009,
23 evaluating the activity of the office and making recommendations
24 concerning the regulation of unlicensed mental health
25 practitioners. In the absence of legislative action to continue
26 the office, the committee and the office expire on June 30, 2009.

27 Sec. 3. Laws 2003, chapter 118, section 29, as amended by
28 Laws 2004, chapter 279, article 5, section 10, is amended to
29 read:

30 Sec. 29. [REPEALER.]

31 (a) Minnesota Statutes 2002, sections 148B.60; 148B.61;
32 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69;
33 148B.70; and 148B.71, are repealed.

34 [EFFECTIVE DATE.] This paragraph is effective July 1,
35 2005 2009.

36 (b) Minnesota Statutes 2002, section 148C.01, subdivision

1 6, is repealed.

2 [EFFECTIVE DATE.] This paragraph is effective July 1, 2005.

3 Sec. 4. [APPROPRIATION.]

4 \$..... is appropriated from the state government special
5 revenue fund to the mental-health-related licensing boards as
6 nonrecovery funds.

7 Sec. 5. [REVISOR INSTRUCTION.]

8 The revisor of statutes shall insert "committee" or
9 "committee's" wherever "commissioner of health" or
10 "commissioner's" appears in Minnesota Statutes, sections 148B.60
11 to 148B.71.

12 Sec. 6. [EFFECTIVE DATE.]

13 This act is effective July 1, 2005.

14 ARTICLE 9

15 MISCELLANEOUS

16 Section 1. Minnesota Statutes 2004, section 148.5194, is
17 amended by adding a subdivision to read:

18 Subd. 7. [PENALTY FEES.] (a) The penalty fee for
19 practicing speech language pathology or audiology without a
20 current license after the credential has expired and before it
21 is renewed is the amount of the license renewal fee for any part
22 of the first month, plus the license renewal fee for any part of
23 any subsequent month up to 36 months.

24 (b) The penalty fee for applicants who engage in the
25 unauthorized practice of speech language pathology or audiology
26 before being issued a license is the amount of the license
27 application fee for any part of the first month, plus the
28 license application fee for any part of any subsequent month up
29 to 36 months. This paragraph does not apply to applicants not
30 qualifying for a license who engage in the unauthorized practice
31 of speech language pathology or audiology.

32 (c) The penalty fee for failing to submit a continuing
33 education report by the due date with the correct number or type
34 of hours in the correct time period is \$100 plus \$20 for each
35 missing clock hour. The licensee must obtain the missing number
36 of continuing education hours by the next reporting due date.

1 (d) Civil penalties and discipline incurred by licensees
2 prior to August 1, 2005, for conduct described in paragraph (a),
3 (b), or (c) shall be recorded as nondisciplinary penalty fees.
4 For conduct described in paragraph (a) or (b) occurring after
5 August 1, 2005, and exceeding six months, payment of a penalty
6 fee does not preclude any disciplinary action reasonably
7 justified by the individual case.

8 Sec. 2. Minnesota Statutes 2004, section 148.6445, is
9 amended by adding a subdivision to read:

10 Subd. 11. [PENALTY FEES.] (a) The penalty fee for
11 practicing occupational therapy without a current license after
12 the credential has expired and before it is renewed is the
13 amount of the license renewal fee for any part of the first
14 month, plus the license renewal fee for any part of any
15 subsequent month up to 36 months.

16 (b) The penalty fee for applicants who engage in the
17 unauthorized practice of occupational therapy before being
18 issued a license is the amount of the license application fee
19 for any part of the first month, plus the license application
20 fee for any part of any subsequent month up to 36 months. This
21 paragraph does not apply to applicants not qualifying for a
22 license who engage in the unauthorized practice of occupational
23 therapy.

24 (c) The penalty fee for failing to submit a continuing
25 education report by the due date with the correct number or type
26 of hours in the correct time period is \$100 plus \$20 for each
27 missing clock hour. The licensee must obtain the missing number
28 of continuing education hours by the next reporting due date.

29 (d) Civil penalties and discipline incurred by licensees
30 prior to August 1, 2005, for conduct described in paragraph (a),
31 (b), or (c) shall be recorded as nondisciplinary penalty fees.
32 For conduct described in paragraph (a) or (b) occurring after
33 August 1, 2005, and exceeding six months, payment of a penalty
34 fee does not preclude any disciplinary action reasonably
35 justified by the individual case.

36 Sec. 3. Minnesota Statutes 2004, section 148C.12, is

1 amended by adding a subdivision to read:

2 Subd. 11. [PENALTY FEES.] (a) The penalty fee for
3 practicing alcohol and drug counseling without a current license
4 after the credential has expired and before it is renewed is the
5 amount of the license renewal fee for any part of the first
6 month, plus the license renewal fee for any part of any
7 subsequent month up to 36 months.

8 (b) The penalty fee for applicants who engage in the
9 unauthorized practice of alcohol and drug counseling before
10 being issued a license is the amount of the license application
11 fee for any part of the first month, plus the license
12 application fee for any part of any subsequent month up to 36
13 months. This paragraph does not apply to applicants not
14 qualifying for a license who engage in the unauthorized practice
15 of alcohol and drug counseling.

16 (c) The penalty fee for failing to submit a continuing
17 education report by the due date with the correct number or type
18 of hours in the correct time period is \$100 plus \$20 for each
19 missing clock hour. The licensee must obtain the correct number
20 of continuing education hours by the next reporting due date.

21 (d) Civil penalties and discipline incurred by licensees
22 prior to August 1, 2005, for conduct described in paragraph (a),
23 (b), or (c) shall be recorded as nondisciplinary penalty fees.
24 For conduct described in paragraph (a) or (b) occurring after
25 August 1, 2005, and exceeding 12 months, payment of a penalty
26 fee does not preclude any disciplinary action reasonably
27 justified by the individual case.

28 Sec. 4. [153A.175] [PENALTY FEES.]

29 (a) The penalty fee for holding oneself out as a hearing
30 instrument dispenser without a current certificate after the
31 credential has expired and before it is renewed is one-half the
32 amount of the certificate renewal fee for any part of the first
33 day, plus one-half the certificate renewal fee for any part of
34 any subsequent days up to 30 days.

35 (b) The penalty fee for applicants who hold themselves out
36 as hearing instrument dispensers after expiration of the trainee

1 period and before being issued a certificate is one-half the
2 amount of the certificate application fee for any part of the
3 first day, plus one-half the certificate application fee for any
4 part of any subsequent days up to 30 days. This paragraph does
5 not apply to applicants not qualifying for a certificate who
6 hold themselves out as hearing instrument dispensers.

7 (c) The penalty fee for failing to submit a continuing
8 education report by the due date with the correct number or type
9 of hours in the correct time period is \$200 plus \$200 for each
10 missing clock hour. The certificate holder must obtain the
11 missing number of continuing education hours by the next
12 reporting due date.

13 (d) Civil penalties and discipline incurred by certificate
14 holders prior to August 1, 2005, for conduct described in
15 paragraph (a), (b), or (c) shall be recorded as nondisciplinary
16 penalty fees. Payment of a penalty fee does not preclude any
17 disciplinary action reasonably justified by the individual case.

Article 1 BOARD OF SOCIAL WORK..... page 2

Article 2 BOARD OF PHYSICAL THERAPY..... page 97

Article 3 BOARD OF PSYCHOLOGY..... page 105

Article 4 BOARD OF DENTAL PRACTICE..... page 115

Article 5 BOARD OF BEHAVIORAL THERAPY AND HEALTH..... page 122
(LICENSED PROFESSIONAL COUNSELORS AND
ALCOHOL AND DRUG COUNSELORS)

Article 6 BOARD OF MEDICAL PRACTICE..... page 143
(PHYSICIAN ASSISTANTS AND RESPIRATORY CARE PRACTITIONERS)

Article 7 COMMISSIONER OF HEALTH - AUDIOLOGISTS..... page 147

Article 8 OFFICE OF MENTAL HEALTH PRACTICES COMMITTEE..... page 160

Article 9 MISCELLANEOUS..... page 164

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was re-referred

3 S.F. No. 1204: A bill for an act relating to health;
4 recodifying statutes and rules relating to social work;
5 authorizing rulemaking; providing penalties; modifying
6 provisions relating to physical therapists; providing penalties;
7 modifying the Psychology Practice Act; phasing out licensure as
8 a licensed psychological practitioner; modifying dental
9 licensure provisions; establishing fees; modifying provisions
10 for licensed professional counselors; authorizing certain
11 rulemaking; modifying physician review; modifying information
12 contained on prescriptions; providing recognition for the
13 practice of respiratory therapy in emergency situations;
14 providing that audiologists need not obtain hearing instrument
15 dispenser certification; providing penalties; transferring
16 oversight authority for the Office of Mental Health Practice;
17 requiring a report; establishing penalty fees for certain
18 credentialed health occupations; providing criminal penalties;
19 appropriating money; amending Minnesota Statutes 2004, sections
20 13.383, subdivision 10; 13.411, subdivision 5; 144.335,
21 subdivision 1; 144A.46, subdivision 2; 147.09; 147A.18,
22 subdivisions 1, 3; 147C.05; 148.512, subdivision 6, by adding
23 subdivisions; 148.515, by adding a subdivision; 148.5194, by
24 adding subdivisions; 148.5195, subdivision 3; 148.6445, by
25 adding a subdivision; 148.65, by adding subdivisions; 148.706;
26 148.75; 148.89, subdivision 5; 148.90, subdivision 1; 148.907,
27 by adding a subdivision; 148.908, subdivision 2, by adding a
28 subdivision; 148.909; 148.916, subdivision 2; 148.925,
29 subdivision 6; 148.941, subdivision 2; 148.96, subdivision 3;
30 148B.53, subdivisions 1, 3; 148B.54, subdivision 2; 148B.59;
31 148B.60; 148B.61; 148C.03, subdivision 1; 148C.04, subdivisions
32 3, 4, 6; 148C.091, subdivision 1; 148C.10, subdivision 2;
33 148C.11, subdivisions 1, 4, 5, 6; 148C.12, subdivision 3, by
34 adding a subdivision; 150A.01, subdivision 6a; 150A.06,
35 subdivision 1a; 150A.10, subdivision 1a; 153A.13, subdivision 5;
36 153A.14, subdivisions 2i, 4, 4c; 153A.15, subdivision 1;
37 153A.20, subdivision 1; 214.01, subdivision 2; 214.103,
38 subdivision 1; 245.462, subdivision 18; 245.4871, subdivision
39 27; 256B.0625, subdivision 38; 256J.08, subdivision 73a;
40 319B.02, subdivision 19; 319B.40; Laws 2003, chapter 118,
41 section 29, as amended; proposing coding for new law in
42 Minnesota Statutes, chapters 148; 148B; 148C; 150A; 153A;
43 providing coding for new law as Minnesota Statutes, chapter
44 148D; repealing Minnesota Statutes 2004, sections 148B.18;
45 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22;
46 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26;
47 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284;
48 148B.285; 148B.286; 148B.287; 148B.288; 148B.289; 148C.02;
49 148C.12, subdivision 4; 153A.14, subdivision 2a; Minnesota
50 Rules, parts 4747.0030, subparts 11, 16; 4747.1200; 4747.1300;
51 5601.0100, subparts 3, 4; 8740.0100; 8740.0110; 8740.0120;
52 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187;
53 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300;
54 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330;
55 8740.0335; 8740.0340; 8740.0345.

56 Reports the same back with the recommendation that the bill
57 do pass. Report adopted.

58

59

.....
(Committee Chair)

April 4, 2005.....
(Date of Committee recommendation)

60
61
62
63
64

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate
State of Minnesota

S.F. No. 1884 - Uniform Mechanical Code

Author: Senator Linda Higgins

Prepared by: Thomas S. Bottem, Senate Counsel (651/296-3810) *TSB*

Date: March 31, 2005

This bill repeals all of the rules adopted by the Department of Administration that apply the 2000 International Mechanical Code and the 2000 International Fuel Gas Code with Minnesota modifications in Minnesota Rules, chapter 1346. These rules were adopted on September 13, 2004.

Section 1 sets a July 1, 2005, deadline for the Commissioner of Administration to adopt the 1991 Uniform Mechanical Code as it existed with state modifications in Minnesota Rules, chapter 1346, in effect on July 1, 2003. This code preceded Minnesota's version of the 2000 International Mechanical Code.

TSB:vs

Senators Higgins, Vickerman, Dibble, Wiger and Kubly introduced--

S.F. No. 1884: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to state government; repealing references in

3 the State Building Code to the International

4 Mechanical Code and replacing them with references to

5 the 1991 Uniform Mechanical Code with Minnesota

6 amendments; repealing Minnesota Rules, parts

7 1346.0050; 1346.0060; 1346.0101; 1346.0102; 1346.0103;

8 1346.0104; 1346.0105; 1346.0106; 1346.0107; 1346.0108;

9 1346.0109; 1346.0110; 1346.0201; 1346.0202; 1346.0301;

10 1346.0306; 1346.0309; 1346.0401; 1346.0403; 1346.0404;

11 1346.0501; 1346.0505; 1346.0506; 1346.0507; 1346.0508;

12 1346.0510; 1346.0603; 1346.0604; 1346.0701; 1346.0703;

13 1346.0709; 1346.0801; 1346.0803; 1346.0901; 1346.1001;

14 1346.1003; 1346.1004; 1346.1006; 1346.1007; 1346.1011;

15 1346.1204; 1346.1601; 1346.1602; 1346.1603; 1346.1604;

16 1346.1605; 1346.1606; 1346.5050; 1346.5201; 1346.5202;

17 1346.5301; 1346.5303; 1346.5304; 1346.5306; 1346.5401;

18 1346.5402; 1346.5403; 1346.5404; 1346.5406; 1346.5407;

19 1346.5408; 1346.5409; 1346.5410; 1346.5501; 1346.5503;

20 1346.5504; 1346.5602; 1346.5620; 1346.5629; 1346.5630;

21 1346.5801; 1346.5802; 1346.5803; 1346.5804; 1346.5805;

22 1346.5806; 1346.5807; 1346.5900.

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

24 Section 1. [RULEMAKING REQUIRED.]

25 By July 1, 2005, the commissioner of administration shall

26 amend Minnesota Rules, chapter 1346, by incorporating references

27 to the 1991 Uniform Mechanical Code, as adopted by Minnesota

28 Rules, chapter 1346, in effect on July 1, 2003. The rules are

29 effective five working days after publication of the notice of

30 adoption in the State Register.

31 Sec. 2. [REPEALER.]

32 Minnesota Rules, parts 1346.0050; 1346.0060; 1346.0101;

33 1346.0102; 1346.0103; 1346.0104; 1346.0105; 1346.0106;

34 1346.0107; 1346.0108; 1346.0109; 1346.0110; 1346.0201;

1 1346.0202; 1346.0301; 1346.0306; 1346.0309; 1346.0401;
2 1346.0403; 1346.0404; 1346.0501; 1346.0505; 1346.0506;
3 1346.0507; 1346.0508; 1346.0510; 1346.0603; 1346.0604;
4 1346.0701; 1346.0703; 1346.0709; 1346.0801; 1346.0803;
5 1346.0901; 1346.1001; 1346.1003; 1346.1004; 1346.1006;
6 1346.1007; 1346.1011; 1346.1204; 1346.1601; 1346.1602;
7 1346.1603; 1346.1604; 1346.1605; 1346.1606; 1346.5050;
8 1346.5201; 1346.5202; 1346.5301; 1346.5303; 1346.5304;
9 1346.5306; 1346.5401; 1346.5402; 1346.5403; 1346.5404;
10 1346.5406; 1346.5407; 1346.5408; 1346.5409; 1346.5410;
11 1346.5501; 1346.5503; 1346.5504; 1346.5602; 1346.5620;
12 1346.5629; 1346.5630; 1346.5801; 1346.5802; 1346.5803;
13 1346.5804; 1346.5805; 1346.5806; 1346.5807; and 1346.5900, are
14 repealed.

15 [EFFECTIVE DATE.] This section is effective July 1, 2005,
16 or five working days after the publication of the notice of
17 adoption of rules adopted under section 1, whichever is earlier.

1 Senator moves to amend S.F. No. 1884 as follows:

2 Page 1, after line 23, insert:

3 "Section 1. Minnesota Statutes 2004, section 16B.61,
4 subdivision 1, is amended to read:

5 Subdivision 1. [ADOPTION OF CODE.] Subject to sections
6 16B.59 to ~~16B.75~~ 16B.77, the commissioner shall by rule
7 establish a code of standards for the construction,
8 reconstruction, alteration, and repair of buildings, governing
9 matters of structural materials, design and construction, fire
10 protection, health, sanitation, and safety, including design and
11 construction standards regarding heat loss control,
12 illumination, and climate control. The code must also include
13 duties and responsibilities for code administration, including
14 procedures for administrative action, penalties, and suspension
15 and revocation of certification. The code must conform insofar
16 as practicable to model building codes generally accepted and in
17 use throughout the United States, including a code for building
18 conservation. In the preparation of the code, consideration
19 must be given to the existing statewide specialty codes
20 presently in use in the state. Model codes with necessary
21 modifications and statewide specialty codes may be adopted by
22 reference. The code must be based on the application of
23 scientific principles, approved tests, and professional
24 judgment. To the extent possible, the code must be adopted in
25 terms of desired results instead of the means of achieving those
26 results, avoiding wherever possible the incorporation of
27 specifications of particular methods or materials. To that end
28 the code must encourage the use of new methods and new
29 materials. Except as otherwise provided in sections 16B.59 to
30 ~~16B.75~~ 16B.77, the commissioner shall administer and enforce the
31 provisions of those sections.

32 The commissioner shall develop rules addressing the plan
33 review fee assessed to similar buildings without significant
34 modifications including provisions for use of building systems
35 as specified in the industrial/modular program specified in
36 section 16B.75. Additional plan review fees associated with

1 similar plans must be based on costs commensurate with the
2 direct and indirect costs of the service.

3 Sec. 2. Minnesota Statutes 2004, section 16B.70,
4 subdivision 2, is amended to read:

5 Subd. 2. [COLLECTION AND REPORTS.] All permit surcharges
6 must be collected by each municipality and a portion of them
7 remitted to the state. Each municipality having a population
8 greater than 20,000 people shall prepare and submit to the
9 commissioner once a month a report of fees and surcharges on
10 fees collected during the previous month but shall retain the
11 greater of two percent or that amount collected up to \$25 to
12 apply against the administrative expenses the municipality
13 incurs in collecting the surcharges. All other municipalities
14 shall submit the report and surcharges on fees once a quarter
15 but shall retain the greater of four percent or that amount
16 collected up to \$25 to apply against the administrative expenses
17 the municipalities incur in collecting the surcharges. The
18 report, which must be in a form prescribed by the commissioner,
19 must be submitted together with a remittance covering the
20 surcharges collected by the 15th day following the month or
21 quarter in which the surcharges are collected. All money
22 collected by the commissioner under subdivision 1 for mechanical
23 systems permits is appropriated to the Board of Mechanical
24 Systems for the purposes of section 16B.77. \$..... of the All
25 money collected by the commissioner through surcharges and other
26 fees prescribed by sections 16B.59 to ~~16B.75~~ 16B.77 shall be
27 deposited in the state government special revenue fund and is
28 appropriated to the Board of Mechanical Systems for the purposes
29 of section 16B.77. The remainder is appropriated to the
30 commissioner for the purpose of administering and enforcing
31 the remaining portions of the State Building Code under sections
32 16B.59 to ~~16B.75~~ 16B.77.

33 Sec. 3. Minnesota Statutes 2004, section 16B.70,
34 subdivision 3, is amended to read:

35 Subd. 3. [REVENUE TO EQUAL COSTS.] Revenue received from
36 the surcharge imposed in subdivision 1 should approximately

1 equal the cost, including the overhead cost, of administering
2 sections 16B.59 to ~~16B.75~~ 16B.77. By November 30 each year, the
3 commissioner must report to the commissioner of finance and to
4 the legislature on changes in the surcharge imposed in
5 subdivision 1 needed to comply with this policy. In making this
6 report, the commissioner must assume that the services
7 associated with administering sections 16B.59 to ~~16B.75~~ 16B.77
8 will continue to be provided at the same level provided during
9 the fiscal year in which the report is made.

10 Sec. 4. [16B.77] [BOARD OF MECHANICAL SYSTEMS.]

11 Subdivision 1. [MEMBERSHIP.] (a) The Board of Mechanical
12 Systems consists of the following members appointed by the
13 governor as provided under section 15B.0575:

14 (1) two journeymen and two contractors in the fuel systems
15 discipline;

16 (2) two journeymen and two contractors in the sheet metal
17 and ventilation systems discipline;

18 (3) two journeymen and two contractors in the refrigeration
19 systems discipline;

20 (4) two journeymen, two contractors, and two
21 representatives of utilities in the piping systems discipline;

22 (5) two journeymen and two contractors in the medical and
23 nonmedical gas systems discipline;

24 (6) one mechanical engineer; and

25 (7) two members of the public, as defined in section 214.02.

26 (b) For purposes of this section, "journeyman" means a
27 person with at least five years of verifiable experience in the
28 relevant discipline, and "contractor" means a person with at
29 least five years of experience operating a business that is
30 primarily engaged in the discipline who remains active in the
31 discipline during their term on the board.

32 (c) Section 15.0575, subdivision 3, does not apply to the
33 board.

34 Subd. 2. [ORGANIZATION AND MEETINGS.] (a) The board must
35 meet at least once in each quarter of the calendar year.

36 (b) The board must establish subcommittees in each of the

1 disciplines listed in subdivision 1. No member who is a
2 contractor or journeyman may serve on more than one
3 subcommittee, and the engineer appointed under subdivision 1,
4 clause (6), must serve on all of the subcommittees. Each
5 subcommittee must elect a chairperson. The subcommittee must
6 meet at the call of the chairperson.

7 Subd. 3. [POWERS OF THE BOARD; MECHANICAL CODE.] The board
8 has the powers of the commissioner under sections 16B.59 to
9 16B.77 regarding all mechanical code issues, including, but not
10 limited to, rulemaking, interpretation, administration, and
11 enforcement, including appeals from local units of government.
12 No appeal from a decision of the board may be made to the
13 commissioner.

14 Subd. 4. [SUPPORT.] The board may use the funds
15 appropriated to it to hire the staff necessary to conduct its
16 functions."

17 Renumber the sections in sequence and correct the internal
18 references

19 Amend the title accordingly

Minn. Mechanical Codes

- Coalition Members:
 - ◆ Minnesota Pipe Trades Association
 - ◆ Minnesota Mechanical Contractors Association
 - ◆ Minnesota Assn. of Plumbing-Heating-Cooling Contractors.
 - ◆ Iron Range Piping Industry
 - ◆ Minnesota Association of Plumbing and Mechanical Officials
- Mechanical Code covers heating, air conditioning, refrigeration, piping for gas and other fuels, and process piping. Residential, commercial and industrial.

4/4/2005 1

Introduction

- **Not which Code** – this is not about which Mechanical Code
- **Fairness of the Process** – the Department of Administration had a predetermined Code that they wanted and they would do anything to get the International Code

4/4/2005 2

Senate File 1884

- Repeal the International Mechanical Code and the International Fuel Gas Code in Minnesota Rules Chapter 1346
- Reinstatement of the Uniform Mechanical Code
- Form an Impartial Board of Mechanical Systems to decide which Code is best for Minnesota
- Also requesting, Independent Completion of the Department of Administration's Investigation and address the Violations of State Law

4/4/2005 3

Topics of Discussion

- First Mech. Code Committees
- Second Mech. Code Committees
- Internal Investigation – Findings and Remaining Questions
- Long Term Effects

4/4/2005 4

First Mechanical Code Committee

- 1997 – Mechanical Code Advisory Committee formed
- 1998 – Mech. Code Comm. votes for UMC 12-3
- 1998-99 Mech. Code Comm. updates UMC at Department's direction
- All the work and recommended rules suggested by Committee were shelved by the Division

4/4/2005 5

Second Mechanical Code Committee

- March 2000 sign advertising International Codes is removed from Division Conference Room
- 2000-2001 Division selected all new Mechanical Code Committee which reviewed the Codes
- May 2001- New Mech. Code Comm. votes for Uniform Mechanical Code
 - ◆ Public Committee, public meetings – secret ballot, Division destroyed ballots.
- 2002-03 At the Division's direction, Mech. Code Comm. amends International Codes
- 2003 Two SONARs – Lack of Specificity in first SONAR
- 2004 Commissioner of Dept. of Administration adopts the International Codes

4/4/2005 6

Department of Administration Internal Investigation

- Investigation commenced : March 2004.
- Commissioner Brian Lamb requested premature final draft (in spite of statute violations and conflicts of interest) : July 2004.
- Effective date for the new rule: September 2004.
- Investigative report made public: October 2004.

4/4/2005

7

Department of Administration Internal Investigation - Findings

- Div. Director's Improper Gifts – Violation of Minn. Statutes Sections 15.43 and 43A.38
- Div. Director's Conflict of Interest in Contracting – Violation of Minn. Statutes Section 43A.38
- Conflict of Interest of Assist. Director serving on private Board of Directors – Violation of Minn. Statutes Section 43A.38

4/4/2005

8

Dept. of Admin. Internal Investigation – Further Findings

- Conflict of Interest – Assist. Director's involvement in Mech. Code process
- Assist. Director's advocated for International Codes while on International Code's Board of Directors – Financial gain when codes adopted
- Division shared booth space and distributed promotional materials for International Code organization for free – Conflict of Interest

4/4/2005

9

Internal Investigation – Remaining Questions

- Investigation prematurely terminated – *Why?*
- Division travel expenses – Employees received travel expenses from future state vendor. Minn. Statutes Section 15.43 prohibits anything or more than nominal value. *Why no violation?*
- Div. Director received free travel, free conference registrations and complimentary products – *Violation of gift prohibition in Chapter 10A?*
- Should the various International Code organizations have registered with Campaign Finance and Public Disclosure Board? Did they violate Chapter 10A by offering state employees free travel and free conference registrations?

4/4/2005

10

Long Term Effects *Lack of Fairness & Faith*

- Not about which Code
- It is about Fairness
 - ◆ Lack of Confidence in Division
 - ◆ Clear Conflicts of Interest
 - ◆ Improperly received gifts from state vendors
 - ◆ Failure to complete investigation
 - ◆ Delaying results of investigation until after code adoption
- How can anyone have faith in Division?

4/4/2005

11

SF 1884

Internal Audit Investigation Report Outline

- 1) page 7 Statute violations
- 2) page 14 Investigators disclaimer
- 3) page 28 Conflicts of interest
- 4) page 34 Statute violations
- 5) page 41 Free space to outside interests



**Investigation into Allegations of
Irregularities Involving the Adoption of the
2000 International Mechanical Code and the
2000 International Fuel Gas Code and
Unethical Behavior of
Certain Key Employees of the
Building Codes and Standards Division**

**Human Resources Division / Internal Audit Unit
Investigation Report
September 24, 2004**

309 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155 ■ 651.296.6298

Equal Opportunity Employer

- Although the exhibit booth was complimentary from the AIA, BCSD incurred expenses for booth furnishings and electrical services when exhibiting at the conference. BCSD did not charge any of these costs to the ICC or consider any cost-sharing arrangement with the organization.
- In a June 30, 2004 interview with Jane Schmidley, BCSD's communications coordinator, Jane acknowledged that she authored the ICC article herself on her own initiative, for inclusion in BCSD's electronic newsletter, *the Standard*. She recalled taking the first paragraph from the ICC's web site and developing the remainder of the article mostly from specific input from staff who attended the ICC's annual conference. She indicated that she made no specific arrangements with the ICC to do this article. She provided it for informational purposes for the readers of the newsletter. Thomas R. Joachim also concurred that BCSD puts ICC information in the newsletter as a basis for local officials to contact the ICC to seek answers to their questions.
- Examination of BCSD's web site, including the division's newsletters, showed that BCSD posted other brief notices of upcoming ICC or ICC-related activities including code development hearings and requests for assistance in updating a list of volunteers willing to assist should a disaster occur. BCSD posted notices on its web site of upcoming seminars for other organizations also and provided information about other building industry customer service Internet resources.
- The ICC confirmed that it does not purchase advertising on the web sites of others. The ICC explained that if there are instances of ICC products or activities appearing on the web site of others, those appear at the discretion of the web site host without ICC's knowledge. ICC also confirmed that no arrangements exist with any Minnesota State Agency to advertise or to promote ICC products and/or services on the Internet.

Based on the facts presented, David F. Fisher's decision to adopt the 2000 IMC and the IFGS was made on a rational basis with consideration of all facts and stakeholders' views. Stakeholders were treated fairly during the mechanical code adoption process since they were given ample opportunity to present to David F. Fisher and to Judge George A. Beck the merits of each code or any issues relating to the adoption of a particular code. No evidence exists, to our knowledge, that the integrity of the mechanical code adoption process was impaired.



Thomas R. Joachim's acceptance of the complimentary second registration from the ICC constituted violations of the Minnesota Statutes 43A.38 and 15.43. Minnesota Statute 43A.38 is the code of ethics for employees in the executive branch. It prohibits employees from accepting anything of more than nominal value (e.g. including the payment of any expense other than travel and meals). The rationale for this statutory provision is to assure that the loyalty of a state employee in conducting their work responsibilities is not unduly influenced by payment from an outside party. Similarly Minnesota Statute 15.43 prohibits a state employee, in direct contact with suppliers or who may directly or indirectly influence a purchasing decision, from accepting anything of more than nominal value from an entity that has been or may be awarded state business.

Investigation Objectives and

Investigation Objectives

The objective of this investigation is twofold:

- (1) To gather sufficient evidence to support or to
and
- (2) To provide answers to the complainant's questions.

Investigation Methodology

The investigation commenced the week of March 22, 2004.

Satisfying the objectives of this investigation entailed interviewing various personnel involved directly or indirectly with the mechanical code adoption process. Specifically, persons interviewed included, but were not limited to:


- The complainant's attorney,
- Building Codes and Standards Division (BCSD) Director Thomas R. Joachim,
- BCSD Assistant Director Thomas C. Anderson,
- BCSD Business Manager Peggi White,
- BCSD Rules Coordinator Colleen Chirhart,
- BCSD Education/Certification Supervisor, Mike Godfrey, who also served on the Mechanical Code Advisory Committee (MCAC),
- BCSD Communications Coordinator Jane Schmidley;
- Tim Manz, chairperson of the MCAC considering adoption of the 2000 Uniform Mechanical Code and the 2000 International Mechanical Code,
- David F. Fisher, former commissioner of the Department of Administration,
- Representatives from the International Code Council, and
- A representative from the State of Wisconsin Department of Commerce.

We surveyed MCAC members; examined various documentation (including employee personnel files and business expense reimbursement reports, paid invoices, purchase orders, the Administrative Law Judge's report, rule-making records, MCAC meeting minutes, agendas, and handouts), conducted computer searches for data, generated vendor payment reports, and performed other procedures deemed necessary.

Disclaimer

A final draft of this report was issued on July 21, 2004 at the request of former Commissioner Brian Lamb. Accordingly, due to this time constraint, not all procedures were completed, including any follow-up with entities and individuals outside the State of Minnesota who were asked to supply data pertinent to this investigation by 10:00 a.m. on July 21, 2004 and either were unable to do so by the requested response date or chose not to do so. These entities and individuals, however, have no legal obligation to provide the requested data. As such, the observations and recommendations contained in this report are based on information available at the time of this report date.

Investigators' Observations



The evidence reveals that an actual conflict of interest existed at the time that BCSD hired Thomas C. Anderson and assigned him to chair the Building Conservation Advisory Code Committee. Thomas C. Anderson's continued participation on the ICBO board might have affected his independence of judgment in the exercise of his official duties as a state employee. Regardless, Thomas C. Anderson played a leadership role in deciding that the committee should use the draft UCEB as base document for the code the advisory committee would recommend for adoption. He later contacted an ICBO executive to encourage their publication of an official, copyrighted UCEB that would be convenient for others to purchase. It is important to recognize that the Building Conservation Advisory Code Committee supported all of his decision.

No evidence exists indicating a conflict of interest between the ICBO and BCSD prior to Thomas C. Anderson's hire. Even if Thomas C. Anderson had resigned his position on the ICBO Board of Directors when he was initially hired, the perception of a conflict of interest situation would still have lingered due to his organizational status within BCSD, his board affiliation, and the already established business relationship between the two organizations as purchaser and vendor (seller). To dispel this perception of a conflict of interest, BCSD would have had to document and communicate Thomas C. Anderson's resignation from the ICBO Board of Directors to interested parties.

Thomas C. Anderson's limited involvement in the mechanical code adoption process also created the perception of conflict of interest, which he had a duty to avoid. His concern with being scheduled to testify at the first hearing was indicative of his continued struggle with the conflicts between the two roles as BCSD's Assistant Director and a member of the ICBO Board of Directors, even though he no longer served on the board. The evidence indicates that Thomas C. Anderson understood his ethical obligations.

Although Thomas C. Anderson talked to Thomas R. Joachim about this issue, Thomas C. Anderson could have done more to seek help in clarifying the situation. He could have also discussed the matter with the Department's ethics officer or he could have obtained a formal determination from the commissioner of the Department of Employee Relations of whether a conflict of interest situation exists. Since it was impossible for him to avoid testifying at the first mechanical code adoption hearing, he should have notified all those present at the hearing of the perceived conflict of interest given his past association with the ICBO, a predecessor organization to the ICC².

Thomas C. Anderson's acceptance of travel expenses to ICBO-sponsored events, including an all-expense paid trip to ICBO's annual education and development conference, in our view, does not constitute a violation of Minnesota Statutes. In this situation, the state primarily derived a dual benefit of Thomas C. Anderson's knowledge, skills, and abilities in

² The three predecessor organizations that formed the International Code Council in 1994 include: (1) International Conference of Building Officials (ICBO), (2) Building Officials and Code Administrators International, Inc. (BOCA) and (3) Southern Building Code Congress International, Inc. (SBCCI).

tournament, the ICC awarded prizes for certain handicap holes. The holes that they did really well on were not the ones about which they were joking on how they picked the wrong holes. Thomas sent the letter to Kenneth Dalaet III to say thank you because of his help to him.

Investigators' Observations

The evidence indicates BCSD Director Thomas R. Joachim violated Minnesota Statutes 15.43 and 43A.38:

- Thomas R. Joachim, by virtue of his position as BCSD director has the authority to influence a state purchasing decision or contract, including any state business awarded to the ICC. Since Thomas R. Joachim received an item of more than nominal value – the complimentary second registration - from the ICC, a vendor with whom the State of Minnesota has purchased products and services, his actions constituted violations of Minnesota Statutes 43A.38, subdivision 2 and 15.43, subdivision 1 (2).

Accepting items of more than nominal value from vendors that have personal benefit and no state benefit puts the state at increased risk of losing the public's trust and confidence in state government.

Furthermore, when a state employee with the ability to award state business accepts anything of more than nominal value from a vendor, there's increased risk that the vendor may be seeking preferential treatment in return at a later date. Consequently, the state employee has put this vendor at an unfair competitive advantage for receiving future state business and increased the state's exposure to complaints from other competing vendors who were not awarded an order or contract.

- Thomas R. Joachim's contracting with NCSBCS for training and educational services in 2001 while he served as First Vice President on the NCSBCS Board created a conflict of interest situation in violation of Minnesota Statute 43A.38, subdivision 5.

Certainly state employees' involvement in professional membership organizations, especially participating in educational activities these organizations sponsor, can yield tremendous benefit to the State of Minnesota. However, when department personnel serve on the boards of national/international organizations, they must exercise due professional care to uphold their ethical responsibilities.

Although these are isolated instances, as BCSD Director, Thomas R. Joachim is in a high-level managerial position where he is expected to know about ethics in state government. As a state employee, he is held accountable to the highest standard to understand and comply with Minnesota Statutes 43A.38 and 15.43. If Thomas R. Joachim was uncertain about a particular situation, he should have sought advice from other authorities on ethical and legal compliance matters.

Page 41

trade shows and has no record or recollection of "sharing" any of those.

Investigators' Observations

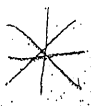
Testimonial evidence reveals that BCSD asked Bill Wall to division at past AIA annual conferences. However, no staff person from the ICC was available to participate at this event. The ICC also confirmed it has no formal record of such participation.

The evidence also reveals that the AIA provided BCSD with a gratis booth. Although ICC provided materials to display at this event, the ICC did not reimburse BCSD for the cost of the booth space. ICC also did not reimburse BCSD, in whole or in part, for the additional furnishing and electricity costs that the division incurred to exhibit at the AIA conference.

No evidence exists that the BCSD staff received free meals or other gifts in return for sharing its exhibit space with the ICC at past AIA annual conferences.

In our view, BCSD can continue to accept future offers of a gratis booth from the AIA or any other professional organization. However, permitting the ICC or any other private organization to share booth space or to send materials for BCSD's distribution to the AIA conference participants creates the appearance of a conflict of interest. Since the State of Minnesota continues to do state business with the ICC, state employees have an ethical obligation to avoid any situation that might be perceived as giving a state vendor preferential treatment or any opportunity that is not afforded to other vendors. It is essential that BCSD have a clear understanding of this requirement.

Recommendation

- 
10. To prevent the appearance of a conflict of interest in the future, BCSD should refrain from any booth-sharing arrangements with the ICC or any other private organization, including other publishers of the national model codes adopted in the State of Minnesota.

**MINNESOTA STATE MECHANICAL CODE ADVISORY COMMITTEE
(3/4/02)**

** Minnesota Building Codes and Standards Division (BCSD):*

Michael Godfrey, Education/Certification	Phone: (651) 296.2922
408 Metro Square Building	Fax: (651) 297.1973
121 7 th Place East	Email: michael.godfrey@state.mn.us
St. Paul, MN 55101-2181	

Minnesota Building Codes and Standards Division (BCSD):

Tim Manz, Building Code Representative	Phone: (651) 297.4379
408 Metro Square Building	Fax: (651) 297.1973
121 7 th Place East	Email: tim.manz@state.mn.us
St. Paul, MN 55101-2181	

American Society of Heating, Refrigerating & Air Conditioning Engineers (ASHRAE):

John Clark	Phone: (612) 758.4438
Hammel, Green & Abrahamson	Fax: (612) 758.9438
701 Washington Avenue North	Email: jclark@hga.com
Minneapolis, MN 55401-1180	

International Association of Plumbing & Mechanical Officials (IAPMO):

Marty Strub	Phone: (651) 492.0877
Sheet Metal Workers International Assn.	Fax: (651) 770.8539
1681 Cope Avenue	Email: marty.strub@visi.com
St. Paul, MN 55109	

Minnesota Mechanical Contractors Association (MNMCA):

Todd Gray	Phone: (612) 414.0634
151 Wendy Court	Fax: N/A
Shoreview, MN 55126-6215	Email: todd.gray@att.net

Minnesota Association of Plumbing Heating and Cooling Contractors (MNPHCC):

Paul Gavic	Phone: (612) 867.9959
Gavic Mechanical	Fax: (612) 755.4770
12725 Nightingale Street NW	Email: pgavic@aol.com
Coon Rapids, MN 55448-7054	

Design Professional:

Raj Maheshwari, Manager of Engineering	Phone: (612) 761.1635
Target Corporation	Fax: (612) 761.3321
1000 Nicollet Mall, Suite TPN-11F	Email: raj.maheshwari@target.com
Minneapolis, MN 55403	

* Non-Voting Member

Utilities:

Matt Wilber
Reliant Energy/Minnegasco
800 LaSalle Avenue
Minneapolis, MN 55402

Phone: (612) 321.4385
Fax: (612) 321.4397
Email: matthew_w_wilber@
reliantenergy.com

Utilities:

Ben Sherman
Xcel Energy
825 Rice St.
St. Paul, MN 55117

Phone: (651) 229.2354
Fax: (651) 229.2347
Pager: (888) 727.5813
Email: benedict.j.sherman@
xcelenergy.com

Large City Minnesota Building Official:

Bradley Thorson
City of Minneapolis
250 4th Street South, Room 300
Minneapolis, MN 55415-1316

Phone: (612) 673.5839
Fax: (612) 673.5819
Email: bradley.thorson@
ci.minneapolis.mn.us

Small City Minnesota Building Official:

Russell Wahl
(Sunfish Lake Building Official)
631 Callahan Place
Mendota Heights, MN 55118

Phone: (651) 454.4035
Fax: (651) 454.4035
Email: N/A

Large City Mechanical Inspector:

Duane Berg
City of St. Cloud
400 2nd Street South
St. Cloud, MN 56301

Phone: (320) 255.7233
Fax: (320) 650.3388
Email: dberg@ci.stcloud.mn.us

Small City Mechanical Inspector:

Chris Meier
City of Winona
207 LaFayette, P.O. Box 378
Winona, MN 55987

Phone: (507) 457.8247
Fax: (507) 457.8212
Email: cmeier@cityhall.luminet.net

InterAgency Review Council Commercial Kitchen Ventilation Committee (IARC CKVC):

Tom Johnson
Johnson Diversified Products Inc.
1408 Northland Drive #406
Mendota Heights, MN 55120

Phone: (651) 686.8499
Fax: (651) 686.7670
Email: tomj@jdpinc.com

Sheet Metal, Air Conditioning & Roofing Contractors Association (SMARCA):

Dan Schadegg
Schadegg Mechanical
225 Bridgepoint Drive
St. Paul, MN 55075

Phone: (651) 292.9933
Fax: (651) 292.9929
Email: dschadegg@
schadegg-mech.com

Building Owners and Managers Association (BOMA):

Dean Rafferty, President
Michaud Cooley Erickson
333 7th Street South
Minneapolis, MN 55402

Phone: (612) 673.6802
Fax: (612) 673.6933
Email: drafferty@
michaudcooley.com

Builder's Association of Minnesota (BAM):

Karen Linner, Research Director
Builders Association of Minnesota
570 Asbury Street, Suite 301
St. Paul, MN 55104

Phone: (651) 646.7959
Fax: (651) 646.2860
Email: karenl@bamn.org

United Association Representative:

John Wilking
Steamfitters-Pipefitters Local #455
700 Transfer Road
St. Paul, MN 55114

Phone: (651) 647.9920
Fax: (651) 647.1566
Email: jwilking@local455.com

United Association Representative:

Gary Majewski, Harty Mechanical
2208 Evelyn Lane NW
Rochester, MN 55901

Phone: (507) 285.1058
Fax: N/A
Email: juiceandcindy@aol.com

United Association Representative:

Jeffrey Daveau
6260 Seville Road
Saginaw, MN 55779

Phone: (218) 729.7572
Fax: (218) 727.2298
Email: mnstang@aol.com

Testing Agency:

Jeff Brandt
Intertek Testing Services (ETL SEMKO)
7250 Hudson Blvd. #100
Oakdale, MN 55728

Phone: (651) 730.1188
Fax: (651) 730.1282
Email: jbrandt@itsqs.com



Admin MINNESOTA

Department of Administration

Office of the Commissioner
200 Administration Building
Voice: 651.296.1424
Fax: 651.297.7909

DATE: September 14, 2001

TO: Government Officials
Construction Industry Organizations & Associations
Interested Persons

FROM: David F. Fisher, Commissioner

SUBJECT: **Model Mechanical Code Recommendation**

This is to advise of the decision of the Commissioner of the Minnesota Department of Administration to submit for rulemaking the State's current mechanical code, to be amended consistent with the provisions of the International Mechanical Code (the "IMC").

In so deciding, I am also directing that the following steps be taken:

1. The Building Codes and Standards Division ("BCSD"), of the Department of Administration, will continue to work with the Mechanical Code Advisory Committee to incorporate into a Minnesota version of the IMC, to the extent feasible and reasonable, best practices and provisions of the IMC and Uniform Mechanical Code (UMC);
2. The rulemaking process will proceed on a contested case basis, so that all viewpoints and all interested parties may be heard by the Administrative Law Judge, who will make final recommendations regarding code adoption and amendment; and
3. The BCSD will give consideration to establishing a coordinated set of codes that specifically address the needs of the State of Minnesota and its citizens, using best practices and uniform provisions of the various model codes where feasible, reasonable and practical, so as to establish a complete "Minnesota Construction Code."

In reaching this decision, the Commissioner has consulted with the BCSD and its superior staff of officials. They have worked diligently to define the issues of choice and balance between the IMC and the Uniform Mechanical Code (the "UMC"), and in considering as foremost the health and safety of Minnesota citizens.

At the same time, the Commissioner has delayed a final decision in the case specifically for the purpose of analyzing and discussing the issues himself with members of the stakeholder community. On August 17, 2001, the Commissioner and staff of the BCSD met with seventeen individuals, representing the trades, industry and the State Legislature, to discuss the relative merits of the IMC and the UMC. In addition, the Commissioner himself has had more than a

dozen interviews with individuals representing the various viewpoints, including members of the construction trades, the architect and construction industries, and state legislators, and has exchanged e-mails and correspondence with at least a dozen others.

Based upon extensive analysis, the Commissioner is led to the following conclusions, which form the basis for the decision to proceed at this time using the IMC as the guiding code.

1. The time is long overdue to update Minnesota's existing mechanical code. The current mechanical code was adopted in 1991, and was amended once in 1994. Further updates to the mechanical code were considered in 1997 and in 2000, but deferred pending further consensus on whether the IMC or the UMC should be used as the basis for updates. The time for decision-making is now, in the interest of public health and safety.
2. Under Minnesota law, the Commissioner shall by rule establish a code of standards for construction. Minn. Stat. §16B. 61, subd. 1. "The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States, including a code for building conservation" and, "[t]o the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials." *Id.*
3. The IMC is representative of a coordinated set of codes, drafted by the International Codes Council, which includes the International Building Code ("IBC"), an International Fire Code ("IFC"), an International Residential Code ("IRC"), and a related conservation code. The IBC currently is being evaluated for adoption in the State of Minnesota, and is the only building code that exists today for adoption in the United States. The IMC was written in coordination with the IBC and the related conservation code. Furthermore, the State of Minnesota currently is also evaluating the adoption of the IRC and the IFC, both of which are written in coordination with the IBC and the IMC. Thus, the IMC clearly meets the provisions of Minn. Stat. §16B. 61, subd. 1.
4. The IMC and the UMC do not significantly differ in technical terms, and both fulfill the need to protect the public. This was the unanimous view of those attending the August 17 meeting when the issue was addressed specifically. Both the IMC and the UMC derive from the same base model code of the early 1990's. The UMC, however, has evolved away from a uniform body of codes, and therefore would be more difficult to coordinate with the IBC and other international model codes already under consideration in Minnesota.
5. It is difficult for the Commissioner to evaluate the relative merits of the so-called "performance based" features of the IMC and the "prescriptive" features of the UMC. The IMC, however, emphasizes to a greater extent desired results rather than specific means of achieving results, and avoids incorporating specifications of particular methods or materials. Thus, the IMC meets the provisions of Minn. Stat. §16B. 61, subd. 1. It further appears that the IMC has the capacity to reduce construction costs while ensuring public safety. While there have been statements made that the IMC and the UMC, alike, contain provisions that raise questions of public safety, the BSCD is confident that these can be worked out in rulemaking, in either case.

6. The Commissioner recognizes that members of the Minnesota construction industry are well acquainted with provisions of the UMC currently in use. However, extensive amendments will be required to the existing mechanical code regardless of the model code used as a guide, and in any event, as mentioned above, the modern UMC and the IMC are substantially similar in technical terms. There will be a need for both technical and coordination amendments in either case, and for both initial and recurring training for industry professionals. Any professional will be able to deal with either model code effectively in these terms.
7. Both the IMC and UMC are reviewed and amended periodically according to a process that provides adequate ability for all stakeholders to state their views and express their opinions.
8. Currently, the IMC is either in use or in the process of being adopted in the states or large cities adjacent to Minnesota, making uniformity of application among jurisdictions a factor to consider. The trend nationwide, meanwhile, shows a preference for coordinated, family sets of codes such as the international set of codes.
9. Adoption of either the IMC or the UMC will result in the need for new codebooks, both for the mechanical provisions and for other codes now under revision and update.

In the final analysis, the weight of the arguments does not shift heavily one way or the other between the IMC and the UMC. Nevertheless, the balance does tilt in favor of the IMC based upon its coordination with other codes adopted or under consideration for adoption in the State of Minnesota, its consistency with Minnesota statute, its tendency to save construction costs, and the trend nationwide to adopt code families. Fundamentally, these considerations form the basis for the Commissioner's decision at this time.

Individuals or organizations with additional comments or concerns should feel free to address them with the BCSD, and specifically with Tim Manz, Building Code Representative, at 651.297.4379. Any interested party also will have full and fair opportunity to express opinions and submit materials in the course of the rulemaking process.

The Association of Minnesota Building Officials

Committed to serving the public interest and the professionals that ensure safety in the built environment



IBO

Box 784
Fairmont, MN
56031

Board of Directors

Chairman

Roger Axel CBO
Building Official
City of New Hope

Vice Chairman

Craig Hoium
Building Official
City of Austin

Secretary/Treasurer

Keith Wille
Building Official
Forest Lake

Directors

Dan Delgehausen
Building Official
City of Luverne

Sid Fossan

Building Official
City of Morris

Merwyn Larson

Building Official
City of Minneapolis

Duane Lasley

Building Official
City of Duluth

ve Torell

Building Official
City of Chanhassen

Gary Yoder

Building Official
City of Owatonna

In Opposition to Senate File 1884

April 2005

SF 1884 wastes years of deliberative rule making and requires Minnesota to return to the use of an outmoded and unsupported mechanical code. SF 1884 also gives control of future adoption, interpretation, and enforcement of the mechanical code to the industry which profits from its provisions.

Last published by the International Conference of Building Officials (ICBO), the 1991 Uniform Mechanical Code (UMC) is 15 years behind the current state of mechanical industry technology. A call to the International Code Council (ICC), successors to ICBO, confirms that the 1991 UMC isn't available except as a special printing at significant additional cost; that no code commentaries exist for the 1991 UMC; that no training programs are still available on the 1991 UMC; that no competency testing is still done on the 1991 UMC; and that none of the ancillary products and service that support the use of a model code are still in place for the 1991 UMC.

The International Mechanical Code (IMC), which SF 1884 repeals, is adopted in Wisconsin, Iowa, South Dakota, and North Dakota. Returning to the 1991 UMC will make Minnesota the least attractive option for regional development and will particularly inhibit the choice of Minnesota for mechanically intensive facilities such as bio-medical, alternative fuels, and industrial operations.

Our Association has invested significant resources to have a Minnesota version of the IMC published and hundreds of copies have been purchased by local government and by mechanical contractors. The State of Minnesota and our local chapters have trained hundreds of code enforcers and members of industry on the IMC. Repealing the IMC would waste many thousands of dollars of our joint investment in the future.

The provisions of SF 1884 that create a mechanical board are problematic as drafted. The unbalanced composition of the proposed board, with no local government officials, limited design professional representation, and no building owners and managers, ensures that the control of future mechanical code provisions will rest in the hands of the industry which profits from those provisions. It's inappropriate for government to abdicate its responsibility to protect the health, safety, and financial well being of its citizenry to an industry panel. The mechanical code exists to benefit all Minnesotans, not just those employed in the mechanical industry.

March 31, 2005

To: Senate State & Local Government Operations Committee

From: Pam Perri Weaver, Executive Vice President

Re: Senate File 1884

I am writing to express our concerns over SF 1884.

In 1991, the legislature passed a bill requiring the Minnesota residential construction industry to build the most energy efficient homes in the country. This was much easier said than done.

It took years to promulgate energy code rules and a requirement for mechanical ventilation was added to the Minnesota Energy Code provisions in 2000. The catch phrase back then was "build it tight and ventilate right." However, one of the key components to this type of construction is a concept called make-up air. What we found is that when make-up air is done incorrectly, it can cause serious performance issues in homes.

Now we hear, "houses are built too tight." When the State originally put make-up air provisions in the old energy code, they made their best guess about what levels of make-up air were needed. Unfortunately, a best guess is not good enough and as a result we have seen the performance of some types of homes impaired, causing homeowner complaints.

Guessing about how much make-up air is needed caused the residential construction a serious problem that we have been desperately trying to improve. The vehicle for improvement was the new mechanical code. Through real life experience and testing, the make-up air rule changes to improve the energy code were integrated into the 2000 International Mechanical Code. Eventually, we hope to move mechanical ventilation requirements out of the energy code and put them into the mechanical code as well.

We oppose this legislation because the residential construction industry and our customers cannot afford to give up the new sections of the 2000 IMC that have been written to make

up for the past sins of the energy code. These rules are our fix to the serious problems caused in our industry by the original energy code and the iterations that followed.

If at all possible, BAM would propose the residential portion of the rules be pulled out of the 2000 IMC and inserted somewhere else into the code to avoid being involved in the current fight between the parties on which mechanical code to use. However, we could not write an amendment to pull our rules out because they are far too embedded into the IMC 2000. As a result, by repealing the IMC 2000 you will be bringing the residential construction industry back so far that we believe it would be impossible for us to meet our statutory warranty obligations to many consumers.

Homes in Minnesota cannot take another hit by guessing about how much and when make-up air needs to be provided because of a dispute about who sells a code book or who owns the rights to the codes. Residential construction should also not suffer because one class of people can or cannot be retrained.

We urge you to reconsider this bill and find another way to bring the parties in dispute together to find another way to accomplish their mutual objectives.

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1884: A bill for an act relating to state
4 government; repealing references in the State Building Code to
5 the International Mechanical Code and replacing them with
6 references to the 1991 Uniform Mechanical Code with Minnesota
7 amendments; repealing Minnesota Rules, parts 1346.0050;
8 1346.0060; 1346.0101; 1346.0102; 1346.0103; 1346.0104;
9 1346.0105; 1346.0106; 1346.0107; 1346.0108; 1346.0109;
10 1346.0110; 1346.0201; 1346.0202; 1346.0301; 1346.0306;
11 1346.0309; 1346.0401; 1346.0403; 1346.0404; 1346.0501;
12 1346.0505; 1346.0506; 1346.0507; 1346.0508; 1346.0510;
13 1346.0603; 1346.0604; 1346.0701; 1346.0703; 1346.0709;
14 1346.0801; 1346.0803; 1346.0901; 1346.1001; 1346.1003;
15 1346.1004; 1346.1006; 1346.1007; 1346.1011; 1346.1204;
16 1346.1601; 1346.1602; 1346.1603; 1346.1604; 1346.1605;
17 1346.1606; 1346.5050; 1346.5201; 1346.5202; 1346.5301;
18 1346.5303; 1346.5304; 1346.5306; 1346.5401; 1346.5402;
19 1346.5403; 1346.5404; 1346.5406; 1346.5407; 1346.5408;
20 1346.5409; 1346.5410; 1346.5501; 1346.5503; 1346.5504;
21 1346.5602; 1346.5620; 1346.5629; 1346.5630; 1346.5801;
22 1346.5802; 1346.5803; 1346.5804; 1346.5805; 1346.5806;
23 1346.5807; 1346.5900.

24 Reports the same back with the recommendation that the bill
25 be amended as follows:

26 Page 1, after line 23, insert:

27 "Section 1. Minnesota Statutes 2004, section 16B.61,
28 subdivision 1, is amended to read:

29 Subdivision 1. [ADOPTION OF CODE.] Subject to sections
30 16B.59 to ~~16B.75~~ 16B.77, the commissioner shall by rule
31 establish a code of standards for the construction,
32 reconstruction, alteration, and repair of buildings, governing
33 matters of structural materials, design and construction, fire
34 protection, health, sanitation, and safety, including design and
35 construction standards regarding heat loss control,
36 illumination, and climate control. The code must also include
37 duties and responsibilities for code administration, including
38 procedures for administrative action, penalties, and suspension
39 and revocation of certification. The code must conform insofar
40 as practicable to model building codes generally accepted and in
41 use throughout the United States, including a code for building
42 conservation. In the preparation of the code, consideration
43 must be given to the existing statewide specialty codes
44 presently in use in the state. Model codes with necessary
45 modifications and statewide specialty codes may be adopted by
46 reference. The code must be based on the application of
47 scientific principles, approved tests, and professional

1 judgment. To the extent possible, the code must be adopted in
 2 terms of desired results instead of the means of achieving those
 3 results, avoiding wherever possible the incorporation of
 4 specifications of particular methods or materials. To that end
 5 the code must encourage the use of new methods and new
 6 materials. Except as otherwise provided in sections 16B.59 to
 7 ~~16B.75~~ 16B.77, the commissioner shall administer and enforce the
 8 provisions of those sections.

9 The commissioner shall develop rules addressing the plan
 10 review fee assessed to similar buildings without significant
 11 modifications including provisions for use of building systems
 12 as specified in the industrial/modular program specified in
 13 section 16B.75. Additional plan review fees associated with
 14 similar plans must be based on costs commensurate with the
 15 direct and indirect costs of the service.

16 Sec. 2. Minnesota Statutes 2004, section 16B.70,
 17 subdivision 2, is amended to read:

18 Subd. 2. [COLLECTION AND REPORTS.] All permit surcharges
 19 must be collected by each municipality and a portion of them
 20 remitted to the state. Each municipality having a population
 21 greater than 20,000 people shall prepare and submit to the
 22 commissioner once a month a report of fees and surcharges on
 23 fees collected during the previous month but shall retain the
 24 greater of two percent or that amount collected up to \$25 to
 25 apply against the administrative expenses the municipality
 26 incurs in collecting the surcharges. All other municipalities
 27 shall submit the report and surcharges on fees once a quarter
 28 but shall retain the greater of four percent or that amount
 29 collected up to \$25 to apply against the administrative expenses
 30 the municipalities incur in collecting the surcharges. The
 31 report, which must be in a form prescribed by the commissioner,
 32 must be submitted together with a remittance covering the
 33 surcharges collected by the 15th day following the month or
 34 quarter in which the surcharges are collected. All money
 35 collected by the commissioner under subdivision 1 for mechanical
 36 systems permits is appropriated to the Board of Mechanical

1 Systems for the purposes of section 16B.77. \$..... of the
2 money collected by the commissioner through surcharges and other
3 fees prescribed by sections 16B.59 to ~~16B.75~~ 16B.77 shall be
4 deposited in the state government special revenue fund and is
5 appropriated to the Board of Mechanical Systems for the purposes
6 of section 16B.77. The remainder is appropriated to the
7 commissioner for the purpose of administering and enforcing
8 the remaining portions of the State Building Code under sections
9 16B.59 to ~~16B.75~~ 16B.77.

10 Sec. 3. Minnesota Statutes 2004, section 16B.70,
11 subdivision 3, is amended to read:

12 Subd. 3. [REVENUE TO EQUAL COSTS.] Revenue received from
13 the surcharge imposed in subdivision 1 should approximately
14 equal the cost, including the overhead cost, of administering
15 sections 16B.59 to ~~16B.75~~ 16B.77. By November 30 each year, the
16 commissioner must report to the commissioner of finance and to
17 the legislature on changes in the surcharge imposed in
18 subdivision 1 needed to comply with this policy. In making this
19 report, the commissioner must assume that the services
20 associated with administering sections 16B.59 to ~~16B.75~~ 16B.77
21 will continue to be provided at the same level provided during
22 the fiscal year in which the report is made.

23 Sec. 4. [16B.77] [BOARD OF MECHANICAL SYSTEMS.]

24 Subdivision 1. [MEMBERSHIP.] (a) The Board of Mechanical
25 Systems consists of the following members appointed by the
26 governor as provided under section 15.0575:

27 (1) two journeymen and two contractors in the fuel systems
28 discipline;

29 (2) two journeymen and two contractors in the sheet metal
30 and ventilation systems discipline;

31 (3) two journeymen and two contractors in the refrigeration
32 systems discipline;

33 (4) two journeymen, two contractors, and two
34 representatives of utilities in the piping systems discipline;

35 (5) two journeymen and two contractors in the medical and
36 nonmedical gas systems discipline;

1 (6) one mechanical engineer; and

2 (7) two members of the public, as defined in section 214.02.

3 (b) For purposes of this section, "journeyman" means a
4 person with at least five years of verifiable experience in the
5 relevant discipline, and "contractor" means a person with at
6 least five years of experience operating a business that is
7 primarily engaged in the discipline who remains active in the
8 discipline during their term on the board.

9 (c) The board must adopt a new mechanical code no later
10 than four months after convening.

11 (d) Section 15.0575, subdivision 3, does not apply to the
12 board.

13 Subd. 2. [ORGANIZATION AND MEETINGS.] (a) The board must
14 meet at least once in each quarter of the calendar year.

15 (b) The board must establish subcommittees in each of the
16 disciplines listed in subdivision 1. No member who is a
17 contractor or journeyman may serve on more than one
18 subcommittee, and the engineer appointed under subdivision 1,
19 clause (6), must serve on all of the subcommittees. Each
20 subcommittee must elect a chairperson. The subcommittee must
21 meet at the call of the chairperson.

22 Subd. 3. [POWERS OF THE BOARD; MECHANICAL CODE.] The board
23 has the powers of the commissioner under sections 16B.59 to
24 16B.77 regarding all mechanical code issues, including, but not
25 limited to, rulemaking, interpretation, administration, and
26 enforcement, including appeals from local units of government.
27 No appeal from a decision of the board may be made to the
28 commissioner.

29 Subd. 4. [SUPPORT.] The board may use the funds
30 appropriated to it to hire the staff necessary to conduct its
31 functions."

32 Page 1, line 25, delete "July" and insert "November"

33 Page 2, line 15, delete "July" and insert "November"

34 Page 2, line 17, delete "1" and insert "5"

35 Renumber the sections in sequence

36 Amend the title as follows:

1 Page 1, line 6, after the semicolon, insert "establishing
 2 the Board of Mechanical Systems; transferring certain powers and
 3 duties from the commissioner of administration to the Board of
 4 Mechanical Systems; authorizing rulemaking; appropriating money;
 5 amending Minnesota Statutes 2004, sections 16B.61, subdivision
 6 1; 16B.70, subdivisions 2, 3; proposing coding for new law in
 7 Minnesota Statutes, chapter 16B;"

8 And when so amended the bill do pass and be re-referred to
 9 the Committee on Finance. Amendments adopted. Report adopted.

10
 11
 12
 13
 14
 15

[Handwritten Signature]

 (Committee Chair)

April 4, 2005.....
 (Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 762, First Engrossment - The Clean Water Legacy Act

Author: Senator Dennis Frederickson

Prepared by: Greg Knopff, Legislative Analyst
phone: 651-296-9399 fax: 651-296-7747
e-mail: gregory.knopff@senate.mn

Date: March 7, 2005

Section 1 [Citation] cites the act as the "Clean Water Legacy Act."

Section 2 [Legislative Purpose and Findings] states the legislative purpose of and findings for the Clean Water Legacy Act.

Section 3 [Definitions] defines "citizen monitoring," "clean water council," "federal TMDL requirement," "impaired water," "public agencies," "restoration," "surface waters," "third-party TMDL," "total maximum daily load" or "TMDL," and "water quality standards" for the purposes of the Clean Water Legacy Act.

Section 4 [Implementation, Coordination, Goals, Policies, and Priorities]

Subdivision 1. [Coordination and Cooperation] directs the public agencies implementing this act to coordinate and cooperate with other agencies, individuals, and organizations in implementing the Clean Water Legacy Act.

Subdivision 2. [Goals for Implementation] states that the goals for implementation of the Clean Water Legacy Act are:

1. identify impaired waters within 10 years and ensure continuing evaluation of surface waters thereafter;

2. submit TMDL's to the U.S. Environmental Protection Agency (EPA) for all impaired waters in a timely manner;
3. set a reasonable time for restoring impaired waters;
4. provide assistance and incentives to improve the quality of waters; and
5. promptly seek delisting of waters from the impaired waters list.

Subdivision 3. [Implementation Policies] states that the policies to guide implementation of the Clean Water Legacy Act are:

1. develop regional and watershed TMDL's for multiple pollutants where reasonable and feasible;
2. maximize use of available organizational, technical, and financial resources;
3. maximize restoration opportunities by prioritizing and targeting available resources;
4. use existing regulatory authorities where applicable;
5. use demonstrated restoration methods;
6. identify any innovative approaches for the Legislature; and
7. identify and encourage prevention.

Subdivision 4. [Priorities for Identifying Impaired Waters] provides that priorities for identifying impaired waters are:

1. where the impairments pose the greatest risk to human and aquatic health; and
2. waters where public agency or citizen monitoring show impaired conditions.

Subdivision 5. [Priorities for Preparation of TMDL's] directs the Clean Water Council to recommend priorities for scheduling the preparation of TMDL's taking into account the severity of the impairment, the designated uses of the water, and applicable federal TMDL requirements. Additional considerations are listed.

Subdivision 6. [Priorities for Restoration of Impaired Waters] directs the Clean Water Council to give priority for recommending impaired waters restoration projects that are based on the priorities in subdivision 5, and:

1. use existing local authorities and infrastructure;
2. support existing restoration efforts;
3. leverage other sources of restoration funding;
4. have a high potential for early delisting; and
5. show a high potential for long-term water quality and related conservation benefits.

Subdivision 7. [Priorities for Funding Prevention Actions] directs the Clean Water Council to use the priorities in Subdivision 6 for funding prevention actions.

Section 5 [Administration; Pollution Control Agency]

Subdivision 1. [General Duties and Authorities] directs the Pollution Control Agency (PCA) to identify impaired waters, develop and approve TMDL's, and propose waters to delist water from the impaired waters list. This subdivision also specifies that a TMDL must include a statement of facts and scientific data supporting the TMDL.

Subdivision 2. [Administrative Procedures for TMDL Approval] provides that the approval of a TMDL is a final agency action and subject to the contested case procedures. This subdivision also requires a 30-day public comment period for a TMDL and also clarifies that a TMDL is not subject to rulemaking requirements.

Subdivision 3. [Third-Party TMDL Development] allows the PCA to enter into agreements with qualified public agencies to develop a third-party TMDL. A third-party TMDL must be approved by the PCA.

Section 6 [Clean Water Council]

Subdivision 1. [Creation; Duties] provides for the creation of the Clean Water Council to advise on the administration and implementation of the Clean Water Legacy Act. The PCA shall provide administrative support for the Council. The members will select a chair of the Council from the public members.

► **Subdivision 2. [Membership; Appointment]** establishes membership for the Clean Water Council of 17 members. Four of the members shall represent state agencies

and are appointed by the heads of the agencies. The agencies are: the Department of Natural Resources; Department of Agriculture; Pollution Control Agency; and Board of Water and Soil Resources. The four state agencies represented on the Council, acting jointly, shall appoint 13 public members to the Council. The public members appointed shall represent:

- statewide farm organizations, two members;
- business organizations, two members;
- environmental organizations, two members;
- soil and water conservation districts, one member;
- watershed districts, one member;
- organizations focused on improving lakes and streams, one member;
- an organization of county governments, one member;
- organizations of city governments, two members; and
- the Metropolitan Council, one member.

Subdivision 3. [Terms, Compensation, and Removal] provides that the terms, compensation, removal, and filling of vacancies for Clean Water Council members is as provided under general law for advisory councils. This subdivision also provides that the initial terms of the state agency representatives expire on January 1, 2007.

Subdivision 4. [Implementation Plan] directs the Clean Water Council to develop an implementation plan for the Clean Water Legacy Act. The first implementation plan must be issued by December 1, 2005. After the first plan, the Council must issue biennial implementation plans by December 1 of each even-numbered year.

Subdivision 5. [Appropriation Recommendations] directs the Clean Water Council to recommend to the Governor appropriations from the Clean Water Legacy Account.

Subdivision 6. [Biennial Report] requires a biennial report, by December 1, of each even-numbered year, to the Legislature from the Clean Water Council on past expenditures, recommendations for future expenditures, and the impact of the impaired waters program on economic development. The 2014 report must include an evaluation of the progress and need for future funding.

Section 7 [Public and Stakeholder Participation, Scientific Review, and Education]

Subdivision 1. [Public and Stakeholder Participation] directs public agencies involved in the implementation of the Clean Water Legacy Act to encourage participation by the public and stakeholders.

Subdivision 2. [Expert Scientific Advice] directs the Clean Water Council and public agencies to make use of expertise from educational, research, and technical organizations in implementing the Clean Water Legacy Act.

Subdivision 3. [Education] directs the Clean Water Council to develop strategies for informing, educating, and encouraging the participation of the public and stakeholders in the implementation of the Clean Water Legacy Act.

Section 8 [Clean Water Fees]

Subdivision 1. [Definitions] defines “average daily discharge or application limitation,” “effluent flow,” “fee collection authorities,” “individual sewage treatment system,” “nonresidential establishment,” “publicly owned treatment works,” and “residential dwelling” for the purposes of this section.

Subdivision 2. [Assessment of Clean Water Fees] provides that the fees imposed in subdivision 3 are on all discharges of domestic and industrial wastewater to sewage treatment systems.

Subdivision 3. [Fee Amounts] specifies the annual clean water fees¹, beginning on January 1, 2006, as follows:

Publicly-Owned Treatment Works:

- residential dwellings with no more than two residential units, \$36/year;
- structures with more than two residential dwelling units and combined bill:
 - ▶ residential dwelling units, \$36/unit/year; and
 - ▶ nonresidential establishments, pay the fee based on the nonresidential establishment rates for their portion of the flow;

¹The fee for a nonresidential establishment on a publicly-owned treatment system and for a permitted facility is unspecified with a separate blank amount for the first four years. These fee amounts will be set in later deliberations on the bill in a fiscal committee.

- nonresidential establishment with a separate bill (includes 2 or fewer residential dwellings):
 - ▶ average effluent flow of less than 10,000 gallons/day, an unspecified annual amount;
 - ▶ average effluent flow of 10,000 gallons/day or more but less than 100,000 gallons/day, an unspecified annual amount; and
 - ▶ average effluent flow of 100,000 gallons/day or more, an unspecified annual amount.

Permitted Nonpublic Wastewater Treatment Facilities:

- average daily discharge of less than 10,000 gallons/day, an unspecified annual amount;
- average daily discharge of 10,000 gallons/day or more but less than 100,000 gallons/day, an unspecified annual amount; and
- average daily discharge of 100,000 gallons/day or more, an unspecified amount.

Facilities with a General Permit from the PCA:

- no fee.

Domestic Wastewater Treatment Systems permitted by the PCA:

- residential dwelling, \$36/year; and
- nonresidential establishments, \$36/year.

Individual Sewage Treatment Systems:

- residential dwelling, \$36/year; and
- nonresidential establishments, \$36/year.

Any Other Wastewater Treatment System:

- residential dwelling, \$36/year; and
- nonresidential establishments, \$36/year.

Subdivision 4. [Collection and Enforcement] directs the public agency responsible for a sanitary sewer system to collect the fees imposed at the same time and frequency as charges for the service. The PCA will assess the fees on permitted facilities. Fees for individual sewage treatment systems and other systems will be collected by the county. This section also exempts a person from the payment of a fee if that person meets the criteria for telephone assistance or receives telephone assistance.

Subdivision 5. [Payment to the Commissioner of Revenue] requires all fees collected be remitted to the Commissioner of Revenue for deposit in the Clean Water Legacy Account in the Environmental Fund.

Subdivision 6. [Expiration] provides that this section expires on December 31, 2015.

Section 9 [Clean Water Legacy Account]

Subdivision 1. [Creation] creates the Clean Water Legacy account in the Environmental Fund and states that money in the Account must be made available for the Clean Water Phosphorus Reduction Grants in Section 10 of the bill and the Community Septic System Loan Program in Section 11 of the bill. This section also provides that the funding for Sections 9 and 10 of the bill must not supplant existing funding.

Subdivision 2. [Sources of Revenue] specifies that the sources of revenue for the Clean Water Legacy Account are the fees collected in Section 8 and interest on the account.

Subdivision 3. [Purposes] provides specific purposes that the Clean Water Legacy Account may be spent on, subject to appropriation by the Legislature.

Section 10 [Clean Water Legacy Phosphorus Reduction Grants]

Subdivision 1. [Creation of Fund, Appropriation] establishes the Clean Water Legacy Capital Improvement Fund to make grants for phosphorus reduction grants. The balance in the Fund is appropriated to the Public Facilities Authority (PFA) for the purposes of this section.

Subdivision 2. [Grants] directs the PFA to make grants from the Clean Water Legacy Capital Improvement Fund for wastewater treatment facility projects that will reduce the discharge of phosphorus to one milligram per liter.

Subdivision 3. [Eligible Capital Costs] provide that eligible capital cost for a loan under this section include as-bid construction costs and engineering planning and design costs.

Subdivision 4. [Grant Amounts and Priorities] specifies that grant amounts under this section are 75 percent of the costs for projects approved by July 1, 2009, and 50 percent for projects approved on or after July 1, 2009. Priority is given for projects that started construction after July 1, 2005. Application for a grant for any project that started before July 1, 2005, must be submitted by June 30, 2007.

Subdivision 5. [Fees] allows the PFA to charge an administrative fee of up to one-half of one percent of the grant amount.

Section 11 [Small Community Wastewater Treatment Loan Program]

Subdivision 1. [Creation of Fund] directs the PFA to establish a small community wastewater treatment fund to make loans for individual sewage treatment system (ISTS) replacement. Money in the fund is appropriated to the PFA for the loans. All repayments, investment income from the fund, and servicing fees charged must be deposited into the fund.

Subdivision 2. [Loans] directs the PFA to award loans to governmental units from the small community wastewater treatment fund to replace failing or inadequate systems. The governmental unit must own the replacement system and be responsible for inspection, maintenance, repair of the ISTS.

Subdivision 3. [Project Priority List] directs the PCA to rank loan applications based on the Water Pollution Control Revolving Fund priorities list.

Subdivision 4. [Loan Applications] specifies the information required on the application for a loan under this section.

Subdivision 5. [Loan Awards] specifies that the loans shall be awarded based on the priority list. The maximum loan to a government unit in any year is \$500,000.

Subdivision 6. [Loan Terms and Conditions] specifies that the loans:

1. must provide that debt service payments begin no later than two years after the loan is issued;
2. be at a one percent interest;
3. be amortized within ten years or, if the loan amount exceeds \$10,000 per household, amortized within 20 years;

4. be paid from a dedicated source or sources of revenue and be guaranteed by a general obligation note of the governmental unit; and
5. be made only where permanent easements to the governmental unit are obtained for access to the financed systems.

Subdivision 7. [Special Assessment Deferral] allows governmental units to defer special assessments for the ISTS loans, as provided under current law for special assessments. The governmental unit may request loan deferral for the portion of the loan related to the deferred special assessments.

Subdivision 8. [Eligible Costs] provides that the costs of planning, design, construction, legal fees, administration, and land acquisition are eligible costs for the loans.

Subdivision 9. [Disbursements] provides that the loan disbursement must be made for eligible project costs as they are incurred.

Subdivision 10. [Audits] requires governmental units that receive a loan to provide a copy of their annual audit or, if not required, their annual financial reporting form to the PFA.

Section 12 [Appropriations] (See attached spreadsheet from Dan Mueller)

GK:dv

Enclosure

1 A bill for an act

2 relating to the environment; creating the Clean Water
3 Legacy Act; providing authority, direction, and
4 funding to achieve and maintain water quality
5 standards for Minnesota's surface waters in accordance
6 with section 303(d) of the federal Clean Water Act;
7 appropriating money; proposing coding for new law in
8 Minnesota Statutes chapter 446A; proposing coding for
9 new law as Minnesota Statutes, chapter 114D.

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

11 Section 1. [114D.05] [CITATION.]

12 This chapter may be cited as the "Clean Water Legacy Act."

13 Sec. 2. [114D.10] [LEGISLATIVE PURPOSE AND FINDINGS.]

14 Subdivision 1. [PURPOSE.] The purpose of the Clean Water
15 Legacy Act is to protect, restore, and preserve the quality of
16 Minnesota's surface waters by providing authority, direction,
17 and resources to achieve and maintain water quality standards
18 for surface waters as required by section 303(d) of the federal
19 Clean Water Act, United States Code, title 42, section 1313(d),
20 and applicable federal regulations.

21 Subd. 2. [FINDINGS.] The legislature finds that:

22 (1) there is a close link between protecting, restoring,
23 and preserving the quality of Minnesota's surface waters and the
24 ability to develop the state's economy, enhance its quality of
25 life, and protect its human and natural resources;

26 (2) achieving the state's water quality goals will require
27 long-term commitment and cooperation by all state and local

1 agencies, and other public and private organizations and
2 individuals, with responsibility and authority for water
3 management, planning, and protection; and

4 (3) all persons and organizations whose activities affect
5 the quality of waters, including point and nonpoint sources of
6 pollution, have a responsibility to participate in and support
7 efforts to achieve the state's water quality goals.

8 Sec. 3. [114D.15] [DEFINITIONS.]

9 Subdivision 1. [APPLICATION.] The definitions provided in
10 this section apply to the terms used in this chapter.

11 Subd. 2. [CITIZEN MONITORING.] "Citizen monitoring" means
12 monitoring of surface water quality by individuals and
13 nongovernmental organizations that is consistent with Pollution
14 Control Agency guidance on monitoring procedures, quality
15 assurance protocols, and data management.

16 Subd. 3. [CLEAN WATER COUNCIL.] "Clean Water Council" or
17 "council" means the Clean Water Council created pursuant to
18 section 114D.30, subdivision 1.

19 Subd. 4. [FEDERAL TMDL REQUIREMENTS.] "Federal TMDL
20 requirements" means the requirements of section 303(d) of the
21 Clean Water Act, United States Code, title 42, section 1313(d),
22 and associated regulations and guidance.

23 Subd. 5. [IMPAIRED WATER.] "Impaired water" means surface
24 water that does not meet applicable water quality standards.

25 Subd. 6. [PUBLIC AGENCIES.] "Public agencies" means all
26 state agencies, political subdivisions, joint powers
27 organizations, and special purpose units of government with
28 authority, responsibility, or expertise in protecting,
29 restoring, or preserving the quality of surface waters, managing
30 or planning for surface waters and related lands, or financing
31 waters-related projects. "Public agencies" also includes the
32 University of Minnesota and other public education institutions.

33 Subd. 7. [RESTORATION.] "Restoration" means actions,
34 including effectiveness monitoring, that are taken to achieve
35 and maintain water quality standards for impaired waters in
36 accordance with a TMDL that has been approved by the United

1 States Environmental Protection Agency under federal TMDL
2 requirements.

3 Subd. 8. [SURFACE WATERS.] "Surface waters" means waters
4 of the state as defined in section 115.01, subdivision 22,
5 excluding groundwater as defined in section 115.01, subdivision
6 6.

7 Subd. 9. [THIRD-PARTY TMDL.] "Third-party TMDL" means a
8 TMDL that is developed by a qualified public agency other than
9 the Pollution Control Agency consistent with the goals,
10 policies, and priorities in section 114D.20.

11 Subd. 10. [TOTAL MAXIMUM DAILY LOAD OR TMDL.] "Total
12 maximum daily load" or "TMDL" means a calculation of the maximum
13 amount of a pollutant that may be introduced into a surface
14 water and still ensure that applicable water quality standards
15 for that water are achieved and maintained. A TMDL is the sum
16 of the pollutant load allocations for all sources of the
17 pollutant, including a load allocation for point sources, a load
18 allocation for nonpoint sources and natural background, a load
19 allocation for future growth of point and nonpoint sources, and
20 a margin of safety to account for uncertainty about the
21 relationship between pollutant loads and the quality of the
22 receiving surface water. "Natural background" means
23 characteristics of the water body resulting from the
24 multiplicity of factors in nature, including climate and
25 ecosystem dynamics, that affect the physical, chemical, or
26 biological conditions in a water body, but does not include
27 measurable and distinguishable pollution that is attributable to
28 human activity or influence. A TMDL must take into account
29 seasonal variations.

30 Subd. 11. [WATER QUALITY STANDARDS.] "Water quality
31 standards" for Minnesota surface waters are found in Minnesota
32 Rules, chapters 7050 and 7052.

33 Sec. 4. [114D.20] [IMPLEMENTATION; COORDINATION; GOALS;
34 POLICIES; AND PRIORITIES.]

35 Subdivision 1. [COORDINATION AND COOPERATION.] In
36 implementing this chapter, public agencies shall take into

1 consideration the relevant provisions of local and other
2 applicable water management, conservation, land use, land
3 management, and development plans and programs. Public agencies
4 with authority for local water management, conservation, land
5 use, land management, and development plans shall take into
6 consideration the manner in which their plans affect the
7 implementation of this chapter. Public agencies shall identify
8 opportunities to participate and assist in the successful
9 implementation of this chapter, including the funding or
10 technical assistance needs, if any, that may be necessary. In
11 implementing this chapter, public agencies shall endeavor to
12 engage the cooperation of organizations and individuals whose
13 activities affect the quality of surface waters, including point
14 and nonpoint sources of pollution, and who have authority and
15 responsibility for water management, planning, and protection.
16 To the extent practicable, public agencies shall endeavor to
17 enter into formal and informal agreements and arrangements with
18 federal agencies and departments to jointly utilize staff and
19 resources to deliver programs or conduct activities to achieve
20 the intent of this chapter, including efforts under the federal
21 Clean Water Act and other federal farm and soil and water
22 conservation programs.

23 Subd. 2. [GOALS FOR IMPLEMENTATION.] The following goals
24 must guide the implementation of this chapter:

25 (1) to identify impaired waters in accordance with federal
26 TMDL requirements within ten years after the effective date of
27 this section and thereafter to ensure continuing evaluation of
28 surface waters for impairments;

29 (2) to submit TMDL's to the United States Environmental
30 Protection Agency for all impaired waters in a timely manner in
31 accordance with federal TMDL requirements;

32 (3) to set a reasonable time for implementing restoration
33 of each identified impaired water;

34 (4) to provide assistance and incentives to prevent waters
35 from becoming impaired and to improve the quality of waters that
36 are listed as impaired but do not have an approved TMDL.

1 addressing the impairment; and

2 (5) to promptly seek the delisting of waters from the
3 impaired waters list when those waters are shown to achieve the
4 designated uses applicable to the waters.

5 Subd. 3. [IMPLEMENTATION POLICIES.] The following policies
6 must guide the implementation of this chapter:

7 (1) develop regional and watershed TMDL's, and TMDL's for
8 multiple pollutants, where reasonable and feasible;

9 (2) maximize use of available organizational, technical,
10 and financial resources to perform sampling, monitoring, and
11 other activities to identify impaired waters, including use of
12 citizen monitoring;

13 (3) maximize opportunities for restoration of impaired
14 waters, by prioritizing and targeting of available programmatic,
15 financial, and technical resources and by providing additional
16 state resources to complement and leverage available resources;

17 (4) use existing regulatory authorities to achieve
18 restoration for point and nonpoint sources of pollution where
19 applicable, and promote the development and use of effective
20 nonregulatory measures to address pollution sources for which
21 regulations are not applicable;

22 (5) use restoration methods that have a demonstrated
23 effectiveness in reducing impairments and provide the greatest
24 long-term positive impact on water quality protection and
25 improvement and related conservation benefits while
26 incorporating innovative approaches on a case-by-case basis;

27 (6) identify for the legislature any innovative approaches
28 that may strengthen or complement existing programs; and

29 (7) identify and encourage implementation of measures to
30 prevent waters from becoming impaired and to improve the quality
31 of waters that are listed as impaired but have no approved TMDL
32 addressing the impairment using the best available data and
33 technology, and establish and report outcome-based performance
34 measures that monitor the progress and effectiveness of
35 protection and restoration measures.

36 Subd. 4. [PRIORITIES FOR IDENTIFYING IMPAIRED WATERS.] The

1 Pollution Control Agency, in accordance with federal TMDL
2 requirements, shall set priorities for identifying impaired
3 waters, giving consideration to:

4 (1) waters where impairments would pose the greatest
5 potential risk to human or aquatic health; and

6 (2) waters where data developed through public agency or
7 citizen monitoring or other means provides evidence that an
8 impaired condition exists.

9 Subd. 5. [PRIORITIES FOR PREPARATION OF TMDL'S.] The Clean
10 Water Council shall recommend priorities for scheduling and
11 preparing TMDL's taking into account the severity of the
12 impairment, the designated uses of those waters, and other
13 applicable federal TMDL requirements. In recommending
14 priorities, the council shall also give consideration to waters
15 and watersheds:

16 (1) with impairments that pose the greatest potential risk
17 to human health;

18 (2) with impairments that pose the greatest potential risk
19 to threatened or endangered species;

20 (3) with impairments that pose the greatest potential risk
21 to aquatic health;

22 (4) where other public agencies and participating
23 organizations and individuals, especially local, basinwide, or
24 regional agencies or organizations, have demonstrated readiness
25 to assist in carrying out the responsibilities, including
26 availability and organization of human, technical, and financial
27 resources necessary to undertake the work; and

28 (5) where there is demonstrated coordination and
29 cooperation among cities, counties, watershed districts, and
30 soil and water conservation districts in planning and
31 implementation of activities that will assist in carrying out
32 the responsibilities.

33 Subd. 6. [PRIORITIES FOR RESTORATION OF IMPAIRED
34 WATERS.] In implementing restoration of impaired waters, in
35 addition to the priority considerations in subdivision 5 the
36 Clean Water Council shall give priority in its recommendations

1 for restoration funding from the clean water legacy account to
2 restoration projects that:

3 (1) coordinate with and utilize existing local authorities
4 and infrastructure for implementation;

5 (2) can be implemented in whole or in part by providing
6 support for existing or ongoing restoration efforts;

7 (3) most effectively leverage other sources of restoration
8 funding, including federal, state, local, and private sources of
9 funds;

10 (4) show a high potential for early restoration and
11 delisting based upon data developed through public agency or
12 citizen monitoring or other means; and

13 (5) show a high potential for long-term water quality and
14 related conservation benefits.

15 Subd. 7. [PRIORITIES FOR FUNDING PREVENTION ACTIONS.] The
16 Clean Water Council shall apply the priorities applicable under
17 subdivision 6, as far as practicable, when recommending
18 priorities for funding actions to prevent waters from becoming
19 impaired and to improve the quality of waters that are listed as
20 impaired but do not have an approved TMDL.

21 Sec. 5. [114D.25] [ADMINISTRATION; POLLUTION CONTROL
22 AGENCY.]

23 Subdivision 1. [GENERAL DUTIES AND AUTHORITIES.] (a) The
24 Pollution Control Agency, in accordance with federal TMDL
25 requirements, shall: identify impaired waters and propose a
26 list of the waters for review and approval by the United States
27 Environmental Protection Agency; develop and approve TMDL's for
28 listed impaired waters and submit the approved TMDL's to the
29 United States Environmental Protection Agency for final
30 approval; and propose to delist waters from the United States
31 Environmental Protection Agency impaired waters list.

32 (b) A TMDL must include a statement of the facts and
33 scientific data supporting the TMDL and a list of potential
34 implementation options, including:

35 (1) a range of estimates of the cost of implementation of
36 the TMDL; and

1 (2) for point sources, the individual wasteload data and
2 the estimated cost of compliance addressed by the TMDL.
3 The implementation information does not need to be sent to the
4 United States Environmental Protection Agency for review.

5 Subd. 2. [ADMINISTRATIVE PROCEDURES FOR TMDL
6 APPROVAL.] Before approving a TMDL, the agency shall give
7 written notice to the public of the proposed TMDL and provide a
8 30-day opportunity for submission of written comments. The
9 agency shall distribute the notice in the same manner as a
10 notice of a proposed permit is distributed under agency rules.
11 The approval of a TMDL by the Pollution Control Agency is a
12 final decision of the agency under section 115.05, subdivision
13 11, clause (1), and is subject to the contested case procedures
14 of sections 14.57 to 14.62 in accordance with agency procedural
15 rules. The agency shall not submit an approved TMDL to the
16 United States Environmental Protection Agency until the time for
17 commencing judicial review has run or the judicial review
18 process has been completed. A TMDL is not subject to the
19 rulemaking requirements of chapter 14, including section 14.386.

20 Subd. 3. [THIRD-PARTY TMDL DEVELOPMENT.] The Pollution
21 Control Agency may enter agreements with any qualified public
22 agency setting forth the terms and conditions under which that
23 entity is authorized to develop a third-party TMDL. In
24 determining whether the public agency is qualified to develop a
25 third-party TMDL, the Pollution Control Agency shall consider
26 the technical and administrative qualifications of the public
27 agency and shall avoid any potential organizational conflict of
28 interest, as defined in section 16C.02, subdivision 10a, of the
29 public agency with respect to the development of the third-party
30 TMDL. A third-party TMDL is subject to modification and
31 approval by the Pollution Control Agency, and must be approved
32 by the Pollution Control Agency before it is submitted to the
33 United States Environmental Protection Agency. The Pollution
34 Control Agency shall consider authorizing the development of
35 third-party TMDL's consistent with the goals, policies, and
36 priorities determined under section 116.384.

1 Sec. 6. [114D.30] [CLEAN WATER COUNCIL.]

2 Subdivision 1. [CREATION; DUTIES.] A Clean Water Council
3 is created to advise on the administration and implementation of
4 this chapter, and foster coordination and cooperation as
5 described in section 114D.20, subdivision 1. The council may
6 also advise on the development of appropriate processes for
7 expert scientific review as described in section 114D.35,
8 subdivision 2. The Pollution Control Agency shall provide
9 administrative support for the council with the support of other
10 member agencies. The members of the council shall elect a chair
11 from the nonagency members of the council.

12 Subd. 2. [MEMBERSHIP; APPOINTMENT.] The commissioners of
13 natural resources, agriculture, and the Pollution Control
14 Agency, and the executive director of the Board of Water and
15 Soil Resources are the appointing authorities for the council.
16 Each appointing authority shall appoint one person from their
17 respective agency to serve as a member of the council. The
18 appointing authorities, acting jointly, shall appoint 13
19 additional nonagency members of the council as follows:

20 (1) two members representing statewide farm organizations;

21 (2) two members representing business organizations;

22 (3) two members representing environmental organizations;

23 (4) one member representing soil and water conservation

24 districts;

25 (5) one member representing watershed districts;

26 (6) one member representing organizations focused on
27 improvement of Minnesota lakes or streams;

28 (7) one member representing an organization of county
29 governments;

30 (8) two members representing organizations of city
31 governments; and

32 (9) one member representing the Metropolitan Council
33 established under section 473.123.

34 Subd. 3. [TERMS; COMPENSATION; REMOVAL.] The initial terms
35 of members representing state agencies and the Metropolitan
36 Council expire on the first Monday in January, 2007.

1 Thereafter, the terms of members representing the state agencies
2 and the Metropolitan Council are four years and are coterminous
3 with the governor. The terms of other members of the council
4 shall be as provided in section 15.059, subdivision 2. Members
5 may serve until their successors are appointed and qualify.
6 Compensation and removal of council members is as provided in
7 section 15.059, subdivisions 3 and 4. A vacancy on the council
8 may be filled by the appointing authorities, as provided in
9 subdivision 1, for the remainder of the unexpired term.

10 Subd. 4. [IMPLEMENTATION PLAN.] The Clean Water Council
11 shall prepare a plan for implementation of this chapter. The
12 plan shall address general procedures and time frames for
13 implementing this chapter, and shall include a more specific
14 implementation work plan for the next fiscal biennium and a
15 framework for setting priorities to address impaired waters
16 consistent with section 114D.20, subdivisions 2 to 7. The
17 council shall issue the first implementation plan under this
18 subdivision by December 1, 2005, and shall issue a revised work
19 plan by December 1 of each even-numbered year thereafter.

20 Subd. 5. [RECOMMENDATIONS ON APPROPRIATION OF FUNDS.] The
21 Clean Water Council shall recommend to the governor the manner
22 in which money from the clean water legacy account should be
23 appropriated for the purposes identified in section 114D.45,
24 subdivision 3. The council's recommendations must be consistent
25 with the purposes, policies, goals, and priorities in sections
26 114D.05 to 114D.35, and shall allocate adequate support and
27 resources to identify impaired waters, develop TMDL's, implement
28 restoration of impaired waters, and provide assistance and
29 incentives to prevent waters from becoming impaired and improve
30 the quality of waters which are listed as impaired but have no
31 approved TMDL.

32 Subd. 6. [BIENNIAL REPORT TO LEGISLATURE.] By December 1
33 of each even-numbered year, the council shall submit a report to
34 the legislature on the activities for which money from the clean
35 water legacy account has been or will be spent for the current
36 biennium, the activities for which money from the account is

1 recommended to be spent in the next biennium, and the impact on
2 economic development of the implementation of the impaired
3 waters program. The report due on December 1, 2014, must
4 include an evaluation of the progress made through June 30,
5 2014, in implementing this chapter, the need for funding of
6 future implementation of those sections, and recommendations for
7 the sources of funding.

8 Sec. 7. [114D.35] [PUBLIC AND STAKEHOLDER PARTICIPATION;
9 SCIENTIFIC REVIEW; EDUCATION.]

10 Subdivision 1. [PUBLIC AND STAKEHOLDER PARTICIPATION.]

11 Public agencies involved in the implementation of this chapter
12 shall encourage participation by the public and stakeholders,
13 including local citizens, landowners and managers, and public
14 and private organizations, in the identification of impaired
15 waters, in developing TMDL's, and in planning and implementing
16 restoration of impaired waters. In particular, the Pollution
17 Control Agency shall make reasonable efforts to provide timely
18 information to the public and to stakeholders about impaired
19 waters that have been identified by the agency. The agency
20 shall seek broad and early public and stakeholder participation
21 in scoping the activities necessary to develop a TMDL, including
22 the scientific models, methods, and approaches to be used in
23 TMDL development, and to implement restoration pursuant to
24 section 114D.15, subdivision 7.

25 Subd. 2. [EXPERT SCIENTIFIC ADVICE.] The Clean Water
26 Council and public agencies shall make use of available
27 expertise from educational, research, and technical
28 organizations, including the University of Minnesota and other
29 higher education institutions, to provide appropriate
30 independent expert advice on models, methods, and approaches
31 used in identifying impaired waters, developing TMDL's, and
32 implementing prevention and restoration.

33 Subd. 3. [EDUCATION.] The Clean Water Council shall
34 develop strategies for informing, educating, and encouraging the
35 participation of citizens, stakeholders, and others regarding
36 the identification of impaired waters, development of TMDL's,

1 and development and implementation of restoration for impaired
2 waters. Public agencies shall be responsible for implementing
3 the strategies.

4 Sec. 8. [114D.40] [CLEAN WATER FEES.]

5 Subdivision 1. [DEFINITIONS.] (a) The definitions in this
6 subdivision apply to the terms used in this section.

7 (b) "Average daily discharge or application limitation"
8 means the highest allowable average of daily discharge or land
9 application during a calendar day or any 24-hour period that
10 reasonably represents the discharge during the calendar day for
11 the purposes of sampling, calculated as the sum of all daily
12 discharges or land applications measured during a day, divided
13 by the number of daily discharges or land applications during
14 that day.

15 (c) "Effluent flow" means the flow of domestic wastewater
16 from a residential dwelling or nonresidential establishment.
17 The rate of water usage by a residential dwelling or
18 nonresidential establishment must be substituted for the
19 effluent flow if effluent flow from the residential dwelling or
20 nonresidential establishment is not measured.

21 (d) "Fee collection authority" means a county, the
22 Pollution Control Agency, or a public agency with authority to
23 collect fees and charges for sewer services provided by a
24 publicly owned treatment works.

25 (e) "Individual sewage treatment system" means a sewage
26 treatment system, or part thereof, that is regulated by the
27 state or its political subdivisions, and which serves a
28 residential dwelling, or nonresidential establishment, or group
29 thereof, using sewage tanks followed by soil treatment and
30 disposal or using advanced treatment devices that discharge
31 below final grade. "Individual sewage treatment system" also
32 includes sewage holding tanks and privies.

33 (f) "Nonresidential establishment" means a structure or
34 portion of a structure that is not a residential dwelling.

35 (g) "Publicly owned treatment works" means a device or
36 system used in the treatment, recycling, or reclamation of

1 municipal sewage or liquid industrial waste that is owned by the
2 state, a political subdivision, sanitary district, or other
3 public organization established under state law and which relies
4 primarily on wastewater treatment systems other than individual
5 sewage treatment systems.

6 (h) "Residential dwelling" means a room or group of rooms
7 used by an individual, family, or other group as living quarters
8 which includes facilities for sleeping, eating, cooking, and
9 sanitation. "Residential dwelling" includes apartments,
10 condominiums, cooperatives, attached and detached dwellings,
11 mobile homes, seasonal or recreational dwellings, or a dwelling
12 in which a resident of that dwelling engages in a business or
13 employment. A farm that includes buildings is treated as a
14 residential dwelling. "Residential dwelling" does not include:

15 (1) hotels, motels, resorts, boarding houses, clubs,
16 hospitals, nursing homes, dormitories, schools, colleges, or
17 similar institutional or transient facilities; or

18 (2) any structure containing not more than two residential
19 dwelling units that receives a single bill for sewer services
20 that is combined with one or more nonresidential establishments.

21 Subd. 2. [ASSESSMENT OF CLEAN WATER FEES.] A clean water
22 fee is imposed as provided in subdivision 3 on all discharges of
23 domestic and industrial wastewater to sanitary sewer systems;
24 wastewater treatment plants, facilities, or systems; individual
25 sewage treatment systems; and other systems.

26 Subd. 3. [FEE AMOUNTS.] (a) Beginning January 1, 2006, the
27 amounts of the clean water fees imposed under this section are
28 as provided in this subdivision.

29 (b) For discharges to sanitary sewer systems served by a
30 publicly owned treatment works, the clean water fees are as
31 follows:

32 (1) for each residential dwelling that receives a separate
33 bill for service and contains not more than two residential
34 dwelling units, \$36 per year;

35 (2) for a structure that contains more than two residential
36 dwelling units that do not receive separate bills for service,

1 clean water fees must be calculated as follows:

2 (i) \$36 per year for each residential dwelling unit in the
3 structure; and

4 (ii) any nonresidential establishment which is billed
5 together with the residential dwelling units is subject to a
6 clean water fee on that portion of the effluent flow for the
7 structure that is attributable to that nonresidential
8 establishment, and the fee must be calculated based on effluent
9 flows as provided in clause (3); and

10 (3) for each nonresidential establishment that receives a
11 separate bill for service, the annual fee is as follows:

12 (i) if average effluent flow is less than 10,000 gallons
13 per day, \$..... in 2006, \$..... in 2007, \$..... in 2008,
14 and \$..... in 2009 and thereafter;

15 (ii) if average effluent flow is 10,000 gallons per day or
16 greater, but less than 100,000 gallons per day, \$..... in
17 2006, \$..... in 2007, \$..... in 2008, and \$..... in 2009
18 and thereafter; and

19 (iii) if average effluent flow is 100,000 gallons per day
20 or greater, \$..... in 2006, \$..... in 2007, \$..... in
21 2008, and \$..... in 2009 and thereafter.

22 (c) Except as provided in paragraph (d), for discharges
23 from wastewater treatment facilities, other than publicly owned
24 treatment works, that are required to obtain a national
25 pollution discharge elimination system or state disposal system
26 permit, the annual fee is as follows:

27 (1) for permits authorizing an average daily discharge or
28 land application limitation of less than 10,000 gallons on an
29 annualized basis, \$..... in 2006, \$..... in 2007, \$.....
30 in 2008, and \$..... in 2009 and thereafter;

31 (2) for permits authorizing an average daily discharge or
32 land application limitation of 10,000 gallons per day or
33 greater, but less than 100,000 gallons per day, \$..... in
34 2006, \$..... in 2007, \$..... in 2008, and \$..... in 2009
35 and thereafter; and

36 (3) for permits authorizing an average daily discharge or

1 land application limitation of 100,000 gallons per day or
2 greater, \$..... in 2006, \$..... in 2007, \$..... in 2008,
3 and \$..... in 2009 and thereafter.

4 (d) A clean water fee must not be imposed under paragraph
5 (c), on discharges from a facility that operates under a general
6 permit issued by the agency.

7 (e) For discharges to domestic wastewater treatment systems
8 permitted by the Pollution Control Agency, excluding publicly
9 owned treatment works, the fee is \$36 per year for each
10 residential dwelling and nonresidential establishment that
11 discharges to the systems. No single residential unit or
12 nonresidential establishment may be required to pay more than
13 one clean water fee under this paragraph.

14 (f) For individual sewage treatment systems not permitted
15 by the Pollution Control Agency, the fee is \$36 per year for
16 each residential dwelling and nonresidential establishment
17 served by the system. No single residential unit or
18 nonresidential establishment may be required to pay more than
19 one clean water fee under this paragraph.

20 (g) For any wastewater system not described in paragraphs
21 (b) to (f), that accepts and discharges untreated or partially
22 treated wastewater, the fee is \$36 per year for each residential
23 dwelling and nonresidential establishment that discharges to the
24 system.

25 (h) Any single residential unit or nonresidential
26 establishment that would be subject to payment of a clean water
27 fee under both paragraphs (f) and (g) may only be required to
28 pay the clean water fee under paragraph (e).

29 Subd. 4. [COLLECTION AND ENFORCEMENT.] (a) Fees imposed on
30 discharges to sanitary sewer systems served by publicly owned
31 treatment works must be collected by the public agency that
32 collects fees or charges from the users of that service. The
33 fees must be collected at the same time and with the same
34 frequency as fees or charges for service are collected. The
35 collecting entity may enforce payment of the fees using the same
36 enforcement authority applicable to sewer service charges.

1 (b) Fees imposed under subdivision 3, paragraphs (c) and
2 (e), must be collected by the Pollution Control Agency from the
3 permittees for the facilities or systems. The Pollution Control
4 Agency may enforce payment of the fees using the same
5 enforcement authority applicable to permit fees.

6 (c) Fees imposed under subdivision 3, paragraphs (f) and
7 (g), must be collected by each county, from the owners of the
8 residential dwellings or nonresidential establishments subject
9 to the fee that are located in the county. A county shall
10 collect the fees at least once per calendar year, but may
11 collect the fees more frequently. If fees are collected
12 annually, a county shall require payment of the fees by not
13 later than February 1 following the calendar year for which the
14 fee is imposed. The county shall determine that manner in which
15 the fees are collected. Each county shall enact and enforce an
16 appropriate ordinance to enforce payment of the fees.

17 (d) By August 15, 2005, a county shall identify and develop
18 a list of all persons subject to the fees under subdivision 3,
19 paragraphs (f) and (g), located in that county. A county shall
20 annually update the list by August 15 of each year.

21 (e) A fee collection authority shall exempt a person from
22 payment of the clean water fee for a discharge of wastewater
23 from a residential dwelling if the fee collection authority
24 determines that the person meets any of the criteria for
25 eligibility under the telephone assistance plan established
26 under section 237.70, or that the person is receiving telephone
27 assistance under that plan. The Pollution Control Agency shall
28 create a form that fee collection authorities shall use to
29 determine eligibility for exemption under this paragraph.

30 (f) Any statement, invoice, or other document used to
31 collect the fees under this subdivision must clearly identify
32 the fee as the "Minnesota Clean Water Fee."

33 Subd. 5. [PAYMENT TO COMMISSIONER OF REVENUE; DEPOSIT.] (a)
34 A fee collection authority shall remit all fees collected under
35 this section, less the costs to collect the fees, not to exceed
36 five percent of the total collected, to the commissioner of

1 revenue. The fees must be remitted in a manner prescribed by
2 the commissioner. Amounts collected during the previous
3 calendar quarter must be remitted to the commissioner on April
4 30, July 31, October 31, and January 31. In addition to the
5 costs of collecting the fees, a fee collection authority may
6 retain from fees collected for calendar year 2006 the costs to
7 develop methods and procedures for collecting the clean water
8 fees.

9 (b) The commissioner of revenue shall deposit all clean
10 water fees remitted by fee collection authorities in the clean
11 water legacy account.

12 (c) The assessment, audit, refund, penalty, interest,
13 enforcement, collection remedies, appeal, and administrative
14 provisions of chapters 270 and 289A that are applicable to fees
15 imposed under chapter 297A apply to the fees imposed by this
16 section.

17 Subd. 6. [EXPIRATION.] This section expires on December
18 31, 2015.

19 Sec. 9. [114D.45] [CLEAN WATER LEGACY ACCOUNT.]

20 Subdivision 1. [CREATION.] The clean water legacy account
21 is created as an account in the environmental fund. Money in
22 the account must be made available for the implementation of
23 this chapter and sections 446A.073 and 446A.074, without
24 supplanting or taking the place of any other funds which are
25 currently available or may become available from any other
26 source, whether federal, state, local, or private, for
27 implementation of those sections.

28 Subd. 2. [SOURCES OF REVENUE.] The following revenues must
29 be deposited in the clean water legacy account:

30 (1) the revenue from the clean water fees collected under
31 section 114D.40; and

32 (2) interest accrued on the account.

33 Subd. 3. [PURPOSES.] Subject to appropriation by the
34 legislature, the clean water legacy account may be spent for the
35 following purposes:

36 (1) to provide grants, loans, and technical assistance to

1 public agencies and others who are participating in the process
2 of identifying impaired waters, developing TMDL's, implementing
3 restoration plans for impaired waters, and monitoring the
4 effectiveness of restoration;

5 (2) to support measures to prevent waters from becoming
6 impaired and to improve the quality of waters that are listed as
7 impaired but have no approved TMDL addressing the impairment;

8 (3) to provide grants and loans for wastewater and storm
9 water treatment projects through the Public Facilities
10 Authority;

11 (4) to support the efforts of public agencies associated
12 with individual sewage treatment systems and financial
13 assistance for upgrading and replacing the systems; and

14 (5) to provide funds to state agencies to carry out their
15 responsibilities under this chapter.

16 Sec. 10. [446A.073] [CLEAN WATER LEGACY PHOSPHORUS
17 REDUCTION GRANTS.]

18 Subdivision 1. [CREATION OF FUND; APPROPRIATION.] The
19 authority shall establish a clean water legacy capital
20 improvement fund and shall make grants from the fund as provided
21 in this section. Money in the clean water legacy capital
22 improvement fund, including interest earned, is appropriated to
23 the authority for the purposes of this section.

24 Subd. 2. [GRANTS.] The authority shall award grants from
25 the clean water legacy capital improvement fund to governmental
26 units for the capital costs of wastewater treatment facility
27 projects or a portion thereof that will reduce the discharge of
28 total phosphorus from the facility to one milligram per liter or
29 less. A project is eligible for a grant if it meets the
30 following requirements:

31 (1) the applicable phosphorus discharge limit is
32 incorporated in a permit issued by the agency for the wastewater
33 treatment facility on or after March 28, 2000, or the grantee
34 agrees to comply with the applicable limit as a condition of
35 receiving the grant;

36 (2) the governmental unit has submitted a facilities plan

1 for the project to the agency and a grant application to the
2 authority on a form prescribed by the authority; and

3 (3) the agency has approved the application and facilities
4 plan, and certified the eligible costs for the project to the
5 authority.

6 Subd. 3. [ELIGIBLE CAPITAL COSTS.] Eligible capital costs
7 for phosphorus reduction grants under subdivision 4, paragraph
8 (a), include the as-bid construction costs and engineering
9 planning and design costs. Eligible capital costs for
10 phosphorus reduction grants under subdivision 4, paragraph (b),
11 include the final, incurred construction, engineering, planning,
12 and design costs.

13 Subd. 4. [GRANT AMOUNTS AND PRIORITIES.] (a) Priority must
14 be given to projects that start construction on or after July 1,
15 2005. If a facility's plan for a project is approved by the
16 agency before July 1, 2009, the amount of the grant is 75
17 percent of the eligible capital cost of the project. If a
18 facility's plan for a project is approved by the agency on or
19 after July 1, 2009, the amount of the grant is 50 percent of the
20 eligible capital cost of the project. Priority in awarding
21 grants under this paragraph must be based on the date of
22 approval of the facility's plan for the project.

23 (b) Projects that meet the eligibility requirements in
24 subdivision 2 and have started construction before July 1, 2005,
25 are eligible for grants to reimburse 75 percent of the eligible
26 capital cost of the project, less any amounts previously
27 received in grants from other sources. Application for a grant
28 under this paragraph must be submitted to the agency no later
29 than June 30, 2007. Priority for award of grants under this
30 paragraph must be based on the date of agency approval of the
31 application for the grant.

32 (c) In each fiscal year that money is available for grants,
33 the authority shall first award grants under paragraph (a) to
34 projects that met the eligibility requirements of subdivision 2
35 by May 1 of that year. The authority shall use any remaining
36 money available that year to award grants under paragraph (b).

1 Grants that have been approved but not awarded in a previous
2 fiscal year carry over and must be awarded in subsequent fiscal
3 years in accordance with the priorities in this paragraph.

4 (d) Disbursements of grants under this section by the
5 authority to recipients must be made for eligible project costs
6 as incurred by the recipients, and must be made by the authority
7 in accordance with the project financing agreement and
8 applicable state law.

9 Subd. 5. [FEES.] The authority may charge the grant
10 recipient a fee for its administrative costs not to exceed
11 one-half of one percent of the grant amount, to be paid upon
12 execution of the grant agreement.

13 Sec. 11. [446A.074] [SMALL COMMUNITY WASTEWATER TREATMENT
14 LOAN PROGRAM.]

15 Subdivision 1. [CREATION OF FUND.] The authority shall
16 establish a small community wastewater treatment fund and shall
17 make loans from the fund as provided in this section. Money in
18 the fund is annually appropriated to the authority and does not
19 lapse. The fund shall be credited with all loan repayments and
20 investment income from the fund, and servicing fees assessed
21 under section 446A.04, subdivision 5. The authority shall
22 manage and administer the small community wastewater treatment
23 fund, and for these purposes, may exercise all powers provided
24 in this chapter.

25 Subd. 2. [LOANS.] The authority shall award loans to
26 governmental units from the small community wastewater treatment
27 fund for projects to replace noncomplying individual sewage
28 treatment systems with a community wastewater treatment system
29 or systems meeting the requirements of section 115.55. A
30 governmental unit receiving a loan from the fund shall own the
31 community wastewater treatment systems built under the program
32 and shall be responsible, either directly or through a contract
33 with a private vendor, for all inspections, maintenance, and
34 repairs necessary to assure proper operation of the systems.

35 Subd. 3. [PROJECT PRIORITY LIST.] Governmental units
36 seeking loans from the small community wastewater treatment loan

1 program shall first submit a project proposal to the agency. A
2 project proposal shall include a compliance determination for
3 all individual sewage treatment systems in the project area.
4 The agency shall rank project proposals on its project priority
5 list used for the water pollution control revolving fund under
6 section 446A.07.

7 Subd. 4. [LOAN APPLICATIONS.] Governmental units with
8 projects on the project priority list shall submit applications
9 to the authority on forms prescribed by the authority. The
10 application shall include:

11 (1) a list of the individual sewage treatment systems
12 proposed to be replaced over a period of up to three years;

13 (2) a project schedule and cost estimate for each year of
14 the project;

15 (3) a financing plan for repayment of the loan; and

16 (4) a management plan providing for the inspection,
17 maintenance, and repairs necessary to assure proper operation of
18 the systems.

19 Subd. 5. [LOAN AWARDS.] The authority shall award loans to
20 governmental units with approved loan applications based on
21 their ranking on the agency's project priority list. The loan
22 amount shall be based on the estimated project costs for the
23 portion of the project expected to be completed within one year,
24 up to an annual maximum of \$500,000. For projects expected to
25 take more than one year to complete, the authority may make a
26 multiyear commitment for a period not to exceed three years,
27 contingent on the future availability of funds. Each year of a
28 multiyear commitment must be funded by a separate loan agreement
29 meeting the terms and conditions in subdivision 6. A
30 governmental unit receiving a loan under a multiyear commitment
31 shall have priority for additional loan funds in subsequent
32 years.

33 Subd. 6. [LOAN TERMS AND CONDITIONS.] Loans from the small
34 community wastewater treatment fund shall comply with the
35 following terms and conditions:

36 (1) principal and interest payments must begin no later

1 than two years after the loan is awarded;

2 (2) loans shall carry an interest rate of one percent;

3 (3) loans shall be fully amortized within ten years of the
4 first scheduled payment or, if the loan amount exceeds \$10,000
5 per household, shall be fully amortized within 20 years but not
6 to exceed the expected design life of the system;

7 (4) a governmental unit receiving a loan must establish a
8 dedicated source or sources of revenues for repayment of the
9 loan and must issue a general obligation note to the authority
10 for the full amount of the loan; and

11 (5) each property owner to be served by a community
12 wastewater treatment system under this program must provide an
13 easement to the governmental unit to allow access to the system
14 for management and repairs.

15 Subd. 7. [SPECIAL ASSESSMENT DEFERRAL.] (a) A governmental
16 unit receiving a loan under this section that levies special
17 assessments to repay the loan may defer payment of the
18 assessments under the provisions of sections 435.193 to 435.195.

19 (b) A governmental unit that defers payment of special
20 assessments for one or more properties under paragraph (a) may
21 request deferral of that portion of the debt service on its
22 loan, and the authority shall accept appropriate amendments to
23 the general obligation note of the governmental unit. If
24 special assessment payments are later received from properties
25 that received a deferral, the funds received shall be paid to
26 the authority with the next scheduled loan payment.

27 Subd. 8. [ELIGIBLE COSTS.] Eligible costs for small
28 community wastewater treatment loans shall include the costs of
29 planning, design, construction, legal fees, administration, and
30 land acquisition.

31 Subd. 9. [DISBURSEMENTS.] Loan disbursements by the
32 authority under this section must be made for eligible project
33 costs as incurred by the recipients, and must be made in
34 accordance with the project loan agreement and applicable state
35 law.

36 Subd. 10. [AUDITS.] A governmental unit receiving a loan

1 under this section must annually provide to the authority for
2 the term of the loan a copy of its annual independent audit or,
3 if the governmental unit is not required to prepare an
4 independent audit, a copy of the annual financial reporting form
5 it provides to the state auditor.

6 Sec. 12. [APPROPRIATIONS.]

7 Subdivision 1. [GENERAL PROVISIONS.] The appropriations in
8 this section are from the environmental fund and are available
9 for the fiscal years ending June 30, 2006, and June 30, 2007.
10 Any money remaining after the first year of the biennium is
11 available for the second year. Appropriations in this section
12 that are encumbered under contract, including grant contract, on
13 or before June 30, 2007, are available until June 30, 2009.

14 Subd. 2. [DEPARTMENT OF REVENUE; FEE COLLECTION
15 COSTS.] \$38,000 in fiscal year 2006 and \$31,000 in fiscal year
16 2007 are appropriated to the Department of Revenue to pay the
17 costs of collection and administration of the clean water fees
18 imposed in Minnesota Statutes, section 114D.40.

19 Subd. 3. [POLLUTION CONTROL AGENCY.] The following amounts
20 are appropriated to the Pollution Control Agency for the
21 purposes stated:

22 (1) \$1,000,000 in fiscal year 2006 is to assist counties in
23 developing the list required under Minnesota Statutes, section
24 114D.40, subdivision 4, paragraph (e), of persons subject to
25 clean water fees under Minnesota Statutes, section 114D.40,
26 subdivision 3, paragraphs (f) and (g);

27 (2) \$1,860,000 in fiscal year 2006 and \$4,125,000 in fiscal
28 year 2007 are for statewide assessment of surface water quality
29 and trends; of these amounts, up to \$1,010,000 in fiscal year
30 2006 and \$1,960,000 in fiscal year 2007 are available for grants
31 or contracts to support citizen monitoring of surface waters;
32 and

33 (3) \$1,900,000 in fiscal year 2006 and \$3,290,000 in fiscal
34 year 2007 are to develop TMDL's for waters listed on the United
35 States Environmental Protection Agency approved 2004 impaired
36 waters list; of this appropriation, up to \$384,950 in fiscal

1 year 2006 and \$1,118,750 in fiscal year 2007 are available for
2 grants or contracts to develop TMDL's.

3 Subd. 4. [AGRICULTURE DEPARTMENT.] The following amounts
4 are appropriated to the Department of Agriculture for the
5 purposes stated:

6 (1) \$250,000 in fiscal year 2006 and \$2,300,000 in fiscal
7 year 2007 are for the agricultural best management practices
8 loan program under Minnesota Statutes, section 17.117; of these
9 amounts, \$200,000 in fiscal year 2006 and \$2,100,000 in fiscal
10 year 2007 are available for pass-through to local governments
11 and lenders for low-interest loans;

12 (2) \$350,000 in fiscal year 2006 and \$800,000 in fiscal
13 year 2007 are to expand technical assistance to producers and
14 conservation professionals on nutrient and pasture management;
15 target practices to sources of water impairments; coordinate
16 federal and state farm conservation programs to fully utilize
17 federal conservation funds; and expand conservation planning
18 assistance for producers; of these amounts, \$50,000 in fiscal
19 year 2006 and \$210,000 in fiscal year 2007 are available for
20 grants or contracts to develop nutrient and conservation
21 planning assistance information materials; and

22 (3) \$100,000 in fiscal year 2006 and \$800,000 in fiscal
23 year 2007 are for research, evaluation, and effectiveness
24 monitoring of agricultural practices in restoring impaired
25 waters; of these amounts, \$600,000 in fiscal year 2007 is
26 available for grants or contracts for research, evaluations, and
27 effectiveness monitoring of agricultural practices in restoring
28 impaired waters, including on-farm demonstrations.

29 Subd. 5. [BOARD OF WATER AND SOIL RESOURCES.] The
30 following amounts are appropriated to the Board of Water and
31 Soil Resources for restoration and prevention actions as
32 described in Minnesota Statutes, section 114D.20, subdivisions 6
33 and 7:

34 (1) \$450,000 in fiscal year 2006 and \$5,750,000 in fiscal
35 year 2007 are for targeted nonpoint restoration cost-share and
36 incentive payments; of these amounts, up to \$450,000 in fiscal

1 year 2006 and \$5,450,000 in fiscal year 2007 are available for
2 grants to soil and water conservation districts through the
3 state cost-share program authorized under Minnesota Statutes,
4 section 103C.501;

5 (2) \$412,000 in fiscal year 2006 and \$3,450,000 in fiscal
6 year 2007 are for targeted nonpoint technical and engineering
7 assistance for restoration activities; of these amounts, up to
8 \$412,000 in fiscal year 2006 and \$3,250,000 in fiscal year 2007
9 are available for grants to soil and water conservation
10 districts, watershed management organizations, or counties to
11 support implementation of nonpoint restoration activities;

12 (3) \$200,000 in fiscal year 2007 is for reporting and
13 evaluation of applied soil and water conservation practices;

14 (4) \$2,400,000 in fiscal year 2007 is for grants to
15 counties for implementation of county individual sewage
16 treatment systems programs through the local water resources
17 protection and management program under Minnesota Statutes,
18 section 103B.3369;

19 (5) \$300,000 in fiscal year 2006 and \$1,500,000 in fiscal
20 year 2007 are for base and challenge grants to support nonpoint
21 source protection activities related to lake and river
22 protection and management through the local water resources
23 protection and management program under Minnesota Statutes,
24 section 103B.3369; and

25 (6) \$2,400,000 in fiscal year 2007 is for grants to soil
26 and water conservation districts for streambank, stream channel,
27 lakeshore, and roadside protection and restoration projects
28 through the state-cost share program under Minnesota Statutes,
29 section 103C.501.

30 Subd. 6. [DEPARTMENT OF NATURAL RESOURCES.] The following
31 amounts are appropriated to the Department of Natural Resources
32 for the purposes stated:

33 (1) \$280,000 in fiscal year 2006 and \$430,000 in fiscal
34 year 2007 are for statewide assessment of surface water quality
35 and trends; and

36 (2) \$100,000 in fiscal year 2006 and \$4,050,000 in fiscal

1 year 2007 are for restoration of impaired waters and actions to
2 prevent waters from becoming impaired; of these amounts, up to
3 \$1,700,000 in fiscal year 2007 is available for grants and
4 contracts for forest stewardship planning and implementation,
5 and for research and monitoring.

6 Subd. 7. [PUBLIC FACILITIES AUTHORITY.] \$4,400,000 in
7 fiscal year 2006 and \$44,015,000 in fiscal year 2007 are
8 appropriated to the Public Facilities Authority; of these
9 amounts, \$4,400,000 in fiscal year 2006 and \$17,000,000 in
10 fiscal year 2007 are for deposit in the clean water legacy
11 capital improvements fund for grants under Minnesota Statutes,
12 section 446A.073; \$4,582,000 in fiscal year 2007 is for deposit
13 in the small community wastewater treatment fund for loans under
14 Minnesota Statutes, section 446A.074; and \$22,433,000 in fiscal
15 year 2007 is for deposit in the water pollution control
16 revolving fund under Minnesota Statutes, section 446A.07, for
17 wastewater treatment and storm water projects. Money
18 appropriated under this subdivision does not cancel.

1 Senator *S. Jensen* moves to amend S.F. No. 762 as follows:

2 Page 23, after line 5, insert:

3 "Sec. 12. [446A.075] [TOTAL MAXIMUM DAILY LOAD GRANTS.]

4 Subdivision 1. [PROGRAM ESTABLISHED.] From money

5 appropriated for this program, the authority shall make grants
6 to municipalities to cover up to one-half the cost of wastewater
7 treatment or stormwater projects made necessary by wasteload
8 reductions under total maximum daily load plans required by
9 section 303(d) of the federal Clean Water Act, United States
10 Code, title 33, section 1313(d).

11 Subd. 2. [GRANT APPLICATION.] Application for a grant
12 shall be made to the authority on forms prescribed by the
13 authority for the total maximum daily load grant program, with
14 additional information as required by the authority. In
15 accordance with section 116.182, the Pollution Control Agency
16 shall:

17 (1) calculate the essential project component percentage,
18 which shall be multiplied by the total project cost to determine
19 the eligible project cost; and

20 (2) review and certify approved projects to the authority.

21 Subd. 3. [PROJECT PRIORITIES.] From money appropriated for
22 this program, the authority shall reserve money for projects in
23 the order that their total maximum daily load plan was approved
24 by the United States Environmental Protection Agency and in an
25 amount based on their most recent cost estimates submitted to
26 the authority or the as-bid costs, whichever is less.

27 Subd. 4. [GRANT APPROVAL.] The authority shall make a
28 grant to a municipality, as defined in section 116.182,
29 subdivision 1, only after:

30 (1) the commissioner of the Minnesota Pollution Control
31 Agency has certified to the United States Environmental
32 Protection Agency a total maximum daily load plan for identified
33 waters of this state that includes a point source wasteload
34 allocation;

35 (2) the Environmental Protection Agency has approved the
36 plan;

1 (3) a municipality affected by the plan has estimated the
2 cost to it of wastewater treatment or stormwater projects
3 necessary to comply with the point source wasteload allocation;

4 (4) the Pollution Control Agency has approved the cost
5 estimate; and

6 (5) the authority has determined that the additional
7 financing necessary to complete the project has been committed
8 from other sources.

9 Subd. 5. [GRANT DISBURSEMENT.] Disbursement of a grant
10 shall be made for eligible project costs as incurred by the
11 municipality and in accordance with a project financing
12 agreement and applicable state and federal laws and rules
13 governing the payments."

14 Page 26, line 14, after the semicolon, insert "\$. is
15 for total maximum daily load grants under Minnesota Statutes,
16 section 446A.075;"

17 Page 26, line 18, before the period, insert "and is
18 available until expended"

19 Renumber the sections in sequence and correct the internal
20 references

21 Amend the title accordingly

A-24

Page 9, line 16, after "authority" insert "or their designee"

Page 9, line 17, delete "The"

Page 9, delete line 18 and insert "18"

Page 9, line 19, after "council" insert "shall be appointed"

Page 9, lines 20, 24, 25, 26, 29 and 31, before the semicolon, insert ", appointed by the governor"

Page 9, lines 21 and 22, delete "two" and insert "one" and before the semicolon, insert ", appointed by the governor"

Page 9, line 28, delete "one member" and insert "two members"

Page 9, line 31, delete "and"

Page 9, line 33, after "471.123" insert "appointed by the governor;

(10) one township officer, appointed by the governor;

(11) one member of the house of representatives, appointed by the speaker;

(12) one member of the senate, appointed by the majority leader;

(13) one member representing the University of Minnesota or a Minnesota State University, appointed by the governor;

(14) one member representing the interests of rural counties, appointed by the governor;
and

(15) one member representing the interests of counties in the seven-county metropolitan area, appointed by the governor.

The members of the council appointed by the governor are subject to the advice and consent of the senate. At least six of the members appointed by the governor must reside in the seven-county metropolitan area."

1 Senator ^{Marko} moves to amend S.F. No. 762 as follows:

2 Page 1, after line 10, insert:

3 "Section 1. Minnesota Statutes 2004, section 103C.311, is
4 amended by adding a subdivision to read:

5 Subd. 3. [SUPERVISORS ELECTED BY DISTRICTS.] (a) The
6 district board, with the approval of the state board, must by
7 resolution provide that supervisors will be elected by
8 supervisor districts as provided in this subdivision.

9 (b) The supervisor districts must be apportioned to be
10 coterminous with county commissioner districts. The districts
11 must be numbered in a regular series. The boundaries of the
12 districts must be redrawn after each decennial federal census as
13 provided in section 204B.135 and must reflect any changes in the
14 county commissioner district's boundaries. A certified copy of
15 the resolution establishing supervisor districts must be filed
16 by the chair of the district board with the county auditor of
17 the counties where the soil and water conservation district is
18 located, with the state board, and with the secretary of state
19 at least 30 days before the first date candidates may file for
20 the office of supervisor.

21 (c) Each supervisor district is entitled to elect one
22 supervisor. A supervisor must be a resident of the district
23 from which elected.

24 (d) The district board shall provide staggered terms for
25 supervisors elected by district. After each redistricting,
26 there shall be a new election of supervisors in all the
27 districts at the next general election, except that if the
28 change made in the boundaries of a district is less than five
29 percent of the average population of all the districts, the
30 supervisor in office at the time of the redistricting shall
31 serve for the full term for which elected. The district board
32 shall determine by lot the seats to be filled for a two-year
33 term, a four-year term, and a six-year term."

34 Page 26, after line 18, insert:

35 "Sec. 14. [REPEALER.]

36 Minnesota Statutes 2004, section 103C.311, subdivisions 1

1 and 2, are repealed."

2 Renumber the sections in sequence and correct the internal
3 references

4 Amend the title accordingly

**BOARD OF COUNTY COMMISSIONERS
DAKOTA COUNTY, MINNESOTA**

March 22, 2005

Resolution No. 05-132

Motion by Commissioner Schouweiler

Second by Commissioner Turner

Adoption of County Principles Regarding Minnesota "Clean Water Legacy Act" Proposed Legislation

WHEREAS, Dakota County has made considerable investments in research, education and capital projects to restore, protect, enjoy and utilize its water resources; and

WHEREAS, Dakota County acknowledges and appreciates the prior work of the "G-16" members to assess requirements and risks, evaluate alternatives and forward recommendations in a consensus manner; and

WHEREAS, Dakota County is committed to engaging with local and regional governments within its jurisdiction, its Legislative representatives and the Legislature's committees, the Governor's office and state agencies, its affiliate organizations (including the Association of Minnesota Counties, the Metropolitan Inter-County Association and the Minnesota River Board), and with other stakeholders party to the proposed Minnesota "Clean Water Legacy Act" legislation, to establish a plan with implementation means and measures to achieve the goal of restoring the state's and Dakota County's impaired waters.

NOW, THEREFORE, BE IT RESOLVED, That the **Dakota County Board of Commissioners believes that additional assessment, planning and public participation are needed before funding a large-scale restoration of impaired waters.** A comprehensive technical and fiscal assessment of the state's impaired waters issues should be completed that includes:

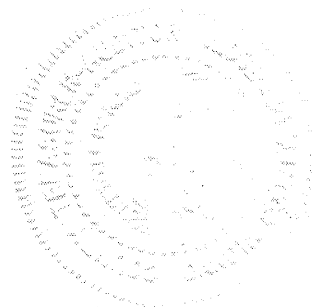
1. A prioritization schedule for completing assessments and commencing restoration
2. Projections for future fiscal needs after technical assessments are complete
3. Means and measures to track progress toward the goal of restoring impaired waters
4. A comprehensive evaluation of all potential funding mechanisms
5. Broad opportunities for public input, review and comment

; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners urges the legislature to address the following points in the proposed Minnesota "Clean Water Legacy Act" legislation:

- **The administrative infrastructure and governance must be clearly defined and efficient.** Any newly created governance organization (i.e., the "clean water council") must reflect the significant roles and responsibilities assigned to counties in the proposed legislation (e.g., additional county representation on the "clean water council", as appointed by the respective organizations). As an advisory body to the Governor and the legislature, the "clean water council" would benefit from greater public representation and a refocused state agency role as staff advisors to the council rather than as members of the council. Finally, opportunities for reengineering existing state water-funding programs to improve their focus, relevance, coordination, and efficiency with the goals of the proposed legislation should be enacted prior to or commensurate with creation of a new governance body.
- **A phased implementation plan should be employed** so that technical assessment in priority areas is completed prior to large-scale investments in restoration efforts. Because only 14% of lakes and 8% of rivers in the state have been assessed, large-scale restoration efforts should be phased in after the assessments are completed so that the restoration funds are expended efficiently and effectively.
- **The scale at which watershed restorations/improvements will be assessed and implemented must be defined in order to achieve effective implementation.** Watershed delineations for assessment work, TMDL plans, and load allocations are needed so that expectations and relationships between large regional or basin-scale TMDL projects and local sub-watershed prioritization, funding and regulatory actions to implement them are clear.

- **Conservation incentives and education should be included** in the proposed legislation to reduce actions that are impairing the state's lakes and rivers and assure preservation of those that are not impaired. Providing financial incentives and education opportunities that promote conservation practices to reduce pollutant loadings should be primary elements of a program that seeks to change behaviors.
- **The financing mechanism needs to be equitable, efficient and proportional, and thus:**
 - In concert with the goal of promoting incentives for preventing polluting activities, taxes imposed should have a relationship to water use or discharges.
 - Double or triple taxation in jurisdictions where city, regional wastewater and watershed programs are already in place must be avoided.
 - The proposal to use the local property tax system to collect revenues to be sent to the state, where decisions will be made to send back a portion of the funds to the local government is not efficient and should be reconsidered.
 - In general, greater local control over spending priorities should be incorporated into the legislation.
 - The start-up and ongoing administrative costs to local government for actions required by the legislation should be provided for in the legislation.
 - There needs to be a geographic relationship between the revenue collected from residents and businesses and where it is spent.
 - Local governments responsible for collecting the funds need to retain a share of the funds collected to implement plans approved pursuant to the legislation proposed.
 - Local governments that have previously invested in water protection efforts will have equal access to the new fee revenues.




STATE OF MINNESOTA
County of Dakota

	YES		NO
Harris	<u> X </u>	Harris	<u> </u>
Gaylord	<u> X </u>	Gaylord	<u> </u>
Egan	<u> X </u>	Egan	<u> </u>
Schouweiler	<u> X </u>	Schouweiler	<u> </u>
Turner	<u> X </u>	Turner	<u> </u>
Krause	<u> X </u>	Krause	<u> </u>
Branning	<u> X </u>	Branning	<u> </u>

I, Mary S. Scheide, Clerk to the Board of the County of Dakota, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Dakota County, Minnesota, at their session held on the 22nd day of March 2005, now on file in the County Administration Department, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal of Dakota County this 29th day of March 2005.

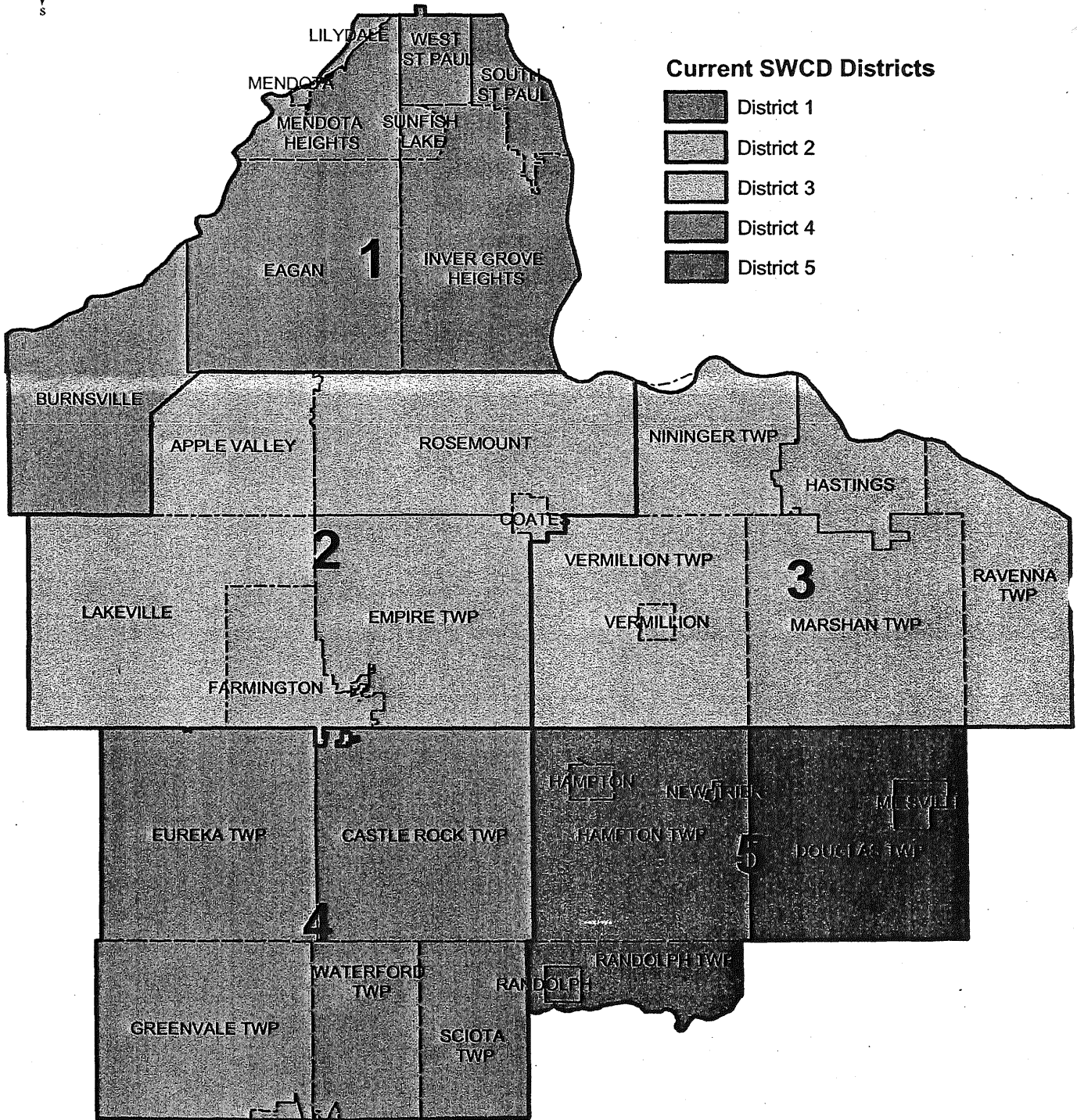

 Clerk to the Board


DAKOTA COUNTY SOIL & WATER CONSERVATION

Dakota County Extension and Conservation Center
 4100 220th Street West, Suite 102, Farmington, MN 55024
 Phone: (651) 480-7777 Fax: (651) 480-7775
www.dakotacountyswcd.org

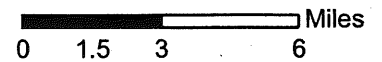
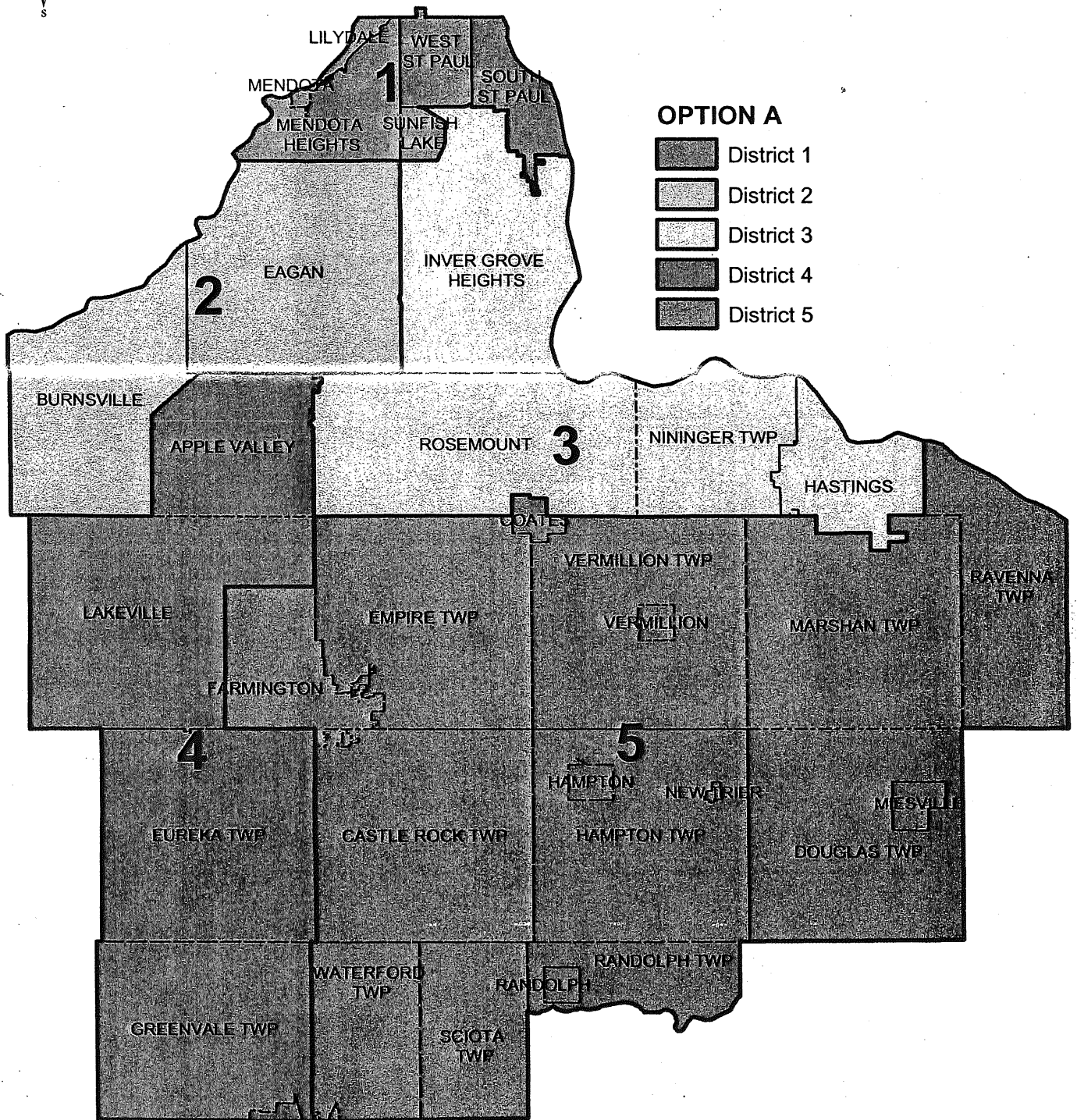
Supervisor Nomination District Review

Current Districts	Population	Acres
District 1	205,787	73,496
District 2	117,440	88,241
District 3	24,364	76,442
District 4	5,028	84,026
District 5	3,285	53,305
Option A	Population	Acres
District 1	52,252	15,496
District 2	123,777	38,722
District 3	63,493	59,899
District 4	91,336	77,466
District 5	25,046	184,159
Option B	Population	Acres
District 1	79,407	30,891
District 2	65,367	21,360
District 3	4,385	8,922
District 3	69,688	16,586
District 4	132,006	202,529
District 5	5,051	95,801
Option C	Population	Acres
District 1	46,760	246,400
District 2	40,060	10,752
District 3	54,007	21,246
District 4	51,500	25,223
District 5	48,464	14,801
District 6	57,735	25,119
District 7	57,378	32,198



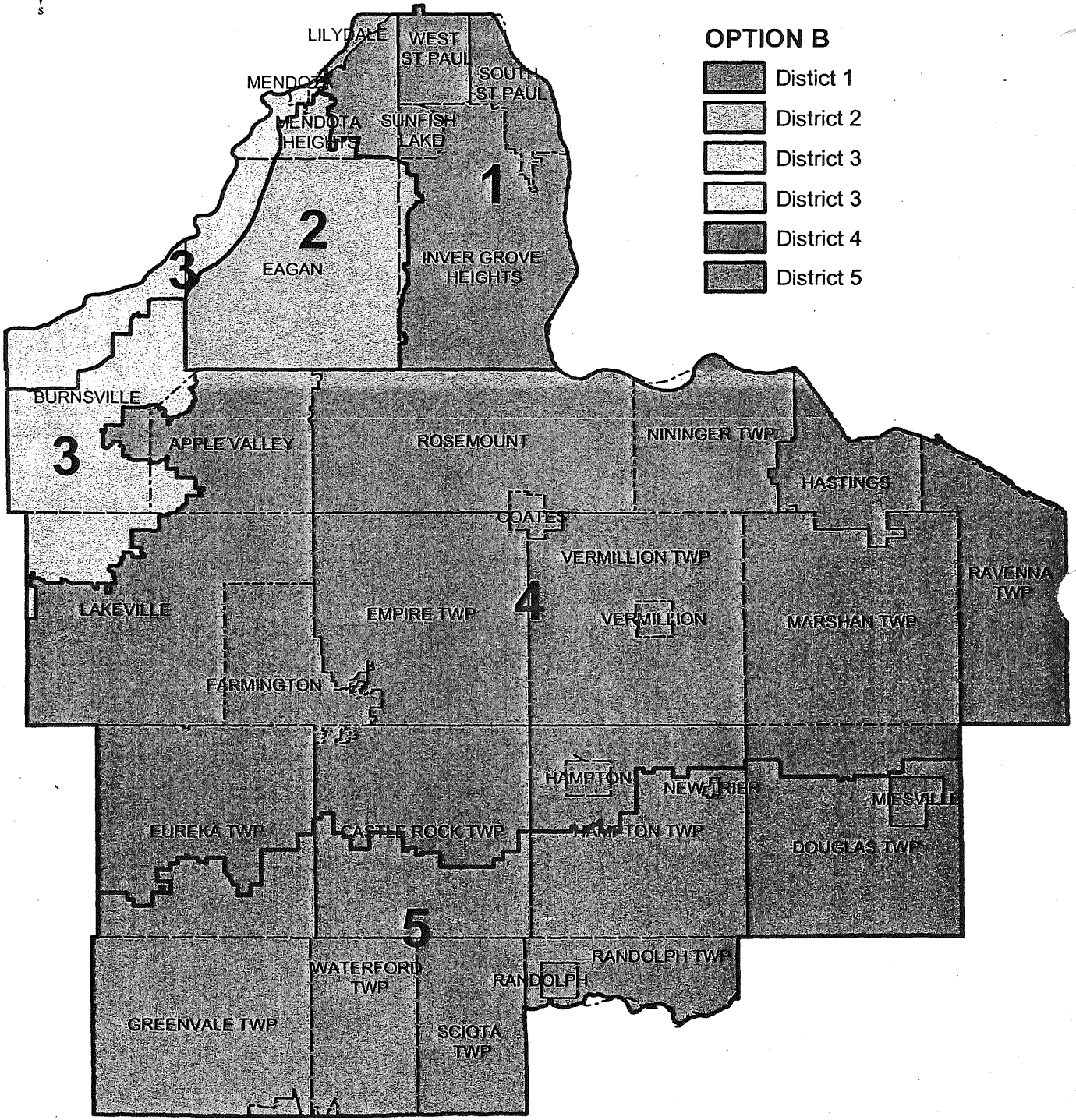
Dakota County SWCD Current Districts

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information and data located in various City, County, and State Offices and other sources, affecting the area shown, and is to be used for reference purposes only. Dakota County SWCD is not responsible for any inaccuracies herein contained. If discrepancies are found please contact the Dakota County Soil & Water Conservation District at 651.480.7777.









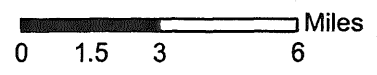
Dakota County SWCD Option A

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information and data located in various City, County, and State Offices and other sources, affecting the area shown, and is to be used for reference purposes only. Dakota County SWCD is not responsible for any inaccuracies herein contained. If discrepancies are found please contact the Dakota County Soil & Water Conservation District at 651.480.7777.



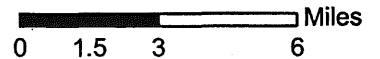
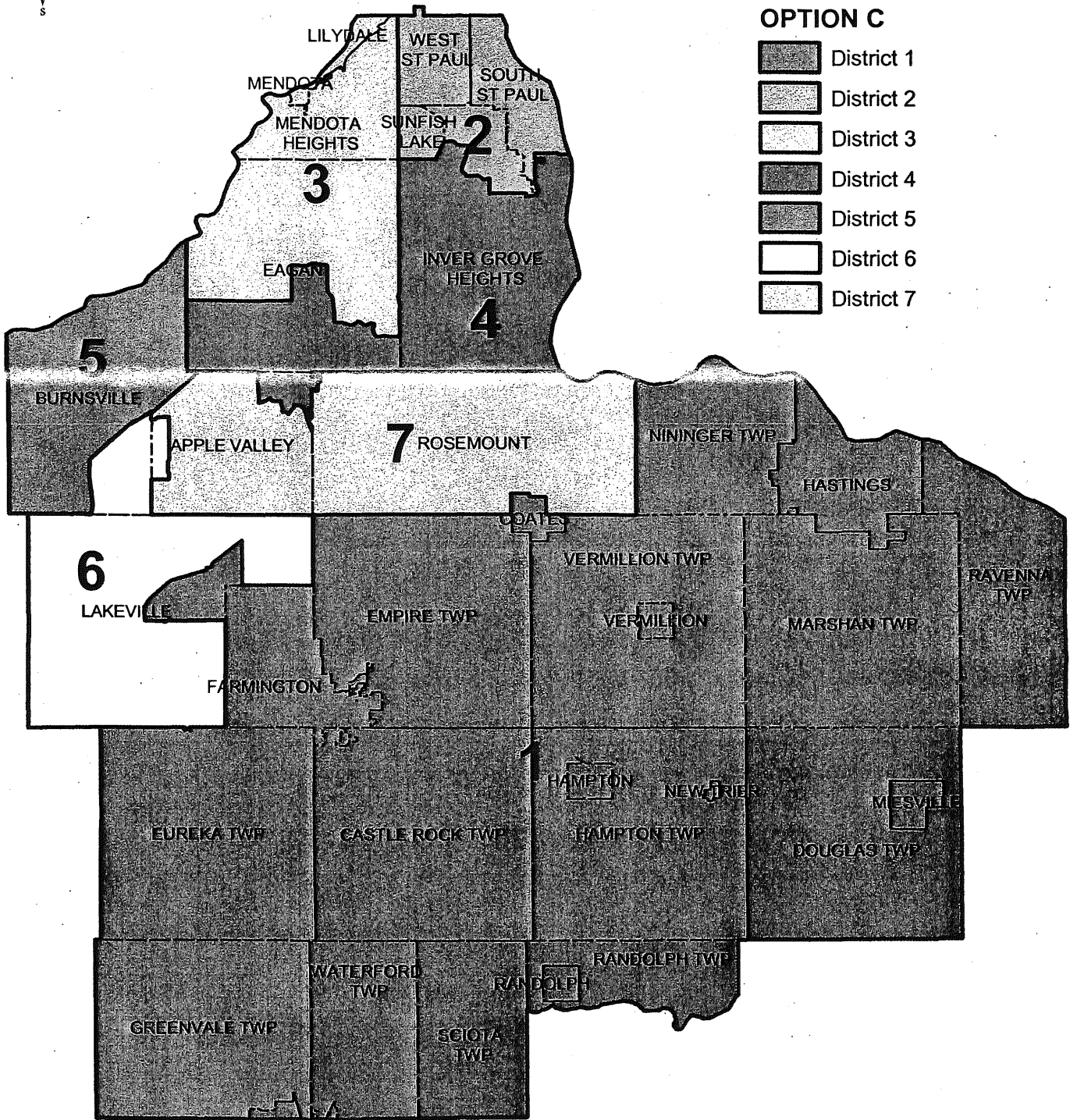
OPTION B

-  Distict 1
-  Distict 2
-  Distict 3
-  Distict 3
-  Distict 4
-  Distict 5



**Dakota County SWCD
Option B**

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information and data located in various City, County, and State Offices and other sources, affecting the area shown, and is to be used for reference purposes only. Dakota County SWCD is not responsible for any inaccuracies herein contained. If discrepancies are found please contact the Dakota County Soil & Water Conservation District at 651.480.7777.



Dakota County SWCD Option C

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information and data located in various City, County, and State Offices and other sources, affecting the area shown, and is to be used for reference purposes only. Dakota County SWCD is not responsible for any inaccuracies herein contained. If discrepancies are found please contact the Dakota County Soil & Water Conservation District at 651.480.7777.

CREATE A CLEAN WATER LEGACY

PROTECT OUR WATER

The State of Our Water

Minnesota is the land of 12,000 lakes and 92,000 miles of rivers and streams. Our lakes, rivers, and streams make Minnesota a great place to live. Minnesotans enjoy them for fishing, boating, and swimming and rely on them as sources of our drinking water.

Unfortunately, Minnesota's water is not as clean as it should be. Of the lakes and rivers tested in Minnesota, 40% are polluted (or "impaired") with contaminants such as human and animal waste, algae from phosphorus, fertilizers, and mercury.

We must act now to clean up our polluted waters to avoid additional beach closings, more stringent fish consumption advisories, and serious economic restrictions on cities and businesses in all regions of the state.

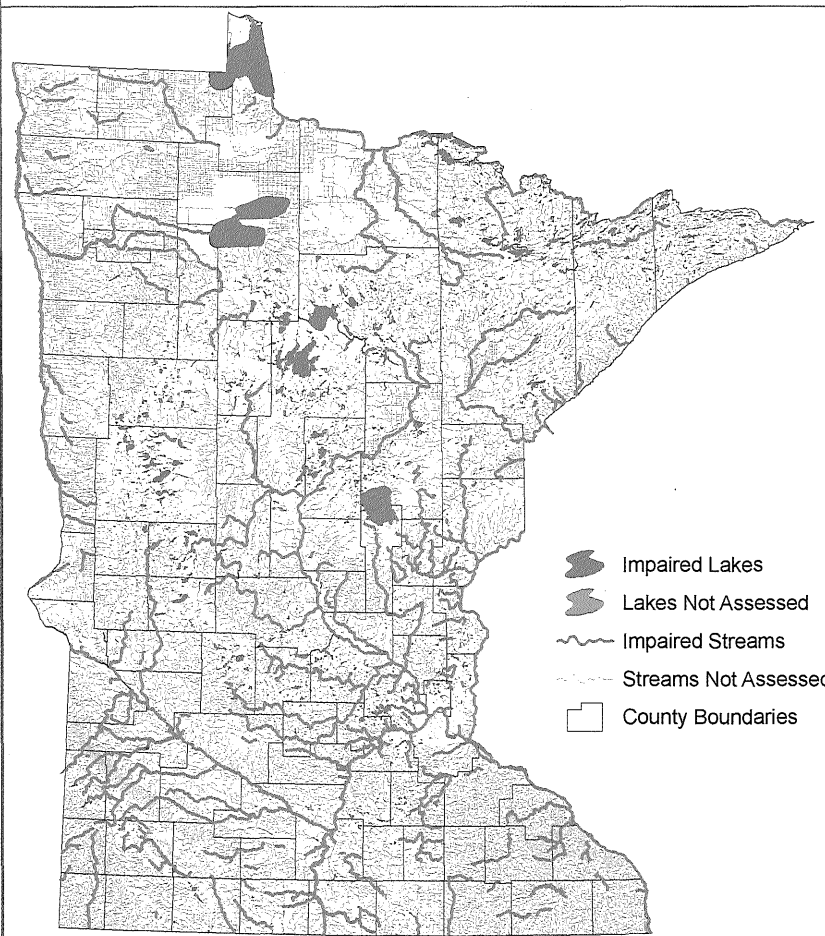
Minnesotans have a right to know if our waters are contaminated or safe. For our economy, environment and health, we must create a clean water legacy for Minnesota.






The Need

To test all of our lakes and rivers and implement clean up plans it will cost approximately \$270 million per year. The Clean Water Legacy proposal addresses a portion of that need and will create \$80 million in new state money and leverage local, private, and more than \$40 million in federal dollars to begin to meet this need.



Drain pipe emptying into ditch



-  Impaired Lakes
-  Lakes Not Assessed
-  Impaired Streams
-  Streams Not Assessed
-  County Boundaries

Broad Support

A broad coalition of 40 groups, including the Minnesota Chamber of Commerce, Minnesota Farm Bureau, Minnesota Farmers Union, League of Minnesota Cities, and member organizations of the Minnesota Environmental Partnership, known as the Impaired Waters Stakeholders Group, worked for 18 months to find a solution that will begin to pay for testing and clean up of Minnesota's waters.

Facts

- Minnesota has the most surface waters of all 48 contiguous states.
- Yet, only 8% of our river miles and 14% of our lakes have been tested for pollution problems; 40 percent of those are contaminated.

The Clean Water Legacy Solution

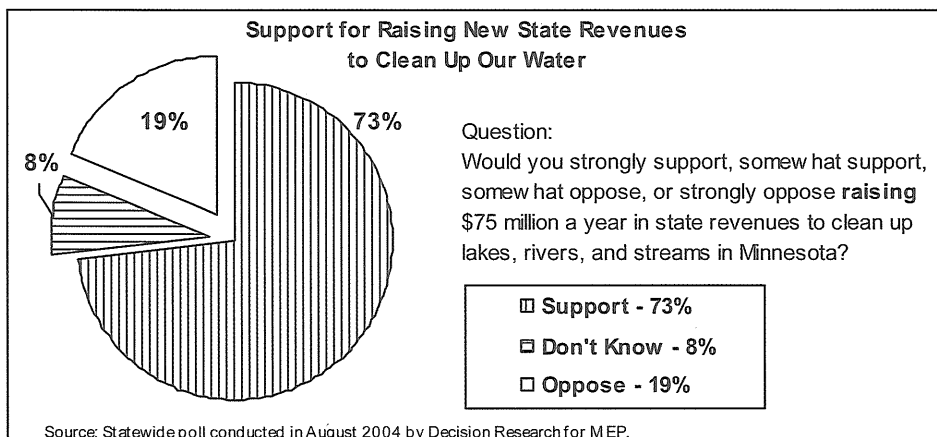
After reviewing nearly 50 funding options, the coalition recommended a stable, long-term funding mechanism. Under the Clean Water Legacy plan, \$80 million to clean up and test Minnesota's waters would be generated through a user fee on municipal wastewater connections and septic systems. Key elements of the funding plan include:

- "Hardship exemptions" for those who can't afford to pay the additional charges
- Increased fees for heavy water users, such as apartment complexes and larger businesses
- Leveraging dollars from federal, local and private resources, including more than \$40 million per year from the federal farm bill for conservation and restoration practices

Our Position:

The Minnesota Environmental Partnership (MEP) supports generating \$75-\$100 million in new state dollars annually to test Minnesota's waters, develop clean-up plans and implement restoration activities to clean up contaminated waters and keep clean waters clean. MEP endorses the coalition's proposed user fees on municipal wastewater connections and septic systems to protect our water and pay for needed testing and cleanup.

The Clean Water Legacy Act (SF 762 and HF 826) is authored by Senators Frederickson, D.E. Johnson, Dille, Higgins, and Hottinger, and by Representatives Ozment, Anderson Kelliher, Davids, Juhnke, and Sviggum.



Fact

Cleaning up our waters is critical to business and economic development. Any new or expanded economic development along Minnesota polluted waterways must comply with the clean-up plans.

Clean water is not a Democrat or Republican issue – it's a Minnesota value.

For more information contact:

John Curry
Minnesota Center for Environmental Advocacy
651.223.5969

Anne Hunt
Minnesota Environmental Partnership
651.290.0154 MEP
651.276.0380 mobile

John Tuma
Minnesota Environmental Partners.
612.991.1093 mobile

www.ProtectOurWater.info





Recent Press Coverage on the Need to Create a Clean Water Legacy

Pioneer Press Editorial: Water cleanup plan deserves legislators' support – 12/22/04

"We like the plan that targets \$80 million in new money for lake and river testing and cleanup. The state's waters are one of its finest assets and worthy of constant rather than occasional stewardship."

Star Tribune Editorial: Clean water; alas, a 'user fee' is necessary – 2/20/05

"In a better world, the notion of user fees for clean water would be laughable. In this world, it's lamentable that such an important job won't get done without them."

Hutchinson Leader Editorial: Clean water – 2/15/05

"Clean lakes and rivers seem to be as unifying this year as a pan of fresh sunnies frying in cracker crumbs."

West Central Tribune Editorial: Time for Legislature to OK bill on clean water – 3/2/05

"This water act is the right thing to do for the future of Minnesota – the land of 10,000 lakes – and its people."

Pioneer Press Article: Clean water bill gains wide legislative support – 2/9/05

Star Tribune Article: User fee for water aims to clean up lakes, rivers – 2/10/05

Outdoor News Article: Impaired waters bills hit St. Paul this week – 2/11/05

Associated Press Article: Developers find dirty water limits growth – 2/20/05

Outdoor News Commentary: The Crow shows us the future – 12/24/04

"Already officially 'impaired' according to the MPCA, the Crow River will become a much less desirable river, more able to support bullheads and carp than walleyes and bass."

St. Cloud Times Article: Bill aims to clean state's waters – 2/22/05

AgriNews: Protect Our Water rally draws big crowd – 3/3/05

EDITORIALS

MINNESOTA

Water cleanup plan deserves legislators' support

A coalition of 60 environmental, farming and business organizations throughout Minnesota agree that Minnesota lakes need to be cleaned up and they've come up with a plan to do it. When groups with such divergent interests form a united front on an issue, the governor and state Legislature ought to pay attention.

We like the plan that targets \$80 million in new money for lake and river testing and cleanup. The state's waters are one of its finest assets and worthy of constant rather than occasional stewardship.

If this cost-sharing proposal receives approval, the thousands of Minnesotans for whom lakes and rivers are a drinking water source will share its benefits. A cleanup will benefit all who swim and fish in our lakes. Wildlife will reap the benefits, too.

We like the plan that targets \$80 million in new money for lake and river testing and cleanup.

These improvements are overdue and important. As the Legislature convenes in January, we hope partisanship is set aside on this issue and others that define the good life here and in this case, help restore it.

The proposal shares the cost by requiring a monthly \$3-per-household fee on municipal wastewater connections and septic systems, but exempts the lowest income Minnesotans. Those using more water, such as businesses, will pay a higher fee. We would caution lawmakers to ensure that any money raised from such a fee be used for water-quality improvements, not just throw it into the state's general fund where it might be diverted to other purposes.

For those unconvinced of any water-quality problem, remember that earlier this year the state Health Department issued a fish consumption advisory for every Minnesota lake due to mercury contamination. The state Pollution Control Agency has tested 33 percent of the state's rivers and 14 percent of its lakes for pollution. Of that total, 40 percent are contaminated with animal and human waste, algae from phosphorus, mercury and fertilizers.

A refusal to address these matters has other ramifications — the federal Clean Water Act prohibits communities and businesses from expansion if they're located near a contaminated lake, river or stream. To proceed with development, a cleanup plan must be in place.

We're happy to see a coalition of partners who are eager to tackle the state's water pollution challenges. Members of the League of Minnesota Cities, the state Chamber of Commerce, the Minnesota Environmental Initiative and the state Farm Bureau Federation joined with others to resolve a complex matter.

All Minnesota waters need to be clean. It's time to transform the land of murky blue contaminated waters back into the land of sky blue waters.

10B WEDNESDAY, DECEMBER 22, 2004

ST. PAUL PIONEER PRESS

Bernard H. Ridder Jr.
1916-2002

Par Ridder
Publisher/
President



Art Coulson
Editorial Page
Editor

To reach us
Phone: 651-228-5545
Fax: 651-228-5564

EDITORIAL PAGE

Vicki S. Gowler
Editor/
Senior Vice President

Catherine Straight
Managing Editor
Features, Sports

NEWS EXECUTIVES

Chris Wort
Managing
Local News

OPINION

ST. PAUL PIONEER PRESS WWW.TWIN

StarTribune Editorial

J. Keith Moyer, Publisher
News: Anders Gyllenhaal, Editor
Scott Gillespie, Managing Editor
Editorial: Susan Albright, Editor, Editorial Pages
Jim Boyd, Deputy Editor, Editorial Pages

www.startribune.com/opinion e-mail: opinion@startribune.com

is labeled "Our perspective," represent
ditional voice of the Star Tribune. They
ned by the Editorial Department,
ndependent of the newsroom.

OUR PERSPECTIVE

Clean water

Alas, a 'user fee' is necessary

Minnesota appears poised to create an \$80 million-a-year program to inspect and restore the state's polluted waters. This is an important, overdue step forward in caring for the state's trademark resource. Its "user fee" funding method is unfortunate, in our view, but manifestly an idea whose time has come.

Under federal law, states must inventory their lakes and rivers for a wide range of pollutants: mercury, phosphorus, coliform bacteria and so on. Where contamination exceeds U.S. standards, plans must be developed for reducing it and holding the "total maximum daily load" (TMDL) of pollutants to acceptable levels; otherwise, further development in the watershed may be banned. This is hardly an abstract possibility: Among the small fraction of Minnesota waters tested so far, 40 percent exceeded the limit for one or more pollutants and were officially classed as "impaired."

The threat to economic growth is one of two big reasons for the unusual unity behind the Clean Water Legacy legislation: 88 environmental, business, local government and agriculture groups support it; the co-authors include House Speaker Steve Sviggum on the Republican side and Senate Majority Leader Dean Johnson of the DFL; Gov. Tim Pawlenty has praised the consensus approach. Apart from some quibbles over implementation details, there appears to be no substantial dissent — unusual, these days, for such a large and ambitious environmental initiative.

The other reason is that this program will be funded not from tax revenue but with a \$36 annual fee on every household that discharges wastewater into a sewer or septic system — essentially every residence. Apartment houses will be charged \$36 per unit; commercial properties will pay \$120, \$300 or \$600 per year, depending on discharge volume.

There is much to be said for fee-based financing of public services that are used only by some citizens, or used much more heavily by some citizens than others, or used chiefly

as a matter of choice. Hunting and fishing licenses come to mind, along with recreational vehicle registrations and campground charges.

But wastewater disposal? It's hard to think of a more universally necessary public function; even people who prefer to haul their own trash can't do the same with wastewater. And though every home and business in the state requires clean drinking water, they certainly do not share equally in creating the pollution problems that the TMDL program is meant to address.

The aims of Clean Water Legacy make it a perfect example of a public function that should be financed from a progressive tax system, perhaps supplemented with additional fees from the largest polluters. To call this universal, compulsory charge a "user fee" is a fanciful, if not cynical, relabeling of what is clearly a tax in both form and function — and a regressive one at that, despite the plan's higher business rates and unspecified exemptions for some low-income households.

Regrettably, such artifice seems necessary to accomplish objectives that Minnesota has been neglecting. Only 8 percent of rivers and 14 percent of lakes have been tested under the TMDL standards. Yet year after year, clean water programs suffer in the competition for state revenue. There's a paradox here — clean water has a universal constituency, and for that very reason lacks the narrower, focused backing of other causes. Dramatic funding cuts have been the upshot.

Steve Morse, the former state senator and deputy commissioner of natural resources who played a key role in shaping the Legacy approach, notes that environmental spending across the board has been reduced by about one-third in the last four years of Ventura and Pawlenty budgets; even some specially designated funds have been raided for other purposes.

In a better world, the notion of user fees for clean water would be laughable. In this world, it's lamentable that such an important job won't get done without them.

hutchinsonleader.com Hutchinson, Minn.

JUDGED THE NATION'S BEST NON-DAILY NEWSPAPER BY THE INLAND PRESS ASSOC., 2004
NAMED THIRD BEST NON-DAILY NEWSPAPER WEB SITE IN THE NATION BY NAT'L NEWSPAPER ASSOC., 2003

EDITORIAL: Clean water

Tuesday, February 15, 2005

Leader editorials are written by Publisher Matt McMillan and Editor Doug Hanneman

Lake Minnie Belle is clean. On a summer day, you can wade in up to your neck, look down and see your toes.

Politicians who normally fight each other are rallying to keep lakes like Minnie Belle clear while cleaning up impaired or polluted lakes and rivers. We admire their bipartisanship and the noble goal of the proposed Clean Water Legacy Act.

Steve Dille, R-Dassel, is co-author of the clean water bill in the Minnesota Senate. In the House, there are 32 authors, 15 Republican and 17 Democrat. It is heartening to see such cooperation. Clean lakes and rivers seem to be as unifying this year as a pan of fresh sunnies frying in cracker crumbs.

There is reason to rally support, too. New limits on growth around impaired waters such as the Crow River are looming. Without plans in place to clean such rivers and lakes, the federal government can halt growth. That sends a chill into diverse groups of Minnesotans.

Sen. Dille told the Leader that the Minnesota Chamber of Commerce, Minnesota Farm Bureau and the Minnesota Center for Environmental Advocacy all recently spoke in favor of the bill. Gov. Pawlenty is in favor, too. It would place a \$3 per month fee on each rural septic system and city home. Commercial properties would pay by water volume consumed. If implemented, the fee will raise about \$80 million to \$85 million in Minnesota annually.

Since the federal government is applying the pressure, it is also chipping in money. Farmers would get more money for buffer strips, septic conservation compliance and record keeping for livestock operations. Only watersheds that are listed in the federal farm bill are eligible for the extra federal money.

The Crow River watershed is not currently listed, but five watersheds are added each year. The five watersheds added this year are Red Lake, Red Eye, Redwood, Root and Sauk rivers. Getting the impaired Crow River on the list is important for payments to area farmers and for people who care about the water quality of the river.

If the Clean Water Legacy Act is passed in Minnesota, all the money would go into existing programs such as the Public Facility Authority that helps build city wastewater treatment plants, Department of Natural Resources and the Board of Water and Soil that pays farmers to build buffer strips of grass near streams and rivers. These strips of vegetation help prevent soil and chemicals from farm fields from running directly into a river during rainstorms.

We applaud Sen. Dille and all of the folks involved in trying to help clean up Minnesota's lakes and rivers. Water is Minnesota's claim to fame. It is great to be able to stand in Lake Minnie Belle, or any lake or river, and see that sunny coming before it nibbles your leg.

Readers leaving their full name and e-mail address in the article comment area will have their comment considered for online publication.

WEST CENTRAL TRIBUNE *Online*

Serving Willmar and west central Minnesota

Time for Legislature to OK bill on clean water

Wednesday, March 02, 2005

Tribune Editorial

A major effort to clean Minnesota waters is running into shortsighted opposition in the Legislature. The time for Minnesota to move forward in a unified approach of the Clean Water Legacy bill is here.

This water act is the right thing to do for the future of Minnesota -the land of 10,000 lakes -and its people.

Minnesota's water quality levels are not good. A state survey of 14 percent of state lakes and 8 percent of its rivers found that nearly 40 percent are considered polluted. The Minnesota Pollution Control Agency estimates that within 10 years, 10,000 water bodies will be declared polluted.

The facts are simple. The sooner the state begins addressing the work needed on water quality, the better off all Minnesotans will be.

The proposed act will be debated in the coming weeks at the Legislature. Under the act, homeowners would pay \$36 per year and businesses would pay from \$120 to \$600 per year to fund the water cleanup work.

Opposition is coming from county and city officials worrying about being blamed by citizens for the water tax. Small businesses are complaining they would have to pay too much. Other businesses say that they end up paying for the businesses that are the greatest polluters.

The question for the bill's critics is this: How much will it cost each person and business in Minnesota if the state does nothing?

Water resources in Minnesota contribute an estimated \$9 billion per year to the state economy, according to experts. That is an industry worth protecting and investing in.

Let's find a fee structure that will work for everyone involved and pass Minnesota's Clean Water Legacy bill.

Then let's get started on solving Minnesota's water-quality problem and improving the lakes and rivers that are our state's legacy.

Content © 2005 West Central Tribune
Software © 1998-2005 1up! Software, All Rights Reserved

Posted on Wed, Feb. 09, 2005

Clean water bill gains wide legislative support

BY DENNIS LIEN
Pioneer Press

Two key Minnesota lawmakers are championing a bill aimed at cleaning up polluted state lakes and rivers, a move that appears to improve the chances the "Clean Water Legacy" package will pass the Legislature this session.

The support Wednesday from the leaders of the Senate and House, Majority Leader Dean Johnson, DFL-Willmar, and House Speaker Steve Sviggum, R-Kenyon, follows recent public statements from Gov. Tim Pawlenty that he would sign such a bill if it reaches his desk.

Johnson and Sviggum agreed recently to co-sponsor the bills, which were introduced this week and would raise \$80 million a year from new fees on state residences and businesses. The effort, required under the federal Clean Water Act, is expected to take decades and cost billions of dollars.

"It's very important that Sen. Johnson and his caucus are behind this effort," said the bill's chief Senate sponsor, Sen. Dennis Frederickson, R-New Ulm. "It's pivotal."

Urging the state to act soon or to face lawsuits and federal sanctions later, a broad coalition of supporters, representing businesses, cities, agriculture and the environment, have spent two years crafting the package. But with Pawlenty's "no new taxes" pledge, the sticking point has been how to pay for it.

At a press conference Wednesday, supporters did their best to avoid saying the proposed fees could be interpreted as taxes. Johnson even joked that fees and taxes would see expanded definitions as the legislative debate unfolds.

Pawlenty spokesman Brian McClung said the governor considers the new money a fee, not a tax.

"This type of arrangement is a user fee for a user purpose that is specifically directed," McClung said. "There are numerous other examples in the state and they are considered fees."

McClung said Pawlenty considers the effort extremely important.

"The governor has said Minnesota cannot become the land of 10,000 impaired waters," McClung said. "Clean water is really something that everyone in Minnesota has a stake in and a desire that we pass on."

"From the governor's perspective, he has been very consistent that this is a problem that needs to be dealt with this year," McClung added. "He is hopeful the Legislature takes action."

Under the plan, \$80 million a year would be raised by charging a \$36 fee on residential sewer connections and septic systems and a \$120 to \$600 annual fee for businesses, depending on how much water they use. Exemptions would be allowed for low-income residents.

The money would be put into an account that would pay for a federally required evaluation of Minnesota waters and a clean-up of those found to be polluted.

Unless action is taken, cities and businesses hoping to expand will run afoul of the Clean Water Act and will face serious restrictions on the types of development they can pursue. The act says no new or increased wastewater discharges to water bodies on the state's "impaired" waters list can be allowed without a cleanup plan in place first.

So far, the state has only been able to test 8 percent of its rivers and 14 percent of its 10,000-plus lakes. About 40 percent of the river or water bodies that have been tested have been found to be contaminated by pollutants such as human or animal waste, algae from phosphorus, mercury and fertilizers.

When the coalition looked for ways to pay for the cleanup plan, it ran into a problem. Most of the pollution now funneling into lakes and streams is urban and rural runoff, meaning there's often no identifiable source.

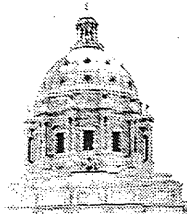
As a result, the coalition decided to spread the payments broadly. Under its proposal, residential sewer users would pay \$34 million a year; septic users, \$19 million; apartment dwellers, \$14 million; and businesses, \$13 million. It said that money would attract tens of millions of dollars a year from other federal, local and private sources.

The highest priority, it said, should go to projects that directly restore water quality. Accordingly, it recommended \$38 million a year go to cities to upgrade wastewater treatment plants, \$21 million to reduce pollution runoff, \$8.5 million for strategies that keep existing lakes and rivers clean, and the rest for continued testing and administration.

A bipartisan group of 30 lawmakers signed on as co-sponsors on the House bill and the maximum of five legislators put their names on the Senate bill.

"Clean water is not a Democratic or Republican issue," said Rep. Dennis Ozment, R-Rosemount, and chairman of the House Agriculture and Natural Resources Finance Committee. "It's a Minnesota value."

Dennis Lien can be reached at dlien@pioneerpress.com or 651-228-5588.



CAPITOL REPORT

A daily review of action in the Minnesota Legislature

CLEAN WATER LEGACY BILL

User fee for water aims to clean up lakes, rivers

By Mark Brunswick
Star Tribune Staff Writer

Each home in Minnesota would be charged an additional \$36 a year for the water it uses and businesses would be charged an additional \$120 to \$600 a year under a proposal to generate \$80 million a year to clean up the state's polluted lakes and rivers.

A coalition of business, agriculture, local government, and environmental groups on Wednesday proposed the Clean Water Legacy Bill, which will use the money generated by user fees to accelerate testing of Minnesota waters and to clean up the state's most contaminated rivers and lakes.

Only 8 percent of river miles and 14 percent of the state's lakes have been tested for pollution, and 40 percent of those are contaminated. About 85 percent of the money generated will go to clean up the state's most polluted waters. The bill, recently introduced into the Legislature, also would provide money for pollution prevention programs.

"Clean water is not a Democrat or Republican issue. It's a Minnesota value," said Rep. Dennis Ozment, R-Rosemount,

the chief author of the bill in the House.

Under provisions of the bill, the fees eventually will generate about \$85 million a year when fully implemented in fiscal year 2009. The money will be used to monitor and assess the state's waterways and to initiate land and water treatment programs, often through leveraging other state, federal, local and private funds.

The coalition came together under the threat that cities, manufacturing plants, small businesses and food processing facilities would not be allowed to expand unless contaminated waters near them are cleaned up.

The federal Clean Water Act requires states to assess their lakes and streams, and to list as "impaired" those that contain too much mercury, fertilizers, phosphorus, human and animal waste, or other contaminants. Once a body of water is listed as impaired, development that would increase its pollution, including larger discharges from wastewater treatment plants, would not be allowed.

Under the proposal:

➤ Each residential dwelling that receives a bill for dis-

charging into a sanitary sewer system or with a septic system will be charged an additional \$36 per year. "Hardship exemptions" will be made for those who can't afford to pay the additional expenses.

➤ Businesses will be charged from \$120 per year to \$600 a year, depending on how much water a day the business uses. Businesses will pay about 15 percent of the total revenue, based on state estimates that 15 percent of the pollution problem comes operations that have permits to discharge wastewater.

The bill has bipartisan support in both the House and Senate and has been endorsed by the administration of Gov. Tim Pawlenty, whose Pollution Control Agency will administer much of the funding. Pawlenty has said that if the bill gets through the Legislature, he would sign it.

While Pawlenty has said he is opposed to any new tax increases, Pollution Control Agency Commissioner Sheryl Corrigan argued that the water charges reflect a philosophy of the user fee rather than that of a tax.

*Mark Brunswick is at
mbrunswick@startribune.com.*

Impaired waters bills hit St. Paul this week

By Joe Albert
Staff Writer

St. Paul — Senate and House bills addressing impaired waters track closely with the recommendations of a group of environmental, business, and farm interests, which last year outlined a strategy to clean up Minnesota's waters.

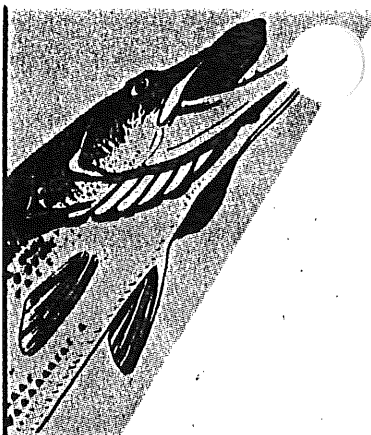
The proposal, known as "The Clean Water Legacy," would raise about \$80 million per year through new user fees on septic systems and sewer connections. Bills have been introduced in the Senate and House, and propo-

nents are optimistic the proposal will become law this session.

"It does seem to be something that's politically viable," said Anne Hunt of the Minnesota Environmental Partnership.

The group proposed a similar fee in 2004, but tweaked it this session to include exemptions for those who couldn't afford to pay the fee — \$36 per year for residential sewer and septic system hookups; between \$120 and \$600 per year for businesses, based on their water usage.

(See **Impaired Waters** Page 29)



Outdoor News

The Sportsman's Weekly
Published Since 1968

\$1.25

Feb. 11, 2005

THE MIDWEST'S LEADING OUTDOOR WEEKLY NEWSPAPER

FEBRUARY 11, 2005

Impaired Waters

(From Page 1)

Gov. Tim Pawlenty indicated he would sign this version of the bill, Hunt said. Sen. Dennis Frederickson, R-New Ulm, carried the bill in the Senate. Rep. Dennis Ozment, R-Rosemount, carried it in the House. Other authors include Speaker of the House Steve Sviggum, R-Kenyon, and Sen. Majority Leader Dean Johnson, DFL-Willmar.

The money raised would be spent on three areas: monitoring and assessment of lakes, rivers, and streams; funding the work required by the federal Clean Water Act for waters listed as impaired, called total maximum daily load, or TMDL; and protection and restoration of the state's waters.

More than \$11 million would be collected and spent during fiscal year 2006, which begins July 1, 2005. The full \$80 million would be collected and spent beginning in fiscal year 2007.

A "Clean Water Council" made up of many of the stakeholders who drafted the proposal would oversee distribution of the money.

The majority of money raised would protect and restore impaired waters. In 2006, more than \$7.3 million of the \$11 million, or about 66 percent, would go for protection and restoration. When the act is fully implemented, more than \$72 million, or about 90 percent, will be used to protect and restore point and non-point pollution sources.

"These resources would all go to needs that are

well identified and well articulated," said Nelson French, the Minnesota Pollution Control Agency's legislative liaison.

The group of supporters included agencies such as the Minnesota Chamber of Commerce, Minnesota Farm Bureau, and the League of Minnesota Cities. They proposed more than \$2 million for the assessment of streams, lakes, and rivers in 2006. That number would reach more than \$7 million by 2009.

So far, 14 percent of the state's lakes, and 8 percent of river miles, have been tested. Forty percent of the waters tested were found to be contaminated with things like mercury, phosphorous, and human and animal waste.

The Clean Water Act mandates that states test their waters; identify any pollutants and where they originated; figure out how much contamination the water can absorb while still maintaining quality standards; and develop a cleanup plan. Noncompliance can expose the state to lawsuits, and can limit development on impaired waters.

"We've always considered it an environmental imperative to clean these up, but the way the Clean Water Act works, it's also becoming an economic development imperative," said John Curry, legislative director for the Minnesota Center for Environmental Advocacy.

Economic benefits aside, anglers will benefit from cleaning up waters, Curry said.

"This is the act that will turn our bullhead and carp fisheries into much better game-species types of waters," he said.

Posted on Sun, Feb. 20, 2005

DuluthNewsTribune.com

Developers find dirty water limits growth

BY PATRICK CONDON
ASSOCIATED PRESS

ANNANDALE, Minn. - Old West storefronts still line the main street here, but farm fields are making way for subdivisions in this town in one of the United States' fastest-growing counties.

Developers are eager to build more houses in a part of the state where communities settled and thrived around the many lakes and rivers. But water, a resource that once fostered growth, now threatens to halt it.

Environmentalists are suing to block a planned water treatment plant in Annandale because they say rivers and lakes are too polluted to take more discharge. They say they're supported by the federal Clean Water Act. The lawsuit has drawn the attention of business leaders statewide, who fear that the state's water quality problems could stymie development in growing areas.

Annandale and neighboring Maple Lake sought the plant because their sewer systems can't take any more strain.

"We basically tell them, 'Get in line,'" Annandale Mayor Marian Harmoning said of the developers who come to city hall, seeking annexation of farmland for new city neighborhoods.

It's put developers in the unexpected position of pushing for legislation to improve enforcement of environmental regulations and clean up Minnesota's dirty water.

Local politicians say they want to see their cities grow, but are forced to put a hold on it until they're able to expand sewer capacity.

"We're caught between a rock and a hard spot," said Maple Lake Mayor Mike Messina. "We're trying to be environmentally responsible -- but at what cost?"

The lawsuit, filed by the St. Paul-based Minnesota Center for Environmental Advocacy, is awaiting arguments in the Minnesota Court of Appeals. It contends the Minnesota Pollution Control Agency violated the Clean Water Act when it granted a permit to the Annandale-Maple Lake plant.

The \$11 million plant in rural Albion Township would discharge treated wastewater, including phosphorous, into the north fork of the Crow River, which flows into the Mississippi River. Eventually the discharge makes its way to southeastern Minnesota's Lake Pepin, which is fed by the Mississippi.

The MPCA has declared the lake "impaired." That prompts a federal requirement that Lake Pepin have a state cleanup plan before more pollutants are permitted. But the MPCA hasn't done that for Lake Pepin or the Crow River.

MPCA officials say they don't have the money to prepare the cleanup plans.

A bipartisan group of state lawmakers, with support from both the environmental community and business groups, are getting behind a bill at the Capitol to raise \$80 million a year for water testing and cleanup.

Annandale, with 2,800 residents, and Maple Lake, with 1,600, are on the west end of Wright County, the third-fastest growing county in Minnesota in the 2000 census, and among the top 100 in growth nationwide. The area -- about 60 miles west of the Twin Cities and 30 miles south of St. Cloud -- is drawing residents from both metropolitan areas willing to trade a longer commute for rural amenities.



Outdoor News

The Sportsman's Weekly
Published Since 1968

\$1.25

COMMENTARY

HUNTING • FISHING • SHOOTING • DOGS • CAMPING • ETC.
Dec. 24, 2004 THE MIDWEST'S LEADING OUTDOOR WEEKLY NEWSPAPER™

The Crow shows us the future

By Martha Brand
Executive Director
Minnesota Center for Environmental Advocacy

A day fishing on the North Fork of the Crow River in Stearns, Meeker and Wright counties should yield plenty of catch: mostly catfish, shiners, and carp, but also a chance of catching northern pike, smallmouth bass or walleyes. Casting and drifting south and east toward its confluence with the Mississippi, we see the influence of growth as the landscape changes from farmland to residential land between Annandale and Maple Lake. Drifting farther, we encounter a wetland north of the Crow, stretching a mile long to where it meets an unnamed creek. Less than a mile up the unnamed creek a wastewater treatment facility has been approved so that Annandale and Maple Lake can continue to grow. To accomplish this feat the residents of Annandale/Maple Lake will be charged \$25.20 on their sewer bills. They will see additional residential and commercial growth to the possible benefit of the tax base, but to the detriment of the Crow and its fish.

The Crow River anglers of tomorrow, boating at the same site just south of the wetland, will be floating in one million gallons per day of treated human waste. In fact, the Minnesota Pollution Control Agency (MPCA) estimates that during the dry seasons of the year, most of the water flowing in the Crow River will be treated wastewater. Treated, but still containing contaminants that will further

deteriorate the river, especially reducing the dissolved oxygen upon which the fishery depends. Already officially "impaired" according to the MPCA, the Crow River will become a much less desirable river, more able to support bullheads and carp than walleyes and bass.

This story is so commonplace and routine in Minnesota that it's not even a story anymore. The Crow River story can be told about thousands of lakes and rivers in Minnesota. The river and these cities represent Minnesota's future everywhere. Currently, Minnesota has 2,000 lakes and rivers that are contaminated, and like the Crow River, they require a cleanup plan before additional sources of pollution (aka "development") can occur. Even more vexing, Minnesota hasn't even tested most of our waters to find out if they are contaminated. The best estimates available show that 40 percent of our lakes and rivers are contaminated, which will require more than 10,000 mandatory cleanup plans.

The recent story of adding pollutants to an already polluted Crow River seems counterproductive and working against the interests of the river and Minnesota's citizens. What most people don't know is the federal Clean Water Act actually requires Minnesota to address its pollutant problems with a cleanup plan before new sources of that pollution can be added. To comply with federal law, in November 2004, the Minnesota Center for

(See Commentary Page 34)

Commentary

(From Page 3)
Environmental Advocacy (MCEA) brought the first lawsuit in state history preventing a new source of pollution until a watershed-wide cleanup plan is in place.

MCEA's suit demands that the Crow River be protected by a science-based comprehensive plan that will require coordination of all the watershed's pollution sources and will contemplate all of the expected future growth. This is the first time Minnesotans have asserted the federal Clean Water Act in this way, but MCEA has already raised the issue in additional cases such as the proposed large wastewater expansion by Elko/New Market to the Vermillion River.

This lawsuit isn't meant to

stop development. It simply calls for development to occur in a common sense and carefully thought-out way that protects the lakes and rivers for fishing, swimming and drinking. Lawsuits are not the first choice to make conservation policy changes. Instead, our state's political leaders need to establish the framework and the funding so that local communities can proactively put together cleanup plans that coordinate

cleanup plans that coordinate our waters and wildlife. Fortunately, proposals to address this challenge are ready to go before the Legislature and governor in 2005. With coordination from farm organizations, local governments, environmental groups and the Chamber of Commerce, Minnesotans recog-

nize the urgency and need for a long-term plan that protects our waters and allows for thoughtful growth.

Somewhere on the rocky bottom beneath our boat on the Crow River, a smallmouth bass spawns. If all goes well, the bass and its offspring will be protected and so will the economic activity in Annandale and Maple Lake. This first lawsuit is an important signal to the governor and the Legislature — stop ignoring our troubled lakes and rivers. Pass the cleanup legislation brought to you by business, environmental, farming and city leaders across the state. Our economic prosperity, our wildlife and our natural heritage depend on it.

Dill aims to clean state's waters

By Lawrence Schumacher
lsch@stcloudtimes.com

More than 92,000 miles of rivers and streams carve their way through Minnesota, connecting more than 14,000 lakes and giving Minnesota more shore land than any other state in the continental United States.

But Minnesotans know little about the quality of the state's surface water.

More than 30 years after a landmark federal law aimed at monitoring and cleaning up water pollution, only 14 percent of Minnesota's lakes and only 8 percent of its rivers have been tested.

"Minnesota needs to get serious about cleaning up its water," said Ann Hunt of the Minnesota Environmental Partnership. "We haven't been doing a great job of living up to federal law, and it will take decades more unless we come up with another solution."

The other solution Hunt and a partnership of environmental, business, municipal and farm groups have proposed is the Clean Water Legacy bill, which would raise \$80 million a year for increased surface water testing and cleanup by charging everyone in the state a sewer or septic system fee.

Known as SF762/HF826, the bill will receive its first committee hearings in the

What's next

On Wednesday, a look at the future of Central Minnesota lakes, rivers and streams that have been designated as "impaired" for having higher-than-acceptable levels of contaminants such as mercury, phosphorus and fecal coliform.

Who pays?

- Homeowners: \$36 a year.
- Apartment owners: \$36 a unit per year.
- Commercial/industrial owners: \$120-\$600 a year per sewer hookup, depending on waste generated.

How much total?

- Single-family municipal homes: \$34 million a year.
 - Rural septic system users: \$19 million a year.
 - Apartment complexes: \$14 million a year.
 - Industrial/commercial: \$13 million a year.
- Source: Minnesota Pollution Control Agency.

Legislature this week. Supporters plan a rally Wednesday at the Capitol to shine a spotlight on the issue, and leaders from both sides of the aisle have pledged their support and promised quick action.

From Page 1A

Bill

"Who's going to be against cleaning up the state's waters? I don't think there will be many hands raised," said Senate Majority Leader Dean Johnson, DFL-Willmar.

One reason for the bill's strong early support is that, should Minnesota fail to speed up its efforts, the federal government stands ready to punish it. The state could lose federal grants, cities could be denied permits to expand sewer systems and businesses could find it more difficult to grow as a result.

That realization has prompted grudging support even from conservative watchdog groups such as the Taxpayers League of Minnesota.

"It's not an ideal solution, but there is a public good being served," league President David Strom said. "The problem definitely exists and can only be solved by government in some form."

Slow going

About 40 percent of the water that has been tested shows signs of pollution from mercury, sediment, algae from phosphorus contamination and human or animal waste, said Sheryl Corrigan, commissioner of the Minnesota Pollution Control Agency.

Such "impaired" waters must be cleaned up, according to a timetable set by the Federal Clean Water Act. It requires states to create and implement a plan to reduce pollution on impaired waters within 13 years of identifying them, or be penalized.

Corrigan cites ongoing collaboration with the University of Minnesota to identify the most polluted waters and with local soil and water conservation districts and watershed districts to clean them up.

But from more than 1,900 violations found so far, Minnesota has completed only five cleanup plans, with 20 to 30 more being written.

"Despite these efforts, we still need extra resources to devote to the rest of the waters in the state," she said.

DAILY POLL

How should Minnesota pay to clean up its impaired lakes, rivers and streams?

Vote at www.sctimes.com. Results will be on tomorrow's Opinion Page.

Dime a day?

Written by Rep. Dennis Ozment, R-Rosemount, and Sen. Dennis Frederickson, R-New Ulm, the Clean Water Legacy bill would charge homeowners \$36 a year on either their city utility bills or annual property tax statements.

Businesses would pay \$120 to \$600 a year for every sewer hookup they have.

The fees would go to a dedicated environmental fund that would pay for testing lakes and rivers, help cities upgrade their sewage treatment systems or provide grants to local soil and water, watershed, river and lake associations for cleanup projects, Ozment said.

The state would create a Clean Water Council to oversee those activities and the almost \$365 million a year already being spent on water quality issues statewide, Fredrickson said.

With the added money, the state could test up to 40 percent of its surface waters within the next 10 years to provide a more complete picture of water quality, Corrigan said.

Coalition building

An unusual coalition has gathered around this issue in the past two or three years, prodded by the realization that the state is not doing enough to meet the Clean Water Act requirements, said Craig Johnson of the League of Minnesota Cities.

The league, the Minnesota Chamber of Commerce and Minnesota Farm Bureau have joined the environmental coalition represented by the Minnesota Environmental Partnership.

For cities, it's the realization many can't afford the sewage treatment improvements that might be needed, Johnson said.

If cities can't fix the problem, industries and businesses within them can't grow, said Mike Robertson of the Minnesota Chamber of Commerce.

"This is important from a busi-

On the Net

Follow SF762/HF826 on the Web throughout the session at www.leg.state.mn.us/leg/legis.asp.

ness standpoint as well as an environmental standpoint," he said. "It affects our competitiveness."

Farmers hope the fund will allow the state to leverage more federal conservation dollars to reduce runoff and erosion problems, said Chris Radatz of the Minnesota Farm Bureau Federation.

Fee or tax?

Despite the extra money Minnesotans would have to pay, the bill enjoys Republican support in the Legislature, including that of House Speaker Steve Sviggum, R-Kenyon, who is a co-author.

Gov. Tim Pawlenty would sign the bill if it reached his desk, though he also is open to alternatives, press secretary Brian McClung said.

Pawlenty, Corrigan, Strom and others call the plan a fee increase, not a tax increase, because "it is something users pay to improve a service they receive," McClung said.

For Dean Johnson, the argument is more semantic.

"A fee is a fee and a tax is a tax, but it's still money taken from a constituent, from a taxpayer," he said. "But if somebody feels a 10-cent-a-day tax is not good, but a 10-cent-a-day fee is okay, we'll take the fee."

Fair share

About 85 percent of the \$80 million would come from residential property owners in cities and rural areas, including farms. Commercial and industrial properties would pay about 15 percent.

While the state estimates that commercial and industrial property accounts for 25 percent of the state's total sewage, such sources only account for about 15 percent of the pollutants in the state's water, Robertson said.

"We feel it's an appropriate amount for businesses to contribute," he said.

Part of the bill would allow local governments to exempt low-income homeowners from paying the fee, he said.

Agri News

Protect Our Water rally draws big crowd

'We want to see blue waters, not green waters'

By Janet Kubat Willette

jkubat@agrinews.com

ST. PAUL — It was a sea of blue as supporters of clean water rallied Feb. 23 in the Capitol rotunda.

Blue T-shirts reading "Protect Our Water" were everywhere and paper cutouts of fish dangled from above as speakers stepped to the podium to energize the crowd.

"Protecting our water is the right thing to do," said Gary Botzek of the Minnesota Environmental Partnership, encouraging supporters of Protect Our Water legislation to wear their blue T-shirts as they met with their legislators.

"We want to see blue waters, not green waters," he said.

The six parts of Protect

By the numbers

■ 40 percent of the lakes and rivers tested for pollution in Minnesota are polluted

■ 8 percent of the state's river miles have been tested

■ 14 percent of the state's lakes have been tested

■ The Minnesota Environmental Partnership estimates it will cost \$270 million per year to test all the state's lakes and rivers and begin clean up.

Our Water are the Clean Water Legacy Act, keeping mercury out of water and fish, making long-term investments in conservation, supporting responsible off-highway riding, giving two cents to the outdoors and protecting the rights of local

communities.

An unlikely coalition has joined to support the cornerstone of the Protect Our Water agenda: The Clean Water Legacy Act, said Marie Zeller, Clean Water Action regional director.

The act is supported by Minnesota Farm Bureau, Minnesota Farmers Union, Minnesota Chamber of Commerce, League of Minnesota Cities and members of the Minnesota Environmental Partnership.

It will generate almost \$80 million annually to protect and clean up the state's waters through a \$3 per month assessment on septic systems and wastewater connections. Farms fall in this category. Businesses will pay \$120 to \$600 per water outlet.

Senate Majority Leader



Johnson

Dean Johnson said he supports the legislation because the waters of the state need help.

Johnson, a Willmar DFLer, said he learned environmentalism on a southeastern Minnesota farm just outside the little town of Lanesboro. His father, who passed away in December, taught him that unless he cares for the water and the soil he'll have nothing.

He still remembers the day the man with a suit and tie came to their farm and sat at their kitchen table to present his father with a conservation award.

It was the only award his eighth-grade educated father ever received and he kept it in his bedroom and his nursing home room until the day he died.

"If you take care of the land and the water, the resources will take care of us as well," Johnson said, pledging to reach across the aisle to pass the Clean Water Legacy.

"Clean Water is not a Republican or Democratic issue, it's a Minnesota value," said Rep. Dennis Ozment, R-Rosemount, the lead author of the House bill. "The Clean Water Legacy is the right thing to do."



Ozment

The act won't create more government or more programs, Ozment said. Instead, it will provide resources and coordination to efforts already under way across the state.

Everyone needs to keep clean water a priority as they go about their daily lives, Ozment said, making best management practices a way of life.

"You have your rally here today, but your assignment is just beginning," Johnson said.

The bill had its first committee hearings last week in the House and Senate Environment and Natural Resources Committees.

"The reception, I think, has been very positive," Botzek said.

The act provides the mechanism and funding to clean up impaired waters, Botzek said. Impaired waters don't meet federal water quality standards and failure to clean them up could result in economic loss.

A lawsuit has been filed to stop residential development in the Annandale, Maple Lake area because of impaired waters. Ethanol plants or other value-added agriculture plants could meet the same fate.

The funding mechanism, which amounts to 10 cents a day per household, has been criticized, Botzek said, but money is needed to finance efforts already under way to clean up and protect the state's waters.

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was re-referred

3 S.F. No. 762: A bill for an act relating to the
4 environment; creating the Clean Water Legacy Act; providing
5 authority, direction, and funding to achieve and maintain water
6 quality standards for Minnesota's surface waters in accordance
7 with section 303(d) of the federal Clean Water Act;
8 appropriating money; proposing coding for new law in Minnesota
9 Statutes chapter 446A; proposing coding for new law as Minnesota
10 Statutes, chapter 114D.

11 Reports the same back with the recommendation that the bill
12 be amended as follows:

13 Page 1, after line 10, insert:

14 "Section 1. Minnesota Statutes 2004, section 103C.311, is
15 amended by adding a subdivision to read:

16 Subd. 3. [SUPERVISORS ELECTED BY DISTRICTS.] (a) The
17 district board, with the approval of the state board, must by
18 resolution provide that supervisors will be elected by
19 supervisor districts as provided in this subdivision.

20 (b) The supervisor districts must be apportioned to be
21 coterminous with county commissioner districts. The districts
22 must be numbered in a regular series. The boundaries of the
23 districts must be redrawn after each decennial federal census as
24 provided in section 204B.135 and must reflect any changes in the
25 county commissioner district's boundaries. A certified copy of
26 the resolution establishing supervisor districts must be filed
27 by the chair of the district board with the county auditor of
28 the counties where the soil and water conservation district is
29 located, with the state board, and with the secretary of state
30 at least 30 days before the first date candidates may file for
31 the office of supervisor.

32 (c) Each supervisor district is entitled to elect one
33 supervisor. A supervisor must be a resident of the district
34 from which elected.

35 (d) The district board shall provide staggered terms for
36 supervisors elected by district. After each redistricting,
37 there shall be a new election of supervisors in all the
38 districts at the next general election, except that if the
39 change made in the boundaries of a district is less than five
40 percent of the average population of all the districts, the

1 supervisor in office at the time of the redistricting shall
2 serve for the full term for which elected. The district board
3 shall determine by lot the seats to be filled for a two-year
4 term, a four-year term, and a six-year term."

5 Page 9, line 16, after "authority" insert "or their
6 designee"

7 Page 9, line 17, delete "The"

8 Page 9, delete line 18 and insert "Eighteen"

9 Page 9, line 19, after "council" insert "shall be appointed"

10 Page 9, lines 20, 24, 25, 27, and 29, before the semicolon,
11 insert ", appointed by the governor"

12 Page 9, lines 21 and 22, delete "two members" and insert
13 "one member" and before the semicolon, insert ", appointed by
14 the governor"

15 Page 9, line 28, delete "one member" and insert "two
16 members"

17 Page 9, line 31, before the semicolon, insert ", appointed
18 by the governor" and delete "and"

19 Page 9, line 33, after "473.123" insert ", appointed by the
20 governor;

21 (10) one township officer, appointed by the governor;

22 (11) one member of the house of representatives, appointed
23 by the speaker;

24 (12) one member of the senate, appointed by the majority
25 leader;

26 (13) one member representing the University of Minnesota or
27 a Minnesota state university, appointed by the governor;

28 (14) one member representing the interests of rural
29 counties, appointed by the governor; and

30 (15) one member representing the interests of counties in
31 the seven-county metropolitan area, appointed by the governor.

32 The members of the council appointed by the governor are
33 subject to the advice and consent of the senate. At least six
34 of the members appointed by the governor must reside in the
35 seven-county metropolitan area"

36 Page 23, after line 5, insert:

1 "Sec. 13. [446A.075] [TOTAL MAXIMUM DAILY LOAD GRANTS.]

2 Subdivision 1. [PROGRAM ESTABLISHED.] From money
3 appropriated for this program, the authority shall make grants
4 to municipalities to cover up to one-half the cost of wastewater
5 treatment or stormwater projects made necessary by wasteload
6 reductions under total maximum daily load plans required by
7 section 303(d) of the federal Clean Water Act, United States
8 Code, title 33, section 1313(d).

9 Subd. 2. [GRANT APPLICATION.] Application for a grant
10 shall be made to the authority on forms prescribed by the
11 authority for the total maximum daily load grant program, with
12 additional information as required by the authority. In
13 accordance with section 116.182, the Pollution Control Agency
14 shall:

15 (1) calculate the essential project component percentage,
16 which shall be multiplied by the total project cost to determine
17 the eligible project cost; and

18 (2) review and certify approved projects to the authority.

19 Subd. 3. [PROJECT PRIORITIES.] From money appropriated for
20 this program, the authority shall reserve money for projects in
21 the order that their total maximum daily load plan was approved
22 by the United States Environmental Protection Agency and in an
23 amount based on their most recent cost estimates submitted to
24 the authority or the as-bid costs, whichever is less.

25 Subd. 4. [GRANT APPROVAL.] The authority shall make a
26 grant to a municipality, as defined in section 116.182,
27 subdivision 1, only after:

28 (1) the commissioner of the Minnesota Pollution Control
29 Agency has certified to the United States Environmental
30 Protection Agency a total maximum daily load plan for identified
31 waters of this state that includes a point source wasteload
32 allocation;

33 (2) the United States Environmental Protection Agency has
34 approved the plan;

35 (3) a municipality affected by the plan has estimated the
36 cost to it of wastewater treatment or stormwater projects

1 necessary to comply with the point source wasteload allocation;

2 (4) the Pollution Control Agency has approved the cost

3 estimate; and

4 (5) the authority has determined that the additional

5 financing necessary to complete the project has been committed

6 from other sources.

7 Subd. 5. [GRANT DISBURSEMENT.] Disbursement of a grant

8 shall be made for eligible project costs as incurred by the

9 municipality and in accordance with a project financing

10 agreement and applicable state and federal laws and rules

11 governing the payments."

12 Page 26, line 14, after the semicolon, insert "\$. is

13 for total maximum daily load grants under Minnesota Statutes,

14 section 446A.075;"

15 Page 26, line 18, before the period, insert "and is

16 available until expended"

17 Page 26, after line 18, insert:

18 "Sec. 15. [REPEALER.]

19 Minnesota Statutes 2004, section 103C.311, subdivisions 1

20 and 2, are repealed."

21 Renumber the sections in sequence

22 Amend the title as follows:

23 Page 1, line 7, before "appropriating" insert "modifying

24 soil and water conservation district supervisor election

25 procedures;" and after the semicolon, insert "amending Minnesota

26 Statutes 2004, section 103C.311, by adding a subdivision;"

27 Page 1, line 8, after "Statutes" insert a comma

28 Page 1, line 9, before the period, insert "; repealing

29 Minnesota Statutes 2004, section 103C.311, subdivisions 1, 2"

30 And when so amended the bill do pass and be re-referred to
31 the Committee on Finance. Amendments adopted. Report adopted.

32
33 
34
35 (Committee Chair)

36 April 4, 2005.....
37 (Date of Committee recommendation)