

## STATE OF MINNESOTA

## NINETY-FIRST SESSION — 2019

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 FORTY-SECOND DAY

SAINT PAUL, MINNESOTA, FRIDAY, APRIL 26, 2019

The House of Representatives convened at 9:00 a.m. and was called to order by Liz Olson, Speaker pro tempore.

Prayer was offered by the Reverend Ashley Bair, Central Presbyterian Church, St. Paul, Minnesota.

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

The roll was called and the following members were present:

Acomb	Dehn	Heinrich	Lippert	Noor	Scott
Albright	Dettmer	Heintzeman	Lislegard	Nornes	Stephenson
Anderson	Drazkowski	Her	Loeffler	O'Driscoll	Sundin
Bahner	Ecklund	Hornstein	Long	Olson	Tabke
Bahr	Edelson	Howard	Lucero	O'Neill	Theis
Baker	Elkins	Huot	Lueck	Persell	Torkelson
Becker-Finn	Erickson	Johnson	Mann	Petersburg	Urdahl
Bennett	Fabian	Jurgens	Mariani	Pierson	Vang
Bernardy	Fischer	Kiel	Marquart	Pinto	Vogel
Bierman	Franson	Klevorn	Masin	Poppe	Wagenius
Boe	Freiberg	Koegel	McDonald	Poston	Wazlawik
Brand	Gomez	Kotyza-Witthuhn	Mekeland	Pryor	West
Cantrell	Green	Koznick	Miller	Quam	Winkler
Carlson, A.	Grossell	Kresha	Moller	Richardson	Wolgamott
Carlson, L.	Gruenhagen	Kunesh-Podein	Morrison	Robbins	Xiong, J.
Christensen	Gunther	Layman	Munson	Runbeck	Xiong, T.
Clafin	Haley	Lee	Murphy	Sandell	Youakim
Considine	Halverson	Lesch	Nash	Sandstede	Zerwas
Daniels	Hamilton	Liebling	Nelson, M.	Sauke	Spk. Hortman
Davids	Hansen	Lien	Nelson, N.	Schomacker	
Davnie	Hausman	Lillie	Neu	Schultz	

A quorum was present.

Demuth, Garofalo, Moran and Swedzinski were excused.

Hassan and Pelowski were excused until 10:00 a.m. Mahoney was excused until 11:10 a.m. Daudt was excused until 1:05 p.m.

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

## REPORTS OF CHIEF CLERK

S. F. No. 2227 and H. F. No. 1935, which had been referred to the Chief Clerk for comparison, were examined and found to be not identical.

Nelson, M., moved that S. F. No. 2227 be substituted for H. F. No. 1935 and that the House File be indefinitely postponed. The motion prevailed.

## REPORTS OF STANDING COMMITTEES AND DIVISIONS

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 6, A bill for an act relating to employment; prohibiting wage theft; modifying payment of wages; increasing civil and criminal penalties; allowing for administrative review; appropriating money; amending Minnesota Statutes 2018, sections 177.27, subdivision 2, by adding a subdivision; 177.30; 177.32, subdivision 1; 181.03, subdivision 1, by adding subdivisions; 181.032; 181.101.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2018, section 16C.285, subdivision 3, is amended to read:

Subd. 3. **Minimum criteria.** "Responsible contractor" means a contractor that conforms to the responsibility requirements in the solicitation document for its portion of the work on the project and verifies that it meets the following minimum criteria:

(1) the contractor:

(i) is in compliance with workers' compensation and unemployment insurance requirements;

(ii) is in compliance with Department of Revenue and Department of Employment and Economic Development registration requirements if it has employees;

(iii) has a valid federal tax identification number or a valid Social Security number if an individual; and

(iv) has filed a certificate of authority to transact business in Minnesota with the secretary of state if a foreign corporation or cooperative;

(2) the contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 177.24, 177.25, 177.41 to 177.44, 181.03, 181.101, 181.13, 181.14, or 181.722, and has not violated United States Code, title 29, sections 201 to 219, or United States Code, title 40, sections 3141 to 3148. For purposes of this clause, a violation occurs when a contractor or related entity:

(i) repeatedly fails to pay statutorily required wages or penalties on one or more separate projects for a total underpayment of \$25,000 or more within the three-year period, provided that a failure to pay is "repeated" only if it involves two or more separate and distinct occurrences of underpayment during the three-year period;

(ii) has been issued an order to comply by the commissioner of labor and industry that has become final;

(iii) has been issued at least two determination letters within the three-year period by the Department of Transportation finding an underpayment by the contractor or related entity to its own employees;

(iv) has been found by the commissioner of labor and industry to have repeatedly or willfully violated any of the sections referenced in this clause pursuant to section 177.27;

(v) has been issued a ruling or findings of underpayment by the administrator of the Wage and Hour Division of the United States Department of Labor that have become final or have been upheld by an administrative law judge or the Administrative Review Board; ~~or~~

(vi) has been found liable for underpayment of wages or penalties or misrepresenting a construction worker as an independent contractor in an action brought in a court having jurisdiction; or

(vii) has been convicted of a violation of section 609.52, subdivision 2, clause (19).

Provided that, if the contractor or related entity contests a determination of underpayment by the Department of Transportation in a contested case proceeding, a violation does not occur until the contested case proceeding has concluded with a determination that the contractor or related entity underpaid wages or penalties;

(3) the contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 181.723 or chapter 326B. For purposes of this clause, a violation occurs when a contractor or related entity has been issued a final administrative or licensing order;

(4) the contractor or related entity has not, more than twice during the three-year period before submitting the verification, had a certificate of compliance under section 363A.36 revoked or suspended based on the provisions of section 363A.36, with the revocation or suspension becoming final because it was upheld by the Office of Administrative Hearings or was not appealed to the office;

(5) the contractor or related entity has not received a final determination assessing a monetary sanction from the Department of Administration or Transportation for failure to meet targeted group business, disadvantaged business enterprise, or veteran-owned business goals, due to a lack of good faith effort, more than once during the three-year period before submitting the verification;

(6) the contractor or related entity is not currently suspended or debarred by the federal government or the state of Minnesota or any of its departments, commissions, agencies, or political subdivisions that have authority to debar a contractor; and

(7) all subcontractors and motor carriers that the contractor intends to use to perform project work have verified to the contractor through a signed statement under oath by an owner or officer that they meet the minimum criteria listed in clauses (1) to (6).

Any violations, suspensions, revocations, or sanctions, as defined in clauses (2) to (5), occurring prior to July 1, 2014, shall not be considered in determining whether a contractor or related entity meets the minimum criteria.

Sec. 2. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to read:

Subd. 1a. **Authority to investigate.** To carry out the purposes of this chapter and chapters 181, 181A, and 184, and utilizing the enforcement authority of section 175.20, the commissioner is authorized to enter the places of business and employment of any employer in the state to investigate wages, hours, and other conditions and practices of work, collect evidence, and conduct interviews. The commissioner is authorized to enter the places of business and employment during working hours and without delay. The commissioner may use investigation

methods that include but are not limited to examination, surveillance, transcription, copying, scanning, photographing, audio or video recording, testing, and sampling along with taking custody of evidence. Evidence that may be collected includes but is not limited to documents, records, books, registers, payrolls, electronically and digitally stored information, machinery, equipment, tools, and other tangible items that in any way relate to wages, hours, and other conditions and practices of work. The commissioner may privately interview any individual, including owners, employers, operators, agents, workers, and other individuals who may have knowledge of the conditions and practices of work under investigation.

Sec. 3. Minnesota Statutes 2018, section 177.27, subdivision 2, is amended to read:

Subd. 2. **Submission of records; penalty.** The commissioner may require the employer of employees working in the state to submit to the commissioner photocopies, certified copies, or, if necessary, the originals of employment records which the commissioner deems necessary or appropriate. The records which may be required include full and correct statements in writing, including sworn statements by the employer, containing information relating to wages, hours, names, addresses, and any other information pertaining to the employer's employees and the conditions of their employment as the commissioner deems necessary or appropriate.

The commissioner may require the records to be submitted by certified mail delivery or, if necessary, by personal delivery by the employer or a representative of the employer, as authorized by the employer in writing.

The commissioner may fine the employer up to \$1,000 for each failure to submit or deliver records as required by this section, and up to \$10,000 for each repeated failure. This penalty is in addition to any penalties provided under section 177.32, subdivision 1. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered.

Sec. 4. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to read:

Subd. 11. **Subpoenas.** In order to carry out the purposes of this chapter and chapter 181, 181A, or 184, the commissioner may issue subpoenas to compel persons to appear before the commissioner to give testimony and produce and permit inspection, copying, testing, or sampling of documents, electronically stored information, tangible items, or other items in the possession, custody, or control of that person that are deemed necessary or appropriate by the commissioner. A subpoena may specify the form or format in which electronically stored information is to be produced. Upon the application of the commissioner, a district court shall treat the failure of any person to obey a subpoena lawfully issued by the commissioner under this subdivision as a contempt of court.

Sec. 5. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to read:

Subd. 12. **Court orders for entrance and inspection.** To carry out the purposes of this chapter and chapters 181, 181A, and 184, and utilizing the enforcement authority of section 175.20, the commissioner is authorized to enter places of business and employment of any employer in the state to investigate wages, hours, and other conditions and practices of work, collect evidence, and conduct interviews. The commissioner is authorized to enter the places of business and employment during working hours and without delay. Upon the anticipated refusal based on a refusal to permit entrance on a prior occasion or actual refusal of an employer, owner, operator, or agent in charge of an employer's place of business or employment, the commissioner may apply for an order in the district court in the county in which the place of business or employment is located, to compel an employer, owner, operator, or agent in charge of the place of business or employment to permit the commissioner entry to investigate wages, hours, and other conditions and practices of work, collect evidence, and interview witnesses.

Sec. 6. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to read:

Subd. 13. **State licensing or regulatory power.** In the case of an employer which is subject to the licensing or regulatory power of the state or any political subdivision or agency thereof, if the commissioner issues an order to comply under subdivision 4, the commissioner may provide the licensing or regulatory agency a copy of the order to comply. Unless the order to comply is reversed in the course of administrative or judicial review, the order to comply is binding on the agency and the agency may take appropriate action, including action related to the eligibility, renewal, suspension, or revocation of a license or certificate of public convenience and necessity if the agency is otherwise authorized to take such action.

Sec. 7. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to read:

Subd. 14. **Public contracts.** In the case of an employer that is a party to a public contract, if the commissioner issues an order to comply under subdivision 4, the commissioner may provide a copy of the order to comply to the contract letting agency. Unless the order to comply is reversed in the course of administrative or judicial review, an order to comply is binding on the contract letting agency and the agency may take appropriate administrative action, including the imposition of financial penalties and eligibility for, termination or nonrenewal of a contract, in whole or in part, if the agency is otherwise authorized to take the action.

Sec. 8. Minnesota Statutes 2018, section 177.27, is amended by adding a subdivision to read:

Subd. 15. **Notice to employees of compliance orders and citations.** In a compliance order or citation issued under this chapter and chapters 181, 181A, and 184, the commissioner may require that the provisions of a compliance order or citation setting out the violations found by the commissioner and any subsequent document setting out the resolution of the compliance order or citation through settlement agreement or other final disposition, upon receipt by the employer, be made available for review by the employees of the employer using the means the employer uses to provide other work-related notices to the employer's employees. The means used by the employer must be at least as effective as the following options for providing notice: (1) posting a copy of the compliance order or citation at each location where employees perform work and where the notice must be readily observed and easily reviewed by all employees performing work; or (2) providing a paper or electronic copy of the compliance order or citation to employees. Each citation and proposed penalty shall be posted or made available to employees for a minimum period of 20 days. Upon issuance of a compliance order or citation to an employer, the commissioner may also provide the provisions of the compliance order or citation setting out the violations found by the commissioner and any resolution of a compliance order or citation through settlement agreement or other final disposition to the employer's employees who may be affected by the order or citation and how the order or citation and resolution may affect their interests.

Sec. 9. Minnesota Statutes 2018, section 177.30, is amended to read:

**177.30 KEEPING RECORDS; PENALTY.**

(a) Every employer subject to sections 177.21 to 177.44 must make and keep a record of:

(1) the name, address, and occupation of each employee;

(2) the rate of pay, and the amount paid each pay period to each employee, including whether each employee is paid by the hour, shift, day, week, salary, piece, commission, or other;

(3) the hours worked each day and each workweek by the employee, including for all employees paid at piece rate, the number of pieces completed at each piece rate;

(4) any personnel policies provided to employees;

(5) a copy of the notice provided to each employee as required by section 181.032, paragraph (d);

(6) for each employer subject to sections 177.41 to 177.44, and while performing work on public works projects funded in whole or in part with state funds, the employer shall furnish under oath signed by an owner or officer of an employer to the contracting authority and the project owner every two weeks, a certified payroll report with respect to the wages and benefits paid each employee during the preceding weeks specifying for each employee: name; identifying number; prevailing wage master job classification; hours worked each day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs; and

~~(5)~~ (7) other information the commissioner finds necessary and appropriate to enforce sections 177.21 to 177.435. The records must be kept for three years in ~~or near~~ the premises where an employee works except each employer subject to sections 177.41 to 177.44, and while performing work on public works projects funded in whole or in part with state funds, the records must be kept for three years after the contracting authority has made final payment on the public works project.

(b) All records required to be kept under paragraph (a) must be readily available for inspection by the commissioner upon demand. The records must be either kept at the place where employees are working or kept in a manner that allows the employer to comply with this paragraph within 24 hours.

(c) The commissioner may fine an employer up to \$1,000 for each failure to maintain records as required by this section, and up to \$10,000 for each repeated failure. This penalty is in addition to any penalties provided under section 177.32, subdivision 1. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered.

(d) If the records maintained by the employer do not provide sufficient information to determine the exact amount of back wages due an employee, the commissioner may make a determination of wages due based on available evidence.

Sec. 10. Minnesota Statutes 2018, section 177.32, subdivision 1, is amended to read:

Subdivision 1. **Misdemeanors.** (a) An employer who does any of the following is guilty of a misdemeanor:

(1) hinders or delays the commissioner in the performance of duties required under sections 177.21 to 177.435, or chapter 181;

(2) refuses to admit the commissioner to the place of business or employment of the employer, as required by section 177.27, subdivision 1;

(3) repeatedly fails to make, keep, and preserve records as required by section 177.30;

(4) falsifies any record;

(5) refuses to make any record available, or to furnish a sworn statement of the record or any other information as required by section 177.27;

(6) repeatedly fails to post a summary of sections 177.21 to 177.44 or a copy or summary of the applicable rules as required by section 177.31;

(7) pays or agrees to pay wages at a rate less than the rate required under sections 177.21 to 177.44, or described and provided by an employer to its employees under section 181.032;

(8) refuses to allow adequate time from work as required by section 177.253; or

(9) otherwise violates any provision of sections 177.21 to 177.44, or commits wage theft as described in section 181.03, subdivision 1.

Intent is not an element of a misdemeanor under this paragraph.

(b) An employer is guilty of a gross misdemeanor if the employer is found to have intentionally retaliated against an employee for asserting rights or remedies under sections 177.21 to 177.44 or section 181.03.

Sec. 11. **177.45] ENFORCEMENT; REMEDIES.**

Subdivision 1. **Public enforcement.** In addition to the enforcement of this chapter by the department, the attorney general may enforce this chapter under section 8.31.

Subd. 2. **Remedies cumulative.** The remedies provided in this chapter are cumulative and do not restrict any remedy that is otherwise available, including remedies provided under section 8.31. The remedies available under this section are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

Sec. 12. Minnesota Statutes 2018, section 181.03, subdivision 1, is amended to read:

Subdivision 1. **Prohibited practices.** ~~An employer may not, directly or indirectly and with intent to defraud:~~  
(a) No employer shall commit wage theft.

(b) For purposes of this section, wage theft is committed if:

(1) ~~cause~~ an employer has failed to pay an employee all wages, salary, gratuities, earnings, or commissions at the employee's rate or rates of pay or at the rate or rates required by law, including any applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or other legal authority, whichever rate of pay is greater;

(2) an employer directly or indirectly causes any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered;

~~(2)~~ (3) an employer directly or indirectly ~~demand~~ demands or ~~receive~~ receives from any employee any rebate or refund from the wages owed the employee under contract of employment with the employer; or

~~(3)~~ (4) an employer in any manner ~~make~~ makes or ~~attempt~~ attempts to make it appear that the wages paid to any employee were greater than the amount actually paid to the employee.

Sec. 13. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to read:

Subd. 4. **Enforcement.** The use of an enforcement provision in this section shall not preclude the use of any other enforcement provision provided by law.

Sec. 14. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to read:

Subd. 5. **Citations.** (a) In addition to other remedies and penalties provided by this chapter and chapter 177, the commissioner may issue a citation for a civil penalty of up to \$1,000 for any wage theft of up to \$1,000 by serving the citation on the employer. The citation may direct the employer to pay employees in a manner prescribed by the commissioner any wages, salary, gratuities, earnings, or commissions owed to the employee within 15 days of service of the citation on the employer. The commissioner shall serve the citation upon the employer or the employer's authorized representative in person or by certified mail at the employer's place of business or registered office address with the secretary of state. The citation shall require the employer to correct the violation and cease and desist from committing the violation.

(b) In determining the amount of the civil penalty, the commissioner shall consider the size of the employer's business and the gravity of the violation as provided in section 14.045, subdivision 3, paragraph (a). If the citation includes a penalty assessment, the penalty is due and payable on the date the citation becomes final. The commissioner may vacate the citation if the employer pays the amount of wages, salaries, commissions, earnings, and gratuities due in the citation within five days after the citation is served on the employer.

Sec. 15. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to read:

Subd. 6. **Administrative review.** Within 15 days after the commissioner of labor and industry issues a citation under subdivision 5, the employer to whom the citation is issued may request an expedited hearing to review the citation. The request for hearing must be in writing and must be served on the commissioner at the address specified in the citation. If the employer does not request a hearing or if the employer's written request for hearing is not served on the commissioner by the 15th day after the commissioner issues the citation, the citation becomes a final order of the commissioner and is not subject to review by any court or agency. The hearing request must state the reasons for seeking review of the citation. The employer to whom the citation is issued and the commissioner are the parties to the expedited hearing. The commissioner must notify the employer to whom the citation is issued of the time and place of the hearing at least 15 days before the hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this section. If a hearing has been held, the commissioner shall not issue a final order until at least five days after the date of the administrative law judge's report. Any person aggrieved by the administrative law judge's report may, within those five days, serve written comments to the commissioner on the report and the commissioner shall consider and enter the comments in the record. The commissioner's final order shall comply with sections 14.61, subdivision 2, and 14.62, subdivisions 1 and 2a, and may be appealed in the manner provided in sections 14.63 to 14.69.

Sec. 16. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to read:

Subd. 7. **Effect on other laws.** Nothing in this section shall be construed to limit the application of other state or federal laws.

Sec. 17. Minnesota Statutes 2018, section 181.03, is amended by adding a subdivision to read:

Subd. 8. **Retaliation.** An employer must not retaliate against an employee for asserting rights or remedies under this section, including but not limited to filing a complaint with the Department of Labor and Industry or telling the employer of intention to file a complaint. A rebuttable presumption of unlawful retaliation under this section exists whenever an employer takes adverse action against an employee within 90 days of the employee asserting rights or remedies under this section.



Sec. 18. Minnesota Statutes 2018, section 181.032, is amended to read:

**181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER; NOTICE TO EMPLOYEE.**

(a) At the end of each pay period, the employer shall provide each employee an earnings statement, either in writing or by electronic means, covering that pay period. An employer who chooses to provide an earnings statement by electronic means must provide employee access to an employer-owned computer during an employee's regular working hours to review and print earnings statements.

(b) The earnings statement may be in any form determined by the employer but must include:

(1) the name of the employee;

(2) the hourly rate or rates of pay (if applicable) and basis thereof, including whether the employee is paid by hour, shift, day, week, salary, piece, commission, or other method;

(3) allowances, if any, claimed pursuant to permitted meals and lodging;

(4) the total number of hours worked by the employee unless exempt from chapter 177;

~~(4)~~ (5) the total amount of gross pay earned by the employee during that period;

~~(5)~~ (6) a list of deductions made from the employee's pay;

~~(6)~~ (7) the net amount of pay after all deductions are made;

~~(7)~~ (8) the date on which the pay period ends; and

~~(8)~~ (9) the legal name of the employer and the operating name of the employer if different from the legal name;

(10) the physical address of the employer's main office or principal place of business, and a mailing address if different; and

(11) the telephone number of the employer.

(c) An employer must provide earnings statements to an employee in writing, rather than by electronic means, if the employer has received at least 24 hours notice from an employee that the employee would like to receive earnings statements in written form. Once an employer has received notice from an employee that the employee would like to receive earnings statements in written form, the employer must comply with that request on an ongoing basis.

(d) At the start of employment, an employer shall provide each employee a written notice containing the following information:

(1) the rate or rates of pay and basis thereof, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission, or other method, and the specific application of any additional rates;

(2) allowances, if any, claimed pursuant to permitted meals and lodging;

(3) paid vacation, sick time, or other paid time off accruals and terms of use;

(4) the employee's employment status and whether the employee is exempt from minimum wage, overtime, and other provisions of chapter 177, and on what basis;

(5) a list of deductions that may be made from the employee's pay;

(6) the dates on which the pay periods start and end and the regularly scheduled payday;

(7) the legal name of the employer and the operating name of the employer if different from the legal name;

(8) the physical address of the employer's main office or principal place of business, and a mailing address if different; and

(9) the telephone number of the employer.

(e) The employer must keep a copy of the notice under paragraph (d) signed by each employee acknowledging receipt of the notice. The notice must be provided to each employee in English and in the employee's native language.

(f) An employer must provide the employee any written changes to the information contained in the notice under paragraph (d) at least seven calendar days prior to the time the changes take effect. The changes must be signed by the employee before the changes go into effect. The employer must keep a signed copy of all notice of changes as well as the initial notices under paragraph (d).

Sec. 19. Minnesota Statutes 2018, section 181.101, is amended to read:

**181.101 WAGES; HOW OFTEN PAID.**

(a) Except as provided in paragraph (b), every employer must pay all wages earned by an employee at least once every ~~31~~ 16 days on a regular payday designated in advance by the employer regardless of whether the employee requests payment at longer intervals. ~~Unless paid earlier, the wages earned during the first half of the first 31 day pay period become due on the first regular payday following the first day of work. An employer's pay period must be no longer than 16 days. All wages earned in a pay period must be paid to an employee within 16 days of the end of that pay period.~~ If wages earned are not paid, the commissioner of labor and industry or the commissioner's representative may serve a demand for payment on behalf of an employee. If payment is not made within ~~ten~~ five days of service of the demand, the commissioner may charge and collect the wages earned and a ~~penalty liquidated damages~~ in the amount of the employee's average daily earnings at the ~~employee's rate agreed upon in the contract of employment~~ or rates of pay or at the rate or rates required by law, including any applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or other legal authority, whichever rate of pay is greater, ~~not exceeding 15 days in all~~, for each day beyond the ~~ten day~~ five-day limit following the demand. Money collected by the commissioner must be paid to the employee concerned. This section does not prevent an employee from prosecuting a claim for wages. This section does not prevent a school district, other public school entity, or other school, as defined under section 120A.22, from paying any wages earned by its employees during a school year on regular paydays in the manner provided by an applicable contract or collective bargaining agreement, or a personnel policy adopted by the governing board. For purposes of this section, "employee" includes a person who performs agricultural labor as defined in section 181.85, subdivision 2. For purposes of this section, wages are earned on the day an employee works.

(b) An employer of a volunteer firefighter, as defined in section 424A.001, subdivision 10, a member of an organized first responder squad that is formally recognized by a political subdivision in the state, or a volunteer ambulance driver or attendant must pay all wages earned by the volunteer firefighter, first responder, or volunteer ambulance driver or attendant at least once every 31 days, unless the employer and the employee mutually agree upon payment at longer intervals.

Sec. 20. **[181.1721] ENFORCEMENT; REMEDIES.**

Subdivision 1. **Public enforcement.** In addition to the enforcement of this chapter by the department, the attorney general may enforce this chapter under section 8.31.

Subd. 2. **Remedies cumulative.** The remedies provided in this chapter are cumulative and do not restrict any remedy that is otherwise available, including remedies provided under section 8.31. The remedies available under this section are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

Sec. 21. Minnesota Statutes 2018, section 609.52, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to, or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a check, draft, or other order for the payment of money, "value" means the amount of money promised or ordered to be paid under the terms of the check, draft, or other order. For a theft committed within the meaning of subdivision 2, clause (5), items (i) and (ii), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein. For a theft committed within the meaning of subdivision 2, clause (9), if the property has been restored to the owner, "value" means the rental value of the property, determined at the rental rate contracted by the defendant or, if no rental rate was contracted, the rental rate customarily charged by the owner for use of the property, plus any damage that occurred to the property while the owner was deprived of its possession, but not exceeding the total retail value of the property at the time of rental. For a theft committed within the meaning of subdivision 2, clause (19), "value" means the difference between wages legally required to be reported or paid to an employee and the amount actually reported or paid to the employee.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is co-owner or has a lien, pledge, bailment, or lease or other subordinate interest, property transferred by the actor in circumstances which are known to the actor and which make the transfer fraudulent as defined in section 513.44, property possessed pursuant to a short-term rental contract, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use including rental of personal property or equipment.

(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.

(11) "Motor fuel" has the meaning given in section 604.15, subdivision 1.

(12) "Retailer" has the meaning given in section 604.15, subdivision 1.

Sec. 22. Minnesota Statutes 2018, section 609.52, subdivision 2, is amended to read:

Subd. 2. **Acts constituting theft.** (a) Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) with or without having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(i) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(ii) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(iv) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(v) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(i) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(ii) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(iii) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who:

(i) with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof; or

(ii) sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease or rental contract with intent to deprive the lessor of possession thereof; or

(iii) does not return the property to the lessor at the end of the lease or rental term, plus agreed-upon extensions, with intent to wrongfully deprive the lessor of possession of the property; or

(iv) returns the property to the lessor at the end of the lease or rental term, plus agreed-upon extensions, but does not pay the lease or rental charges agreed upon in the written instrument, with intent to wrongfully deprive the lessor of the agreed-upon charges.

For the purposes of items (iii) and (iv), the value of the property must be at least \$100.

Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or fails or refuses to return the property or pay the rental contract charges to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection; or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law 94-553, section 107; or

(13) except as provided in clauses (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(A) made or was aware of the connection; and

(B) was aware that the connection was unauthorized;

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent; or

(18) intentionally, and without claim of right, takes motor fuel from a retailer without the retailer's consent and with intent to deprive the retailer permanently of possession of the fuel by driving a motor vehicle from the premises of the retailer without having paid for the fuel dispensed into the vehicle; or

(19) intentionally engages in or authorizes a prohibited practice of wage theft as described in section 181.03, subdivision 1.

(b) Proof that the driver of a motor vehicle into which motor fuel was dispensed drove the vehicle from the premises of the retailer without having paid for the fuel permits the factfinder to infer that the driver acted intentionally and without claim of right, and that the driver intended to deprive the retailer permanently of possession of the fuel. This paragraph does not apply if: (1) payment has been made to the retailer within 30 days of the receipt of notice of nonpayment under section 604.15; or (2) a written notice as described in section 604.15, subdivision 4, disputing the retailer's claim, has been sent. This paragraph does not apply to the owner of a motor vehicle if the vehicle or the vehicle's license plate has been reported stolen before the theft of the fuel.

Sec. 23. Minnesota Statutes 2018, section 609.52, subdivision 3, is amended to read:

Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the property is a firearm, or the value of the property or services stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), ~~or (16)~~, or (19), or section 609.2335, subdivision 1, clause (1) or (2), item (i); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property or services stolen exceeds \$5,000, or if the property stolen was an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in Schedule I or II pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if any of the following circumstances exist:

(a) the value of the property or services stolen is more than \$1,000 but not more than \$5,000; or

(b) the property stolen was a controlled substance listed in Schedule III, IV, or V pursuant to section 152.02; or

(c) the value of the property or services stolen is more than \$500 but not more than \$1,000 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(d) the value of the property or services stolen is not more than \$1,000, and any of the following circumstances exist:

(i) the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(iii) the property is taken from a burning, abandoned, or vacant building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(v) the property stolen is a motor vehicle; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property or services stolen is more than \$500 but not more than \$1,000; or

(5) in all other cases where the value of the property or services stolen is \$500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 24. **APPROPRIATION.**

(a) \$2,046,000 in fiscal year 2020 and \$2,046,000 in fiscal year 2021 are appropriated from the general fund to the commissioner of labor and industry to address wage theft.

(b) \$654,000 in fiscal year 2020 and \$654,000 in fiscal year 2021 are appropriated from the general fund to the attorney general to address wage theft.

(c) If an appropriation in this act is enacted more than once in the 2019 legislative session, the appropriation must be given effect only once."



Delete the title and insert:

"A bill for an act relating to employment; prohibiting wage theft; modifying payment of wages; increasing civil and criminal penalties; allowing for administrative review; appropriating money; amending Minnesota Statutes 2018, sections 16C.285, subdivision 3; 177.27, subdivision 2, by adding subdivisions; 177.30; 177.32, subdivision 1; 181.03, subdivision 1, by adding subdivisions; 181.032; 181.101; 609.52, subdivisions 1, 2, 3; proposing coding for new law in Minnesota Statutes, chapters 177; 181."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 11, A bill for an act relating to employment; providing for earned sick and safe time; authorizing rulemaking; imposing civil penalties; requiring reports; amending Minnesota Statutes 2018, section 177.27, subdivisions 2, 4, 7; proposing coding for new law in Minnesota Statutes, chapters 177; 181; repealing Minnesota Statutes 2018, section 181.9413.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
EARNED SICK AND SAFE TIME

Section 1. Minnesota Statutes 2018, section 181.942, subdivision 1, is amended to read:

Subdivision 1. **Comparable position.** (a) An employee returning from a leave of absence under section 181.941 is entitled to return to employment in the employee's former position or in a position of comparable duties, number of hours, and pay. An employee returning from a leave of absence longer than one month must notify a supervisor at least two weeks prior to return from leave. An employee returning from a leave under section 181.9412 or ~~181.9413~~ 181.9445 is entitled to return to employment in the employee's former position.

(b) If, during a leave under sections 181.940 to 181.944, the employer experiences a layoff and the employee would have lost a position had the employee not been on leave, pursuant to the good faith operation of a bona fide layoff and recall system, including a system under a collective bargaining agreement, the employee is not entitled to reinstatement in the former or comparable position. In such circumstances, the employee retains all rights under the layoff and recall system, including a system under a collective bargaining agreement, as if the employee had not taken the leave.

Sec. 2. **[181.9445] EARNED SICK AND SAFE TIME.**

Subdivision 1. **Definitions.** (a) For the purposes of this section and section 177.50, the terms defined in this subdivision have the meanings given them.

(b) "Commissioner" means the commissioner of labor and industry or authorized designee or representative.

(c) "Domestic abuse" has the meaning given in section 518B.01.

(d) "Earned sick and safe time" means leave, including paid time off and other paid leave systems, that is paid at the same hourly rate as an employee earns from employment that may be used for the same purposes and under the same conditions as provided under subdivision 3.

(e) "Employee" means any person who is employed by an employer, including temporary and part-time employees, who performs work for at least 80 hours in a year for that employer in Minnesota. Employee does not include:

(1) an independent contractor; or

(2) an individual employed by an air carrier as a flight deck or cabin crew member who is subject to United States Code, title 45, sections 181 to 188, and who is provided with paid leave equal to or exceeding the amounts in subdivision 2.

(f) "Employer" means a person who has one or more employees. Employer includes an individual, a corporation, a partnership, an association, a business trust, a nonprofit organization, a group of persons, a state, county, town, city, school district, or other governmental subdivision. In the event that a temporary employee is supplied by a staffing agency, absent a contractual agreement stating otherwise, that individual shall be an employee of the staffing agency for all purposes of this section and section 177.50.

(g) "Family member" means:

(1) an employee's:

(i) child, foster child, adult child, legal ward, or child for whom the employee is legal guardian;

(ii) spouse or registered domestic partner;

(iii) sibling, stepsibling, or foster sibling;

(iv) parent or stepparent;

(v) grandchild, foster grandchild, or stepgrandchild; or

(vi) grandparent or stepgrandparent;

(2) any of the family members listed in clause (1) of a spouse or registered domestic partner;

(3) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship; and

(4) up to one individual annually designated by the employee.

(h) "Health care professional" means any person licensed under federal or state law to provide medical or emergency services, including doctors, physician assistants, nurses, and emergency room personnel.

(i) "Prevailing wage rate" has the meaning given in section 177.42 and as calculated by the Department of Labor and Industry.

(j) "Retaliatory personnel action" means:

(1) any form of intimidation, threat, reprisal, harassment, discrimination, or adverse employment action, including discipline, discharge, suspension, transfer, or reassignment to a lesser position in terms of job classification, job security, or other condition of employment; reduction in pay or hours or denial of additional hours; the accumulation of points under an attendance point system; informing another employer that the person has engaged in activities protected by this chapter; or reporting or threatening to report the actual or suspected citizenship or immigration status of an employee, former employee, or family member of an employee to a federal, state, or local agency; and

(2) interference with or punishment for participating in any manner in an investigation, proceeding, or hearing under this chapter.

(k) "Sexual assault" means an act that constitutes a violation under sections 609.342 to 609.3453 or 609.352.

(l) "Stalking" has the meaning given in section 609.749.

(m) "Year" means a regular and consecutive 12-month period, as determined by an employer and clearly communicated to each employee of that employer.

**Subd. 2. Accrual of earned sick and safe time.** (a) An employee accrues a minimum of one hour of earned sick and safe time for every 30 hours worked up to a maximum of 48 hours of earned sick and safe time in a year. Employees may not accrue more than 48 hours of earned sick and safe time in a year unless the employer agrees to a higher amount.

(b) Employers must permit an employee to carry over accrued but unused sick and safe time into the following year. The total amount of accrued but unused earned sick and safe time for an employee may not exceed 80 hours at any time, unless an employer agrees to a higher amount.

(c) Employees who are exempt from overtime requirements under United States Code, title 29, section 213(a)(1), as amended through the effective date of this section, are deemed to work 40 hours in each workweek for purposes of accruing earned sick and safe time, except that an employee whose normal workweek is less than 40 hours will accrue earned sick and safe time based on the normal workweek.

(d) Earned sick and safe time under this section begins to accrue at the commencement of employment of the employee.

(e) Employees may use accrued earned sick and safe time beginning 90 calendar days after the day their employment commenced. After 90 days from the day employment commenced, employees may use earned sick and safe time as it is accrued. The 90-calendar-day period under this paragraph includes both days worked and days not worked.

**Subd. 3. Use of earned sick and safe time.** (a) An employee may use accrued earned sick and safe time for:

(1) an employee's:

(i) mental or physical illness, injury, or other health condition;

(ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or

(iii) need for preventive medical or health care;

(2) care of a family member;

(i) with a mental or physical illness, injury, or other health condition;

(ii) who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or other health condition; or

(iii) who needs preventive medical or health care;

(3) absence due to domestic abuse, sexual assault, or stalking of the employee or employee's family member, provided the absence is to:

(i) seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;

(ii) obtain services from a victim services organization;

(iii) obtain psychological or other counseling;

(iv) seek relocation due to domestic abuse, sexual assault, or stalking; or

(v) seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking;

(4) closure of the employee's place of business due to weather or other public emergency or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency; and

(5) when it has been determined by the health authorities having jurisdiction or by a health care professional that the presence of the employee or family member of the employee in the community would jeopardize the health of others because of the exposure of the employee or family member of the employee to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

(b) An employer may require notice of the need for use of earned sick and safe time as provided in this paragraph. If the need for use is foreseeable, an employer may require advance notice of the intention to use earned sick and safe time but must not require more than seven days' advance notice. If the need is unforeseeable, an employer may require an employee to give notice of the need for earned sick and safe time as soon as practicable.

(c) When an employee uses earned sick and safe time for more than three consecutive days, an employer may require reasonable documentation that the earned sick and safe time is covered by paragraph (a). For earned sick and safe time under paragraph (a), clauses (1) and (2), reasonable documentation may include a signed statement by a health care professional indicating the need for use of earned sick and safe time. For earned sick and safe time under paragraph (a), clause (3), an employer must accept a court record or documentation signed by a volunteer or employee of a victims services organization, an attorney, a police officer, or an antiviolence counselor as reasonable documentation. An employer must not require disclosure of details relating to domestic abuse, sexual assault, or stalking or the details of an employee's or an employee's family member's medical condition as related to an employee's request to use earned sick and safe time under this section.

(d) An employer may not require, as a condition of an employee using earned sick and safe time, that the employee seek or find a replacement worker to cover the hours the employee uses as earned sick and safe time.

(e) Earned sick and safe time may be used in the smallest increment of time tracked by the employer's payroll system, provided such increment is not more than four hours.

Subd. 4. **Retaliation prohibited.** An employer shall not take retaliatory personnel action against an employee because the employee has requested earned sick and safe time, used earned sick and safe time, requested a statement of accrued sick and safe time, or made a complaint or filed an action to enforce a right to earned sick and safe time under this section.

Subd. 5. **Reinstatement to comparable position after leave.** An employee returning from a leave under this section is entitled to return to employment in a comparable position. If, during a leave under this section, the employer experiences a layoff and the employee would have lost a position had the employee not been on leave, pursuant to the good faith operation of a bona fide layoff and recall system, including a system under a collective bargaining agreement, the employee is not entitled to reinstatement in the former or comparable position. In such circumstances, the employee retains all rights under the layoff and recall system, including a system under a collective bargaining agreement, as if the employee had not taken the leave.

Subd. 6. **Pay and benefits after leave.** An employee returning from a leave under this section is entitled to return to employment at the same rate of pay the employee had been receiving when the leave commenced, plus any automatic adjustments in the employee's pay scale that occurred during leave period. The employee returning from a leave is entitled to retain all accrued preleave benefits of employment and seniority as if there had been no interruption in service, provided that nothing under this section prevents the accrual of benefits or seniority during the leave pursuant to a collective bargaining or other agreement between the employer and employees.

Subd. 7. **Part-time return from leave.** An employee, by agreement with the employer, may return to work part time during the leave period without forfeiting the right to return to employment at the end of the leave, as provided under this section.

Subd. 8. **Notice and posting by employer.** (a) Employers must give notice to all employees that they are entitled to earned sick and safe time, including the amount of earned sick and safe time, the accrual year for the employee, and the terms of its use under this section; that retaliation against employees who request or use earned sick and safe time is prohibited; and that each employee has the right to file a complaint or bring a civil action if earned sick and safe time is denied by the employer or the employee is retaliated against for requesting or using earned sick and safe time.

(b) Employers must supply employees with a notice in English and other appropriate languages that contains the information required in paragraph (a) at commencement of employment or the effective date of this section, whichever is later.

(c) The means used by the employer must be at least as effective as the following options for providing notice:

(1) posting a copy of the notice at each location where employees perform work and where the notice must be readily observed and easily reviewed by all employees performing work; or

(2) providing a paper or electronic copy of the notice to employees.

The notice must contain all information required under paragraph (a). The commissioner shall create and make available to employers a poster and a model notice that contains the information required under paragraph (a) for their use in complying with this section.

(d) An employer that provides an employee handbook to its employees must include in the handbook notice of employee rights and remedies under this section.

Subd. 9. **Required statement to employee.** (a) Upon request of the employee, the employer must provide, in writing or electronically, current information stating the employee's amount of:

(1) earned sick and safe time available to the employee; and

(2) used earned sick and safe time.

(b) Employers may choose a reasonable system for providing the information in paragraph (a), including but not limited to listing information on each pay stub or developing an online system where employees can access their own information.

Subd. 10. **Employer records.** (a) Employers shall retain accurate records documenting hours worked by employees and earned sick and safe time taken and comply with all requirements under section 177.30.

(b) An employer must allow an employee to inspect records required by this section and relating to that employee at a reasonable time and place.

Subd. 11. **Confidentiality and nondisclosure.** (a) If, in conjunction with this section, an employer possesses (1) health or medical information regarding an employee or an employee's family member; (2) information pertaining to domestic abuse, sexual assault, or stalking; (3) information that the employee has requested or obtained leave under this section; or (4) any written or oral statement, documentation, record, or corroborating evidence provided by the employee or an employee's family member, the employer must treat such information as confidential. Information given by an employee may only be disclosed by an employer if the disclosure is requested or consented to by the employee, when ordered by a court or administrative agency, or when otherwise required by federal or state law.

(b) Records and documents relating to medical certifications, recertifications, or medical histories of employees or family members of employees created for purposes of this section or section 177.50 must be maintained as confidential medical records separate from the usual personnel files. At the request of the employee, the employer must destroy or return the records required by this section that are older than three years prior to the current calendar year.

(c) Employers may not discriminate against any employee based on records created for the purposes of this section or section 177.50.

Subd. 12. **No effect on more generous sick and safe time policies.** (a) Nothing in this section shall be construed to discourage employers from adopting or retaining earned sick and safe time policies that meet or exceed, and do not otherwise conflict with, the minimum standards and requirements provided in this section.

(b) Nothing in this section shall be construed to limit the right of parties to a collective bargaining agreement to bargain and agree with respect to earned sick and safe time policies or to diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that meets or exceeds, and does not otherwise conflict with, the minimum standards and requirements provided in this section.

(c) Employers who provide earned sick and safe time to their employees under a paid time off policy or other paid leave policy that meets or exceeds, and does not otherwise conflict with, the minimum standards and requirements provided in this section are not required to provide additional earned sick and safe time.

(d) An employer may opt to satisfy the requirements of this section for construction industry employees by:

(1) paying at least the prevailing wage rate as defined by section 177.42 and as calculated by the Department of Labor and Industry; or

(2) paying at least the required rate established in a registered apprenticeship agreement for apprentices registered with the Department of Labor and Industry.

An employer electing this option is deemed to be in compliance with this section for construction industry employees who receive either at least the prevailing wage rate or the rate required in the applicable apprenticeship agreement regardless of whether the employees are working on private or public projects.

(e) This section does not prohibit an employer from establishing a policy whereby employees may donate unused accrued sick and safe time to another employee.

(f) This section does not prohibit an employer from advancing sick and safe time to an employee before accrual by the employee.

Subd. 13. **Termination; separation; transfer.** This section does not require financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned sick and safe time that has not been used. If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned sick and safe time accrued at the prior division, entity, or location and is entitled to use all earned sick and safe time as provided in this section. When there is a separation from employment and the employee is rehired within 180 days of separation by the same employer, previously accrued earned sick and safe time that had not been used must be reinstated. An employee is entitled to use accrued earned sick and safe time and accrue additional earned sick and safe time at the commencement of reemployment.

Subd. 14. **Employer succession.** (a) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned sick and safe time accrued but not used when employed by the original employer, and are entitled to use all earned sick and safe time previously accrued but not used.

(b) If, at the time of transfer of the business, employees are terminated by the original employer and hired within 30 days by the successor employer following the transfer, those employees are entitled to all earned sick and safe time accrued but not used when employed by the original employer, and are entitled to use all earned sick and safe time previously accrued but not used.

Sec. 3. **REPEALER.**

Minnesota Statutes 2018, section 181.9413, is repealed.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective 180 days following final enactment.

ARTICLE 2  
EARNED SICK AND SAFE TIME ENFORCEMENT

Section 1. Minnesota Statutes 2018, section 177.27, subdivision 2, is amended to read:

Subd. 2. **Submission of records; penalty.** The commissioner may require the employer of employees working in the state to submit to the commissioner photocopies, certified copies, or, if necessary, the originals of employment records which the commissioner deems necessary or appropriate. The records which may be required include full and correct statements in writing, including sworn statements by the employer, containing information relating to wages, hours, names, addresses, and any other information pertaining to the employer's employees and the conditions of their employment as the commissioner deems necessary or appropriate.

The commissioner may require the records to be submitted by certified mail delivery or, if necessary, by personal delivery by the employer or a representative of the employer, as authorized by the employer in writing.

The commissioner may fine the employer up to ~~\$1,000~~ \$10,000 for each failure to submit or deliver records as required by this section. This penalty is in addition to any penalties provided under section 177.32, subdivision 1. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered.

Sec. 2. Minnesota Statutes 2018, section 177.27, subdivision 4, is amended to read:

Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032, 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275, subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, and 181.9445, or with any rule promulgated under section 177.28. The commissioner shall issue an order requiring an employer to comply with sections 177.41 to 177.435 if the violation is repeated. For purposes of this subdivision only, a violation is repeated if at any time during the two years that preceded the date of violation, the commissioner issued an order to the employer for violation of sections 177.41 to 177.435 and the order is final or the commissioner and the employer have entered into a settlement agreement that required the employer to pay back wages that were required by sections 177.41 to 177.435. The department shall serve the order upon the employer or the employer's authorized representative in person or by certified mail at the employer's place of business. An employer who wishes to contest the order must file written notice of objection to the order with the commissioner within 15 calendar days after being served with the order. A contested case proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being served with the order, the employer fails to file a written notice of objection with the commissioner, the order becomes a final order of the commissioner.

Sec. 3. Minnesota Statutes 2018, section 177.27, subdivision 7, is amended to read:

Subd. 7. **Employer liability.** If an employer is found by the commissioner to have violated a section identified in subdivision 4, or any rule adopted under section 177.28, and the commissioner issues an order to comply, the commissioner shall order the employer to cease and desist from engaging in the violative practice and to take such affirmative steps that in the judgment of the commissioner will effectuate the purposes of the section or rule violated. The commissioner shall order the employer to pay to the aggrieved parties back pay, gratuities, and compensatory damages, less any amount actually paid to the employee by the employer, and for an additional equal amount as liquidated damages. Any employer who is found by the commissioner to have repeatedly or willfully violated a section or sections identified in subdivision 4 shall be subject to a civil penalty of up to ~~\$1,000~~ \$10,000 for each violation for each employee. In determining the amount of a civil penalty under this subdivision, the appropriateness of such penalty to the size of the employer's business and the gravity of the violation shall be considered. In addition, the commissioner may order the employer to reimburse the department and the attorney general for all appropriate litigation and hearing costs expended in preparation for and in conducting the contested case proceeding, unless payment of costs would impose extreme financial hardship on the employer. If the employer is able to establish extreme financial hardship, then the commissioner may order the employer to pay a percentage of the total costs that will not cause extreme financial hardship. Costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, administrative law judges, court reporters, and expert witnesses as well as the cost of transcripts. Interest shall accrue on, and be added to, the unpaid balance of a commissioner's order from the date the order is signed by the commissioner until it is paid, at an annual rate provided in section 549.09, subdivision 1, paragraph (c). The commissioner may establish escrow accounts for purposes of distributing damages.

Sec. 4. **[177.50] EARNED SICK AND SAFE TIME ENFORCEMENT.**

Subdivision 1. **Definitions.** The definitions in section 181.9445, subdivision 1, apply to this section.



Subd. 2. **Rulemaking authority.** The commissioner may adopt rules to carry out the purposes of this section and section 181.9445.

Subd. 3. **Individual remedies.** In addition to any other remedies provided by law, a person injured by a violation of section 181.9445 may bring a civil action to recover general and special damages, along with costs, fees, and reasonable attorney fees, and may receive injunctive and other equitable relief as determined by a court. An action to recover damages under this subdivision must be commenced within three years of the violation of section 181.9445 that caused the injury to the employee.

Subd. 4. **Grants to community organizations.** The commissioner may make grants to community organizations for the purpose of outreach to and education for employees regarding their rights under section 181.9445. The community-based organizations must be selected based on their experience, capacity, and relationships in high-violation industries. The work under such a grant may include the creation and administration of a statewide worker hotline.

Subd. 5. **Report to legislature.** (a) The commissioner must submit an annual report to the legislature, including to the chairs and ranking minority members of any relevant legislative committee. The report must include, but is not limited to:

(1) a list of all violations of section 181.9445, including the employer involved, and the nature of any violations; and

(2) an analysis of noncompliance with section 181.9445, including any patterns by employer, industry, or county.

(b) A report under this section must not include an employee's name or other identifying information, any health or medical information regarding an employee or an employee's family member, or any information pertaining to domestic abuse, sexual assault, or stalking of an employee or an employee's family member.

Subd. 6. **Contract for labor or services.** It is the responsibility of all employers to not enter into any contract or agreement for labor or services where the employer has any actual knowledge or knowledge arising from familiarity with the normal facts and circumstances of the business activity engaged in, or has any additional facts or information that, taken together, would make a reasonably prudent person undertake to inquire whether, taken together, the contractor is not complying or has failed to comply with this section. For purposes of this subdivision, "actual knowledge" means information obtained by the employer that the contractor has violated this section within the past two years and has failed to present the employer with credible evidence that such noncompliance has been cured going forward.

**EFFECTIVE DATE.** This section is effective 180 days after final enactment.

### ARTICLE 3 EARNED SICK AND SAFE TIME APPROPRIATIONS

#### Section 1. **EARNED SICK AND SAFE TIME APPROPRIATIONS.**

(a) \$3,866,000 in fiscal year 2020 and \$4,072,000 in fiscal year 2021 are appropriated from the general fund to the commissioner of labor and industry for enforcement and other duties regarding earned sick and safe time under Minnesota Statutes, section 181.9445 and chapter 177. In fiscal year 2022, the base amount is \$2,874,000 and in fiscal year 2023 and beyond, the base amount is \$2,873,000.

(b) \$22,000 in fiscal year 2020 and \$93,000 in fiscal year 2021 are appropriated from the general fund to the commissioner of management and budget for costs associated with earned sick and safe time under Minnesota Statutes, section 181.9445.

(c) If an appropriation in this act is enacted more than once in the 2019 legislative session, the appropriation must be given effect only once."

Delete the title and insert:

"A bill for an act relating to employment; providing for earned sick and safe time; appropriating money; authorizing rulemaking; imposing civil penalties; requiring reports; amending Minnesota Statutes 2018, sections 177.27, subdivisions 2, 4, 7; 181.942, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 177; 181; repealing Minnesota Statutes 2018, section 181.9413."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

Carlson, L., from the Committee on Ways and Means to which was referred:

H. F. No. 90, A bill for an act relating to health; establishing consumer protections for residents of assisted living establishments; establishing an assisted living establishment license; providing penalties; granting rulemaking authority; requiring reports; amending Minnesota Statutes 2018, sections 144.057, subdivision 1; 144.0721; 144.122; 144.651, subdivision 1, by adding a subdivision; 144A.18; 144A.19, subdivision 1; 144A.20, subdivision 1; 144A.21; 144A.23; 144A.24; 144A.251; 144A.2511; 144A.26; 144A.27; 144A.4791, subdivision 10; 144D.01, subdivisions 2a, 4, 5, by adding subdivisions; 144D.015; 144D.02; 144D.04, subdivision 1; 144D.05; 144D.06; 144D.09; 144D.10; 144D.11; 325F.72, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapter 144; proposing coding for new law as Minnesota Statutes, chapters 144I; 144J; repealing Minnesota Statutes 2018, sections 144A.44; 144A.441; 144A.442; 144D.01, subdivision 6; 144D.025; 144D.04, subdivisions 2, 3; 144D.045; 144D.065; 144D.066; 144D.07; 144G.01; 144G.02; 144G.03, subdivisions 1, 2, 3, 4, 5, 6; 144G.04; 144G.05; 144G.06.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
RESIDENT RIGHTS AND CONSUMER PROTECTIONS

Section 1. **[144J.01] DEFINITIONS.**

Subdivision 1. **Applicability.** For the purposes of this chapter, the following terms have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. **Assisted living contract.** "Assisted living contract" means the legal agreement between a resident and an assisted living facility for housing and assisted living services.

Subd. 3. **Assisted living facility.** "Assisted living facility" has the meaning given in section 144I.01, subdivision 6.

Subd. 4. **Assisted living facility with dementia care.** "Assisted living facility with dementia care" has the meaning given in section 144I.01, subdivision 8.

Subd. 5. **Assisted living services.** "Assisted living services" has the meaning given in section 144I.01, subdivision 7.

Subd. 6. **Attorney-in-fact.** "Attorney-in-fact" means a person designated by a principal to exercise the powers granted by a written and valid power of attorney under chapter 523.

Subd. 7. **Conservator.** "Conservator" means a court-appointed conservator acting in accordance with the powers granted to the conservator under chapter 524.

Subd. 8. **Designated representative.** "Designated representative" means a person designated in writing by the resident in an assisted living contract and identified in the resident's records on file with the assisted living facility.

Subd. 9. **Facility.** "Facility" means an assisted living facility.

Subd. 10. **Guardian.** "Guardian" means a court-appointed guardian acting in accordance with the powers granted to the guardian under chapter 524.

Subd. 11. **Health care agent.** "Health care agent" has the meaning given in section 145C.01, subdivision 2.

Subd. 12. **Legal representative.** "Legal representative" means one of the following in the order of priority listed, to the extent the person may reasonably be identified and located:

(1) a guardian;

(2) a conservator;

(3) a health care agent; or

(4) an attorney-in-fact.

Subd. 13. **Licensed health care professional.** "Licensed health care professional" means:

(1) a physician licensed under chapter 147;

(2) an advanced practice registered nurse, as that term is defined in section 148.171, subdivision 3;

(3) a licensed practical nurse, as that term is defined in section 148.171, subdivision 8; or

(4) a registered nurse, as that term is defined in section 148.171, subdivision 20.

Subd. 14. **Resident.** "Resident" means a person living in an assisted living facility.

Subd. 15. **Resident record.** "Resident record" has the meaning given in section 144I.01, subdivision 53.

Subd. 16. **Service plan.** "Service plan" has the meaning given in section 144I.01, subdivision 57.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 2. **[144J.02] RESIDENT RIGHTS.**

**Subdivision 1. Applicability.** This section applies to assisted living facility residents.

**Subd. 2. Legislative intent.** The rights established under this section for the benefit of residents do not limit any other rights available under law. No facility may request or require that any resident waive any of these rights at any time for any reason, including as a condition of admission to the facility.

**Subd. 3. Information about rights and facility policies.** (a) Before receiving services, residents have the right to be informed by the facility of the rights granted under this section. The information must be in plain language and in terms residents can understand. The facility must make reasonable accommodations for residents who have communication disabilities and those who speak a language other than English.

(b) Every facility must:

(1) indicate what recourse residents have if their rights are violated; and

(2) provide the information required under section 144J.10.

(c) Upon request, residents and their legal representatives and designated representatives have the right to copies of current facility policies and inspection findings of state and local health authorities, and to receive further explanation of the rights provided under this section, consistent with chapter 13 and section 626.557.

**Subd. 4. Courteous treatment.** Residents have the right to be treated with courtesy and respect, and to have the resident's property treated with respect.

**Subd. 5. Appropriate care and services.** (a) Residents have the right to care and services that are appropriate based on the resident's needs and according to an up-to-date service plan. All service plans must be designed to enable residents to achieve their highest level of emotional, psychological, physical, medical, and functional well-being and safety.

(b) Residents have the right to receive health care and other assisted living services with continuity from people who are properly trained and competent to perform their duties and in sufficient numbers to adequately provide the services agreed to in the assisted living contract and the service plan.

**Subd. 6. Participation in care and service planning.** Residents have the right to actively participate in the planning, modification, and evaluation of their care and services. This right includes:

(1) the opportunity to discuss care, services, treatment, and alternatives with the appropriate caregivers;

(2) the opportunity to request and participate in formal care conferences;

(3) the right to include a family member or the resident's health care agent and designated representative, or both; and

(4) the right to be told in advance of, and take an active part in decisions regarding, any recommended changes in the service plan.

**Subd. 7. Information about individuals providing services.** Before receiving services, residents have the right to be told the type and disciplines of staff who will be providing the services, the frequency of visits proposed to be furnished, and other choices that are available for addressing the resident's needs.

**Subd. 8. Information about health care treatment.** Where applicable, residents have the right to be given by their attending physician complete and current information concerning their diagnosis, cognitive functioning level, treatment, alternatives, risks, and prognosis as required by the physician's legal duty to disclose. This information must be in terms and language the residents can reasonably be expected to understand. This information must include the likely medical or major psychological results of the treatment and its alternatives.

**Subd. 9. Information about other providers and services.** (a) Residents have the right to be informed by the assisted living facility, prior to executing an assisted living contract, that other public and private services may be available and the resident has the right to purchase, contract for, or obtain services from a provider other than the assisted living facility or related assisted living services provider.

(b) Assisted living facilities must make every effort to assist residents in obtaining information regarding whether Medicare, medical assistance, or another public program will pay for any of the services.

**Subd. 10. Information about charges.** Before services are initiated, residents have the right to be notified:

(1) of all charges for services;

(2) whether payment may be expected from health insurance, public programs, or other sources, if known, and the amount of such payments; and

(3) what charges the resident may be responsible for paying.

**Subd. 11. Refusal of care or services.** (a) Residents have the right to refuse care or services.

(b) A provider must document in the resident's record that the provider informed a resident who refuses care, services, treatment, medication, or dietary restrictions of the likely medical, health-related, or psychological consequences of the refusal.

(c) In cases where a resident lacks capacity but has not been adjudicated incompetent, or when legal requirements limit the right to refuse medical treatment, the conditions and circumstances must be fully documented by the attending physician in the resident's record.

**Subd. 12. Freedom from maltreatment.** Residents have the right to be free from maltreatment. For the purposes of this subdivision, "maltreatment" means conduct described in section 626.5572, subdivision 15, and includes the intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress.

**Subd. 13. Personal and treatment privacy.** (a) Residents have the right to every consideration of their privacy, individuality, and cultural identity as related to their social, religious, and psychological well-being. Staff must respect the privacy of a resident's space by knocking on the door and seeking consent before entering, except in an emergency or where clearly inadvisable.

(b) Residents have the right to respect and privacy regarding the resident's health care and personal care program. Case discussion, consultation, examination, and treatment are confidential and must be conducted discreetly. Privacy must be respected during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance.

**Subd. 14. Communication privacy.** (a) Residents have the right to communicate privately with persons of their choice. Assisted living facilities that are unable to provide a private area for communication must make reasonable arrangements to accommodate the privacy of residents' communications.

(b) Personal mail must be sent by the assisted living facility without interference and received unopened unless medically or programmatically contraindicated and documented by a licensed health care professional listed in the resident's record.

(c) Residents must be provided access to a telephone to make and receive calls.

**Subd. 15. Confidentiality of records.** (a) Residents have the right to have personal, financial, health, and medical information kept private, to approve or refuse release of information to any outside party, and to be advised of the assisted living facility's policies and procedures regarding disclosure of the information. Residents must be notified when personal records are requested by any outside party.

(b) Residents have the right to access their own records and written information from those records in accordance with sections 144.291 to 144.298.

**Subd. 16. Grievances and inquiries.** (a) Residents have the right to make and receive a timely response to a complaint or inquiry, without limitation. Residents have the right to know and every facility must provide the name and contact information of the person representing the facility who is designated to handle and resolve complaints and inquiries.

(b) A facility must promptly investigate, make a good faith attempt to resolve, and provide a timely response to the complaint or inquiry.

(c) Residents have the right to recommend changes in policies and services to staff and managerial officials, as that term is defined in section 144I.01, subdivision 31.

**Subd. 17. Visitors and social participation.** (a) Residents have the right to meet with or receive visits at any time by the resident's family, guardian, conservator, health care agent, attorney, advocate, or religious or social work counselor, or any person of the resident's choosing.

(b) Residents have the right to participate in commercial, religious, social, community, and political activities without interference and at their discretion if the activities do not infringe on the right to privacy of other residents.

**Subd. 18. Access to counsel and advocacy services.** Notwithstanding subdivision 15, residents have the right to the immediate access by:

(1) the resident's legal counsel;

(2) any representative of the protection and advocacy system designated by the state under Code of Federal Regulations, title 45, section 1326.21; or

(3) any representative of the Office of Ombudsman for Long-Term Care.

**Subd. 19. Right to come and go freely.** Residents have the right to enter and leave the facility as they choose. This right may be restricted only as allowed by other law and consistent with a resident's service plan.

**Subd. 20. Access to technology.** Residents have the right to access Internet service at their expense, unless offered by the facility.

**Subd. 21. Resident councils.** Residents have the right to organize and participate in resident councils. The facility must provide a resident council with space and privacy for meetings, where doing so is reasonably achievable. Staff, visitors, or other guests may attend resident council meetings only at the council's invitation. The

facility must provide a designated staff person who is approved by the resident council and the facility to be responsible for providing assistance and responding to written requests that result from meetings. The facility must consider the views of the resident council and must act promptly upon the grievances and recommendations of the council, but a facility is not required to implement as recommended every request of the council. The facility shall, with the approval of the resident council, take reasonably achievable steps to make residents aware of upcoming meetings in a timely manner.

Subd. 22. **Family councils.** Residents have the right to participate in family councils formed by families or residents. The facility must provide a family council with space and privacy for meetings, where doing so is reasonably achievable. The facility must provide a designated staff person who is approved by the family council and the facility to be responsible for providing assistance and responding to written requests that result from meetings. The facility must consider the views of the family council and must act promptly upon the grievances and recommendations of the council, but a facility is not required to implement as recommended every request of the council. The facility shall, with the approval of the family council, take reasonably achievable steps to make residents and family members aware of upcoming meetings in a timely manner.

**EFFECTIVE DATE.** This section is effective August 1, 2019.

Sec. 3. **[144J.03] RETALIATION PROHIBITED.**

Subdivision 1. **Retaliation prohibited.** A facility or agent of a facility may not retaliate against a resident or employee if the resident, employee, or any person acting on behalf of the resident:

- (1) files a complaint or grievance, makes an inquiry, or asserts any right;
- (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any right;
- (3) files or indicates an intention to file a maltreatment report, whether mandatory or voluntary, under section 626.557;
- (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic problems or concerns to the administrator or manager of the facility, the Office of Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or advocacy organization;
- (5) advocates or seeks advocacy assistance for necessary or improved care or services or enforcement of rights under this section or other law;
- (6) takes or indicates an intention to take civil action;
- (7) participates or indicates an intention to participate in any investigation or administrative or judicial proceeding;
- (8) contracts or indicates an intention to contract to receive services from a service provider of the resident's choice other than the facility; or
- (9) places or indicates an intention to place a camera or electronic monitoring device in the resident's private space as provided under section 144J.05.

Subd. 2. **Retaliation against a resident.** For purposes of this section, to retaliate against a resident includes but is not limited to any of the following actions taken or threatened by a facility or an agent of the facility against a resident, or any person with a familial, personal, legal, or professional relationship with the resident:

- (1) the discharge, eviction, transfer, or termination of services;
- (2) the imposition of discipline, punishment, or a sanction or penalty;
- (3) any form of discrimination;
- (4) restriction or prohibition of access:
  - (i) of the resident to the facility or visitors; or
  - (ii) to the resident by a family member or a person with a personal, legal, or professional relationship with the resident;
- (5) the imposition of involuntary seclusion or withholding food, care, or services;
- (6) restriction of any of the rights granted to residents under state or federal law;
- (7) restriction or reduction of access to or use of amenities, care, services, privileges, or living arrangements;
- (8) an arbitrary increase in charges or fees;
- (9) removing, tampering with, or deprivation of technology, communication, or electronic monitoring devices; or
- (10) any oral or written communication of false information about a person advocating on behalf of the resident.

Subd. 3. **Retaliation against an employee.** For purposes of this section, to retaliate against an employee includes but is not limited to any of the following actions taken or threatened by the facility or an agent of the facility against an employee:

- (1) discharge or transfer;
- (2) demotion or refusal to promote;
- (3) reduction in compensation, benefits, or privileges;
- (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or
- (5) any form of discrimination.

Subd. 4. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision 2 or 3 and taken within 90 days of an initial action described in subdivision 1 is retaliatory.

(b) The presumption does not apply to actions described in subdivision 2, clause (4), if a good faith report of maltreatment pursuant to section 626.557 is made by the facility or agent of the facility against the visitor, family member, or other person with a personal, legal, or professional relationship that is subject to the restriction or prohibition of access.

(c) The presumption does not apply to any oral or written communication described in subdivision 2, clause (10), that is associated with a good faith report of maltreatment pursuant to section 626.557 made by the facility or agent of the facility against the person advocating on behalf of the resident.



(d) The presumption does not apply to a discharge, eviction, transfer, or termination of services that occurs for a reason permitted under section 144J.08, subdivision 3 or 6, provided the assisted living facility has complied with the applicable requirements in sections 144J.08 and 144.10.

Subd. 5. **Other laws.** Nothing in this section affects the rights available to a resident under section 626.557.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 4. **[144J.04] DECEPTIVE MARKETING AND BUSINESS PRACTICES PROHIBITED.**

(a) No employee or agent of any facility may make any false, fraudulent, deceptive, or misleading statements or representations or material omissions in marketing, advertising, or any other description or representation of care or services.

(b) No assisted living contract may include any provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor include any provision that requires or implies a lesser standard of care or responsibility than is required by law.

(c) No facility may advertise or represent that it is licensed as an assisted living facility with dementia care without complying with disclosure requirements under section 325F.72 and any training requirements required under chapter 144I or in rule.

(d) A violation of this section constitutes a violation of section 325F.69, subdivision 1. The attorney general or a county attorney may enforce this section using the remedies in section 325F.70.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 5. **[144J.05] ELECTRONIC MONITORING IN CERTAIN FACILITIES.**

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

(b) "Commissioner" means the commissioner of health.

(c) "Department" means the Department of Health.

(d) "Electronic monitoring" means the placement and use of an electronic monitoring device by a resident in the resident's room or private living unit in accordance with this section.

(e) "Electronic monitoring device" means a camera or other device that captures, records, or broadcasts audio, video, or both, that is placed in a resident's room or private living unit and is used to monitor the resident or activities in the room or private living unit.

(f) "Facility" means a facility that is:

(1) licensed as a nursing home under chapter 144A;

(2) licensed as a boarding care home under sections 144.50 to 144.56;

(3) until August 1, 2021, a housing with services establishment registered under chapter 144D that is either subject to chapter 144G or has a disclosed special unit under section 325F.72; or

(4) on or after August 1, 2021, an assisted living facility.

(g) "Resident" means a person 18 years of age or older residing in a facility.

(h) "Resident representative" means one of the following in the order of priority listed, to the extent the person may reasonably be identified and located:

(1) a court-appointed guardian;

(2) a health care agent as defined in section 145C.01, subdivision 2; or

(3) a person who is not an agent of a facility or of a home care provider designated in writing by the resident and maintained in the resident's records on file with the facility or with the resident's executed housing with services contract or nursing home contract.

**Subd. 2. Electronic monitoring authorized.** (a) A resident or a resident representative may conduct electronic monitoring of the resident's room or private living unit through the use of electronic monitoring devices placed in the resident's room or private living unit as provided in this section.

(b) Nothing in this section precludes the use of electronic monitoring of health care allowed under other law.

(c) Electronic monitoring authorized under this section is not a covered service under home and community-based waivers under sections 256B.0913, 256B.0915, 256B.092, and 256B.49.

(d) This section does not apply to monitoring technology authorized as a home and community-based service under section 256B.0913, 256B.0915, 256B.092, or 256B.49.

**Subd. 3. Consent to electronic monitoring.** (a) Except as otherwise provided in this subdivision, a resident must consent to electronic monitoring in the resident's room or private living unit in writing on a notification and consent form. If the resident has not affirmatively objected to electronic monitoring and the resident's medical professional determines that the resident currently lacks the ability to understand and appreciate the nature and consequences of electronic monitoring, the resident representative may consent on behalf of the resident. For purposes of this subdivision, a resident affirmatively objects when the resident orally, visually, or through the use of auxiliary aids or services declines electronic monitoring. The resident's response must be documented on the notification and consent form.

(b) Prior to a resident representative consenting on behalf of a resident, the resident must be asked if the resident wants electronic monitoring to be conducted. The resident representative must explain to the resident:

(1) the type of electronic monitoring device to be used;

(2) the standard conditions that may be placed on the electronic monitoring device's use, including those listed in subdivision 6;

(3) with whom the recording may be shared under subdivision 10 or 11; and

(4) the resident's ability to decline all recording.

(c) A resident, or resident representative when consenting on behalf of the resident, may consent to electronic monitoring with any conditions of the resident's or resident representative's choosing, including the list of standard conditions provided in subdivision 6. A resident, or resident representative when consenting on behalf of the resident, may request that the electronic monitoring device be turned off or the visual or audio recording component of the electronic monitoring device be blocked at any time.

(d) Prior to implementing electronic monitoring, a resident, or resident representative when acting on behalf of the resident, must obtain the written consent on the notification and consent form of any other resident residing in the shared room or shared private living unit. A roommate's or roommate's resident representative's written consent must comply with the requirements of paragraphs (a) to (c). Consent by a roommate or a roommate's resident representative under this paragraph authorizes the resident's use of any recording obtained under this section, as provided under subdivision 10 or 11.

(e) Any resident conducting electronic monitoring must immediately remove or disable an electronic monitoring device prior to a new roommate moving into a shared room or shared private living unit, unless the resident obtains the roommate's or roommate's resident representative's written consent as provided under paragraph (d) prior to the roommate moving into the shared room or shared private living unit. Upon obtaining the new roommate's signed notification and consent form and submitting the form to the facility as required under subdivision 5, the resident may resume electronic monitoring.

(f) The resident or roommate, or the resident representative or roommate's resident representative if the representative is consenting on behalf of the resident or roommate, may withdraw consent at any time and the withdrawal of consent must be documented on the original consent form as provided under subdivision 5, paragraph (d).

Subd. 4. **Refusal of roommate to consent.** If a resident of a facility who is residing in a shared room or shared living unit, or the resident representative of such a resident when acting on behalf of the resident, wants to conduct electronic monitoring and another resident living in or moving into the same shared room or shared living unit refuses to consent to the use of an electronic monitoring device, the facility shall make a reasonable attempt to accommodate the resident who wants to conduct electronic monitoring. A facility has met the requirement to make a reasonable attempt to accommodate a resident or resident representative who wants to conduct electronic monitoring when, upon notification that a roommate has not consented to the use of an electronic monitoring device in the resident's room, the facility offers to move the resident to another shared room or shared living unit that is available at the time of the request. If a resident chooses to reside in a private room or private living unit in a facility in order to accommodate the use of an electronic monitoring device, the resident must pay either the private room rate in a nursing home setting, or the applicable rent in a housing with services establishment or assisted living facility. If a facility is unable to accommodate a resident due to lack of space, the facility must reevaluate the request every two weeks until the request is fulfilled. A facility is not required to provide a private room, a single-bed room, or a private living unit to a resident who is unable to pay.

Subd. 5. **Notice to facility; exceptions.** (a) Electronic monitoring may begin only after the resident or resident representative who intends to place an electronic monitoring device and any roommate or roommate's resident representative completes the notification and consent form and submits the form to the facility.

(b) Notwithstanding paragraph (a), the resident or resident representative who intends to place an electronic monitoring device may do so without submitting a notification and consent form to the facility for up to 30 days:

(1) if the resident or the resident representative reasonably fears retaliation against the resident by the facility, timely submits the completed notification and consent form to the Office of Ombudsman for Long-Term Care, and timely submits a Minnesota Adult Abuse Reporting Center report or police report, or both, upon evidence from the electronic monitoring device that suspected maltreatment has occurred;

(2) if there has not been a timely written response from the facility to a written communication from the resident or resident representative expressing a concern prompting the desire for placement of an electronic monitoring device and if the resident or a resident representative timely submits a completed notification and consent form to the Office of Ombudsman for Long-Term Care; or

(3) if the resident or resident representative has already submitted a Minnesota Adult Abuse Reporting Center report or police report regarding the resident's concerns prompting the desire for placement and if the resident or a resident representative timely submits a completed notification and consent form to the Office of Ombudsman for Long-Term Care.

(c) Upon receipt of any completed notification and consent form, the facility must place the original form in the resident's file or file the original form with the resident's housing with services contract. The facility must provide a copy to the resident and the resident's roommate, if applicable.

(d) In the event that a resident or roommate, or the resident representative or roommate's resident representative if the representative is consenting on behalf of the resident or roommate, chooses to alter the conditions under which consent to electronic monitoring is given or chooses to withdraw consent to electronic monitoring, the facility must make available the original notification and consent form so that it may be updated. Upon receipt of the updated form, the facility must place the updated form in the resident's file or file the original form with the resident's signed housing with services contract. The facility must provide a copy of the updated form to the resident and the resident's roommate, if applicable.

(e) If a new roommate, or the new roommate's resident representative when consenting on behalf of the new roommate, does not submit to the facility a completed notification and consent form and the resident conducting the electronic monitoring does not remove or disable the electronic monitoring device, the facility must remove the electronic monitoring device.

(f) If a roommate, or the roommate's resident representative when withdrawing consent on behalf of the roommate, submits an updated notification and consent form withdrawing consent and the resident conducting electronic monitoring does not remove or disable the electronic monitoring device, the facility must remove the electronic monitoring device.

Subd. 6. **Form requirements.** (a) The notification and consent form completed by the resident must include, at a minimum, the following information:

(1) the resident's signed consent to electronic monitoring or the signature of the resident representative, if applicable. If a person other than the resident signs the consent form, the form must document the following:

(i) the date the resident was asked if the resident wants electronic monitoring to be conducted;

(ii) who was present when the resident was asked;

(iii) an acknowledgment that the resident did not affirmatively object; and

(iv) the source of authority allowing the resident representative to sign the notification and consent form on the resident's behalf;

(2) the resident's roommate's signed consent or the signature of the roommate's resident representative, if applicable. If a roommate's resident representative signs the consent form, the form must document the following:

(i) the date the roommate was asked if the roommate wants electronic monitoring to be conducted;

(ii) who was present when the roommate was asked;

(iii) an acknowledgment that the roommate did not affirmatively object; and

(iv) the source of authority allowing the resident representative to sign the notification and consent form on the roommate's behalf;

(3) the type of electronic monitoring device to be used;

(4) a list of standard conditions or restrictions that the resident or a roommate may elect to place on the use of the electronic monitoring device, including but not limited to:

(i) prohibiting audio recording;

(ii) prohibiting video recording;

(iii) prohibiting broadcasting of audio or video;

(iv) turning off the electronic monitoring device or blocking the visual recording component of the electronic monitoring device for the duration of an exam or procedure by a health care professional;

(v) turning off the electronic monitoring device or blocking the visual recording component of the electronic monitoring device while dressing or bathing is performed; and

(vi) turning off the electronic monitoring device for the duration of a visit with a spiritual adviser, ombudsman, attorney, financial planner, intimate partner, or other visitor;

(5) any other condition or restriction elected by the resident or roommate on the use of an electronic monitoring device;

(6) a statement of the circumstances under which a recording may be disseminated under subdivision 10;

(7) a signature box for documenting that the resident or roommate has withdrawn consent; and

(8) an acknowledgment that the resident, in accordance with subdivision 3, consents to the Office of Ombudsman for Long-Term Care and its representatives disclosing information about the form. Disclosure under this clause shall be limited to:

(i) the fact that the form was received from the resident or resident representative;

(ii) if signed by a resident representative, the name of the resident representative and the source of authority allowing the resident representative to sign the notification and consent form on the resident's behalf; and

(iii) the type of electronic monitoring device placed.

(b) Facilities must make the notification and consent form available to the residents and inform residents of their option to conduct electronic monitoring of their rooms or private living unit.

(c) Notification and consent forms received by the Office of Ombudsman for Long-Term Care are classified under section 256.9744.

Subd. 7. **Costs and installation.** (a) A resident or resident representative choosing to conduct electronic monitoring must do so at the resident's own expense, including paying purchase, installation, maintenance, and removal costs.

(b) If a resident chooses to place an electronic monitoring device that uses Internet technology for visual or audio monitoring, the resident may be responsible for contracting with an Internet service provider.

(c) The facility shall make a reasonable attempt to accommodate the resident's installation needs, including allowing access to the facility's public-use Internet or Wi-Fi systems when available for other public uses. A facility has the burden of proving that a requested accommodation is not reasonable.

(d) All electronic monitoring device installations and supporting services must be UL-listed.

**Subd. 8. Notice to visitors.** (a) A facility must post a sign at each facility entrance accessible to visitors that states: "Electronic monitoring devices, including security cameras and audio devices, may be present to record persons and activities."

(b) The facility is responsible for installing and maintaining the signage required in this subdivision.

**Subd. 9. Obstruction of electronic monitoring devices.** (a) A person must not knowingly hamper, obstruct, tamper with, or destroy an electronic monitoring device placed in a resident's room or private living unit without the permission of the resident or resident representative.

(b) It is not a violation of paragraph (a) if a person turns off the electronic monitoring device or blocks the visual recording component of the electronic monitoring device at the direction of the resident or resident representative, or if consent has been withdrawn.

**Subd. 10. Dissemination of recordings.** (a) No person may access any video or audio recording created through authorized electronic monitoring without the written consent of the resident or resident representative.

(b) Except as required under other law, a recording or copy of a recording made as provided in this section may only be disseminated for the purpose of addressing health, safety, or welfare concerns of one or more residents.

(c) A person disseminating a recording or copy of a recording made as provided in this section in violation of paragraph (b) may be civilly or criminally liable.

**Subd. 11. Admissibility of evidence.** Subject to applicable rules of evidence and procedure, any video or audio recording created through electronic monitoring under this section may be admitted into evidence in a civil, criminal, or administrative proceeding.

**Subd. 12. Liability.** (a) For the purposes of state law, the mere presence of an electronic monitoring device in a resident's room or private living unit is not a violation of the resident's right to privacy under section 144.651 or 144A.44.

(b) For the purposes of state law, a facility or home care provider is not civilly or criminally liable for the mere disclosure by a resident or a resident representative of a recording.

**Subd. 13. Immunity from liability.** The Office of Ombudsman for Long-Term Care and representatives of the office are immune from liability for conduct described in section 256.9742, subdivision 2.

**Subd. 14. Resident protections.** (a) A facility must not:

(1) refuse to admit a potential resident or remove a resident because the facility disagrees with the decision of the potential resident, the resident, or a resident representative acting on behalf of the resident regarding electronic monitoring;

(2) retaliate or discriminate against any resident for consenting or refusing to consent to electronic monitoring, as provided in section 144.6512, 144G.07, or 144J.03; or

(3) prevent the placement or use of an electronic monitoring device by a resident who has provided the facility or the Office of Ombudsman for Long-Term Care with notice and consent as required under this section.

(b) Any contractual provision prohibiting, limiting, or otherwise modifying the rights and obligations in this section is contrary to public policy and is void and unenforceable.

**Subd. 15. Employee discipline.** (a) An employee of the facility or an employee of a contractor providing services at the facility who is the subject of proposed corrective or disciplinary action based upon evidence obtained by electronic monitoring must be given access to that evidence for purposes of defending against the proposed action.

(b) An employee who obtains a recording or a copy of the recording must treat the recording or copy confidentially and must not further disseminate it to any other person except as required under law. Any copy of the recording must be returned to the facility or resident who provided the copy when it is no longer needed for purposes of defending against a proposed action.

**Subd. 16. Penalties.** (a) The commissioner may issue a correction order as provided under section 144A.10, 144A.45, or 144A.474, upon a finding that the facility has failed to comply with:

(1) subdivision 5, paragraphs (c) to (f);

(2) subdivision 6, paragraph (b);

(3) subdivision 7, paragraph (c); and

(4) subdivisions 8 to 10 and 14.

(b) The commissioner may exercise the commissioner's authority under section 144D.05 to compel a housing with services establishment to meet the requirements of this section.

**EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to all contracts in effect, entered into, or renewed on or after that date.

**Sec. 6. [144J.06] NO DISCRIMINATION BASED ON SOURCE OF PAYMENT.**

All facilities must, regardless of the source of payment and for all persons seeking to reside or residing in the facility:

(1) provide equal access to quality care; and

(2) establish, maintain, and implement identical policies and practices regarding residency, transfer, and provision and termination of services.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 7. **[144J.07] CONSUMER ADVOCACY AND LEGAL SERVICES.**

Upon execution of an assisted living contract, every facility must provide the resident and the resident's legal and designated representatives with the names and contact information, including telephone numbers and e-mail addresses, of:

(1) nonprofit organizations that provide advocacy or legal services to residents including but not limited to the designated protection and advocacy organization in Minnesota that provides advice and representation to individuals with disabilities; and

(2) the Office of Ombudsman for Long-Term Care, including both the state and regional contact information.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 8. **[144J.08] INVOLUNTARY DISCHARGES AND SERVICE TERMINATIONS.**

Subdivision 1. **Definitions.** (a) For the purposes of this section and sections 144J.09 and 144J.10, the following terms have the meanings given them.

(b) "Facility" means:

(1) a housing with services establishment registered under section 144D.02 and operating under title protection provided under chapter 144G; or

(2) on or after August 1, 2021, an assisted living facility.

(c) "Refusal to readmit" means a refusal by an assisted living facility, upon a request from a resident or an agent of the resident, to allow the resident to return to the facility, whether or not a notice of termination of housing or services has been issued.

(d) "Termination of housing or services" or "termination" means an involuntary facility-initiated discharge, eviction, transfer, or service termination not initiated at the oral or written request of the resident or to which the resident objects.

Subd. 2. **Prerequisite to termination of housing or services.** Before issuing a notice of termination, a facility must explain in person and in detail the reasons for the termination, and must convene a conference with the resident, the resident's legal representatives, the resident's designated representative, the resident's family, applicable state and social services agencies, and relevant health professionals to identify and offer reasonable accommodations and modifications, interventions, or alternatives to avoid the termination.

Subd. 3. **Permissible reasons to terminate housing or services.** (a) A facility is prohibited from terminating housing or services for grounds other than those specified in paragraphs (b) and (c). A facility initiating a termination under paragraph (b) or (c) must comply with subdivision 2.

(b) A facility may not initiate a termination unless the termination is necessary and the facility produces a written determination, supported by documentation, of the necessity of the termination. A termination is necessary only if:

(1) the resident has engaged in documented conduct that substantially interferes with the rights, health, or safety of other residents;



(2) the resident has committed any of the acts enumerated under section 504B.171 that substantially interfere with the rights, health, or safety of other residents; or

(3) the facility can demonstrate that the resident's needs exceed the scope of services for which the resident contracted or which are included in the resident's service plan.

(c) A facility may initiate a termination for nonpayment, provided the facility:

(1) makes reasonable efforts to accommodate temporary financial hardship;

(2) informs the resident of private subsidies and public benefits options that may be available, including but not limited to benefits available under sections 256B.0915 and 256B.49; and

(3) if the resident applies for public benefits, timely responds to state or county agency questions regarding the application.

(d) A facility may not initiate a termination of housing or services to a resident receiving public benefits in the event of a temporary interruption in benefits. A temporary interruption of benefits does not constitute nonpayment.

**Subd. 4. Notice of termination required.** (a) A facility initiating a termination of housing or services must issue a written notice that complies with subdivision 5 at least 30 days prior to the effective date of the termination to the resident, to the resident's legal representative and designated representative, or if none, to a family member if known, and to the Ombudsman for Long-Term Care.

(b) A facility may relocate a resident with less than 30 days' notice only in the event of emergencies, as provided in subdivision 6.

(c) The notice requirements in paragraph (a) do not apply if the facility's license is restricted by the commissioner or the facility ceases operations. In the event of a license restriction or cessation of operations, the facility must follow the commissioner's directions for resident relocations contained in section 144J.10.

**Subd. 5. Content of notice.** The notice required under subdivision 4 must contain, at a minimum:

(1) the effective date of the termination;

(2) a detailed explanation of the basis for the termination, including, but not limited to, clinical or other supporting rationale;

(3) contact information for, and a statement that the resident has the right to appeal the termination to, the Office of Administrative Hearings;

(4) contact information for the Ombudsman for Long-Term Care;

(5) the name and contact information of a person employed by the facility with whom the resident may discuss the notice of termination of housing or services;

(6) if the termination is for services, a statement that the notice of termination of services does not constitute a termination of housing or an eviction from the resident's home, and that the resident has the right to remain in the facility if the resident can secure necessary services from another provider of the resident's choosing; and

(7) if the resident must relocate:

(i) a statement that the facility must actively participate in a coordinated transfer of the resident's care to a safe and appropriate service provider; and

(ii) the name of and contact information for the new location or provider, or a statement that the location or provider must be identified prior to the effective date of the termination.

**Subd. 6. Exception for emergencies.** (a) A facility may relocate a resident from a facility with less than 30 days' notice if relocation is required:

(1) due to a resident's urgent medical needs and is ordered by a licensed health care professional; or

(2) because of an imminent risk to the health or safety of another resident or a staff member of the facility.

(b) A facility relocating a resident under this subdivision must:

(1) remove the resident to an appropriate location. A private home where the occupant is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel is not an appropriate location; and

(2) provide notice of the contact information for and location to which the resident has been relocated, contact information for any new service provider and for the Ombudsman for Long-Term Care, the reason for the relocation, a statement that, if the resident is refused readmission to the facility, the resident has the right to appeal any refusal to readmit to the Office of Administrative Hearings, and, if ascertainable, the approximate date or range of dates when the resident is expected to return to the facility or a statement that such date is not currently ascertainable, to:

(i) the resident, the resident's legal representative and designated representative, or if none, a family member if known immediately upon relocation of the resident; and

(ii) the Office of Ombudsman for Long-Term Care as soon as practicable if the resident has been relocated from the facility for more than 48 hours.

(c) The resident has the right to return to the facility if the conditions under paragraph (a) no longer exist.

(d) If the facility determines that the resident cannot return to the facility or the facility cannot provide the necessary services to the resident upon return, the facility must as soon as practicable but in no event later than 24 hours after the refusal or determination, comply with subdivision 4, and section 144J.10.

**EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31, 2021, for housing with services establishments registered under section 144D.02 and operating under title protection provided by and subject to chapter 144G.

(b) This section is effective for assisted living facilities August 1, 2021.

**Sec. 9. [144J.09] APPEAL OF TERMINATION OF HOUSING OR SERVICES.**

**Subdivision 1. Right to appeal termination of housing or services.** A resident, the resident's legal representative or designated representative, or a family member, has the right to appeal a termination of housing or services or a facility's refusal to readmit the resident after an emergency relocation and to request a contested case hearing with the Office of Administrative Hearings.

**Subd. 2. Appeals process.** (a) An appeal and request for a contested case hearing must be filed in writing or electronically as authorized by the chief administrative law judge.

(b) The Office of Administrative Hearings must conduct an expedited hearing as soon as practicable, and in any event no later than 14 calendar days after the office receives the request and within three business days in the event of an appeal of a refusal to readmit. The hearing must be held at the facility where the resident lives, unless it is impractical or the parties agree to a different place. The hearing is not a formal evidentiary hearing. The hearing may also be attended by telephone as allowed by the administrative law judge, after considering how a telephonic hearing will affect the resident's ability to participate. The hearing shall be limited to the amount of time necessary for the participants to expeditiously present the facts about the proposed termination or refusal to readmit. The administrative law judge shall issue a recommendation to the commissioner as soon as practicable, and in any event no later than ten calendar days after the hearing or within two calendar days after the hearing in the case of a refusal to readmit.

(c) The facility bears the burden of proof to establish by a preponderance of the evidence that the termination of housing or services or the refusal to readmit is permissible under law and does not constitute retaliation under section 144G.07 or 144J.03.

(d) Appeals from final determinations issued by the Office of Administrative Hearings shall be as provided in sections 14.63 to 14.68.

(e) The Office of Administrative Hearings must grant the appeal and the commissioner of health may order the assisted living facility to rescind the termination of housing and services or readmit the resident if:

(1) the termination or refusal to readmit was in violation of state or federal law;

(2) the resident cures or demonstrates the ability to cure the reason for the termination or refusal to readmit, or has identified any reasonable accommodation or modification, intervention, or alternative to the termination;

(3) termination would result in great harm or potential great harm to the resident as determined by a totality of the circumstances; or

(4) the facility has failed to identify a safe and appropriate location to which the resident is to be relocated as required under section 144J.10.

(f) The Office of Administrative Hearings has the authority to make any other determinations or orders regarding any conditions that may be placed upon the resident's readmission or continued residency, including but not limited to changes to the service plan or required increases in services.

(g) Nothing in this section limits the right of a resident or the resident's designated representative to request or receive assistance from the Office of Ombudsman for Long-Term Care and the protection and advocacy agency protection and advocacy system designated by the state under Code of Federal Regulations, title 45, section 1326.21, concerning the termination of housing or services.

**Subd. 3. Representation at the hearing.** Parties may, but are not required to, be represented by counsel at a contested case hearing on an appeal. The appearance of a party without counsel does not constitute the unauthorized practice of law.

**Subd. 4. Service provision while appeal pending.** Housing or services may not be terminated during the pendency of an appeal and until a final determination is made by the Office of Administrative Hearings.

**EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31, 2021, for housing with services establishments registered under section 144D.02 and operating under title protection provided by and subject to chapter 144G.

(b) This section is effective for assisted living facilities August 1, 2021.

Sec. 10. **[144J.10] HOUSING AND SERVICE TERMINATION; RELOCATION PLANNING.**

**Subdivision 1. Duties of the facility.** If a facility terminates housing or services, if a facility intends to cease operations, or if a facility's license is restricted by the commissioner requiring termination of housing or services to residents, the facility:

(1) in the event of a termination of housing, has an affirmative duty to ensure a coordinated and orderly transfer of the resident to a safe location that is appropriate for the resident. The facility must identify that location prior to any appeal hearing;

(2) in the event of a termination of services, has an affirmative duty to ensure a coordinated and orderly transfer of the resident to an appropriate service provider, if services are still needed and desired by the resident. The facility must identify the provider prior to any appeal hearing; and

(3) must consult and cooperate with the resident; the resident's legal representatives, designated representative, and family members; any interested professionals, including case managers; and applicable agencies to consider the resident's goals and make arrangements to relocate the resident.

**Subd. 2. Safe location.** A safe location is not a private home where the occupant is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel. A facility may not terminate a resident's housing or services if the resident will, as a result of the termination, become homeless, as that term is defined in section 116L.361, subdivision 5, or if an adequate and safe discharge location or adequate and needed service provider has not been identified.

**Subd. 3. Written relocation plan required.** The facility must prepare a written relocation plan for a resident being relocated. The plan must:

(1) contain all the necessary steps to be taken to reduce transfer trauma; and

(2) specify the measures needed until relocation that protect the resident and meet the resident's health and safety needs.

**Subd. 4. No relocation without receiving setting accepting.** A facility may not relocate the resident unless the place to which the resident will be relocated indicates acceptance of the resident.

**Subd. 5. No termination of services without another provider.** If a resident continues to need and desire the services provided by the facility, the facility may not terminate services unless another service provider has indicated that it will provide those services.

**Subd. 6. Information that must be conveyed.** If a resident is relocated to another facility or to a nursing home, or if care is transferred to another provider, the facility must timely convey to that facility, nursing home, or provider:

(1) the resident's full name, date of birth, and insurance information;

(2) the name, telephone number, and address of the resident's designated representatives and legal representatives, if any;

(3) the resident's current documented diagnoses that are relevant to the services being provided;

(4) the resident's known allergies that are relevant to the services being provided;

(5) the name and telephone number of the resident's physician, if known, and the current physician orders that are relevant to the services being provided;

(6) all medication administration records that are relevant to the services being provided;

(7) the most recent resident assessment, if relevant to the services being provided; and

(8) copies of health care directives, "do not resuscitate" orders, and any guardianship orders or powers of attorney.

**Subd. 7. Final accounting; return of money and property.** (a) Within 30 days of the effective date of the termination of housing or services, the facility must:

(1) provide to the resident, resident's legal representatives, and the resident's designated representative a final statement of account;

(2) provide any refunds due;

(3) return any money, property, or valuables held in trust or custody by the facility; and

(4) as required under section 504B.178, refund the resident's security deposit unless it is applied to the first month's charges.

**EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31, 2021, for housing with services establishments registered under section 144D.02 and operating under title protection provided by and subject to chapter 144G.

(b) This section is effective for assisted living facilities August 1, 2021.

**Sec. 11. [144J.11] FORCED ARBITRATION.**

(a) An assisted living facility must affirmatively disclose, orally and conspicuously in writing in an assisted living contract, any arbitration provision in the contract that precludes, limits, or delays the ability of a resident from taking a civil action.

(b) A forced arbitration requirement must not include a choice of law or choice of venue provision. Assisted living contracts must adhere to Minnesota law and any other applicable federal or local law. Any civil actions by any litigant must be taken in Minnesota judicial or administrative courts.

(c) A forced arbitration provision must not be unconscionable. All or the portion of a forced arbitration provision found by a court to be unconscionable shall have no effect on the remaining provisions, terms, or conditions of the contract.

**EFFECTIVE DATE.** This section is effective August 1, 2019, for contracts entered into on or after that date.

**Sec. 12. [144J.12] VIOLATION OF RIGHTS.**

(a) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause of action under section 325F.71, subdivision 4, for the violation of section 144J.02, subdivisions 12, 15, and 18, or section 144J.04.

(b) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause of action under section 325F.71, subdivision 4, for the violation of section 144J.03, unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 13. **[144J.13] APPLICABILITY OF OTHER LAWS.**

Assisted living facilities:

- (1) are subject to and must comply with chapter 504B;
- (2) must comply with section 325F.72; and
- (3) are not required to obtain a lodging license under chapter 157 and related rules.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 14. Minnesota Statutes 2018, section 325F.72, subdivision 4, is amended to read:

Subd. 4. **Remedy.** The attorney general may seek the remedies set forth in section 8.31 for repeated and intentional violations of this section. ~~However, no private right of action may be maintained as provided under section 8.31, subdivision 3a.~~

## ARTICLE 2 NURSING HOMES

Section 1. **[144.6512] RETALIATION IN NURSING HOMES PROHIBITED.**

Subdivision 1. **Definitions.** For the purposes of this section:

- (1) "nursing home" means a facility licensed as a nursing home under chapter 144A; and
- (2) "resident" means a person residing in a nursing home.

Subd. 2. **Retaliation prohibited.** A nursing home or agent of the nursing home may not retaliate against a resident or employee if the resident, employee, or any person acting on behalf of the resident:

- (1) files a complaint or grievance, makes an inquiry, or asserts any right;
- (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any right;
- (3) files or indicates an intention to file a maltreatment report, whether mandatory or voluntary, under section 626.557;
- (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic problems or concerns to the administrator or manager of the nursing home, the Office of Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or advocacy organization;
- (5) advocates or seeks advocacy assistance for necessary or improved care or services or enforcement of rights under this section or other law;

(6) takes or indicates an intention to take civil action;

(7) participates or indicates an intention to participate in any investigation or administrative or judicial proceeding;

(8) contracts or indicates an intention to contract to receive services from a service provider of the resident's choice other than the nursing home; or

(9) places or indicates an intention to place a camera or electronic monitoring device in the resident's private space as provided under section 144J.05.

**Subd. 3. Retaliation against a resident.** For purposes of this section, to retaliate against a resident includes but is not limited to any of the following actions taken or threatened by a nursing home or an agent of the nursing home against a resident, or any person with a familial, personal, legal, or professional relationship with the resident:

(1) the discharge, eviction, transfer, or termination of services;

(2) the imposition of discipline, punishment, or a sanction or penalty;

(3) any form of discrimination;

(4) restriction or prohibition of access:

(i) of the resident to the nursing home or visitors; or

(ii) to the resident by a family member or a person with a personal, legal, or professional relationship with the resident;

(5) the imposition of involuntary seclusion or withholding food, care, or services;

(6) restriction of any of the rights granted to residents under state or federal law;

(7) restriction or reduction of access to or use of amenities, care, services, privileges, or living arrangements;

(8) an arbitrary increase in charges or fees;

(9) removing, tampering with, or deprivation of technology, communication, or electronic monitoring devices; or

(10) any oral or written communication of false information about a person advocating on behalf of the resident.

**Subd. 4. Retaliation against an employee.** For purposes of this section, to retaliate against an employee includes but is not limited to any of the following actions taken or threatened by the nursing home or an agent of the nursing home against an employee:

(1) discharge or transfer;

(2) demotion or refusal to promote;

(3) reduction in compensation, benefits, or privileges;

(4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or

(5) any form of discrimination.

Subd. 5. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision 3 or 4 and taken within 90 days of an initial action described in subdivision 2 is retaliatory.

(b) The presumption does not apply to actions described in subdivision 3, clause (4), if a good faith report of maltreatment pursuant to section 626.557 is made by the nursing home or agent of the nursing home against the visitor, family member, or other person with a personal, legal, or professional relationship that is subject to the restriction or prohibition of access.

(c) The presumption does not apply to any oral or written communication described in subdivision 3, clause (10), that is associated with a good faith report of maltreatment pursuant to section 626.557 made by the nursing home or agent of the nursing home against the person advocating on behalf of the resident.

(d) The presumption does not apply to a termination of a contract of admission, as that term is defined under section 144.6501, subdivision 1, for a reason permitted under state or federal law.

Subd. 6. **Remedy.** A resident who meets the criteria under section 325F.71, subdivision 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section, unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

**EFFECTIVE DATE.** This section is effective August 1, 2019.

### ARTICLE 3 HOUSING WITH SERVICES ESTABLISHMENTS

#### Section 1. [144G.07] RETALIATION PROHIBITED.

Subdivision 1. **Definitions.** For the purposes of this section and section 144G.08:

(1) "facility" means a housing with services establishment registered under section 144D.02 and operating under title protection under this chapter; and

(2) "resident" means a resident of a facility.

Subd. 2. **Retaliation prohibited.** A facility or agent of the facility may not retaliate against a resident or employee if the resident, employee, or any person on behalf of the resident:

(1) files a complaint or grievance, makes an inquiry, or asserts any right;

(2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any right;

(3) files or indicates an intention to file a maltreatment report, whether mandatory or voluntary, under section 626.557;

(4) seeks assistance from or reports a reasonable suspicion of a crime or systemic problems or concerns to the administrator or manager of the facility, the Office of Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or advocacy organization;

(5) advocates or seeks advocacy assistance for necessary or improved care or services or enforcement of rights under this section or other law;



(6) takes or indicates an intention to take civil action;

(7) participates or indicates an intention to participate in any investigation or administrative or judicial proceeding;

(8) contracts or indicates an intention to contract to receive services from a service provider of the resident's choice other than the facility; or

(9) places or indicates an intention to place a camera or electronic monitoring device in the resident's private space as provided under section 144J.05.

**Subd. 3. Retaliation against a resident.** For purposes of this section, to retaliate against a resident includes but is not limited to any of the following actions taken or threatened by a facility or an agent of the facility against a resident, or any person with a familial, personal, legal, or professional relationship with the resident:

(1) the discharge, eviction, transfer, or termination of services;

(2) the imposition of discipline, punishment, or a sanction or penalty;

(3) any form of discrimination;

(4) restriction or prohibition of access:

(i) of the resident to the facility or visitors; or

(ii) to the resident by a family member or a person with a personal, legal, or professional relationship with the resident;

(5) the imposition of involuntary seclusion or withholding food, care, or services;

(6) restriction of any of the rights granted to residents under state or federal law;

(7) restriction or reduction of access to or use of amenities, care, services, privileges, or living arrangements;

(8) an arbitrary increase in charges or fees;

(9) removing, tampering with, or deprivation of technology, communication, or electronic monitoring devices; or

(10) any oral or written communication of false information about a person advocating on behalf of the resident.

**Subd. 4. Retaliation against an employee.** For purposes of this section, to retaliate against an employee includes but is not limited to any of the following actions taken or threatened by the facility or an agent of the facility against an employee:

(1) discharge or transfer;

(2) demotion or refusal to promote;

(3) reduction in compensation, benefits, or privileges;

(4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or

(5) any form of discrimination.

Subd. 5. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision 3 or 4 and taken within 90 days of an initial action described in subdivision 2 is retaliatory.

(b) The presumption does not apply to actions described in subdivision 3, clause (4), if a good faith report of maltreatment pursuant to section 626.557 is made by the facility or agent of the facility against the visitor, family member, or other person with a personal, legal, or professional relationship that is subject to the restriction or prohibition of access.

(c) The presumption does not apply to any oral or written communication described in subdivision 3, clause (10), that is associated with a good faith report of maltreatment pursuant to section 626.557 made by the facility or agent of the facility against the person advocating on behalf of the resident.

(d) The presumption does not apply to a termination of a contract of admission, as that term is defined under section 144.6501, subdivision 1, for a reason permitted under state or federal law.

Subd. 6. **Remedy.** A resident who meets the criteria under section 325F.71, subdivision 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section, unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

**EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31, 2021.

Sec. 2. **[144G.08] DECEPTIVE MARKETING AND BUSINESS PRACTICES PROHIBITED.**

Subdivision 1. **Prohibitions.** (a) No employee or agent of any facility may make any false, fraudulent, deceptive, or misleading statements or representations or material omissions in marketing, advertising, or any other description or representation of care or services.

(b) No housing with services contract as required under section 144D.04, subdivision 1, may include any provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor include any provision that requires or implies a lesser standard of care or responsibility than is required by law.

(c) No facility may advertise or represent that the facility has a dementia care unit without complying with disclosure requirements under section 325F.72 and any training requirements required by law or rule.

Subd. 2. **Remedies.** (a) A violation of this section constitutes a violation of section 325F.69, subdivision 1. The attorney general or a county attorney may enforce this section using the remedies in section 325F.70.

(b) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section, unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

**EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31, 2021.

ARTICLE 4  
INDEPENDENT SENIOR LIVING FACILITIES

Section 1. **[144K.01] DEFINITIONS.**

Subdivision 1. **Applicability.** For the purposes of this chapter, the definitions in this section have the meanings given.

Subd. 2. **Dementia.** "Dementia" has the meaning given in section 144I.01, subdivision 16.

Subd. 3. **Designated representative.** "Designated representative" means a person designated in writing by the resident in a residency and services contract and identified in the resident's records on file with the independent senior living facility.

Subd. 4. **Facility.** "Facility" means an independent senior living facility.

Subd. 5. **Independent senior living facility.** "Independent senior living facility" means a facility that for a fee provides sleeping accommodations to one or more adults and offers or provides one or more supportive services directly or through a related supportive services provider. For purposes of this chapter, independent senior living facility does not include:

(1) emergency shelter, transitional housing, or any other residential units serving exclusively or primarily homeless individuals, as defined under section 116L.361;

(2) a nursing home licensed under chapter 144A;

(3) a hospital, certified boarding care home, or supervised living facility licensed under sections 144.50 to 144.56;

(4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D or 245G;

(5) a lodging establishment serving as a shelter for individuals fleeing domestic violence;

(6) services and residential settings licensed under chapter 245A, including adult foster care and services and settings governed under the standards in chapter 245D;

(7) private homes where the residents own or rent the home and control all aspects of the property and building;

(8) a duly organized condominium, cooperative, and common interest community, or owners' association of the condominium, cooperative, and common interest community where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units;

(9) temporary family health care dwellings as defined in sections 394.307 and 462.3593;

(10) settings offering services conducted by and for the adherents of any recognized church or religious denomination for its members through spiritual means or by prayer for healing;

(11) housing financed pursuant to sections 462A.37 and 462A.375, units financed with low-income housing tax credits pursuant to United States Code, title 26, section 42, and units financed by the Minnesota Housing Finance Agency that are intended to serve individuals with disabilities or individuals who are homeless;

(12) rental housing developed under United States Code, title 42, section 1437, or United States Code, title 12, section 1701q;

(13) rental housing designated for occupancy by only elderly or elderly and disabled residents under United States Code, title 42, section 1437e, or rental housing for qualifying families under Code of Federal Regulations, title 24, section 983.56;

(14) rental housing funded under United States Code, title 42, chapter 89, or United States Code, title 42, section 8011; or

(15) an assisted living facility or assisted living facility with dementia care licensed under chapter 144I.

Subd. 6. **Manager.** "Manager" means a manager of an independent senior living facility.

Subd. 7. **Residency and services contract or contract.** "Residency and services contract" or "contract" means the legal agreement between an independent senior living facility and a resident for the provision of housing and supportive services.

Subd. 8. **Related supportive services provider.** "Related supportive services provider" means a service provider that provides supportive services to a resident under a business relationship or other affiliation with the independent senior living facility.

Subd. 9. **Resident.** "Resident" means a person residing in an independent senior living facility.

Subd. 10. **Supportive services.** "Supportive services" means:

(1) assistance with laundry, shopping, and household chores;

(2) housekeeping services;

(3) provision of meals or assistance with meals or food preparation;

(4) help with arranging, or arranging transportation to, medical, social, recreational, personal, or social services appointments; or

(5) provision of social or recreational services.

Arranging for services does not include making referrals or contacting a service provider in an emergency.

Subd. 11. **Wellness check services.** "Wellness check services" means having, maintaining, and documenting a system to, by any means, check on the health, safety, and well-being of a resident.

## Sec. 2. **[144K.02] DECEPTIVE MARKETING AND BUSINESS PRACTICES PROHIBITED.**

(a) No employee or agent of any independent senior living facility may make any false, fraudulent, deceptive, or misleading statements or representations or material omissions in marketing, advertising, or any other description or representation of care or services.

(b) No residency and services contract required under section 144K.03, subdivision 1, may include any provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law.

(c) No facility may advertise or represent that the facility is an assisted living facility as defined in section 144I.01, subdivision 6, or an assisted living facility with dementia care as defined in section 144I.01, subdivision 8.

## Sec. 3. **[144K.025] REQUIRED DISCLOSURE BY FACILITY.**

An independent senior living facility must disclose to prospective residents and residents that the facility is not licensed as an assisted living facility and is not permitted to provide assisted living services, as defined in section 144I.01, subdivision 7, either directly or through a provider under a business relationship or other affiliation with the facility.

Sec. 4. **[144K.03] RESIDENCY AND SERVICES CONTRACT.**

**Subdivision 1. Contract required.** (a) No independent senior living facility may operate in this state unless a written contract that meets the requirements of subdivision 2 is executed between the facility and each resident and unless the establishment operates in accordance with the terms of the contract.

(b) The facility must give a complete copy of any signed contract and any addendums, and all supporting documents and attachments, to the resident promptly after a contract and any addendums have been signed by the resident.

(c) The contract must contain all the terms concerning the provision of housing and supportive services, whether the services are provided directly or through a related supportive services provider.

**Subd. 2. Contents of contract.** A residency and services contract must include at least the following elements in itself or through supporting documents or attachments:

(1) the name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

(i) the facility and, where applicable, the related supportive services provider;

(ii) the managing agent of the facility, if applicable; and

(iii) at least one natural person who is authorized to accept service of process on behalf of the facility;

(2) the term of the contract;

(3) a description of all the terms and conditions of the contract, including a description of the services to be provided and any limitations to the services provided to the resident for the contracted amount;

(4) a delineation of the grounds under which the resident may be evicted or have services terminated;

(5) billing and payment procedures and requirements;

(6) a statement regarding the ability of a resident to receive services from service providers with whom the facility does not have a business relationship;

(7) a description of the facility's complaint resolution process available to residents, including the name and contact information of the person representing the facility who is designated to handle and resolve complaints;

(8) the toll-free complaint line for the Office of Ombudsman for Long-Term Care; and

(9) a statement regarding the availability of and contact information for long-term care consultation services under section 256B.0911 in the county in which the facility is located.

**Subd. 3. Designation of representative.** (a) Before or at the time of execution of a residency and services contract, every facility must offer the resident the opportunity to identify a designated representative in writing in the contract and provide the following verbatim notice on a document separate from the contract:

**RIGHT TO DESIGNATE A REPRESENTATIVE FOR CERTAIN PURPOSES.**

You have the right to name anyone as your "Designated Representative" to assist you or, if you are unable, advocate on your behalf. A "Designated Representative" does not take the place of your guardian, conservator, power of attorney ("attorney-in-fact"), or health care power of attorney ("health care agent").

(b) The contract must contain a page or space for the name and contact information of the designated representative and a box the resident must initial if the resident declines to name a designated representative. Notwithstanding subdivision 5, the resident has the right at any time to add or change the name and contact information of the designated representative.

Subd. 4. **Contracts are consumer contracts.** A contract under this section is a consumer contract under sections 325G.29 to 325G.37.

Subd. 5. **Additions and amendments to contract.** The resident must agree in writing to any additions or amendments to the contract. Upon agreement between the resident or resident's designated representative and the facility, a new contract or an addendum to the existing contract must be executed and signed and provided to the resident and the resident's legal representative.

Subd. 6. **Contracts in permanent files.** Residency and services contracts and related documents executed by each resident must be maintained by the facility in files from the date of execution until three years after the contract is terminated.

Subd. 7. **Waivers of liability prohibited.** The contract must not include a waiver of facility liability for the health and safety or personal property of a resident. The contract must not include any provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, and must not include any provision that requires or implies a lesser standard of responsibility than is required by law.

Subd. 8. **Contract restriction.** No independent senior living facility may offer wellness check services.

**Sec. 5. [144K.04] TERMINATION OF RESIDENCY AND SERVICES CONTRACT.**

Subdivision 1. **Notice required.** An independent senior living facility must provide at least 30 days prior notice of a termination of the residency and services contract.

Subd. 2. **Content of notice.** The notice required under subdivision 1 must contain, at a minimum:

(1) the effective date of termination of the contract;

(2) a detailed explanation of the basis for the termination;

(3) a list of known facilities in the immediate geographic area;

(4) information on how to contact the Office of Ombudsman for Long-Term Care and the Ombudsman for Mental Health and Developmental Disabilities;

(6) a statement of any steps the resident can take to avoid termination;

(7) the name and contact information of a person employed by the facility with whom the resident may discuss the notice of termination and, without extending the termination notice period, an affirmative offer to meet with the resident and any person or persons of the resident's choosing to discuss the termination;

(8) a statement that, with respect to the notice of termination, reasonable accommodation is available for a resident with a disability; and

(9) an explanation that:

(i) the resident must vacate the apartment, along with all personal possessions, on or before the effective date of termination;

(ii) failure to vacate the apartment by the date of termination may result in the filing of an eviction action in court by the facility, and that the resident may present a defense, if any, to the court at that time; and

(iii) the resident may seek legal counsel in connection with the notice of termination.

**Sec. 6. [144K.05] MANAGER REQUIREMENTS.**

(a) The manager of an independent senior living facility must obtain at least 30 hours of continuing education every two years of employment as the manager in topics relevant to the operations of the facility and the needs of its residents. Continuing education earned to maintain a professional license, such as a nursing home administrator license, nursing license, social worker license, or real estate license, may be used to satisfy this requirement. The continuing education must include at least four hours of documented training on dementia and related disorders, activities of daily living, problem solving with challenging behaviors, and communication skills within 160 working hours of hire and two hours of training on these topics for each 12 months of employment thereafter.

(b) The facility must maintain records for at least three years demonstrating that the manager has attended educational programs as required by this section. New managers may satisfy the initial dementia training requirements by producing written proof of having previously completed required training within the past 18 months.

**Sec. 7. [144K.06] FIRE PROTECTION AND PHYSICAL ENVIRONMENT.**

**Subdivision 1. Comprehensive fire protection system required.** Every independent senior living facility must have a comprehensive fire protection system that includes:

(1) protection throughout the facility by an approved supervised automatic sprinkler system according to building code requirements established in Minnesota Rules, part 1305.0903, or smoke detectors in each occupied room installed and maintained in accordance with the National Fire Protection Association (NFPA) Standard 72;

(2) portable fire extinguishers installed and tested in accordance with the NFPA Standard 10; and

(3) the physical environment, including walls, floors, ceiling, all furnishings, grounds, systems, and equipment kept in a continuous state of good repair and operation with regard to the health, safety, comfort, and well-being of the residents in accordance with a maintenance and repair program.

**Subd. 2. Fire drills.** Fire drills shall be conducted in accordance with the residential board and care requirements in the Life Safety Code.

**Sec. 8. [144K.07] EMERGENCY PLANNING.**

**Subdivision 1. Requirements.** Each independent senior living facility must meet the following requirements:

(1) have a written emergency disaster plan that contains a plan for evacuation, addresses elements of sheltering in-place, identifies temporary relocation sites, and details staff assignments in the event of a disaster or an emergency;

(2) post an emergency disaster plan prominently;

(3) provide building emergency exit diagrams to all residents upon signing a residency and services contract;

(4) post emergency exit diagrams on each floor; and

(5) have a written policy and procedure regarding missing residents.

Subd. 2. **Emergency and disaster training.** Each independent senior living facility must provide emergency and disaster training to all staff during the initial staff orientation and annually thereafter and must make emergency and disaster training available to all residents annually. Staff who have not received emergency and disaster training are allowed to work only when trained staff are also working on site.

Sec. 9. **[144K.08] OTHER LAWS.**

An independent senior living facility must comply with chapter 504B and must obtain and maintain all other licenses, permits, registrations, or other governmental approvals required of it.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 10. **[144K.09] ENFORCEMENT.**

(a) A violation of this chapter constitutes a violation of section 325F.69, subdivision 1. The attorney general may enforce this section using the remedies in section 325F.70.

(b) A resident who meets the criteria in section 325F.71, subdivision 1, has a cause of action under section 325F.71, subdivision 4, for a violation of this chapter.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

## ARTICLE 5 ASSISTED LIVING LICENSURE

Section 1. Minnesota Statutes 2018, section 144.122, is amended to read:

### **144.122 LICENSE, PERMIT, AND SURVEY FEES.**

(a) The state commissioner of health, by rule, may prescribe procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the Department of Management and Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will,



where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with disabilities program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare

Organizations (JCAHO) and American Osteopathic Association (AOA) hospitals	\$7,655 plus \$16 per bed
Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 per bed
Nursing home	\$183 plus \$91 per bed until June 30, 2018. \$183 plus \$100 per bed between July 1, 2018, and June 30, 2020. \$183 plus \$105 per bed beginning July 1, 2020.

The commissioner shall set license fees for outpatient surgical centers, boarding care homes, ~~and~~ supervised living facilities, assisted living facilities, and assisted living facilities with dementia care at the following levels:

Outpatient surgical centers	\$3,712
Boarding care homes	\$183 plus \$91 per bed
Supervised living facilities	\$183 plus \$91 per bed.
<u>Assisted living facilities with dementia care</u>	<u>\$..... plus \$..... per bed.</u>
<u>Assisted living facilities</u>	<u>\$..... plus \$..... per bed.</u>

Fees collected under this paragraph are nonrefundable. The fees are nonrefundable even if received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017, or later.

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	\$900
Swing bed surveys for nursing homes	\$1,200
Psychiatric hospitals	\$1,400
Rural health facilities	\$1,100
Portable x-ray providers	\$500
Home health agencies	\$1,800
Outpatient therapy agencies	\$800
End stage renal dialysis providers	\$2,100
Independent therapists	\$800
Comprehensive rehabilitation outpatient facilities	\$1,200
Hospice providers	\$1,700

Ambulatory surgical providers	\$1,800
Hospitals	\$4,200
Other provider categories or additional resurveys required to complete initial certification	Actual surveyor costs: average surveyor cost x number of hours for the survey process.

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

Sec. 2. **[144L.01] DEFINITIONS.**

Subdivision 1. **Applicability.** For the purposes of this chapter, the definitions in this section have the meanings given.

Subd. 2. **Adult.** "Adult" means a natural person who has attained the age of 18 years.

Subd. 3. **Agent.** "Agent" means the person upon whom all notices and orders shall be served and who is authorized to accept service of notices and orders on behalf of the facility.

Subd. 4. **Applicant.** "Applicant" means an individual, legal entity, controlling individual, or other organization that has applied for licensure under this chapter.

Subd. 5. **Assisted living administrator.** "Assisted living administrator" means a person who administers, manages, supervises, or is in general administrative charge of an assisted living facility, whether or not the individual has an ownership interest in the facility, and whether or not the person's functions or duties are shared with one or more individuals and who is licensed by the Board of Executives for Long Term Services and Supports pursuant to section 144L.31.

Subd. 6. **Assisted living facility.** "Assisted living facility" means a licensed facility that: (1) provides sleeping accommodations to one or more adults; and (2) provides basic care services and comprehensive assisted living services. For purposes of this chapter, assisted living facility does not include:

(i) emergency shelter, transitional housing, or any other residential units serving exclusively or primarily homeless individuals, as defined under section 116L.361;

(ii) a nursing home licensed under chapter 144A;

(iii) a hospital, certified boarding care, or supervised living facility licensed under sections 144.50 to 144.56;

(iv) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D or 245G, except lodging establishments that provide dementia care services;

(v) a lodging establishment serving as a shelter for individuals fleeing domestic violence;

(vi) services and residential settings licensed under chapter 245A, including adult foster care and services and settings governed under the standards in chapter 245D;

(vii) private homes where the residents own or rent the home and control all aspects of the property and building;

(viii) a duly organized condominium, cooperative, and common interest community, or owners' association of the condominium, cooperative, and common interest community where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units;

(ix) temporary family health care dwellings as defined in sections 394.307 and 462.3593;

(x) settings offering services conducted by and for the adherents of any recognized church or religious denomination for its members through spiritual means or by prayer for healing;

(xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with low-income housing tax credits pursuant to United States Code, title 26, section 42, and units financed by the Minnesota Housing Finance Agency that are intended to serve individuals with disabilities or individuals who are homeless;

(xii) rental housing developed under United States Code, title 42, section 1437, or United States Code, title 12, section 1701q;

(xiii) rental housing designated for occupancy by only elderly or elderly and disabled residents under United States Code, title 42, section 1437e, or rental housing for qualifying families under Code of Federal Regulations, title 24, section 983.56; or

(xiv) rental housing funded under United States Code, title 42, chapter 89, or United States Code, title 42, section 8011.

Subd. 7. **Assisted living services.** "Assisted living services" include any of the basic care services and one or more of the following:

(1) services of an advanced practice nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;

(2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;

(3) medication management services;

(4) hands-on assistance with transfers and mobility;

(5) treatment and therapies;

(6) assisting residents with eating when the clients have complicated eating problems as identified in the resident record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed; or

(7) providing other complex or specialty health care services.

Subd. 8. **Assisted living facility with dementia care.** "Assisted living facility with dementia care" means a licensed assisted living facility that also provides dementia care services. An assisted living facility with dementia care may also have a secured dementia care unit.

Subd. 9. **Assisted living facility contract.** "Assisted living facility contract" means the legal agreement between an assisted living facility and a resident for the provision of housing and services.

Subd. 10. **Basic care services.** "Basic care services" means assistive tasks provided by licensed or unlicensed personnel that include:

(1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and bathing;

(2) providing standby assistance;

(3) providing verbal or visual reminders to the resident to take regularly scheduled medication, which includes bringing the client previously set-up medication, medication in original containers, or liquid or food to accompany the medication;

(4) providing verbal or visual reminders to the client to perform regularly scheduled treatments and exercises;

(5) preparing modified diets ordered by a licensed health professional;

(6) having, maintaining, and documenting a system to, by any means, check on the health, safety, and well-being of a resident; and

(7) supportive services in addition to the provision of at least one of the activities in clauses (1) to (5).

Subd. 11. **Change of ownership.** "Change of ownership" means a change in the individual or legal entity that is responsible for the operation of a facility.

Subd. 12. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 13. **Compliance officer.** "Compliance officer" means a designated individual who is qualified by knowledge, training, and experience in health care or risk management to promote, implement, and oversee the facility's compliance program. The compliance officer shall also exhibit knowledge of relevant regulations; provide expertise in compliance processes; and address fraud, abuse, and waste under this chapter and state and federal law.

Subd. 14. **Controlled substance.** "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Subd. 15. **Controlling individual.** (a) "Controlling individual" means an owner of a facility licensed under this chapter and the following individuals, if applicable:

(1) each officer of the organization, including the chief executive officer and chief financial officer;

(2) the individual designated as the authorized agent under section 245A.04, subdivision 1, paragraph (b);

(3) the individual designated as the compliance officer under section 256B.04, subdivision 21, paragraph (b); and

(4) each managerial official whose responsibilities include the direction of the management or policies of the facility.

(b) Controlling individual also means any owner who directly or indirectly owns five percent or more interest in:

(1) the land on which the facility is located, including a real estate investment trust (REIT);

(2) the structure in which a facility is located;

(3) any mortgage, contract for deed, or other obligation secured in whole or part by the land or structure comprising the facility; or

(4) any lease or sublease of the land, structure, or facilities comprising the facility.

(c) Controlling individual does not include:

(1) a bank, savings bank, trust company, savings association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;

(2) government and government-sponsored entities such as the U.S. Department of Housing and Urban Development, Ginnie Mae, Fannie Mae, Freddie Mac, and the Minnesota Housing Finance Agency which provide loans, financing, and insurance products for housing sites;

(3) an individual who is a state or federal official, or a state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more facilities, unless the individual is also an officer, owner, or managerial official of the facility, receives remuneration from the facility, or owns any of the beneficial interests not excluded in this subdivision;

(4) an individual who owns less than five percent of the outstanding common shares of a corporation:

(i) whose securities are exempt under section 80A.45, clause (6); or

(ii) whose transactions are exempt under section 80A.46, clause (2);

(5) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer, owner, or managerial official of the license or owns any of the beneficial interests not excluded in this subdivision. This clause does not exclude from the definition of controlling individual an organization that is exempt from taxation; or

(6) an employee stock ownership plan trust, or a participant or board member of an employee stock ownership plan, unless the participant or board member is a controlling individual.

Subd. 16. **Dementia.** "Dementia" means the loss of intellectual function of sufficient severity that interferes with an individual's daily functioning. Dementia affects an individual's memory and ability to think, reason, speak, and move. Symptoms may also include changes in personality, mood, and behavior. Irreversible dementias include but are not limited to:

(1) Alzheimer's disease;

(2) vascular dementia;

(3) Lewy body dementia;

(4) frontal-temporal lobe dementia;

(5) alcohol dementia;

(6) Huntington's disease; and

(7) Creutzfeldt-Jakob disease.

Subd. 17. **Dementia care services.** "Dementia care services" means a distinct form of long-term care designed to meet the specific needs of an individual with dementia.

Subd. 18. **Dementia-trained staff.** "Dementia-trained staff" means any employee that has completed the minimum training requirements and has demonstrated knowledge and understanding in supporting individuals with dementia.

Subd. 19. **Designated representative.** "Designated representative" means one of the following in the order of priority listed, to the extent the person may reasonably be identified and located:

- (1) a court-appointed guardian acting in accordance with the powers granted to the guardian under chapter 524;
- (2) a conservator acting in accordance with the powers granted to the conservator under chapter 524;
- (3) a health care agent acting in accordance with the powers granted to the health care agent under chapter 145C;
- (4) a power of attorney acting in accordance with the powers granted to the attorney-in-fact under chapter 523; or
- (5) the resident representative.

Subd. 20. **Dietary supplement.** "Dietary supplement" means a product taken by mouth that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as enzymes, organ tissue, glandulars, or metabolites.

Subd. 21. **Direct contact.** "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to residents of a facility.

Subd. 22. **Direct ownership interest.** "Direct ownership interest" means an individual or organization with the possession of at least five percent equity in capital, stock, or profits of an organization, or who is a member of a limited liability company. An individual with a five percent or more direct ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided.

Subd. 23. **Facility.** "Facility" means an assisted living facility and an assisted living facility with dementia care.

Subd. 24. **Hands-on assistance.** "Hands-on assistance" means physical help by another person without which the resident is not able to perform the activity.

Subd. 25. **Indirect ownership interest.** "Indirect ownership interest" means an individual or organization with a direct ownership interest in an entity that has a direct or indirect ownership interest in a facility of at least five percent or more. An individual with a five percent or more indirect ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided.

Subd. 26. **Licensed health professional.** "Licensed health professional" means a person licensed in Minnesota to practice the professions described in section 214.01, subdivision 2.

Subd. 27. **Licensed resident bed capacity.** "Licensed resident bed capacity" means the resident occupancy level requested by a licensee and approved by the commissioner.

Subd. 28. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner issues a license for a facility and who is responsible for the management, control, and operation of a facility. A facility must be managed, controlled, and operated in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

Subd. 29. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572, subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury or any persistent course of conduct intended to produce mental or emotional distress.

Subd. 30. **Management agreement.** "Management agreement" means a written, executed agreement between a licensee and manager regarding the provision of certain services on behalf of the licensee.

Subd. 31. **Managerial official.** "Managerial official" means an individual who has the decision-making authority related to the operation of the facility and the responsibility for the ongoing management or direction of the policies, services, or employees of the facility.

Subd. 32. **Medication.** "Medication" means a prescription or over-the-counter drug. For purposes of this chapter only, medication includes dietary supplements.

Subd. 33. **Medication administration.** "Medication administration" means performing a set of tasks that includes the following:

(1) checking the resident's medication record;

(2) preparing the medication as necessary;

(3) administering the medication to the resident;

(4) documenting the administration or reason for not administering the medication; and

(5) reporting to a registered nurse or appropriate licensed health professional any concerns about the medication, the resident, or the resident's refusal to take the medication.

Subd. 34. **Medication management.** "Medication management" means the provision of any of the following medication-related services to a resident:

(1) performing medication setup;

(2) administering medications;

(3) storing and securing medications;

(4) documenting medication activities;

(5) verifying and monitoring the effectiveness of systems to ensure safe handling and administration;

(6) coordinating refills;

(7) handling and implementing changes to prescriptions;

(8) communicating with the pharmacy about the resident's medications; and

(9) coordinating and communicating with the prescriber.

Subd. 35. **Medication reconciliation.** "Medication reconciliation" means the process of identifying the most accurate list of all medications the resident is taking, including the name, dosage, frequency, and route by comparing the resident record to an external list of medications obtained from the resident, hospital, prescriber or other provider.

Subd. 36. **Medication setup.** "Medication setup" means arranging medications by a nurse, pharmacy, or authorized prescriber for later administration by the resident or by facility staff.

Subd. 37. **New construction.** "New construction" means a new building, renovation, modification, reconstruction, physical changes altering the use of occupancy, or an addition to a building.

Subd. 38. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to 148.285.

Subd. 39. **Occupational therapist.** "Occupational therapist" means a person who is licensed under sections 148.6401 to 148.6449.

Subd. 40. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

Subd. 41. **Owner.** "Owner" means an individual or organization that has a direct or indirect ownership interest of five percent or more in a facility. For purposes of this chapter, "owner of a nonprofit corporation" means the president and treasurer of the board of directors or, for an entity owned by an employee stock ownership plan, means the president and treasurer of the entity. A government entity that is issued a license under this chapter shall be designated the owner. An individual with a five percent or more direct or indirect ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided.

Subd. 42. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not required by federal law to bear the symbol "Rx only."

Subd. 43. **Person-centered planning and service delivery.** "Person-centered planning and service delivery" means services as defined in section 245D.07, subdivision 1a, paragraph (b).

Subd. 44. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision 3.

Subd. 45. **Physical therapist.** "Physical therapist" means a person who is licensed under sections 148.65 to 148.78.

Subd. 46. **Physician.** "Physician" means a person who is licensed under chapter 147.

Subd. 47. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235; 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.

Subd. 48. **Prescription.** "Prescription" has the meaning given in section 151.01, subdivision 16a.

Subd. 49. **Provisional license.** "Provisional license" means the initial license the department issues after approval of a complete written application and before the department completes the provisional license survey and determines that the provisional licensee is in substantial compliance.

Subd. 50. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be completed at predetermined times or according to a predetermined routine.

Subd. 51. **Reminder.** "Reminder" means providing a verbal or visual reminder to a resident.

Subd. 52. **Resident.** "Resident" means a person living in an assisted living facility.

Subd. 53. **Resident record.** "Resident record" means all records that document information about the services provided to the resident.



Subd. 54. **Resident representative.** "Resident representative" means a person designated in writing by the resident and identified in the resident's records on file with the facility.

Subd. 55. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed under chapter 147C.

Subd. 56. **Revenues.** "Revenues" means all money received by a licensee derived from the provision of home care services, including fees for services and appropriations of public money for home care services.

Subd. 57. **Service plan.** "Service plan" means the written plan between the resident or the resident's representative and the provisional licensee or licensee about the services that will be provided to the resident.

Subd. 58. **Social worker.** "Social worker" means a person who is licensed under chapter 148D or 148E.

Subd. 59. **Speech-language pathologist.** "Speech-language pathologist" has the meaning given in section 148.512.

Subd. 60. **Standby assistance.** "Standby assistance" means the presence of another person within arm's reach to minimize the risk of injury while performing daily activities through physical intervention or cueing to assist a resident with an assistive task by providing cues, oversight, and minimal physical assistance.

Subd. 61. **Substantial compliance.** "Substantial compliance" means complying with the requirements in this chapter sufficiently to prevent unacceptable health or safety risks to residents.

Subd. 62. **Supportive services.** "Supportive services" means:

(1) assistance with laundry, shopping, and household chores;

(2) housekeeping services;

(3) provision or assistance with meals or food preparation;

(4) help with arranging for, or arranging transportation to medical, social, recreational, personal, or social services appointments; or

(5) provision of social or recreational services.

Arranging for services does not include making referrals, or contacting a service provider in an emergency.

Subd. 63. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure for compliance with this chapter.

Subd. 64. **Surveyor.** "Surveyor" means a staff person of the department who is authorized to conduct surveys of assisted living facilities and applicants.

Subd. 65. **Termination of housing or services.** "Termination of housing or services" means a discharge, eviction, transfer, or service termination initiated by the facility. A facility-initiated termination is one which the resident objects to and did not originate through a resident's verbal or written request. A resident-initiated termination is one where a resident or, if appropriate, a designated representative provided a verbal or written notice of intent to leave the facility. A resident-initiated termination does not include the general expression of a desire to return home or the elopement of residents with cognitive impairment.

Subd. 66. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care, other than medications, ordered or prescribed by a licensed health professional and provided to a resident to cure, rehabilitate, or ease symptoms.

Subd. 67. **Unit of government.** "Unit of government" means a city, county, town, school district, other political subdivision of the state, or an agency of the state or federal government, that includes any instrumentality of a unit of government.

Subd. 68. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise licensed or certified by a governmental health board or agency who provide services to a resident.

Subd. 69. **Verbal.** "Verbal" means oral and not in writing.

**Sec. 3. [144I.02] ASSISTED LIVING FACILITY LICENSE.**

Subdivision 1. **License required.** Beginning August 1, 2021, an entity may not operate an assisted living facility in Minnesota unless it is licensed under this chapter.

Subd. 2. **Licensure categories.** (a) The categories in this subdivision are established for assisted living facility licensure.

(b) An assisted living category is an assisted living facility that provides basic care services and comprehensive assisted living services.

(c) An assisted living facility with dementia care category is an assisted living facility that provides basic care services, comprehensive assisted living services, and dementia care services. An assisted living facility with dementia care may also provide dementia care services in a secure dementia care unit.

Subd. 3. **Violations; penalty.** (a) Operating a facility without a license is a misdemeanor punishable by a fine imposed by the commissioner.

(b) A controlling individual of the facility in violation of this section is guilty of a misdemeanor. This paragraph shall not apply to any controlling individual who had no legal authority to affect or change decisions related to the operation of the facility.

(c) The sanctions in this section do not restrict other available sanctions in law.

**Sec. 4. [144I.03] PROVISIONAL LICENSE.**

Subdivision 1. **Provisional license.** (a) Beginning August 1, 2021, for new applicants, the commissioner shall issue a provisional license to each of the licensure categories specified in section 144I.02, subdivision 2, which is effective for up to one year from the license effective date, except that a provisional license may be extended according to subdivision 2, paragraph (c).

(b) Assisted living facilities are subject to evaluation and approval by the commissioner of the facility's physical environment and its operational aspects before a change in ownership or capacity, or an addition of services which necessitates a change in the facility's physical environment.

Subd. 2. **Initial survey; licensure.** (a) During the provisional license period, the commissioner shall survey the provisional licensee after the commissioner is notified or has evidence that the provisional licensee has residents and is providing services.

(b) Within two days of beginning to provide services, the provisional licensee must provide notice to the commissioner that it is serving residents by sending an e-mail to the e-mail address provided by the commissioner. If the provisional licensee does not provide services during the provisional license year period, then the provisional license expires at the end of the period and the applicant must reapply for the provisional facility license.

(c) If the provisional licensee notifies the commissioner that the licensee has residents within 45 days prior to the provisional license expiration, the commissioner may extend the provisional license for up to 60 days in order to allow the commissioner to complete the on-site survey required under this section and follow-up survey visits.

(d) If the provisional licensee is in substantial compliance with the survey, the commissioner shall issue a facility license. If the provisional licensee is not in substantial compliance with the initial survey, the commissioner shall either: (1) not issue the facility license and terminate the provisional license; or (2) extend the provisional license for a period not to exceed 90 days and apply conditions necessary to bring the facility into substantial compliance. If the provisional licensee is not in substantial compliance with the survey within the time period of the extension or if the provisional licensee does not satisfy the license conditions, the commissioner may deny the license.

Subd. 3. **Reconsideration.** (a) If a provisional licensee whose facility license has been denied or extended with conditions disagrees with the conclusions of the commissioner, then the provisional licensee may request a reconsideration by the commissioner or commissioner's designee. The reconsideration request process must be conducted internally by the commissioner or designee and chapter 14 does not apply.

(b) The provisional licensee requesting the reconsideration must make the request in writing and must list and describe the reasons why the provisional licensee disagrees with the decision to deny the facility license or the decision to extend the provisional license with conditions.

(c) The reconsideration request and supporting documentation must be received by the commissioner within 15 calendar days after the date the provisional licensee receives the denial or provisional license with conditions.

Subd. 4. **Continued operation.** A provisional licensee whose license is denied is permitted to continue operating during the period of time when:

(1) a reconsideration is in process;

(2) an extension of the provisional license and terms associated with it is in active negotiation between the commissioner and the licensee and the commissioner confirms the negotiation is active; or

(3) a transfer of residents to a new facility is underway and not all of the residents have relocated.

Subd. 5. **Requirements for notice and transfer.** A provisional licensee whose license is denied must comply with the requirements for notification and transfer of residents in section 144J.08.

Subd. 6. **Fines.** The fee for failure to comply with the notification requirements in section 144J.08, subdivision 6, paragraph (b), is \$1,000.

#### Sec. 5. **[144I.04] APPLICATION FOR LICENSURE.**

Subdivision 1. **License applications.** (a) Each application for a facility license, including a provisional license, must include information sufficient to show that the applicant meets the requirements of licensure, including:

(1) the business name and legal entity name of the operating entity; street address and mailing address of the facility; and the names, e-mail addresses, telephone numbers, and mailing addresses of all owners, controlling individuals, managerial officials, and the assisted living administrator;

(2) the name and e-mail address of the managing agent, if applicable;

(3) the licensed bed capacity and the license category;

(4) the license fee in the amount specified in section 144.122;

(5) any judgments, private or public litigation, tax liens, written complaints, administrative actions, or investigations by any government agency against the applicant, owner, controlling individual, managerial official, or assisted living administrator that are unresolved or otherwise filed or commenced within the preceding ten years;

(6) documentation of compliance with the background study requirements in section 144I.06 for the owner, controlling individuals, and managerial officials. Each application for a new license must include documentation for the applicant and for each individual with five percent or more direct or indirect ownership in the applicant;

(7) evidence of workers' compensation coverage as required by sections 176.181 and 176.182;

(8) disclosure that the provider has no liability coverage or, if the provider has coverage, documentation of coverage;

(9) a copy of the executed lease agreement if applicable;

(10) a copy of the management agreement if applicable;

(11) a copy of the operations transfer agreement or similar agreement if applicable;

(12) a copy of the executed agreement if the facility has contracted services with another organization or individual for services such as managerial, billing, consultative, or medical personnel staffing;

(13) a copy of the organizational chart that identifies all organizations and individuals with any ownership interests in the facility;

(14) whether any applicant, owner, controlling individual, managerial official, or assisted living administrator of the facility has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation; any violation of section 626.557 or any other similar law in any other state; or any violation of a federal or state law or regulation in connection with activities involving any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(15) whether the applicant or any owner, controlling individual, managerial official, or assisted living administrator of the facility has a record of defaulting in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings;

(16) documentation that the applicant has designated one or more owners, controlling individuals, or employees as an agent or agents, which shall not affect the legal responsibility of any other owner or controlling individual under this chapter;

(17) the signature of the owner or owners, or an authorized agent of the owner or owners of the facility applicant. An application submitted on behalf of a business entity must be signed by at least two owners or controlling individuals;

(18) identification of all states where the applicant or individual having a five percent or more ownership, currently or previously has been licensed as owner or operator of a long-term care, community-based, or health care facility or agency where its license or federal certification has been denied, suspended, restricted, conditioned, or revoked under a private or state-controlled receivership, or where these same actions are pending under the laws of any state or federal authority; and

(19) any other information required by the commissioner.

Subd. 2. **Agents.** (a) An application for a facility license or for renewal of a facility license must specify one or more owners, controlling individuals, or employees as agents:

(1) who shall be responsible for dealing with the commissioner on all requirements of this chapter; and

(2) on whom personal service of all notices and orders shall be made and who shall be authorized to accept service on behalf of all of the controlling individuals of the facility in proceedings under this chapter.

(b) Notwithstanding any law to the contrary, personal service on the designated person or persons named in the application is deemed to be service on all of the controlling individuals or managerial employees of the facility and it is not a defense to any action arising under this chapter that personal service was not made on each controlling individual or managerial official of the facility. The designation of one or more controlling individuals or managerial officials under this subdivision shall not affect the legal responsibility of any other controlling individual or managerial official under this chapter.

Subd. 3. **Fees.** (a) An initial applicant, renewal applicant, or applicant filing a change of ownership for assisted living facility licensure must submit the application fee required in section 144I.122 to the commissioner along with a completed application.

(b) The penalty for late submission of the renewal application after expiration of the license is \$200. The penalty for operating a facility after expiration of the license and before a renewal license is issued, is \$250 each day after expiration of the license until the renewal license issuance date. The facility is still subject to the criminal gross misdemeanor penalties for operating after license expiration.

(c) Fees collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund. All fees are nonrefundable.

(d) Fines collected under this subdivision shall be deposited in a dedicated special revenue account. On an annual basis, the balance in the special revenue account shall be appropriated to the commissioner to implement the recommendations of the advisory council established in section 144A.4799.

#### Sec. 6. **[144I.05] TRANSFER OF LICENSE PROHIBITED.**

Subdivision 1. **Transfers prohibited.** Any facility license issued by the commissioner may not be transferred to another party.

Subd. 2. **New license required.** (a) Before acquiring ownership of a facility, a prospective applicant must apply for a new license. The licensee of an assisted living facility must change whenever the following events occur, including but not limited to:

(1) the licensee's form of legal organization is changed;

(2) the licensee transfers ownership of the facility business enterprise to another party regardless of whether ownership of some or all of the real property or personal property assets of the assisted living facility is also transferred;

(3) the licensee dissolves, consolidates, or merges with another legal organization and the licensee's legal organization does not survive;

(4) during any continuous 24-month period, 50 percent or more of the licensed entity is transferred, whether by a single transaction or multiple transactions, to:

(i) a different person; or

(ii) a person who had less than a five percent ownership interest in the facility at the time of the first transaction; or

(5) any other event or combination of events that results in a substitution, elimination, or withdrawal of the licensee's control of the facility.

(b) As used in this section, "control" means the possession, directly or indirectly, of the power to direct the management, operation, and policies of the licensee or facility, whether through ownership, voting control, by agreement, by contract, or otherwise.

(c) The current facility licensee must provide written notice to the department and residents, or designated representatives, at least 60 calendar days prior to the anticipated date of the change of licensee.

Subd. 3. **Survey required.** For all new licensees after a change in ownership, the commissioner shall complete a survey within six months after the new license is issued.

#### **Sec. 7. [144I.06] BACKGROUND STUDIES.**

Subdivision 1. **Background studies required.** (a) Before the commissioner issues a provisional license, issues a license as a result of an approved change of ownership, or renews a license, a controlling individual or managerial official is required to complete a background study under section 144.057. No person may be involved in the management, operation, or control of a facility if the person has been disqualified under chapter 245C. For the purposes of this section, managerial officials subject to the background check requirement are individuals who provide direct contact.

(b) The commissioner shall not issue a license if the controlling individual or managerial official has been unsuccessful in having a background study disqualification set aside under section 144.057 and chapter 245C.

(c) Employees, contractors, and volunteers of the facility are subject to the background study required by section 144.057 and may be disqualified under chapter 245C. Nothing in this section shall be construed to prohibit the facility from requiring self-disclosure of criminal conviction information.

Subd. 2. **Reconsideration.** If an individual is disqualified under section 144.057 or chapter 245C, the individual may request reconsideration of the disqualification. If the individual requests reconsideration and the commissioner sets aside or rescinds the disqualification, the individual is eligible to be involved in the management, operation, or control of the facility. If an individual has a disqualification under section 245C.15, subdivision 1, and the disqualification is affirmed, the individual's disqualification is barred from a set aside, and the individual must not be involved in the management, operation, or control of the facility.

Subd. 3. **Data classification.** Data collected under this subdivision shall be classified as private data on individuals under section 13.02, subdivision 12.

Subd. 4. **Termination in good faith.** Termination of an employee in good faith reliance on information or records obtained under this section regarding a confirmed conviction does not subject the assisted living facility to civil liability or liability for unemployment benefits.

**Sec. 8. [144I.07] LICENSE RENEWAL.**

Except as provided in section ....., a license that is not a provisional license may be renewed for a period of up to one year if the licensee satisfies the following:

(1) submits an application for renewal in the format provided by the commissioner at least 60 days before expiration of the license;

(2) submits the renewal fee under section 144I.04, subdivision 3;

(3) submits the late fee under section 144I.04, subdivision 3, if the renewal application is received less than 30 days before the expiration date of the license;

(4) provides information sufficient to show that the applicant meets the requirements of licensure, including items required under section 144I.04, subdivision 1; and

(5) provides any other information deemed necessary by the commissioner.

**Sec. 9. [144I.08] NOTIFICATION OF CHANGES IN INFORMATION.**

A provisional licensee or licensee shall notify the commissioner in writing prior to any financial or contractual change and within 60 calendar days after any change in the information required in section 144I.04, subdivision 1.

**Sec. 10. [144I.09] CONSIDERATION OF APPLICATIONS.**

(a) The commissioner shall consider an applicant's performance history in Minnesota and in other states, including repeat violations or rule violations, before issuing a provisional license, license, or renewal license.

(b) An applicant must not have a history within the last five years in Minnesota or in any other state of a license or certification involuntarily suspended or voluntarily terminated during any enforcement process in a facility that provides care to children, the elderly or ill individuals, or individuals with disabilities.

(c) Failure to provide accurate information or demonstrate required performance history may result in the denial of a license.

(d) The commissioner may deny, revoke, suspend, restrict, or refuse to renew the license or impose conditions if:

(1) the applicant fails to provide complete and accurate information on the application and the commissioner concludes that the missing or corrected information is needed to determine if a license shall be granted;

(2) the applicant, knowingly or with reason to know, made a false statement of a material fact in an application for the license or any data attached to the application or in any matter under investigation by the department;

(3) the applicant refused to allow representatives or agents of the department to inspect its books, records, and files, or any portion of the premises;

(4) willfully prevented, interfered with, or attempted to impede in any way: (i) the work of any authorized representative of the department, the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities; or (ii) the duties of the commissioner, local law enforcement, city or county attorneys, adult protection, county case managers, or other local government personnel;

(5) the applicant has a history of noncompliance with federal or state regulations that were detrimental to the health, welfare, or safety of a resident or a client; and

(6) the applicant violates any requirement in this chapter.

(e) For all new licensees after a change in ownership, the commissioner shall complete a survey within six months after the new license is issued.

Sec. 11. **[144I.10] MINIMUM ASSISTED LIVING FACILITY REQUIREMENTS.**

Subdivision 1. **Minimum requirements.** All licensed facilities shall:

(1) distribute to residents, families, and resident representatives the assisted living bill of rights in section 144J.02;

(2) provide health-related services in a manner that complies with the Nurse Practice Act in sections 148.171 to 148.285;

(3) utilize person-centered planning and service delivery process as defined in section 245D.07;

(4) have and maintain a system for delegation of health care activities to unlicensed personnel by a registered nurse, including supervision and evaluation of the delegated activities as required by the Nurse Practice Act in sections 148.171 to 148.285;

(5) provide a means for residents to request assistance for health and safety needs 24 hours per day, seven days per week;

(6) allow residents the ability to furnish and decorate the resident's unit within the terms of the lease;

(7) permit residents access to food at any time;

(8) allow residents to choose the resident's visitors and times of visits;

(9) allow the resident the right to choose a roommate if sharing a unit;

(10) notify the resident of the resident's right to have and use a lockable door to the resident's unit. The licensee shall provide the locks on the unit. Only a staff member with a specific need to enter the unit shall have keys, and advance notice must be given to the resident before entrance, when possible;

(11) develop and implement a staffing plan for determining its staffing level that:

(i) includes an evaluation, to be conducted at least twice a year, of the appropriateness of staffing levels in the facility;



(ii) ensures sufficient staffing at all times to meet the scheduled and reasonably foreseeable unscheduled needs of each resident as required by the residents' assessments and service plans on a 24-hour per day basis; and

(iii) ensures that the facility can respond promptly and effectively to individual resident emergencies and to emergency, life safety, and disaster situations affecting staff or residents in the facility;

(12) ensures that a person or persons are available 24 hours per day, seven days per week, who are responsible for responding to the requests of residents for assistance with health or safety needs, who shall be:

(i) awake;

(ii) located in the same building, in an attached building, or on a contiguous campus with the facility in order to respond within a reasonable amount of time;

(iii) capable of communicating with residents;

(iv) capable of providing or summoning the appropriate assistance; and

(v) capable of following directions. For an assisted living facility providing dementia care, the awake person must be physically present in the locked or secure unit; and

(13) offer to provide or make available at least the following services to residents:

(i) at least three daily nutritious meals with snacks available seven days per week, according to the recommended dietary allowances in the United States Department of Agriculture (USDA) guidelines, including seasonal fresh fruit and fresh vegetables. The following apply:

(A) modified special diets that are appropriate to residents' needs and choices;

(B) menus prepared at least one week in advance, and made available to all residents. The facility must encourage residents' involvement in menu planning. Meal substitutions must be of similar nutritional value if a resident refuses a food that is served. Residents must be informed in advance of menu changes;

(C) food must be prepared and served according to the Minnesota Food Code, Minnesota Rules, chapter 4626; and

(D) the facility cannot require a resident to include and pay for meals in their contract;

(ii) weekly housekeeping;

(iii) weekly laundry service;

(iv) upon the request of the resident, provide direct or reasonable assistance with arranging for transportation to medical and social services appointments, shopping, and other recreation, and provide the name of or other identifying information about the person or persons responsible for providing this assistance;

(v) upon the request of the resident, provide reasonable assistance with accessing community resources and social services available in the community, and provide the name of or other identifying information about the person or persons responsible for providing this assistance; and

(vi) have a daily program of social and recreational activities that are based upon individual and group interests, physical, mental, and psychosocial needs, and that creates opportunities for active participation in the community at large.

**Subd. 2. Policies and procedures.** (a) Each facility must have policies and procedures in place to address the following and keep them current:

(1) requirements in section 626.557, reporting of maltreatment of vulnerable adults;

(2) conducting and handling background studies on employees;

(3) orientation, training, and competency evaluations of staff, and a process for evaluating staff performance;

(4) handling complaints from residents, family members, or designated representatives regarding staff or services provided by staff;

(5) conducting initial evaluation of residents' needs and the providers' ability to provide those services;

(6) conducting initial and ongoing resident evaluations and assessments and how changes in a resident's condition are identified, managed, and communicated to staff and other health care providers as appropriate;

(7) orientation to and implementation of the assisted living bill of rights;

(8) infection control practices;

(9) reminders for medications, treatments, or exercises, if provided; and

(10) conducting appropriate screenings, or documentation of prior screenings, to show that staff are free of tuberculosis, consistent with current United States Centers for Disease Control and Prevention standards.

(b) For assisted living facilities and assisted living facilities with dementia care, the following are also required:

(1) conducting initial and ongoing assessments of the resident's needs by a registered nurse or appropriate licensed health professional, including how changes in the resident's conditions are identified, managed, and communicated to staff and other health care providers, as appropriate;

(2) ensuring that nurses and licensed health professionals have current and valid licenses to practice;

(3) medication and treatment management;

(4) delegation of tasks by registered nurses or licensed health professionals;

(5) supervision of registered nurses and licensed health professionals; and

(6) supervision of unlicensed personnel performing delegated tasks.

**Subd. 3. Infection control program.** The facility shall establish and maintain an infection control program.

**Subd. 4. Clinical nurse supervision.** All assisted living facilities must have a clinical nurse supervisor who is a registered nurse licensed in Minnesota.

**Subd. 5. Resident and family or resident representative councils.** (a) If a resident, family, or designated representative chooses to establish a council, the licensee shall support the council's establishment. The facility must provide assistance and space for meetings and afford privacy. Staff or visitors may attend meetings only upon the council's invitation. A staff person must be designated the responsibility of providing this assistance and responding to written requests that result from council meetings. Resident council minutes are public data and shall be available to all residents in the facility. Family or resident representatives may attend resident councils upon invitation by a resident on the council.

(b) All assisted living facilities shall engage their residents and families or designated representatives in the operation of their community and document the methods and results of this engagement.

**Subd. 6. Resident grievances.** All facilities must post in a conspicuous place information about the facilities' grievance procedure, and the name, telephone number, and e-mail contact information for the individuals who are responsible for handling resident grievances. The notice must also have the contact information for the state and applicable regional Office of Ombudsman for Long-Term Care.

**Subd. 7. Protecting resident rights.** A facility shall ensure that every resident has access to consumer advocacy or legal services by:

(1) providing names and contact information, including telephone numbers and e-mail addresses of at least three organizations that provide advocacy or legal services to residents;

(2) providing the name and contact information for the Minnesota Office of Ombudsman for Long-Term Care and the Office of the Ombudsman for Mental Health and Developmental Disabilities, including both the state and regional contact information;

(3) assisting residents in obtaining information on whether Medicare or medical assistance under chapter 256B will pay for services;

(4) making reasonable accommodations for people who have communication disabilities and those who speak a language other than English; and

(5) providing all information and notices in plain language and in terms the residents can understand.

**Subd. 8. Protection-related rights.** (a) In addition to the rights required in the assisted living bill of rights under section 144J.02, the following rights must be provided to all residents. The facility must promote and protect these rights for each resident by making residents aware of these rights and ensuring staff are trained to support these rights:

(1) the right to furnish and decorate the resident's unit within the terms of the lease;

(2) the right to access food at any time;

(3) the right to choose visitors and the times of visits;

(4) the right to choose a roommate if sharing a unit;

(5) the right to personal privacy including the right to have and use a lockable door on the resident's unit. The facility shall provide the locks on the resident's unit. Only a staff member with a specific need to enter the unit shall have keys, and advance notice must be given to the resident before entrance, when possible;

(6) the right to engage in chosen activities;

(7) the right to engage in community life;

(8) the right to control personal resources; and

(9) the right to individual autonomy, initiative, and independence in making life choices including a daily schedule and with whom to interact.

(b) The resident's rights in paragraph (a), clauses (2), (3), and (5), may be restricted for an individual resident only if determined necessary for health and safety reasons identified by the facility through an initial assessment or reassessment under section 144I.15, subdivision 9, and documented in the written service plan under section 144I.15, subdivision 10. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49 must be documented by the case manager in the resident's coordinated service and support plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49, subdivision 15.

Subd. 9. **Payment for services under disability waivers.** For new facilities, home and community-based services under section 256B.49 are not available when the new facility setting is adjoined to, or on the same property as, an institution as defined in Code of Federal Regulations, title 42, section 441.301(c).

Subd. 10. **No discrimination based on source of payment.** All facilities must, regardless of the source of payment and for all persons seeking to reside or residing in the facility:

(1) provide equal access to quality care; and

(2) establish, maintain, and implement identical policies and practices regarding residency, transfer, and provision and termination of services.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 12. **[144I.11] FACILITY RESPONSIBILITIES; HOUSING AND SERVICE-RELATED MATTERS.**

Subdivision 1. **Responsibility for housing and services.** The facility is directly responsible to the resident for all housing and service-related matters provided, irrespective of a management contract. Housing and service-related matters include but are not limited to the handling of complaints, the provision of notices, and the initiation of any adverse action against the resident involving housing or services provided by the facility.

Subd. 2. **Uniform checklist disclosure of services.** (a) On and after August 1, 2021, a facility must provide to prospective residents, the prospective resident's designated representative, and any other person or persons the resident chooses:

(1) a written checklist listing all services permitted under the facility's license, identifying all services the facility offers to provide under the assisted living facility contract, and identifying all services allowed under the license that the facility does not provide; and

(2) an oral explanation of the services offered under the contract.

(b) The requirements of paragraph (a) must be completed prior to the execution of the resident contract.

(c) The commissioner must, in consultation with all interested stakeholders, design the uniform checklist disclosure form for use as provided under paragraph (a).

Subd. 3. **Reservation of rights.** Nothing in this chapter:

(1) requires a resident to utilize any service provided by or through, or made available in, a facility;

(2) prevents a facility from requiring, as a condition of the contract, that the resident pay for a package of services even if the resident does not choose to use all or some of the services in the package. For residents who are eligible for home and community-based waiver services under sections 256B.0915 and 256B.49, payment for services will follow the policies of those programs;

(3) requires a facility to fundamentally alter the nature of the operations of the facility in order to accommodate a resident's request; or

(4) affects the duty of a facility to grant a resident's request for reasonable accommodations.

Sec. 13. **[144I.12] TRANSFER OF RESIDENTS WITHIN FACILITY.**

(a) A facility must provide for the safe, orderly, and appropriate transfer of residents within the facility.

(b) If an assisted living contract permits resident transfers within the facility, the facility must provide at least 30 days' advance notice of the transfer to the resident and the resident's designated representative.

(c) In situations where there is a curtailment, reduction, capital improvement, or change in operations within a facility, the facility must minimize the number of transfers needed to complete the project or change in operations, consider individual resident needs and preferences, and provide reasonable accommodation for individual resident requests regarding the room transfer. The facility must provide notice to the Office of Ombudsman for Long-Term Care and, when appropriate, the Office of Ombudsman for Mental Health and Developmental Disabilities in advance of any notice to residents, residents' designated representatives, and families when all of the following circumstances apply:

(1) the transfers of residents within the facility are being proposed due to curtailment, reduction, capital improvements, or change in operations;

(2) the transfers of residents within the facility are not temporary moves to accommodate physical plan upgrades or renovation; and

(3) the transfers involve multiple residents being moved simultaneously.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 14. **[144I.13] FACILITY RESPONSIBILITIES; BUSINESS OPERATION.**

Subdivision 1. **Display of license.** The original current license must be displayed at the main entrance of the facility. The facility must provide a copy of the license to any person who requests it.

Subd. 2. **Quality management.** The facility shall engage in quality management appropriate to the size of the facility and relevant to the type of services provided. The quality management activity means evaluating the quality of care by periodically reviewing resident services, complaints made, and other issues that have occurred and determining whether changes in services, staffing, or other procedures need to be made in order to ensure safe and competent services to residents. Documentation about quality management activity must be available for two years. Information about quality management must be available to the commissioner at the time of the survey, investigation, or renewal.

Subd. 3. **Facility restrictions.** (a) This subdivision does not apply to licensees that are Minnesota counties or other units of government.

(b) A facility or staff person cannot accept a power-of-attorney from residents for any purpose, and may not accept appointments as guardians or conservators of residents.

(c) A facility cannot serve as a resident's representative.

Subd. 4. **Handling resident's finances and property.** (a) A facility may assist residents with household budgeting, including paying bills and purchasing household goods, but may not otherwise manage a resident's property. A facility must provide a resident with receipts for all transactions and purchases paid with the resident's funds. When receipts are not available, the transaction or purchase must be documented. A facility must maintain records of all such transactions.

(b) A facility or staff person may not borrow a resident's funds or personal or real property, nor in any way convert a resident's property to the facility's or staff person's possession.

(c) Nothing in this section precludes a facility or staff from accepting gifts of minimal value or precludes the acceptance of donations or bequests made to a facility that are exempt from income tax under section 501(c) of the Internal Revenue Code of 1986.

Subd. 5. **Reporting maltreatment of vulnerable adults; abuse prevention plan.** (a) All facilities must comply with the requirements for the reporting of maltreatment of vulnerable adults in section 626.557. Each facility must establish and implement a written procedure to ensure that all cases of suspected maltreatment are reported.

(b) Each facility must develop and implement an individual abuse prevention plan for each vulnerable adult. The plan shall contain an individualized review or assessment of the person's susceptibility to abuse by another individual, including other vulnerable adults; the person's risk of abusing other vulnerable adults; and statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults. For purposes of the abuse prevention plan, abuse includes self-abuse.

Subd. 6. **Reporting suspected crime and maltreatment.** (a) A facility shall support protection and safety through access to the state's systems for reporting suspected criminal activity and suspected vulnerable adult maltreatment by:

(1) posting the 911 emergency number in common areas and near telephones provided by the assisted living facility;

(2) posting information and the reporting number for the common entry point under section 626.557 to report suspected maltreatment of a vulnerable adult; and

(3) providing reasonable accommodations with information and notices in plain language.

Subd. 7. **Employee records.** (a) The facility must maintain current records of each paid employee, regularly scheduled volunteers providing services, and each individual contractor providing services. The records must include the following information:

(1) evidence of current professional licensure, registration, or certification if licensure, registration, or certification is required by this statute or other rules;

(2) records of orientation, required annual training and infection control training, and competency evaluations;

(3) current job description, including qualifications, responsibilities, and identification of staff persons providing supervision;

(4) documentation of annual performance reviews that identify areas of improvement needed and training needs;

(5) for individuals providing facility services, verification that required health screenings under section 144I.034, subdivision 7, have taken place and the dates of those screenings; and

(6) documentation of the background study as required under section 144.057.

(b) Each employee record must be retained for at least three years after a paid employee, volunteer, or contractor ceases to be employed by, provide services at, or be under contract with the facility. If a facility ceases operation, employee records must be maintained for three years after facility operations cease.

Subd. 8. **Compliance officer.** Every assisted living facility shall have a compliance officer who is a licensed assisted living administrator. An individual licensed as a nursing home administrator, an assisted living administrator, or a health services executive shall automatically meet the qualifications of a compliance officer.

Sec. 15. **[144I.14] FACILITY RESPONSIBILITIES; STAFF.**

Subdivision 1. **Qualifications, training, and competency.** All staff persons providing services must be trained and competent in the provision of services consistent with current practice standards appropriate to the resident's needs and be informed of the assisted living bill of rights under section 144J.02.

Subd. 2. **Licensed health professionals and nurses.** (a) Licensed health professionals and nurses providing services as employees of a licensed facility must possess a current Minnesota license or registration to practice.

(b) Licensed health professionals and registered nurses must be competent in assessing resident needs, planning appropriate services to meet resident needs, implementing services, and supervising staff if assigned.

(c) Nothing in this section limits or expands the rights of nurses or licensed health professionals to provide services within the scope of their licenses or registrations, as provided by law.

Subd. 3. **Unlicensed personnel.** (a) Unlicensed personnel providing services must have:

(1) successfully completed a training and competency evaluation appropriate to the services provided by the facility and the topics listed in subdivision 6, paragraph (b); or

(2) demonstrated competency by satisfactorily completing a written or oral test on the tasks the unlicensed personnel will perform and on the topics listed in subdivision 6, paragraph (b); and successfully demonstrated competency of topics in subdivision 6, paragraph (b), clauses (5), (7), and (8), by a practical skills test.

Unlicensed personnel providing basic care services shall not perform delegated nursing or therapy tasks.

(b) Unlicensed personnel performing delegated nursing tasks in an assisted living facility must:

(1) have successfully completed training and demonstrated competency by successfully completing a written or oral test of the topics in subdivision 6, paragraphs (b) and (c), and a practical skills test on tasks listed in subdivision 6, paragraphs (b), clauses (5) and (7), and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

(2) satisfy the current requirements of Medicare for training or competency of home health aides or nursing assistants, as provided by Code of Federal Regulations, title 42, section 483 or 484.36; or

(3) have, before April 19, 1993, completed a training course for nursing assistants that was approved by the commissioner.

(c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned by a licensed health professional must meet the requirements for delegated tasks in subdivision 4 and any other training or competency requirements within the licensed health professional's scope of practice relating to delegation or assignment of tasks to unlicensed personnel.

**Subd. 4. Delegation of assisted living services.** A registered nurse or licensed health professional may delegate tasks only to staff who are competent and possess the knowledge and skills consistent with the complexity of the tasks and according to the appropriate Minnesota practice act. The assisted living facility must establish and implement a system to communicate up-to-date information to the registered nurse or licensed health professional regarding the current available staff and their competency so the registered nurse or licensed health professional has sufficient information to determine the appropriateness of delegating tasks to meet individual resident needs and preferences.

**Subd. 5. Temporary staff.** When a facility contracts with a temporary staffing agency, those individuals must meet the same requirements required by this section for personnel employed by the facility and shall be treated as if they are staff of the facility.

**Subd. 6. Requirements for instructors, training content, and competency evaluations for unlicensed personnel.** (a) Instructors and competency evaluators must meet the following requirements:

(1) training and competency evaluations of unlicensed personnel providing basic care services must be conducted by individuals with work experience and training in providing basic care services; and

(2) training and competency evaluations of unlicensed personnel providing comprehensive assisted living services must be conducted by a registered nurse, or another instructor may provide training in conjunction with the registered nurse.

(b) Training and competency evaluations for all unlicensed personnel must include the following:

(1) documentation requirements for all services provided;

(2) reports of changes in the resident's condition to the supervisor designated by the facility;

(3) basic infection control, including blood-borne pathogens;

(4) maintenance of a clean and safe environment;

(5) appropriate and safe techniques in personal hygiene and grooming, including:

(i) hair care and bathing;

(ii) care of teeth, gums, and oral prosthetic devices;

(iii) care and use of hearing aids; and



(iv) dressing and assisting with toileting;

(6) training on the prevention of falls;

(7) standby assistance techniques and how to perform them;

(8) medication, exercise, and treatment reminders;

(9) basic nutrition, meal preparation, food safety, and assistance with eating;

(10) preparation of modified diets as ordered by a licensed health professional;

(11) communication skills that include preserving the dignity of the resident and showing respect for the resident and the resident's preferences, cultural background, and family;

(12) awareness of confidentiality and privacy;

(13) understanding appropriate boundaries between staff and residents and the resident's family;

(14) procedures to use in handling various emergency situations; and

(15) awareness of commonly used health technology equipment and assistive devices.

(c) In addition to paragraph (b), training and competency evaluation for unlicensed personnel providing comprehensive assisted living services must include:

(1) observing, reporting, and documenting resident status;

(2) basic knowledge of body functioning and changes in body functioning, injuries, or other observed changes that must be reported to appropriate personnel;

(3) reading and recording temperature, pulse, and respirations of the resident;

(4) recognizing physical, emotional, cognitive, and developmental needs of the resident;

(5) safe transfer techniques and ambulation;

(6) range of motioning and positioning; and

(7) administering medications or treatments as required.

(d) When the registered nurse or licensed health professional delegates tasks, that person must ensure that prior to the delegation the unlicensed personnel is trained in the proper methods to perform the tasks or procedures for each resident and are able to demonstrate the ability to competently follow the procedures and perform the tasks. If an unlicensed personnel has not regularly performed the delegated assisted living task for a period of 24 consecutive months, the unlicensed personnel must demonstrate competency in the task to the registered nurse or appropriate licensed health professional. The registered nurse or licensed health professional must document instructions for the delegated tasks in the resident's record.

Subd. 7. Tuberculosis prevention and control. A facility must establish and maintain a comprehensive tuberculosis infection control program according to the most current tuberculosis infection control guidelines issued by the United States Centers for Disease Control and Prevention (CDC), Division of Tuberculosis Elimination, as

published in the CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include a tuberculosis infection control plan that covers all paid and unpaid employees, contractors, students, and volunteers. The Department of Health shall provide technical assistance regarding implementation of the guidelines.

Subd. 8. **Disaster planning and emergency preparedness plan.** (a) Each facility must meet the following requirements:

(1) have a written emergency disaster plan that contains a plan for evacuation, addresses elements of sheltering in place, identifies temporary relocation sites, and details staff assignments in the event of a disaster or an emergency;

(2) post an emergency disaster plan prominently;

(3) provide building emergency exit diagrams to all residents;

(4) post emergency exit diagrams on each floor; and

(5) have a written policy and procedure regarding missing tenant residents.

(b) Each facility must provide emergency and disaster training to all staff during the initial staff orientation and annually thereafter and must make emergency and disaster training annually available to all residents. Staff who have not received emergency and disaster training are allowed to work only when trained staff are also working on site.

(c) Each facility must meet any additional requirements adopted in rule.

Sec. 16. **[144I.15] FACILITY RESPONSIBILITIES WITH RESPECT TO RESIDENTS.**

Subdivision 1. **Assisted living bill of rights; notification to resident.** (a) A facility shall provide the resident and the designated representative a written notice of the rights under section 144J.02 before the initiation of services to that resident. The facility shall make all reasonable efforts to provide notice of the rights to the resident and the designated representative in a language the resident and designated representative can understand.

(b) In addition to the text of the bill of rights in section 144J.02, the notice shall also contain the following statement describing how to file a complaint.

"If you want to report suspected maltreatment of a vulnerable adult, you may call the Minnesota Adult Abuse Reporting Center at 1-844-880-1574. If you have a complaint about the facility or person providing your services, you may contact the Office of Health Facility Complaints, Minnesota Department of Health. You may also contact the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and Developmental Disabilities."

(c) The statement must include the telephone number, website address, e-mail address, mailing address, and street address of the Office of Health Facility Complaints at the Minnesota Department of Health, the Office of Ombudsman for Long-Term Care, and the Office of Ombudsman for Mental Health and Developmental Disabilities. The statement must include the facility's name, address, e-mail, telephone number, and name or title of the person at the facility to whom problems or complaints may be directed. It must also include a statement that the facility will not retaliate because of a complaint.

(d) A facility must obtain written acknowledgment of the resident's receipt of the bill of rights or shall document why an acknowledgment cannot be obtained. The acknowledgment may be obtained from the resident and the designated representative. Acknowledgment of receipt shall be retained in the resident's record.

Subd. 2. **Notices in plain language; language accommodations.** A facility must provide all notices in plain language that residents can understand and make reasonable accommodations for residents who have communication disabilities and those whose primary language is a language other than English.

Subd. 3. **Notice of services for dementia, Alzheimer's disease, or related disorders.** A facility that provides services to residents with dementia shall provide in written or electronic form, to residents and families or other persons who request it, a description of the training program and related training it provides, including the categories of employees trained, the frequency of training, and the basic topics covered.

Subd. 4. **Services oversight and information.** A facility shall provide each resident with identifying and contact information about the persons who can assist with health care or supportive services being provided. A facility shall keep each resident informed of changes in the personnel referenced in this subdivision.

Subd. 5. **Notice to residents; change in ownership or management.** A facility must provide prompt written notice to the resident or designated representative of any change of legal name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

(1) the licensee of the facility;

(2) the manager of the facility, if applicable; and

(3) the agent authorized to accept legal process on behalf of the facility.

Subd. 6. **Acceptance of residents.** A facility may not accept a person as a resident unless the facility has staff, sufficient in qualifications, competency, and numbers, to adequately provide the services agreed to in the service plan and that are within the facility's scope of practice.

Subd. 7. **Referrals.** If a facility reasonably believes that a resident is in need of another medical or health service, including a licensed health professional, or social service provider, the facility shall:

(1) determine the resident's preferences with respect to obtaining the service; and

(2) inform the resident of the resources available, if known, to assist the resident in obtaining services.

Subd. 8. **Initiation of services.** When a facility initiates services and the individualized assessment required in subdivision 9 has not been completed, the facility must complete a temporary plan and agreement with the resident for services.

Subd. 9. **Initial assessments and monitoring.** (a) An assisted living facility shall conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident and propose a temporary service plan prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier. If necessitated by either the geographic distance between the prospective resident and the facility, or urgent or unexpected circumstances, the assessment may be conducted using telecommunication methods based on practice standards that meet the resident's needs and reflect person-centered planning and care delivery. The nursing assessment must be completed within five days of the start of services.

(b) Resident reassessment and monitoring must be conducted no more than 14 days after initiation of services. Ongoing resident reassessment and monitoring must be conducted as needed based on changes in the needs of the resident and cannot exceed 90 days from the last date of the assessment.

(c) Residents who are not receiving any services shall not be required to undergo an initial nursing assessment.

(d) A facility must inform the prospective resident of the availability of and contact information for long-term care consultation services under section 256B.0911, prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier.

**Subd. 10. Service plan, implementation, and revisions to service plan.** (a) No later than 14 days after the date that services are first provided, a facility shall finalize a current written service plan.

(b) The service plan and any revisions must include a signature or other authentication by the facility and by the resident or the designated representative documenting agreement on the services to be provided. The service plan must be revised, if needed, based on resident reassessment under subdivision 9. The facility must provide information to the resident about changes to the facility's fee for services and how to contact the Office of Ombudsman for Long-Term Care.

(c) The facility must implement and provide all services required by the current service plan.

(d) The service plan and the revised service plan must be entered into the resident's record, including notice of a change in a resident's fees when applicable.

(e) Staff providing services must be informed of the current written service plan.

(f) The service plan must include:

(1) a description of the services to be provided, the fees for services, and the frequency of each service, according to the resident's current assessment and resident preferences;

(2) the identification of staff or categories of staff who will provide the services;

(3) the schedule and methods of monitoring assessments of the resident;

(4) the schedule and methods of monitoring staff providing services; and

(5) a contingency plan that includes:

(i) the action to be taken by the facility and by the resident and the designated representative if the scheduled service cannot be provided;

(ii) information and a method for a resident and the designated representative to contact the facility;

(iii) the names and contact information of persons the resident wishes to have notified in an emergency or if there is a significant adverse change in the resident's condition, including identification of and information as to who has authority to sign for the resident in an emergency; and

(iv) the circumstances in which emergency medical services are not to be summoned consistent with chapters 145B and 145C, and declarations made by the resident under those chapters.

**Subd. 11. Use of restraints.** Residents of assisted living facilities must be free from any physical or chemical restraints. Restraints are only permissible if determined necessary for health and safety reasons identified by the facility through an initial assessment or reassessment, under subdivision 9, and documented in the written service plan under subdivision 10.

Subd. 12. **Request for discontinuation of life-sustaining treatment.** (a) If a resident, family member, or other caregiver of the resident requests that an employee or other agent of the facility discontinue a life-sustaining treatment, the employee or agent receiving the request:

(1) shall take no action to discontinue the treatment; and

(2) shall promptly inform the supervisor or other agent of the facility of the resident's request.

(b) Upon being informed of a request for discontinuance of treatment, the facility shall promptly:

(1) inform the resident that the request will be made known to the physician or advanced practice registered nurse who ordered the resident's treatment;

(2) inform the physician or advanced practice registered nurse of the resident's request; and

(3) work with the resident and the resident's physician or advanced practice registered nurse to comply with chapter 145C.

(c) This section does not require the facility to discontinue treatment, except as may be required by law or court order.

(d) This section does not diminish the rights of residents to control their treatments, refuse services, or terminate their relationships with the facility.

(e) This section shall be construed in a manner consistent with chapter 145B or 145C, whichever applies, and declarations made by residents under those chapters.

Subd. 13. **Medical cannabis.** Facilities may exercise the authority and are subject to the protections in section 152.34.

Subd. 14. **Landlord and tenant.** Facilities are subject to and must comply with chapter 504B.

Sec. 17. **[144L.16] PROVISION OF SERVICES.**

Subdivision 1. **Availability of contact person to staff.** (a) Assisted living facilities and assisted living facilities that provide dementia care must have a registered nurse available for consultation to staff performing delegated nursing tasks and must have an appropriate licensed health professional available if performing other delegated services such as therapies.

(b) The appropriate contact person must be readily available either in person, by telephone, or by other means to the staff at times when the staff is providing services.

Subd. 2. **Supervision of staff; basic care services.** (a) Staff who perform basic care services must be supervised periodically where the services are being provided to verify that the work is being performed competently and to identify problems and solutions to address issues relating to the staff's ability to provide the services. The supervision of the unlicensed personnel must be done by staff of the facility having the authority, skills, and ability to provide the supervision of unlicensed personnel and who can implement changes as needed, and train staff.

(b) Supervision includes direct observation of unlicensed personnel while the unlicensed personnel are providing the services and may also include indirect methods of gaining input such as gathering feedback from the resident. Supervisory review of staff must be provided at a frequency based on the staff person's competency and performance.

Subd. 3. **Supervision of staff providing delegated nursing or therapy tasks.** (a) Staff who perform delegated nursing or therapy tasks must be supervised by an appropriate licensed health professional or a registered nurse per the assisted living facility's policy where the services are being provided to verify that the work is being performed competently and to identify problems and solutions related to the staff person's ability to perform the tasks. Supervision of staff performing medication or treatment administration shall be provided by a registered nurse or appropriate licensed health professional and must include observation of the staff administering the medication or treatment and the interaction with the resident.

(b) The direct supervision of staff performing delegated tasks must be provided within 30 days after the date on which the individual begins working for the facility and first performs the delegated tasks for residents and thereafter as needed based on performance. This requirement also applies to staff who have not performed delegated tasks for one year or longer.

Subd. 4. **Documentation.** A facility must retain documentation of supervision activities in the personnel records.

Sec. 18. **[144I.17] MEDICATION MANAGEMENT.**

Subdivision 1. **Medication management services.** (a) This section applies only to assisted living facilities that provide medication management services.

(b) An assisted living facility that provides medication management services must develop, implement, and maintain current written medication management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse, licensed health professional, or pharmacist consistent with current practice standards and guidelines.

(c) The written policies and procedures must address requesting and receiving prescriptions for medications; preparing and giving medications; verifying that prescription drugs are administered as prescribed; documenting medication management activities; controlling and storing medications; monitoring and evaluating medication use; resolving medication errors; communicating with the prescriber, pharmacist, and resident and designated representative, if any; disposing of unused medications; and educating residents and designated representatives about medications. When controlled substances are being managed, the policies and procedures must also identify how the provider will ensure security and accountability for the overall management, control, and disposition of those substances in compliance with state and federal regulations and with subdivision 23.

Subd. 2. **Provision of medication management services.** (a) For each resident who requests medication management services, the assisted living facility shall, prior to providing medication management services, have a registered nurse, licensed health professional, or authorized prescriber under section 151.37 conduct an assessment to determine what medication management services will be provided and how the services will be provided. This assessment must be conducted face-to-face with the resident. The assessment must include an identification and review of all medications the resident is known to be taking. The review and identification must include indications for medications, side effects, contraindications, allergic or adverse reactions, and actions to address these issues.

(b) The assessment must identify interventions needed in management of medications to prevent diversion of medication by the resident or others who may have access to the medications and provide instructions to the resident and designated representative on interventions to manage the resident's medications and prevent diversion of medications. For purposes of this section, "diversion of medication" means misuse, theft, or illegal or improper disposition of medications.

Subd. 3. **Individualized medication monitoring and reassessment.** The assisted living facility must monitor and reassess the resident's medication management services as needed under subdivision 2 when the resident presents with symptoms or other issues that may be medication-related and, at a minimum, annually.

Subd. 4. **Resident refusal.** The assisted living facility must document in the resident's record any refusal for an assessment for medication management by the resident. The assisted living facility must discuss with the resident the possible consequences of the resident's refusal and document the discussion in the resident's record.

Subd. 5. **Individualized medication management plan.** (a) For each resident receiving medication management services, the assisted living facility must prepare and include in the service plan a written statement of the medication management services that will be provided to the resident. The assisted living facility must develop and maintain a current individualized medication management record for each resident based on the resident's assessment that must contain the following:

(1) a statement describing the medication management services that will be provided;

(2) a description of storage of medications based on the resident's needs and preferences, risk of diversion, and consistent with the manufacturer's directions;

(3) documentation of specific resident instructions relating to the administration of medications;

(4) identification of persons responsible for monitoring medication supplies and ensuring that medication refills are ordered on a timely basis;

(5) identification of medication management tasks that may be delegated to unlicensed personnel;

(6) procedures for staff notifying a registered nurse or appropriate licensed health professional when a problem arises with medication management services; and

(7) any resident-specific requirements relating to documenting medication administration, verifications that all medications are administered as prescribed, and monitoring of medication use to prevent possible complications or adverse reactions.

(b) The medication management record must be current and updated when there are any changes.

(c) Medication reconciliation must be completed when a licensed nurse, licensed health professional, or authorized prescriber is providing medication management.

Subd. 6. **Administration of medication.** Medications may be administered by a nurse, physician, or other licensed health practitioner authorized to administer medications or by unlicensed personnel who have been delegated medication administration tasks by a registered nurse.

Subd. 7. **Delegation of medication administration.** When administration of medications is delegated to unlicensed personnel, the assisted living facility must ensure that the registered nurse has:

(1) instructed the unlicensed personnel in the proper methods to administer the medications, and the unlicensed personnel has demonstrated the ability to competently follow the procedures;

(2) specified, in writing, specific instructions for each resident and documented those instructions in the resident's records; and

(3) communicated with the unlicensed personnel about the individual needs of the resident.

Subd. 8. **Documentation of administration of medications.** Each medication administered by the assisted living facility staff must be documented in the resident's record. The documentation must include the signature and title of the person who administered the medication. The documentation must include the medication name, dosage, date and time administered, and method and route of administration. The staff must document the reason why medication administration was not completed as prescribed and document any follow-up procedures that were provided to meet the resident's needs when medication was not administered as prescribed and in compliance with the resident's medication management plan.

Subd. 9. **Documentation of medication setup.** Documentation of dates of medication setup, name of medication, quantity of dose, times to be administered, route of administration, and name of person completing medication setup must be done at the time of setup.

Subd. 10. **Medication management for residents who will be away from home.** (a) An assisted living facility that is providing medication management services to the resident must develop and implement policies and procedures for giving accurate and current medications to residents for planned or unplanned times away from home according to the resident's individualized medication management plan. The policies and procedures must state that:

(1) for planned time away, the medications must be obtained from the pharmacy or set up by the licensed nurse according to appropriate state and federal laws and nursing standards of practice;

(2) for unplanned time away, when the pharmacy is not able to provide the medications, a licensed nurse or unlicensed personnel shall give the resident and designated representative medications in amounts and dosages needed for the length of the anticipated absence, not to exceed seven calendar days;

(3) the resident or designated representative must be provided written information on medications, including any special instructions for administering or handling the medications, including controlled substances;

(4) the medications must be placed in a medication container or containers appropriate to the provider's medication system and must be labeled with the resident's name and the dates and times that the medications are scheduled; and

(5) the resident and designated representative must be provided in writing the facility's name and information on how to contact the facility.

(b) For unplanned time away when the licensed nurse is not available, the registered nurse may delegate this task to unlicensed personnel if:

(1) the registered nurse has trained the unlicensed staff and determined the unlicensed staff is competent to follow the procedures for giving medications to residents; and

(2) the registered nurse has developed written procedures for the unlicensed personnel, including any special instructions or procedures regarding controlled substances that are prescribed for the resident. The procedures must address:

(i) the type of container or containers to be used for the medications appropriate to the provider's medication system;

(ii) how the container or containers must be labeled;

(iii) written information about the medications to be given to the resident or designated representative;



(iv) how the unlicensed staff must document in the resident's record that medications have been given to the resident and the designated representative, including documenting the date the medications were given to the resident or the designated representative and who received the medications, the person who gave the medications to the resident, the number of medications that were given to the resident, and other required information;

(v) how the registered nurse shall be notified that medications have been given to the resident or designated representative and whether the registered nurse needs to be contacted before the medications are given to the resident or the designated representative;

(vi) a review by the registered nurse of the completion of this task to verify that this task was completed accurately by the unlicensed personnel; and

(vii) how the unlicensed personnel must document in the resident's record any unused medications that are returned to the facility, including the name of each medication and the doses of each returned medication.

**Subd. 11. Prescribed and nonprescribed medication.** The assisted living facility must determine whether the facility shall require a prescription for all medications the provider manages. The assisted living facility must inform the resident or the designated representative whether the facility requires a prescription for all over-the-counter and dietary supplements before the facility agrees to manage those medications.

**Subd. 12. Medications; over-the-counter drugs; dietary supplements not prescribed.** An assisted living facility providing medication management services for over-the-counter drugs or dietary supplements must retain those items in the original labeled container with directions for use prior to setting up for immediate or later administration. The facility must verify that the medications are up to date and stored as appropriate.

**Subd. 13. Prescriptions.** There must be a current written or electronically recorded prescription as defined in section 151.01, subdivision 16a, for all prescribed medications that the assisted living facility is managing for the resident.

**Subd. 14. Renewal of prescriptions.** Prescriptions must be renewed at least every 12 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions for controlled substances must comply with chapter 152.

**Subd. 15. Verbal prescription orders.** Verbal prescription orders from an authorized prescriber must be received by a nurse or pharmacist. The order must be handled according to Minnesota Rules, part 6800.6200.

**Subd. 16. Written or electronic prescription.** When a written or electronic prescription is received, it must be communicated to the registered nurse in charge and recorded or placed in the resident's record.

**Subd. 17. Records confidential.** A prescription or order received verbally, in writing, or electronically must be kept confidential according to sections 144.291 to 144.298 and 144A.44.

**Subd. 18. Medications provided by resident or family members.** When the assisted living facility is aware of any medications or dietary supplements that are being used by the resident and are not included in the assessment for medication management services, the staff must advise the registered nurse and document that in the resident's record.

**Subd. 19. Storage of medications.** An assisted living facility must store all prescription medications in securely locked and substantially constructed compartments according to the manufacturer's directions and permit only authorized personnel to have access.

Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate or later administration, must be kept in the original container in which it was dispensed by the pharmacy bearing the original prescription label with legible information including the expiration or beyond-use date of a time-dated drug.

Subd. 21. **Prohibitions.** No prescription drug supply for one resident may be used or saved for use by anyone other than the resident.

Subd. 22. **Disposition of medications.** (a) Any current medications being managed by the assisted living facility must be given to the resident or the designated representative when the resident's service plan ends or medication management services are no longer part of the service plan. Medications for a resident who is deceased or that have been discontinued or have expired may be given to the resident or the designated representative for disposal.

(b) The assisted living facility shall dispose of any medications remaining with the facility that are discontinued or expired or upon the termination of the service contract or the resident's death according to state and federal regulations for disposition of medications and controlled substances.

(c) Upon disposition, the facility must document in the resident's record the disposition of the medication including the medication's name, strength, prescription number as applicable, quantity, to whom the medications were given, date of disposition, and names of staff and other individuals involved in the disposition.

Subd. 23. **Loss or spillage.** (a) Assisted living facilities providing medication management must develop and implement procedures for loss or spillage of all controlled substances defined in Minnesota Rules, part 6800.4220. These procedures must require that when a spillage of a controlled substance occurs, a notation must be made in the resident's record explaining the spillage and the actions taken. The notation must be signed by the person responsible for the spillage and include verification that any contaminated substance was disposed of according to state or federal regulations.

(b) The procedures must require that the facility providing medication management investigate any known loss or unaccounted for prescription drugs and take appropriate action required under state or federal regulations and document the investigation in required records.

#### Sec. 19. **[144L.18] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

Subdivision 1. **Treatment and therapy management services.** This section applies only to assisted living facilities that provide comprehensive assisted living services.

Subd. 2. **Policies and procedures.** (a) An assisted living facility that provides treatment and therapy management services must develop, implement, and maintain up-to-date written treatment or therapy management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse or appropriate licensed health professional consistent with current practice standards and guidelines.

(b) The written policies and procedures must address requesting and receiving orders or prescriptions for treatments or therapies, providing the treatment or therapy, documenting treatment or therapy activities, educating and communicating with residents about treatments or therapies they are receiving, monitoring and evaluating the treatment or therapy, and communicating with the prescriber.

Subd. 3. **Individualized treatment or therapy management plan.** For each resident receiving management of ordered or prescribed treatments or therapy services, the assisted living facility must prepare and include in the service plan a written statement of the treatment or therapy services that will be provided to the resident. The facility must also develop and maintain a current individualized treatment and therapy management record for each resident which must contain at least the following:

- (1) a statement of the type of services that will be provided;
- (2) documentation of specific resident instructions relating to the treatments or therapy administration;
- (3) identification of treatment or therapy tasks that will be delegated to unlicensed personnel;
- (4) procedures for notifying a registered nurse or appropriate licensed health professional when a problem arises with treatments or therapy services; and
- (5) any resident-specific requirements relating to documentation of treatment and therapy received, verification that all treatment and therapy was administered as prescribed, and monitoring of treatment or therapy to prevent possible complications or adverse reactions. The treatment or therapy management record must be current and updated when there are any changes.

**Subd. 4. Administration of treatments and therapy.** Ordered or prescribed treatments or therapies must be administered by a nurse, physician, or other licensed health professional authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed personnel by the licensed health professional according to the appropriate practice standards for delegation or assignment. When administration of a treatment or therapy is delegated or assigned to unlicensed personnel, the facility must ensure that the registered nurse or authorized licensed health professional has:

- (1) instructed the unlicensed personnel in the proper methods with respect to each resident and the unlicensed personnel has demonstrated the ability to competently follow the procedures;
- (2) specified, in writing, specific instructions for each resident and documented those instructions in the resident's record; and
- (3) communicated with the unlicensed personnel about the individual needs of the resident.

**Subd. 5. Documentation of administration of treatments and therapies.** Each treatment or therapy administered by an assisted living facility must be in the resident's record. The documentation must include the signature and title of the person who administered the treatment or therapy and must include the date and time of administration. When treatment or therapies are not administered as ordered or prescribed, the provider must document the reason why it was not administered and any follow-up procedures that were provided to meet the resident's needs.

**Subd. 6. Treatment and therapy orders.** There must be an up-to-date written or electronically recorded order from an authorized prescriber for all treatments and therapies. The order must contain the name of the resident, a description of the treatment or therapy to be provided, and the frequency, duration, and other information needed to administer the treatment or therapy. Treatment and therapy orders must be renewed at least every 12 months.

**Subd. 7. Right to outside service provider; other payors.** Under section 144J.02, a resident is free to retain therapy and treatment services from an off-site service provider. Assisted living facilities must make every effort to assist residents in obtaining information regarding whether the Medicare program, the medical assistance program under chapter 256B, or another public program will pay for any or all of the services.

Sec. 20. **[144I.19] RESIDENT RECORD REQUIREMENTS.**

**Subdivision 1. Resident record.** (a) The facility must maintain records for each resident for whom it is providing services. Entries in the resident records must be current, legible, permanently recorded, dated, and authenticated with the name and title of the person making the entry.

(b) Resident records, whether written or electronic, must be protected against loss, tampering, or unauthorized disclosure in compliance with chapter 13 and other applicable relevant federal and state laws. The facility shall establish and implement written procedures to control use, storage, and security of resident's records and establish criteria for release of resident information.

(c) The facility may not disclose to any other person any personal, financial, or medical information about the resident, except:

(1) as may be required by law;

(2) to employees or contractors of the facility, another facility, other health care practitioner or provider, or inpatient facility needing information in order to provide services to the resident, but only the information that is necessary for the provision of services;

(3) to persons authorized in writing by the resident or the resident's representative to receive the information, including third-party payers; and

(4) to representatives of the commissioner authorized to survey or investigate facilities under this chapter or federal laws.

Subd. 2. **Access to records.** The facility must ensure that the appropriate records are readily available to employees and contractors authorized to access the records. Resident records must be maintained in a manner that allows for timely access, printing, or transmission of the records. The records must be made readily available to the commissioner upon request.

Subd. 3. **Contents of resident record.** Contents of a resident record include the following for each resident:

(1) identifying information, including the resident's name, date of birth, address, and telephone number;

(2) the name, address, and telephone number of an emergency contact, family members, designated representative, if any, or others as identified;

(3) names, addresses, and telephone numbers of the resident's health and medical service providers, if known;

(4) health information, including medical history, allergies, and when the provider is managing medications, treatments or therapies that require documentation, and other relevant health records;

(5) the resident's advance directives, if any;

(6) copies of any health care directives, guardianships, powers of attorney, or conservatorships;

(7) the facility's current and previous assessments and service plans;

(8) all records of communications pertinent to the resident's services;

(9) documentation of significant changes in the resident's status and actions taken in response to the needs of the resident, including reporting to the appropriate supervisor or health care professional;

(10) documentation of incidents involving the resident and actions taken in response to the needs of the resident, including reporting to the appropriate supervisor or health care professional;

(11) documentation that services have been provided as identified in the service plan;

(12) documentation that the resident has received and reviewed the assisted living bill of rights;

(13) documentation of complaints received and any resolution;

(14) a discharge summary, including service termination notice and related documentation, when applicable; and

(15) other documentation required under this chapter and relevant to the resident's services or status.

**Subd. 4. Transfer of resident records.** If a resident transfers to another facility or another health care practitioner or provider, or is admitted to an inpatient facility, the facility, upon request of the resident or the resident's representative, shall take steps to ensure a coordinated transfer including sending a copy or summary of the resident's record to the new facility or the resident, as appropriate.

**Subd. 5. Record retention.** Following the resident's discharge or termination of services, a facility must retain a resident's record for at least five years or as otherwise required by state or federal regulations. Arrangements must be made for secure storage and retrieval of resident records if the facility ceases to operate.

Sec. 21. **[144I.20] ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.**

**Subdivision 1. Orientation of staff and supervisors.** All staff providing and supervising direct services must complete an orientation to facility licensing requirements and regulations before providing services to residents. The orientation may be incorporated into the training required under subdivision 6. The orientation need only be completed once for each staff person and is not transferable to another facility.

**Subd. 2. Content.** (a) The orientation must contain the following topics:

(1) an overview of this chapter;

(2) an introduction and review of the facility's policies and procedures related to the provision of assisted living services by the individual staff person;

(3) handling of emergencies and use of emergency services;

(4) compliance with and reporting of the maltreatment of vulnerable adults under section 626.557, including information on the Minnesota Adult Abuse Reporting Center;

(5) assisted living bill of rights under section 144J.02;

(6) protection-related rights under section 144I.10, subdivision 8, and staff responsibilities related to ensuring the exercise and protection of those rights;

(7) the principles of person-centered service planning and delivery and how they apply to direct support services provided by the staff person;

(8) handling of residents' complaints, reporting of complaints, and where to report complaints, including information on the Office of Health Facility Complaints;

(9) consumer advocacy services of the Office of Ombudsman for Long-Term Care, Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care Ombudsman at the Department of Human Services, county-managed care advocates, or other relevant advocacy services; and

(10) a review of the types of assisted living services the employee will be providing and the facility's category of licensure.

(b) In addition to the topics in paragraph (a), orientation may also contain training on providing services to residents with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and the challenges it poses to communication;

(2) health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

**Subd. 3. Verification and documentation of orientation.** Each facility shall retain evidence in the employee record of each staff person having completed the orientation required by this section.

**Subd. 4. Orientation to resident.** Staff providing services must be oriented specifically to each individual resident and the services to be provided. This orientation may be provided in person, orally, in writing, or electronically.

**Subd. 5. Training required relating to dementia.** All direct care staff and supervisors providing direct services must receive training that includes a current explanation of Alzheimer's disease and related disorders, effective approaches to use to problem solve when working with a resident's challenging behaviors, and how to communicate with residents who have dementia or related memory disorders.

**Subd. 6. Required annual training.** (a) All staff that perform direct services must complete at least eight hours of annual training for each 12 months of employment. The training may be obtained from the facility or another source and must include topics relevant to the provision of assisted living services. The annual training must include:

(1) training on reporting of maltreatment of vulnerable adults under section 626.557;

(2) review of the assisted living bill of rights in section 144J.02;

(3) review of infection control techniques used in the home and implementation of infection control standards including a review of hand washing techniques; the need for and use of protective gloves, gowns, and masks; appropriate disposal of contaminated materials and equipment, such as dressings, needles, syringes, and razor blades; disinfecting reusable equipment; disinfecting environmental surfaces; and reporting communicable diseases;

(4) effective approaches to use to problem solve when working with a resident's challenging behaviors, and how to communicate with residents who have Alzheimer's disease or related disorders;

(5) review of the facility's policies and procedures relating to the provision of assisted living services and how to implement those policies and procedures;

(6) review of protection-related rights as stated in section 144I.10, subdivision 8, and staff responsibilities related to ensuring the exercise and protection of those rights; and

(7) the principles of person-centered service planning and delivery and how they apply to direct support services provided by the staff person.

(b) In addition to the topics in paragraph (a), annual training may also contain training on providing services to residents with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and challenges it poses to communication;

(2) the health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

Subd. 7. **Documentation.** A facility must retain documentation in the employee records of staff who have satisfied the orientation and training requirements of this section.

Subd. 8. **Implementation.** A facility must implement all orientation and training topics covered in this section.

Sec. 22. **[144I.21] TRAINING IN DEMENTIA CARE REQUIRED.**

(a) Assisted living facilities and assisted living facilities with dementia care must meet the following training requirements:

(1) supervisors of direct-care staff must have at least eight hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(2) direct-care employees must have completed at least eight hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial eight hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b) or a supervisor meeting the requirements in clause (1) must be available for consultation with the new employee until the training requirement is complete. Direct-care employees must have at least two hours of training on topics related to dementia for each 12 months of employment thereafter;

(3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

(4) new employees may satisfy the initial training requirements by producing written proof of previously completed required training within the past 18 months.

(b) Areas of required training include:

(1) an explanation of Alzheimer's disease and related disorders;

(2) assistance with activities of daily living;

(3) problem solving with challenging behaviors; and

(4) communication skills.

(c) The facility shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered.

Sec. 23. **[144I.22] CONTROLLING INDIVIDUAL RESTRICTIONS.**

Subdivision 1. **Restrictions.** The controlling individual of a facility may not include any person who was a controlling individual of any other nursing home, assisted living facility, or assisted living facility with dementia care during any period of time in the previous two-year period:

(1) during which time of control the nursing home, assisted living facility, or assisted living facility with dementia care incurred the following number of uncorrected or repeated violations:

(i) two or more uncorrected violations or one or more repeated violations that created an imminent risk to direct resident care or safety; or

(ii) four or more uncorrected violations or two or more repeated violations of any nature, including Level 2, Level 3, and Level 4 violations as defined in section 144I.31; or

(2) who, during that period, was convicted of a felony or gross misdemeanor that relates to the operation of the nursing home, assisted living facility, or assisted living facility with dementia care, or directly affects resident safety or care.

Subd. 2. **Exception.** Subdivision 1 does not apply to any controlling individual of the facility who had no legal authority to affect or change decisions related to the operation of the nursing home, assisted living facility, or assisted living facility with dementia care that incurred the uncorrected violations.

Subd. 3. **Stay of adverse action required by controlling individual restrictions.** (a) In lieu of revoking, suspending, or refusing to renew the license of a facility where a controlling individual was disqualified by subdivision 1, clause (1), the commissioner may issue an order staying the revocation, suspension, or nonrenewal of the facility's license. The order may but need not be contingent upon the facility's compliance with restrictions and conditions imposed on the license to ensure the proper operation of the facility and to protect the health, safety, comfort, treatment, and well-being of the residents in the facility. The decision to issue an order for a stay must be made within 90 days of the commissioner's determination that a controlling individual of the facility is disqualified by subdivision 1, clause (1), from operating a facility.

(b) In determining whether to issue a stay and to impose conditions and restrictions, the commissioner must consider the following factors:



(1) the ability of the controlling individual to operate other facilities in accordance with the licensure rules and laws;

(2) the conditions in the nursing home, assisted living facility, or assisted living facility with dementia care that received the number and type of uncorrected or repeated violations described in subdivision 1, clause (1); and

(3) the conditions and compliance history of each of the nursing homes, assisted living facilities, and assisted living facilities with dementia care owned or operated by the controlling individuals.

(c) The commissioner's decision to exercise the authority under this subdivision in lieu of revoking, suspending, or refusing to renew the license of the facility is not subject to administrative or judicial review.

(d) The order for the stay of revocation, suspension, or nonrenewal of the facility license must include any conditions and restrictions on the license that the commissioner deems necessary based on the factors listed in paragraph (b).

(e) Prior to issuing an order for stay of revocation, suspension, or nonrenewal, the commissioner shall inform the controlling individual in writing of any conditions and restrictions that will be imposed. The controlling individual shall, within ten working days, notify the commissioner in writing of a decision to accept or reject the conditions and restrictions. If the facility rejects any of the conditions and restrictions, the commissioner must either modify the conditions and restrictions or take action to suspend, revoke, or not renew the facility's license.

(f) Upon issuance of the order for a stay of revocation, suspension, or nonrenewal, the controlling individual shall be responsible for compliance with the conditions and restrictions. Any time after the conditions and restrictions have been in place for 180 days, the controlling individual may petition the commissioner for removal or modification of the conditions and restrictions. The commissioner must respond to the petition within 30 days of receipt of the written petition. If the commissioner denies the petition, the controlling individual may request a hearing under the provisions of chapter 14. Any hearing shall be limited to a determination of whether the conditions and restrictions shall be modified or removed. At the hearing, the controlling individual bears the burden of proof.

(g) The failure of the controlling individual to comply with the conditions and restrictions contained in the order for stay shall result in the immediate removal of the stay and the commissioner shall take action to suspend, revoke, or not renew the license.

(h) The conditions and restrictions are effective for two years after the date they are imposed.

(i) Nothing in this subdivision shall be construed to limit in any way the commissioner's ability to impose other sanctions against a facility licensee under the standards in state or federal law whether or not a stay of revocation, suspension, or nonrenewal is issued.

Sec. 24. **[144I.23] MANAGEMENT AGREEMENTS; GENERAL REQUIREMENTS.**

Subdivision 1. **Notification.** (a) If the proposed or current licensee uses a manager, the licensee must have a written management agreement that is consistent with this chapter.

(b) The proposed or current licensee must notify the commissioner of its use of a manager upon:

(1) initial application for a license;

(2) retention of a manager following initial application;

(3) change of managers; and

(4) modification of an existing management agreement.

(c) The proposed or current licensee must provide to the commissioner a written management agreement, including an organizational chart showing the relationship between the proposed or current licensee, management company, and all related organizations.

(d) The written management agreement must be submitted:

(1) 60 days before:

(i) the initial licensure date;

(ii) the proposed change of ownership date; or

(iii) the effective date of the management agreement; or

(2) 30 days before the effective date of any amendment to an existing management agreement.

(e) The proposed licensee or the current licensee must notify the residents and their representatives 60 days before entering into a new management agreement.

(f) A proposed licensee must submit a management agreement.

**Subd. 2. Management agreement; licensee.** (a) The licensee is legally responsible for:

(1) the daily operations and provisions of services in the facility;

(2) ensuring the facility is operated in a manner consistent with all applicable laws and rules;

(3) ensuring the manager acts in conformance with the management agreement; and

(4) ensuring the manager does not present as, or give the appearance that the manager is the licensee.

(b) The licensee must not give the manager responsibilities that are so extensive that the licensee is relieved of daily responsibility for the daily operations and provision of services in the assisted living facility. If the licensee does so, the commissioner must determine that a change of ownership has occurred.

(c) The licensee and manager must act in accordance with the terms of the management agreement. If the commissioner determines they are not, then the department may impose enforcement remedies.

(d) The licensee may enter into a management agreement only if the management agreement creates a principal/agent relationship between the licensee and manager.

(e) The manager shall not subcontract the manager's responsibilities to a third party.

**Subd. 3. Terms of agreement.** A management agreement at a minimum must:

(1) describe the responsibilities of the licensee and manager, including items, services, and activities to be provided;

- (2) require the licensee's governing body, board of directors, or similar authority to appoint the administrator;
- (3) provide for the maintenance and retention of all records in accordance with this chapter and other applicable laws;
- (4) allow unlimited access by the commissioner to documentation and records according to applicable laws or regulations;
- (5) require the manager to immediately send copies of inspections and notices of noncompliance to the licensee;
- (6) state that the licensee is responsible for reviewing, acknowledging, and signing all facility initial and renewal license applications;
- (7) state that the manager and licensee shall review the management agreement annually and notify the commissioner of any change according to applicable regulations;
- (8) acknowledge that the licensee is the party responsible for complying with all laws and rules applicable to the facility;
- (9) require the licensee to maintain ultimate responsibility over personnel issues relating to the operation of the facility and care of the residents including but not limited to staffing plans, hiring, and performance management of employees, orientation, and training;
- (10) state the manager will not present as, or give the appearance that the manager is the licensee; and
- (11) state that a duly authorized manager may execute resident leases or agreements on behalf of the licensee, but all such resident leases or agreements must be between the licensee and the resident.

Subd. 4. **Commissioner review.** The commissioner may review a management agreement at any time. Following the review, the department may require:

- (1) the proposed or current licensee or manager to provide additional information or clarification;
- (2) any changes necessary to:
  - (i) bring the management agreement into compliance with this chapter; and
  - (ii) ensure that the licensee has not been relieved of the legal responsibility for the daily operations of the facility; and
- (3) the licensee to participate in monthly meetings and quarterly on-site visits to the facility.

Subd. 5. **Resident funds.** (a) If the management agreement delegates day-to-day management of resident funds to the manager, the licensee:

- (1) retains all fiduciary and custodial responsibility for funds that have been deposited with the facility by the resident;
- (2) is directly accountable to the resident for such funds; and

(3) must ensure any party responsible for holding or managing residents' personal funds is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident funds and provides proof of bond or insurance.

(b) If responsibilities for the day-to-day management of the resident funds are delegated to the manager, the manager must:

(1) provide the licensee with a monthly accounting of the resident funds; and

(2) meet all legal requirements related to holding and accounting for resident funds.

Sec. 25. **[144L.24] MINIMUM SITE, PHYSICAL ENVIRONMENT, AND FIRE SAFETY REQUIREMENTS.**

Subdivision 1. **Requirements.** (a) Effective August 1, 2021, the following are required for all assisted living facilities and assisted living facilities with dementia care:

(1) public utilities must be available, and working or inspected and approved water and septic systems are in place;

(2) the location is publicly accessible to fire department services and emergency medical services;

(3) the location's topography provides sufficient natural drainage and is not subject to flooding;

(4) all-weather roads and walks must be provided within the lot lines to the primary entrance and the service entrance, including employees' and visitors' parking at the site; and

(5) the location must include space for outdoor activities for residents.

(b) An assisted living facility with a dementia care unit must also meet the following requirements:

(1) a hazard vulnerability assessment or safety risk must be performed on and around the property. The hazards indicated on the assessment must be assessed and mitigated to protect the residents from harm; and

(2) the facility shall be protected throughout by an approved supervised automatic sprinkler system by August 1, 2029.

Subd. 2. **Fire protection and physical environment.** (a) Effective December 31, 2019, each assisted living facility and assisted living facility with dementia care must have a comprehensive fire protection system that includes:

(1) protection throughout by an approved supervised automatic sprinkler system according to building code requirements established in Minnesota Rules, part 1305.0903, or smoke detectors in each occupied room installed and maintained in accordance with the National Fire Protection Association (NFPA) Standard 72;

(2) portable fire extinguishers installed and tested in accordance with the NFPA Standard 10; and

(3) the physical environment, including walls, floors, ceiling, all furnishings, grounds, systems, and equipment must be kept in a continuous state of good repair and operation with regard to the health, safety, comfort, and well-being of the residents in accordance with a maintenance and repair program.

(b) Beginning August 1, 2021, fire drills shall be conducted in accordance with the residential board and care requirements in the Life Safety Code.

Subd. 3. **Local laws apply.** Assisted living facilities shall comply with all applicable state and local governing laws, regulations, standards, ordinances, and codes for fire safety, building, and zoning requirements.

Subd. 4. **Assisted living facilities; design.** (a) After July 31, 2021, all assisted living facilities with six or more residents must meet the provisions relevant to assisted living facilities of the most current edition of the Facility Guidelines Institute "Guidelines for Design and Construction of Residential Health, Care and Support Facilities" and of adopted rules. This minimum design standard shall be met for all new licenses, new construction, modifications, renovations, alterations, change of use, or additions. In addition to the guidelines, assisted living facilities, and assisted living facilities with dementia care shall provide the option of a bath in addition to a shower for all residents.

(b) The commissioner shall establish an implementation timeline for mandatory usage of the latest published guidelines. However, the commissioner shall not enforce the latest published guidelines before six months after the date of publication.

Subd. 5. **Assisted living facilities; life safety code.** (a) After August 1, 2021, all assisted living facilities with six or more residents shall meet the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety Code, Residential Board and Care Occupancies chapter. This minimum design standard shall be met for all new licenses, new construction, modifications, renovations, alterations, change of use, or additions.

(b) The commissioner shall establish an implementation timeline for mandatory usage of the latest published Life Safety Code. However, the commissioner shall not enforce the latest published guidelines before six months after the date of publication.

Subd. 6. **Assisted living facilities with dementia care units; life safety code.** (a) Beginning August 1, 2021, all assisted living facilities with dementia care units shall meet the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety Code, Healthcare (limited care) chapter. This minimum design standard shall be met for all new licenses, new construction, modifications, renovations, alterations, change of use or additions.

(b) The commissioner shall establish an implementation timeline for mandatory usage of the newest-published Life Safety Code. However, the commissioner shall not enforce the newly-published guidelines before 6 months after the date of publication.

Subd. 7. **New construction; plans.** (a) For all new licensure and construction beginning on or after August 1, 2021, the following must be provided to the commissioner:

(1) architectural and engineering plans and specifications for new construction must be prepared and signed by architects and engineers who are registered in Minnesota. Final working drawings and specifications for proposed construction must be submitted to the commissioner for review and approval;

(2) final architectural plans and specifications must include elevations and sections through the building showing types of construction, and must indicate dimensions and assignments of rooms and areas, room finishes, door types and hardware, elevations and details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts of dietary and laundry areas. Plans must show the location of fixed equipment and sections and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions must be indicated. The roof plan must show all mechanical installations. The site plan must indicate the proposed and existing buildings, topography, roadways, walks and utility service lines; and

(3) final mechanical and electrical plans and specifications must address the complete layout and type of all installations, systems, and equipment to be provided. Heating plans must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers, boilers, breeching and accessories. Ventilation plans must include room air quantities, ducts, fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing plans must include the fixtures and equipment fixture schedule; water supply and circulating piping, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation of water and sewer services; and the building fire protection systems. Electrical plans must include fixtures and equipment, receptacles, switches, power outlets, circuits, power and light panels, transformers, and service feeders. Plans must show location of nurse call signals, cable lines, fire alarm stations, and fire detectors and emergency lighting.

(b) Unless construction is begun within one year after approval of the final working drawing and specifications, the drawings must be resubmitted for review and approval.

(c) The commissioner must be notified within 30 days before completion of construction so that the commissioner can make arrangements for a final inspection by the commissioner.

(d) At least one set of complete life safety plans, including changes resulting from remodeling or alterations, must be kept on file in the facility.

Subd. 8. **Variations or waivers.** (a) A facility may request that the commissioner grant a variance or waiver from the provisions of this section. A request for a waiver must be submitted to the commissioner in writing. Each request must contain:

(1) the specific requirement for which the variance or waiver is requested;

(2) the reasons for the request;

(3) the alternative measures that will be taken if a variance or waiver is granted;

(4) the length of time for which the variance or waiver is requested; and

(5) other relevant information deemed necessary by the commissioner to properly evaluate the request for the waiver.

(b) The decision to grant or deny a variance or waiver must be based on the commissioner's evaluation of the following criteria:

(1) whether the waiver will adversely affect the health, treatment, comfort, safety, or well-being of a patient;

(2) whether the alternative measures to be taken, if any, are equivalent to or superior to those prescribed in this section; and

(3) whether compliance with the requirements would impose an undue burden on the applicant.

(c) The commissioner must notify the applicant in writing of the decision. If a variance or waiver is granted, the notification must specify the period of time for which the variance or waiver is effective and the alternative measures or conditions, if any, to be met by the applicant.

(d) Alternative measures or conditions attached to a variance or waiver have the force and effect of this chapter and are subject to the issuance of correction orders and fines in accordance with sections 144I.30, subdivision 7, and 144I.31. The amount of fines for a violation of this section is that specified for the specific requirement for which the variance or waiver was requested.

(e) A request for the renewal of a variance or waiver must be submitted in writing at least 45 days before its expiration date. Renewal requests must contain the information specified in paragraph (b). A variance or waiver must be renewed by the department if the applicant continues to satisfy the criteria in paragraph (a) and demonstrates compliance with the alternative measures or conditions imposed at the time the original variance or waiver was granted.

(f) The department must deny, revoke, or refuse to renew a variance or waiver if it is determined that the criteria in paragraph (a) are not met. The applicant must be notified in writing of the reasons for the decision and informed of the right to appeal the decision.

(g) An applicant may contest the denial, revocation, or refusal to renew a variance or waiver by requesting a contested case hearing under chapter 14. The applicant must submit, within 15 days of the receipt of the department's decision, a written request for a hearing. The request for hearing must set forth in detail the reasons why the applicant contends the decision of the department should be reversed or modified. At the hearing, the applicant has the burden of proving by a preponderance of the evidence that the applicant satisfied the criteria specified in paragraph (b), except in a proceeding challenging the revocation of a variance or waiver.

Sec. 26. **[144I.25] RESIDENCY AND SERVICES CONTRACT REQUIREMENTS.**

Subdivision 1. **Contract required.** (a) An assisted living facility or assisted living facility with dementia care may not offer or provide housing or services to a resident unless it has executed a written contract with the resident.

(b) The contract must:

(1) be signed by both:

(i) the resident or the designated representative; and

(ii) the licensee or an agent of the facility; and

(2) contain all the terms concerning the provision of:

(i) housing; and

(ii) services, whether provided directly by the facility or by management agreement.

(c) A facility must:

(1) offer to prospective residents and provide to the Office of Ombudsman for Long-Term Care a complete unsigned copy of its contract; and

(2) give a complete copy of any signed contract and any addendums, and all supporting documents and attachments, to the resident or the designated representative promptly after a contract and any addendum has been signed by the resident or the designated representative.

(d) A contract under this section is a consumer contract under sections 325G.29 to 325G.37.

(e) Before or at the time of execution of the contract, the facility must offer the resident the opportunity to identify a designated or resident representative or both in writing in the contract. The contract must contain a page or space for the name and contact information of the designated or resident representative or both and a box the

resident must initial if the resident declines to name a designated or resident representative. Notwithstanding paragraph (f), the resident has the right at any time to rescind the declination or add or change the name and contact information of the designated or resident representative.

(f) The resident must agree in writing to any additions or amendments to the contract. Upon agreement between the resident or resident's designated representative and the facility, a new contract or an addendum to the existing contract must be executed and signed.

**Subd. 2. Contents and contract; contact information.** (a) The contract must include in a conspicuous place and manner on the contract the legal name and the license number of the facility.

(b) The contract must include the name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

(1) the facility and contracted service provider when applicable;

(2) the licensee of the facility;

(3) the managing agent of the facility, if applicable; and

(4) at least one natural person who is authorized to accept service of process on behalf of the facility.

(c) The contract must include:

(1) a description of all the terms and conditions of the contract, including a description of and any limitations to the housing and/or services to be provided for the contracted amount;

(2) a delineation of the cost and nature of any other services to be provided for an additional fee;

(3) a delineation and description of any additional fees the resident may be required to pay if the resident's condition changes during the term of the contract;

(4) a delineation of the grounds under which the resident may be discharged, evicted, or transferred or have services terminated; and

(5) billing and payment procedures and requirements.

(d) The contract must include a description of the facility's complaint resolution process available to residents, including the name and contact information of the person representing the facility who is designated to handle and resolve complaints.

(e) The contract must include a clear and conspicuous notice of:

(1) the right under section 144J.09 to challenge a discharge, eviction, or transfer or service termination;

(2) the facility's policy regarding transfer of residents within the facility, under what circumstances a transfer may occur, and whether or not consent of the resident being asked to transfer is required;

(3) contact information for the Office of Ombudsman for Long-Term Care, the Ombudsman for Mental Health and Developmental Disabilities, and the Office of Health Facility Complaints;



(4) the resident's right to obtain services from an unaffiliated service provider;

(5) a description of the assisted living facility's policies related to medical assistance waivers under sections 256B.0915 and 256B.49, including:

(i) whether the provider is enrolled with the commissioner of human services to provide customized living services under medical assistance waivers;

(ii) whether there is a limit on the number of people residing at the assisted living facility who can receive customized living services at any point in time. If so, the limit must be provided;

(iii) whether the assisted living facility requires a resident to pay privately for a period of time prior to accepting payment under medical assistance waivers, and if so, the length of time that private payment is required;

(iv) a statement that medical assistance waivers provide payment for services, but do not cover the cost of rent;

(v) a statement that residents may be eligible for assistance with rent through the housing support program; and

(vi) a description of the rent requirements for people who are eligible for medical assistance waivers but who are not eligible for assistance through the housing support program;

(6) the contact information to obtain long-term care consulting services under section 256B.0911; and

(7) the toll-free phone number for the Minnesota Adult Abuse Reporting Center.

(f) The contract must include a description of the facility's complaint resolution process available to residents, including the name and contact information of the person representing the facility who is designated to handle and resolve complaints.

**Subd. 3. Additional contract requirements.** (a) Assisted living facility and assisted living facility with dementia care contracts must include the requirements in paragraph (b). A restriction of a resident's rights under this subdivision is allowed only if determined necessary for health and safety reasons identified by the facility's registered nurse in an initial assessment or reassessment, under section 144I.15, subdivision 9, and documented in the written service plan under section 144I.15, subdivision 10. Any restrictions of those rights for individuals served under sections 256B.0915 and 256B.49 must be documented in the resident's coordinated service and support plan (CSSP), as defined under sections 256B.0915, subdivision 6, and 256B.49, subdivision 15.

(b) The contract must include a statement:

(1) regarding the ability of a resident to furnish and decorate the resident's unit within the terms of the lease;

(2) regarding the resident's right to access food at any time;

(3) regarding a resident's right to choose the resident's visitors and times of visits;

(4) regarding the resident's right to choose a roommate if sharing a unit; and

(5) notifying the resident of the resident's right to have and use a lockable door to the resident's unit. The landlord shall provide the locks on the unit. Only a staff member with a specific need to enter the unit shall have keys, and advance notice must be given to the resident before entrance, when possible.

Subd. 4. **Filing.** The contract and related documents executed by each resident or the designated representative must be maintained by the facility in files from the date of execution until three years after the contract is terminated or expires. The contracts and all associated documents will be available for on-site inspection by the commissioner at any time. The documents shall be available for viewing or copies shall be made available to the resident and the designated representative at any time.

Subd. 5. **Waivers of liability prohibited.** The contract must not include a waiver of facility liability for the health and safety or personal property of a resident. The contract must not include any provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor include any provision that requires or implies a lesser standard of care or responsibility than is required by law.

Sec. 27. **[144I.27] PLANNED CLOSURES.**

Subdivision 1. **Closure plan required.** In the event that a facility elects to voluntarily close the facility, the facility must notify the commissioner and the Office of Ombudsman for Long-Term Care in writing by submitting a proposed closure plan.

Subd. 2. **Content of closure plan.** The facility's proposed closure plan must include:

(1) the procedures and actions the facility will implement to notify residents of the closure, including a copy of the written notice to be given to residents, designated representatives, resident representatives, or family;

(2) the procedures and actions the facility will implement to ensure all residents receive appropriate termination planning in accordance with section 144J.10, subdivisions 1 to 6, and final accountings and returns under section 144J.10, subdivision 7;

(3) assessments of the needs and preferences of individual residents; and

(4) procedures and actions the facility will implement to maintain compliance with this chapter until all residents have relocated.

Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan shall be subject to the commissioner's approval and subdivision 6. The facility shall take no action to close the residence prior to the commissioner's approval of the plan. The commissioner shall approve or otherwise respond to the plan as soon as practicable.

(b) The commissioner of health may require the facility to work with a transitional team comprised of department staff, staff of the Office of Ombudsman for Long-Term Care, and other professionals the commissioner deems necessary to assist in the proper relocation of residents.

Subd. 4. **Termination planning and final accounting requirements.** Prior to termination, the facility must follow the termination planning requirements under section 144J.10, subdivisions 1 to 6, and final accounting and return requirements under section 144J.10, subdivision 7, for residents. The facility must implement the plan approved by the commissioner and ensure that arrangements for relocation and continued care that meet each resident's social, emotional, and health needs are effectuated prior to closure.

Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan and at least 60 calendar days before closing, except as provided under subdivision 6, the facility must notify residents, designated representatives, and resident representatives or, if a resident has no designated representative or resident representative, a family member, if known, of the closure, the proposed date of closure, the contact information of the ombudsman for long-term care, and that the facility will follow the termination planning requirements under section 144J.10, subdivisions 1 to 6, and final accounting and return requirements under section 144J.10, subdivision 7.

Subd. 6. **Emergency closures.** (a) In the event the facility must close because the commissioner deems the facility can no longer remain open, the facility must meet all requirements in subdivisions 1 to 5, except for any requirements the commissioner finds would endanger the health and safety of residents. In the event the commissioner determines a closure must occur with less than 60 calendar days' notice, the facility shall provide notice to residents as soon as practicable or as directed by the commissioner.

(b) Upon request from the commissioner, a facility must provide the commissioner with any documentation related to the appropriateness of its relocation plan, or to any assertion that the facility lacks the funds to comply with subdivision 1 to 5, or that remaining open would otherwise endanger the health and safety of residents pursuant to paragraph (a).

Subd. 7. **Other rights.** Nothing in this section or section 144J.08 or 144J.10 affects the rights and remedies available under chapter 504B, except to the extent those rights or remedies are inconsistent with this section.

Subd. 8. **Fine.** The commissioner may impose a fine for failure to follow the requirements of this section or section 144J.08 or 144J.10.

Sec. 28. **[144I.28] RELOCATIONS WITHIN ASSISTED LIVING LOCATION.**

Subdivision 1. **Notice required before relocation within location.** (a) A facility must:

(1) notify a resident and the resident's representative, if any, at least 14 calendar days prior to a proposed nonemergency relocation to a different room at the same location; and

(2) obtain consent from the resident and the resident's representative, if any.

(b) A resident must be allowed to stay in the resident's room. If a resident consents to a move, any needed reasonable modifications must be made to the new room to accommodate the resident's disabilities.

Subd. 2. **Evaluation.** A facility shall evaluate the resident's individual needs before deciding whether the room the resident will be moved to fits the resident's psychological, cognitive, and health care needs, including the accessibility of the bathroom.

Subd. 3. **Restriction on relocation.** A person who has been a private-pay resident for at least one year and resides in a private room, and whose payments subsequently will be made under the medical assistance program under chapter 256B, may not be relocated to a shared room without the consent of the resident or the resident's representative, if any.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 29. **[144I.29] COMMISSIONER OVERSIGHT AND AUTHORITY.**

Subdivision 1. **Regulations.** The commissioner shall regulate facilities pursuant to this chapter. The regulations shall include the following:

(1) provisions to assure, to the extent possible, the health, safety, well-being, and appropriate treatment of residents while respecting individual autonomy and choice;

(2) requirements that facilities furnish the commissioner with specified information necessary to implement this chapter;

- (3) standards of training of facility personnel;
- (4) standards for provision of services;
- (5) standards for medication management;
- (6) standards for supervision of services;
- (7) standards for resident evaluation or assessment;
- (8) standards for treatments and therapies;
- (9) requirements for the involvement of a resident's health care provider, the documentation of the health care provider's orders, if required, and the resident's service plan;
- (10) the maintenance of accurate, current resident records;
- (11) the establishment of levels of licenses based on services provided; and
- (12) provisions to enforce these regulations and the assisted living bill of rights.

Subd. 2. **Regulatory functions.** (a) The commissioner shall:

- (1) license, survey, and monitor without advance notice facilities in accordance with this chapter;
  - (2) survey every provisional licensee within one year of the provisional license issuance date subject to the provisional licensee providing licensed services to residents;
  - (3) survey facility licensees annually;
  - (4) investigate complaints of facilities;
  - (5) issue correction orders and assess civil penalties;
  - (6) take action as authorized in section 144I.33; and
  - (7) take other action reasonably required to accomplish the purposes of this chapter.
- (b) Beginning August 1, 2021, the commissioner shall review blueprints for all new facility construction and must approve the plans before construction may be commenced.
- (c) The commissioner shall provide on-site review of the construction to ensure that all physical environment standards are met before the facility license is complete.

Sec. 30. **[144I.30] SURVEYS AND INVESTIGATIONS.**

Subdivision 1. **Regulatory powers.** (a) The Department of Health is the exclusive state agency charged with the responsibility and duty of surveying and investigating all facilities required to be licensed under this chapter. The commissioner of health shall enforce all sections of this chapter and the rules adopted under this chapter.

(b) The commissioner, upon request of the facility, must be given access to relevant information, records, incident reports, and other documents in the possession of the facility if the commissioner considers them necessary for the discharge of responsibilities. For purposes of surveys and investigations and securing information to determine compliance with licensure laws and rules, the commissioner need not present a release, waiver, or consent to the individual. The identities of residents must be kept private as defined in section 13.02, subdivision 12.

Subd. 2. **Surveys.** The commissioner shall conduct surveys of each assisted living facility and assisted living facility with dementia care. The commissioner shall conduct a survey of each facility on a frequency of at least once each year. The commissioner may conduct surveys more frequently than once a year based on the license level, the provider's compliance history, the number of clients served, or other factors as determined by the department deemed necessary to ensure the health, safety, and welfare of residents and compliance with the law.

Subd. 3. **Follow-up surveys.** The commissioner may conduct follow-up surveys to determine if the facility has corrected deficient issues and systems identified during a survey or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax, mail, or onsite reviews. Follow-up surveys, other than complaint investigations, shall be concluded with an exit conference and written information provided on the process for requesting a reconsideration of the survey results.

Subd. 4. **Scheduling surveys.** Surveys and investigations shall be conducted without advance notice to the facilities. Surveyors may contact the facility on the day of a survey to arrange for someone to be available at the survey site. The contact does not constitute advance notice. The surveyor must provide presurvey notification to the Office of Ombudsman for Long-Term Care.

Subd. 5. **Information provided by facility.** The facility shall provide accurate and truthful information to the department during a survey, investigation, or other licensing activities.

Subd. 6. **Providing resident records.** Upon request of a surveyor, facilities shall provide a list of current and past residents or designated representatives that includes addresses and telephone numbers and any other information requested about the services to residents within a reasonable period of time.

Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the commissioner finds upon survey or during a complaint investigation that a facility, a managerial official, or an employee of the provider is not in compliance with this chapter. The correction order shall cite the specific statute and document areas of noncompliance and the time allowed for correction.

(b) The commissioner shall mail or e-mail copies of any correction order to the facility within 30 calendar days after the survey exit date. A copy of each correction order and copies of any documentation supplied to the commissioner shall be kept on file by the facility and public documents shall be made available for viewing by any person upon request. Copies may be kept electronically.

(c) By the correction order date, the facility must document in the facility's records any action taken to comply with the correction order. The commissioner may request a copy of this documentation and the facility's action to respond to the correction order in future surveys, upon a complaint investigation, and as otherwise needed.

Subd. 8. **Required follow-up surveys.** For facilities that have Level 3 or Level 4 violations under section 144I.31, the department shall conduct a follow-up survey within 90 calendar days of the survey. When conducting a follow-up survey, the surveyor shall focus on whether the previous violations have been corrected and may also address any new violations that are observed while evaluating the corrections that have been made.

Sec. 31. **[144L.31] VIOLATIONS AND FINES.**

Subdivision 1. **Fine amounts.** (a) Fines and enforcement actions under this subdivision may be assessed based on the level and scope of the violations described in subdivision 2 as follows and imposed immediately with no opportunity to correct the violation prior to imposition:

(1) Level 1, no fines or enforcement;

(2) Level 2, a fine of \$500 per violation;

(3) Level 3, a fine of \$3,000 per violation per incident plus \$100 for each resident affected by the violation;

(4) Level 4, a fine of \$5,000 per incident plus \$200 for each resident; and

(5) for maltreatment violations as defined in the Minnesota Vulnerable Adults Act in section 626.557 including abuse, neglect, financial exploitation, and drug diversion that are determined against the facility, an immediate fine shall be imposed of \$5,000 per incident, plus \$200 for each resident affected by the violation.

Subd. 2. **Level and scope of violation.** Correction orders for violations are categorized by both level and scope, and fines shall be assessed as follows:

(1) level of violation:

(i) Level 1 is a violation that has no potential to cause more than a minimal impact on the resident and does not affect health or safety;

(ii) Level 2 is a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety, but was not likely to cause serious injury, impairment, or death;

(iii) Level 3 is a violation that harmed a resident's health or safety, not including serious injury, impairment, or death, or a violation that has the potential to lead to serious injury, impairment, or death; and

(iv) Level 4 is a violation that results in serious injury, impairment, or death; and

(2) scope of violation:

(i) isolated, when one or a limited number of residents are affected or one or a limited number of staff are involved or the situation has occurred only occasionally;

(ii) pattern, when more than a limited number of residents are affected, more than a limited number of staff are involved, or the situation has occurred repeatedly but is not found to be pervasive; and

(iii) widespread, when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the residents.

Subd. 3. **Notice of noncompliance.** If the commissioner finds that the applicant or a facility has not corrected violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigation, the commissioner shall provide a notice of noncompliance with a correction order by e-mailing the notice of noncompliance to the facility. The noncompliance notice must list the violations not corrected.

Subd. 4. **Immediate fine; payment.** (a) For every violation, the commissioner may issue an immediate fine. The licensee must still correct the violation in the time specified. The issuance of an immediate fine may occur in addition to any enforcement mechanism authorized under section 144I.33. The immediate fine may be appealed as allowed under this section.

(b) The licensee must pay the fines assessed on or before the payment date specified. If the licensee fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the licensee complies by paying the fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(c) A licensee shall promptly notify the commissioner in writing when a violation specified in the order is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order, the commissioner may issue an additional fine. The commissioner shall notify the licensee by mail to the last known address in the licensing record that a second fine has been assessed. The licensee may appeal the second fine as provided under this subdivision.

(d) A facility that has been assessed a fine under this section has a right to a reconsideration or hearing under this section and chapter 14.

Subd. 5. **Facility cannot avoid payment.** When a fine has been assessed, the licensee may not avoid payment by closing, selling, or otherwise transferring the license to a third party. In such an event, the licensee shall be liable for payment of the fine.

Subd. 6. **Additional penalties.** In addition to any fine imposed under this section, the commissioner may assess a penalty amount based on costs related to an investigation that results in a final order assessing a fine or other enforcement action authorized by this chapter.

Subd. 7. **Deposit of fines.** Fines collected under this section shall be deposited in the state government special revenue fund and credited to an account separate from the revenue collected under section 144A.472. Subject to an appropriation by the legislature, the revenue from the fines collected must be used by the commissioner for special projects to improve home care in Minnesota as recommended by the advisory council established in section 144A.4799.

#### Sec. 32. **[144I.32] RECONSIDERATION OF CORRECTION ORDERS AND FINES.**

Subdivision 1. **Reconsideration process required.** The commissioner shall make available to facilities a correction order reconsideration process. This process may be used to challenge the correction order issued, including the level and scope described in section 144I.31, and any fine assessed. When a licensee requests reconsideration of a correction order, the correction order is not stayed while it is under reconsideration. The department shall post information on its website that the licensee requested reconsideration of the correction order and that the review is pending.

Subd. 2. **Reconsideration process.** A facility may request from the commissioner, in writing, a correction order reconsideration regarding any correction order issued to the facility. The written request for reconsideration must be received by the commissioner within 15 calendar days of the correction order receipt date. The correction order reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that participated in writing or reviewing the correction order being disputed. The correction order reconsiderations may be conducted in person, by telephone, by another electronic form, or in writing, as determined by the commissioner. The commissioner shall respond in writing to the request from a facility for a correction order reconsideration within 60 days of the date the facility requests a reconsideration. The commissioner's response shall identify the commissioner's decision regarding each citation challenged by the facility.

Subd. 3. **Findings.** The findings of a correction order reconsideration process shall be one or more of the following:

(1) supported in full: the correction order is supported in full, with no deletion of findings to the citation;

(2) supported in substance: the correction order is supported, but one or more findings are deleted or modified without any change in the citation;

(3) correction order cited an incorrect licensing requirement: the correction order is amended by changing the correction order to the appropriate statute and/or rule;

(4) correction order was issued under an incorrect citation: the correction order is amended to be issued under the more appropriate correction order citation;

(5) the correction order is rescinded;

(6) fine is amended: it is determined that the fine assigned to the correction order was applied incorrectly; or

(7) the level or scope of the citation is modified based on the reconsideration.

Subd. 4. **Updating the correction order website.** If the correction order findings are changed by the commissioner, the commissioner shall update the correction order website.

Subd. 5. **Provisional licensees.** This section does not apply to provisional licensees.

Sec. 33. **[144I.33] ENFORCEMENT.**

Subdivision 1. **Conditions.** (a) The commissioner may refuse to grant a provisional license, refuse to grant a license as a result of a change in ownership, renew a license, suspend or revoke a license, or impose a conditional license if the owner, controlling individual, or employee of an assisted living facility or assisted living facility with dementia care:

(1) is in violation of, or during the term of the license has violated, any of the requirements in this chapter or adopted rules;

(2) permits, aids, or abets the commission of any illegal act in the provision of assisted living services;

(3) performs any act detrimental to the health, safety, and welfare of a resident;

(4) obtains the license by fraud or misrepresentation;

(5) knowingly made or makes a false statement of a material fact in the application for a license or in any other record or report required by this chapter;

(6) denies representatives of the department access to any part of the facility's books, records, files, or employees;

(7) interferes with or impedes a representative of the department in contacting the facility's residents;

(8) interferes with or impedes a representative of the department in the enforcement of this chapter or has failed to fully cooperate with an inspection, survey, or investigation by the department;



(9) destroys or makes unavailable any records or other evidence relating to the assisted living facility's compliance with this chapter;

(10) refuses to initiate a background study under section 144.057 or 245A.04;

(11) fails to timely pay any fines assessed by the commissioner;

(12) violates any local, city, or township ordinance relating to housing or services;

(13) has repeated incidents of personnel performing services beyond their competency level; or

(14) has operated beyond the scope of the facility's license category.

(b) A violation by a contractor providing the services of the facility is a violation by facility.

Subd. 2. **Terms to suspension or conditional license.** (a) A suspension or conditional license designation may include terms that must be completed or met before a suspension or conditional license designation is lifted. A conditional license designation may include restrictions or conditions that are imposed on the facility. Terms for a suspension or conditional license may include one or more of the following and the scope of each will be determined by the commissioner:

(1) requiring a consultant to review, evaluate, and make recommended changes to the facility's practices and submit reports to the commissioner at the cost of the facility;

(2) requiring supervision of the facility or staff practices at the cost of the facility by an unrelated person who has sufficient knowledge and qualifications to oversee the practices and who will submit reports to the commissioner;

(3) requiring the facility or employees to obtain training at the cost of the facility;

(4) requiring the facility to submit reports to the commissioner;

(5) prohibiting the facility from admitting any new residents for a specified period of time; or

(6) any other action reasonably required to accomplish the purpose of this subdivision and subdivision 1.

(b) A facility subject to this subdivision may continue operating during the period of time residents are being transferred to another service provider.

Subd. 3. **Immediate temporary suspension.** (a) In addition to any other remedies provided by law, the commissioner may, without a prior contested case hearing, immediately temporarily suspend a license or prohibit delivery of housing or services by a facility for not more than 90 calendar days or issue a conditional license, if the commissioner determines that there are:

(1) Level 4 violations; or

(2) violations that pose an imminent risk of harm to the health or safety of residents.

(b) For purposes of this subdivision, "Level 4" has the meaning given in section 144I.31.

(c) A notice stating the reasons for the immediate temporary suspension or conditional license and informing the licensee of the right to an expedited hearing under subdivision 11 must be delivered by personal service to the address shown on the application or the last known address of the licensee. The licensee may appeal an order immediately temporarily suspending a license or issuing a conditional license. The appeal must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within five calendar days after the licensee receives notice. If an appeal is made by personal service, it must be received by the commissioner within five calendar days after the licensee received the order.

(d) A licensee whose license is immediately temporarily suspended must comply with the requirements for notification and transfer of residents in subdivision 9. The requirements in subdivision 9 remain if an appeal is requested.

Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 7, paragraph (a), the commissioner must revoke a license if a controlling individual of the facility is convicted of a felony or gross misdemeanor that relates to operation of the facility or directly affects resident safety or care. The commissioner shall notify the facility and the Office of Ombudsman for Long-Term Care 30 calendar days in advance of the date of revocation.

Subd. 5. **Mandatory proceedings.** (a) The commissioner must initiate proceedings within 60 calendar days of notification to suspend or revoke a facility's license or must refuse to renew a facility's license if within the preceding two years the facility has incurred the following number of uncorrected or repeated violations:

(1) two or more uncorrected violations or one or more repeated violations that created an imminent risk to direct resident care or safety; or

(2) four or more uncorrected violations or two or more repeated violations of any nature for which the fines are in the four highest daily fine categories prescribed in rule.

(b) Notwithstanding paragraph (a), the commissioner is not required to revoke, suspend, or refuse to renew a facility's license if the facility corrects the violation.

Subd. 6. **Notice to residents.** (a) Within five business days after proceedings are initiated by the commissioner to revoke or suspend a facility's license, or a decision by the commissioner not to renew a living facility's license, the controlling individual of the facility or a designee must provide to the commissioner and the ombudsman for long-term care the names of residents and the names and addresses of the residents' guardians, designated representatives, and family contacts.

(b) The controlling individual or designees of the facility must provide updated information each month until the proceeding is concluded. If the controlling individual or designee of the facility fails to provide the information within this time, the facility is subject to the issuance of:

(1) a correction order; and

(2) a penalty assessment by the commissioner in rule.

(c) Notwithstanding subdivisions 16 and 17, any correction order issued under this subdivision must require that the facility immediately comply with the request for information and that, as of the date of the issuance of the correction order, the facility shall forfeit to the state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100 increments for each day the noncompliance continues.

(d) Information provided under this subdivision may be used by the commissioner or the ombudsman for long-term care only for the purpose of providing affected consumers information about the status of the proceedings.

(e) Within ten business days after the commissioner initiates proceedings to revoke, suspend, or not renew a facility license, the commissioner must send a written notice of the action and the process involved to each resident of the facility and the resident's designated representative or, if there is no designated representative and if known, a family member or interested person.

(f) The commissioner shall provide the ombudsman for long-term care with monthly information on the department's actions and the status of the proceedings.

**Subd. 7. Notice to facility.** (a) Prior to any suspension, revocation, or refusal to renew a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57 to 14.69. The hearing must commence within 60 calendar days after the proceedings are initiated. In addition to any other remedy provided by law, the commissioner may, without a prior contested case hearing, temporarily suspend a license or prohibit delivery of services by a provider for not more than 90 calendar days, or issue a conditional license if the commissioner determines that there are Level 3 violations that do not pose an imminent risk of harm to the health or safety of the facility residents, provided:

(1) advance notice is given to the facility;

(2) after notice, the facility fails to correct the problem;

(3) the commissioner has reason to believe that other administrative remedies are not likely to be effective; and

(4) there is an opportunity for a contested case hearing within 30 calendar days unless there is an extension granted by an administrative law judge.

(b) If the commissioner determines there are Level 4 violations or violations that pose an imminent risk of harm to the health or safety of the facility residents, the commissioner may immediately temporarily suspend a license, prohibit delivery of services by a facility, or issue a conditional license without meeting the requirements of paragraph (a), clauses (1) to (4).

For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in section 144I.31.

**Subd. 8. Request for hearing.** A request for hearing must be in writing and must:

(1) be mailed or delivered to the commissioner or the commissioner's designee;

(2) contain a brief and plain statement describing every matter or issue contested; and

(3) contain a brief and plain statement of any new matter that the applicant or assisted living facility believes constitutes a defense or mitigating factor.

**Subd. 9. Plan required.** (a) The process of suspending, revoking, or refusing to renew a license must include a plan for transferring affected residents' cares to other providers by the facility that will be monitored by the commissioner. Within three calendar days of being notified of the final revocation, refusal to renew, or suspension, the licensee shall provide the commissioner, the lead agencies as defined in section 256B.0911, county adult protection and case managers, and the ombudsman for long-term care with the following information:

(1) a list of all residents, including full names and all contact information on file;

(2) a list of each resident's representative or emergency contact person, including full names and all contact information on file;

(3) the location or current residence of each resident;

(4) the payor sources for each resident, including payor source identification numbers; and

(5) for each resident, a copy of the resident's service plan and a list of the types of services being provided.

(b) The revocation, refusal to renew, or suspension notification requirement is satisfied by mailing the notice to the address in the license record. The licensee shall cooperate with the commissioner and the lead agencies, county adult protection and county managers, and the ombudsman for long-term care during the process of transferring care of residents to qualified providers. Within three calendar days of being notified of the final revocation, refusal to renew, or suspension action, the facility must notify and disclose to each of the residents, or the resident's representative or emergency contact persons, that the commissioner is taking action against the facility's license by providing a copy of the revocation or suspension notice issued by the commissioner. If the facility does not comply with the disclosure requirements in this section, the commissioner shall notify the residents, designated representatives, or emergency contact persons about the actions being taken. Lead agencies, county adult protection and county managers, and the Office of Ombudsman for Long-Term Care may also provide this information. The revocation, refusal to renew, or suspension notice is public data except for any private data contained therein.

(c) A facility subject to this subdivision may continue operating while residents are being transferred to other service providers.

Subd. 10. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal of a sanction under this section, other than for a temporary suspension, the commissioner shall request assignment of an administrative law judge. The commissioner's request must include a proposed date, time, and place of hearing. A hearing must be conducted by an administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within 90 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause or for purposes of discussing settlement. In no case shall one or more extensions be granted for a total of more than 90 calendar days unless there is a criminal action pending against the licensee. If, while a licensee continues to operate pending an appeal of an order for revocation, suspension, or refusal to renew a license, the commissioner identifies one or more new violations of law that meet the requirements of Level 3 or Level 4 violations as defined in section 144I.31, the commissioner shall act immediately to temporarily suspend the license.

Subd. 11. **Expedited hearing.** (a) Within five business days of receipt of the licensee's timely appeal of a temporary suspension or issuance of a conditional license, the commissioner shall request assignment of an administrative law judge. The request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within 30 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause. The commissioner shall issue a notice of hearing by certified mail or personal service at least ten business days before the hearing. Certified mail to the last known address is sufficient. The scope of the hearing shall be limited solely to the issue of whether the temporary suspension or issuance of a conditional license should remain in effect and whether there is sufficient evidence to conclude that the licensee's actions or failure to comply with applicable laws are Level 3 or Level 4 violations as defined in section 144I.31, or that there were violations that posed an imminent risk of harm to the resident's health and safety.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten business days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record shall close at the end of the ten-day period for submission of

exceptions. The commissioner's final order shall be issued within ten business days from the close of the record. When an appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed, the commissioner shall issue a final order affirming the temporary immediate suspension or conditional license within ten calendar days of the commissioner's receipt of the withdrawal or dismissal. The licensee is prohibited from operation during the temporary suspension period.

(c) When the final order under paragraph (b) affirms an immediate suspension, and a final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that sanction, the licensee is prohibited from operation pending a final commissioner's order after the contested case hearing conducted under chapter 14.

(d) A licensee whose license is temporarily suspended must comply with the requirements for notification and transfer of residents under subdivision 9. These requirements remain if an appeal is requested.

Subd. 12. **Time limits for appeals.** To appeal the assessment of civil penalties under section 144I.31, and an action against a license under this section, a licensee must request a hearing no later than 15 business days after the licensee receives notice of the action.

Subd. 13. **Owners and managerial officials; refusal to grant license.** (a) The owner and managerial officials of a facility whose Minnesota license has not been renewed or that has been revoked because of noncompliance with applicable laws or rules shall not be eligible to apply for nor will be granted an assisted living facility license or an assisted living facility with dementia care license, or be given status as an enrolled personal care assistance provider agency or personal care assistant by the Department of Human Services under section 256B.0659, for five years following the effective date of the nonrenewal or revocation. If the owner and/or managerial officials already have enrollment status, the enrollment will be terminated by the Department of Human Services.

(b) The commissioner shall not issue a license to a facility for five years following the effective date of license nonrenewal or revocation if the owner or managerial official, including any individual who was an owner or managerial official of another licensed provider, had a Minnesota license that was not renewed or was revoked as described in paragraph (a).

(c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend or revoke, the license of a facility that includes any individual as an owner or managerial official who was an owner or managerial official of a facility whose Minnesota license was not renewed or was revoked as described in paragraph (a) for five years following the effective date of the nonrenewal or revocation.

(d) The commissioner shall notify the facility 30 calendar days in advance of the date of nonrenewal, suspension, or revocation of the license. Within ten business days after the receipt of the notification, the facility may request, in writing, that the commissioner stay the nonrenewal, revocation, or suspension of the license. The facility shall specify the reasons for requesting the stay; the steps that will be taken to attain or maintain compliance with the licensure laws and regulations; any limits on the authority or responsibility of the owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation, or suspension; and any other information to establish that the continuing affiliation with these individuals will not jeopardize resident health, safety, or well-being. The commissioner shall determine whether the stay will be granted within 30 calendar days of receiving the facility's request. The commissioner may propose additional restrictions or limitations on the facility's license and require that granting the stay be contingent upon compliance with those provisions. The commissioner shall take into consideration the following factors when determining whether the stay should be granted:

(1) the threat that continued involvement of the owners and managerial officials with the facility poses to resident health, safety, and well-being;

(2) the compliance history of the facility; and

(3) the appropriateness of any limits suggested by the facility.

If the commissioner grants the stay, the order shall include any restrictions or limitation on the provider's license. The failure of the facility to comply with any restrictions or limitations shall result in the immediate removal of the stay and the commissioner shall take immediate action to suspend, revoke, or not renew the license.

Subd. 14. **Relicensing.** If a facility license is revoked, a new application for license may be considered by the commissioner when the conditions upon which the revocation was based have been corrected and satisfactory evidence of this fact has been furnished to the commissioner. A new license may be granted after an inspection has been made and the facility has complied with all provisions of this chapter and adopted rules.

Subd. 15. **Informal conference.** At any time, the applicant or facility and the commissioner may hold an informal conference to exchange information, clarify issues, or resolve issues.

Subd. 16. **Injunctive relief.** In addition to any other remedy provided by law, the commissioner may bring an action in district court to enjoin a person who is involved in the management, operation, or control of a facility or an employee of the facility from illegally engaging in activities regulated by sections under this chapter. The commissioner may bring an action under this subdivision in the district court in Ramsey County or in the district in which the facility is located. The court may grant a temporary restraining order in the proceeding if continued activity by the person who is involved in the management, operation, or control of a facility, or by an employee of the facility, would create an imminent risk of harm to a resident.

Subd. 17. **Subpoena.** In matters pending before the commissioner under this chapter, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. If a person fails or refuses to comply with a subpoena or order of the commissioner to appear or testify regarding any matter about which the person may be lawfully questioned or to produce any papers, books, records, documents, or evidentiary materials in the matter to be heard, the commissioner may apply to the district court in any district, and the court shall order the person to comply with the commissioner's order or subpoena. The commissioner of health may administer oaths to witnesses or take their affirmation. Depositions may be taken in or outside the state in the manner provided by law for taking depositions in civil actions. A subpoena or other process or paper may be served on a named person anywhere in the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage and in the same manner as prescribed by law for a process issued out of a district court. A person subpoenaed under this subdivision shall receive the same fees, mileage, and other costs that are paid in proceedings in district court.

#### Sec. 34. **[144I.34] INNOVATION VARIANCE.**

Subdivision 1. **Definition; granting variances.** (a) For purposes of this section, "innovation variance" means a specified alternative to a requirement of this chapter.

(b) An innovation variance may be granted to allow a facility to offer services of a type or in a manner that is innovative, will not impair the services provided, will not adversely affect the health, safety, or welfare of the residents, and is likely to improve the services provided. The innovative variance cannot change any of the resident's rights under the assisted living bill of rights under section 144J.02.

Subd. 2. **Conditions.** The commissioner may impose conditions on granting an innovation variance that the commissioner considers necessary.

Subd. 3. **Duration and renewal.** The commissioner may limit the duration of any innovation variance and may renew a limited innovation variance.

Subd. 4. **Applications; innovation variance.** An application for innovation variance from the requirements of this chapter may be made at any time, must be made in writing to the commissioner, and must specify the following:

(1) the statute or rule from which the innovation variance is requested;

(2) the time period for which the innovation variance is requested;

(3) the specific alternative action that the licensee proposes;

(4) the reasons for the request; and

(5) justification that an innovation variance will not impair the services provided, will not adversely affect the health, safety, or welfare of residents, and is likely to improve the services provided.

The commissioner may require additional information from the facility before acting on the request.

Subd. 5. **Grants and denials.** The commissioner shall grant or deny each request for an innovation variance in writing within 45 days of receipt of a complete request. Notice of a denial shall contain the reasons for the denial. The terms of a requested innovation variance may be modified upon agreement between the commissioner and the facility.

Subd. 6. **Violation of innovation variances.** A failure to comply with the terms of an innovation variance shall be deemed to be a violation of this chapter.

Subd. 7. **Revocation or denial of renewal.** The commissioner shall revoke or deny renewal of an innovation variance if:

(1) it is determined that the innovation variance is adversely affecting the health, safety, or welfare of the residents;

(2) the facility has failed to comply with the terms of the innovation variance;

(3) the facility notifies the commissioner in writing that it wishes to relinquish the innovation variance and be subject to the statute previously varied; or

(4) the revocation or denial is required by a change in law.

Sec. 35. **[144L.35] RESIDENT QUALITY OF CARE AND OUTCOMES IMPROVEMENT TASK FORCE.**

Subdivision 1. **Establishment.** The commissioner shall establish a resident quality of care and outcomes improvement task force to examine and make recommendations, on an ongoing basis, on how to apply proven safety and quality improvement practices and infrastructure to settings and providers that provide long-term services and supports.

Subd. 2. **Membership.** The task force shall include representation from:

(1) nonprofit Minnesota-based organizations dedicated to patient safety or innovation in health care safety and quality;

(2) Department of Health staff with expertise in issues related to safety and adverse health events;

- (3) consumer organizations;
- (4) direct care providers or their representatives;
- (5) organizations representing long-term care providers and home care providers in Minnesota;
- (6) the ombudsman for long-term care or a designee;
- (7) national patient safety experts; and
- (8) other experts in the safety and quality improvement field.

The task force shall have at least one public member who either is or has been a resident in an assisted living setting and one public member who has or had a family member living in an assisted living setting. The membership shall be voluntary except that public members may be reimbursed under section 15.059, subdivision 3.

Subd. 3. **Recommendations.** The task force shall periodically provide recommendations to the commissioner and the legislature on changes needed to promote safety and quality improvement practices in long-term care settings and with long-term care providers. The task force shall meet no fewer than four times per year. The task force shall be established by July 1, 2020.

Sec. 36. **[144I.36] EXPEDITED RULEMAKING AUTHORIZED.**

(a) The commissioner shall adopt rules for all assisted living facilities that promote person-centered planning and service and optimal quality of life, and that ensure resident rights are protected, resident choice is allowed, and public health and safety is ensured.

(b) On July 1, 2019, the commissioner shall begin expedited rulemaking using the process in section 14.389, except that the rulemaking process is exempt from section 14.389, subdivision 5.

(c) The commissioner shall adopt rules that include but are not limited to the following:

(1) staffing minimums and ratios for each level of licensure to best protect the health and safety of residents no matter their vulnerability;

(2) training prerequisites and ongoing training for administrators and caregiving staff;

(3) requirements for licensees to ensure minimum nutrition and dietary standards required by section 144I.10 are provided;

(4) procedures for discharge planning and ensuring resident appeal rights;

(5) core dementia care requirements and training in all levels of licensure;

(6) requirements for assisted living facilities with dementia care in terms of training, care standards, noticing changes of condition, assessments, and health care;

(7) preadmission criteria, initial assessments, and continuing assessments;

(8) emergency disaster and preparedness plans;



(9) uniform checklist disclosure of services;

(10) uniform consumer information guide elements and other data collected; and

(11) uniform assessment tool.

(d) The commissioner shall publish the proposed rules by December 31, 2019, and shall publish final rules by December 31, 2020.

Sec. 37. **TRANSITION PERIOD.**

(a) From July 1, 2019, to June 30, 2020, the commissioner shall engage in the expedited rulemaking process.

(b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new assisted living facility and assisted living facility with dementia care licensure by hiring staff, developing forms, and communicating with stakeholders about the new facility licensing.

(c) Effective August 1, 2021, all existing housing with services establishments providing home care services under Minnesota Statutes, chapter 144A, must convert their registration to licensure under Minnesota Statutes, chapter 144I.

(d) Effective August 1, 2021, all new assisted living facilities and assisted living facilities with dementia care must be licensed by the commissioner.

(e) Effective August 1, 2021, all assisted living facilities and assisted living facilities with dementia care must be licensed by the commissioner.

Sec. 38. **REPEALER.**

Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are repealed effective August 1, 2021.

ARTICLE 6  
DEMENTIA CARE SERVICES FOR ASSISTED LIVING FACILITIES  
WITH DEMENTIA CARE

Section 1. **[144L.37] ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING FACILITIES WITH DEMENTIA CARE.**

Subdivision 1. **Applicability.** This section applies only to assisted living facilities with dementia care.

Subd. 2. **Demonstrated capacity.** (a) The applicant must have the ability to provide services in a manner that is consistent with the requirements in this section. The commissioner shall consider the following criteria, including, but not limited to:

(1) the experience of the applicant in managing residents with dementia or previous long-term care experience; and

(2) the compliance history of the applicant in the operation of any care facility licensed, certified, or registered under federal or state law.

(b) If the applicant does not have experience in managing residents with dementia, the applicant must employ a consultant for at least the first six months of operation. The consultant must meet the requirements in paragraph (a), clause (1), and make recommendations on providing dementia care services consistent with the requirements of this chapter. The consultant must have experience in dementia care operations. The applicant must implement the recommendations of the consultant and document an acceptable plan which may be reviewed by the commissioner upon request to address the consultant's identified concerns. The commissioner may review and approve the selection of the consultant.

(c) The commissioner shall conduct an on-site inspection prior to the issuance of an assisted living facility with dementia care license to ensure compliance with the physical environment requirements.

(d) The label "Assisted Living Facility with Dementia Care" must be identified on the license.

Subd. 3. **Relinquishing license.** The licensee must notify the commissioner in writing at least 60 calendar days prior to the voluntary relinquishment of an assisted living facility with dementia care license. For voluntary relinquishment, the facility must:

(1) give all residents and their designated representatives 45 calendar days' notice. The notice must include:

(i) the proposed effective date of the relinquishment;

(ii) changes in staffing;

(iii) changes in services including the elimination or addition of services; and

(iv) staff training that shall occur when the relinquishment becomes effective;

(2) submit a transitional plan to the commissioner demonstrating how the current residents shall be evaluated and assessed to reside in other housing settings that are not an assisted living facility with dementia care, that are physically unsecured, or that would require move-out or transfer to other settings;

(3) change service or care plans as appropriate to address any needs the residents may have with the transition;

(4) notify the commissioner when the relinquishment process has been completed; and

(5) revise advertising materials and disclosure information to remove any reference that the facility is an assisted living facility with dementia care.

Sec. 2. **[144L.38] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED LIVING FACILITIES WITH DEMENTIA CARE.**

Subdivision 1. **General.** The licensee of an assisted living facility with dementia care is responsible for the care and housing of the persons with dementia and the provision of person-centered care that promotes each resident's dignity, independence, and comfort. This includes the supervision, training, and overall conduct of the staff.

Subd. 2. **Additional requirements.** (a) The licensee must follow the assisted living license requirements and the criteria in this section.

(b) The administrator of an assisted living facility with dementia care license must complete and document that at least ten hours of the required annual continuing educational requirements relate to the care of individuals with dementia. Continuing education credits must be obtained through commissioner-approved sources that may include

college courses, preceptor credits, self-directed activities, course instructor credits, corporate training, in-service training, professional association training, web-based training, correspondence courses, telecourses, seminars, and workshops.

Subd. 3. **Policies.** (a) In addition to the policies and procedures required in the licensing of assisted living facilities, the assisted living facility with dementia care licensee must develop and implement policies and procedures that address the:

(1) philosophy of how services are provided based upon the assisted living facility licensee's values, mission, and promotion of person-centered care and how the philosophy shall be implemented;

(2) evaluation of behavioral symptoms and design of supports for intervention plans;

(3) wandering and egress prevention that provides detailed instructions to staff in the event a resident elopes;

(4) assessment of residents for the use and effects of medications, including psychotropic medications;

(5) staff training specific to dementia care;

(6) description of life enrichment programs and how activities are implemented;

(7) description of family support programs and efforts to keep the family engaged;

(8) limiting the use of public address and intercom systems for emergencies and evacuation drills only;

(9) transportation coordination and assistance to and from outside medical appointments; and

(10) safekeeping of resident's possessions.

(b) The policies and procedures must be provided to residents and the resident's representative at the time of move-in.

### **Sec. 3. [144I.39] STAFFING AND STAFF TRAINING.**

Subdivision 1. **General.** (a) An assisted living facility with dementia care must provide residents with dementia-trained staff who have been instructed in the person-centered care approach. All direct care and other community staff assigned to care for dementia residents must be specially trained to work with residents with Alzheimer's disease and other dementias.

(b) Only staff trained as specified in subdivisions 2 and 3 shall be assigned to care for dementia residents.

(c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of residents. Staffing levels during nighttime hours shall be based on the sleep patterns and needs of residents.

(d) In an emergency situation when trained staff are not available to provide services, the facility may assign staff who have not completed the required training. The particular emergency situation must be documented and must address:

(1) the nature of the emergency;

(2) how long the emergency lasted; and

(3) the names and positions of staff that provided coverage.

Subd. 2. **Staffing requirements.** (a) The licensee must ensure that staff who provide support to residents with dementia have a basic understanding and fundamental knowledge of the residents' emotional and unique health care needs using person-centered planning delivery. Direct care dementia-trained staff and other staff must be trained on the topics identified during the expedited rulemaking process. These requirements are in addition to the licensing requirements for training.

(b) Failure to comply with paragraph (a) or subdivision 1 will result in a fine under section 144I.31.

Subd. 3. **Supervising staff training.** Persons providing or overseeing staff training must have experience and knowledge in the care of individuals with dementia.

Subd. 4. **Preservice and in-service training.** Preservice and in-service training may include various methods of instruction, such as classroom style, web-based training, video, or one-to-one training. The licensee must have a method for determining and documenting each staff person's knowledge and understanding of the training provided. All training must be documented.

Sec. 4. **[144I.40] SERVICES FOR RESIDENTS WITH DEMENTIA.**

(a) In addition to the minimum services required of assisted living facilities, an assisted living facility with dementia care must also provide the following services:

(1) assistance with activities of daily living that address the needs of each resident with dementia due to cognitive or physical limitations. These services must meet or be in addition to the requirements in the licensing rules for the facility. Services must be provided in a person-centered manner that promotes resident choice, dignity, and sustains the resident's abilities;

(2) health care services provided according to the licensing statutes and rules of the facility;

(3) a daily meal program for nutrition and hydration must be provided and available throughout each resident's waking hours. The individualized nutritional plan for each resident must be documented in the resident's service or care plan. In addition, an assisted living facility with dementia care must provide meaningful activities that promote or help sustain the physical and emotional well-being of residents. The activities must be person-directed and available during residents' waking hours.

(b) Each resident must be evaluated for activities according to the licensing rules of the facility. In addition, the evaluation must address the following:

(1) past and current interests;

(2) current abilities and skills;

(3) emotional and social needs and patterns;

(4) physical abilities and limitations;

(5) adaptations necessary for the resident to participate; and

(6) identification of activities for behavioral interventions.

(c) An individualized activity plan must be developed for each resident based on their activity evaluation. The plan must reflect the resident's activity preferences and needs.

(d) A selection of daily structured and non-structured activities must be provided and included on the resident's activity service or care plan as appropriate. Daily activity options based on resident evaluation may include but are not limited to:

(1) occupation or chore related tasks;

(2) scheduled and planned events such as entertainment or outings;

(3) spontaneous activities for enjoyment or those that may help defuse a behavior;

(4) one-to-one activities that encourage positive relationships between residents and staff such as telling a life story, reminiscing, or playing music;

(5) spiritual, creative, and intellectual activities;

(6) sensory stimulation activities;

(7) physical activities that enhance or maintain a resident's ability to ambulate or move; and

(8) outdoor activities.

(e) Behavioral symptoms that negatively impact the resident and others in the assisted living facility must be evaluated and included on the service or care plan. The staff must initiate and coordinate outside consultation or acute care when indicated.

(f) Support must be offered to family and other significant relationships on a regularly scheduled basis but not less than quarterly.

(g) Access to secured outdoor space and walkways that allow residents to enter and return without staff assistance must be provided.

## ARTICLE 7 ADMINISTRATOR QUALIFICATIONS

Section 1. Minnesota Statutes 2018, section 144A.04, subdivision 5, is amended to read:

Subd. 5. **Administrators.** ~~(a)~~ Each nursing home must employ an administrator who must be licensed or permitted as a nursing home administrator by the Board of ~~Examiners for Nursing Home Administrators~~ Executives for Long Term Services and Supports. The nursing home may share the services of a licensed administrator. The administrator must maintain ~~a sufficient~~ an on-site presence in the facility to effectively manage the facility in compliance with applicable rules and regulations. The administrator must establish procedures and delegate authority for on-site operations in the administrator's absence, but is ultimately responsible for the management of the facility. Each nursing home must have posted at all times the name of the administrator and the name of the person in charge on the premises in the absence of the licensed administrator.

~~(b) Notwithstanding sections 144A.18 to 144A.27, a nursing home with a director of nursing serving as an unlicensed nursing home administrator as of March 1, 2001, may continue to have a director of nursing serve in that capacity, provided the director of nursing has passed the state law and rules examination administered by the Board of Examiners for Nursing Home Administrators and maintains evidence of completion of 20 hours of continuing education each year on topics pertinent to nursing home administration.~~

Sec. 2. Minnesota Statutes 2018, section 144A.20, subdivision 1, is amended to read:

Subdivision 1. **Criteria.** The Board of ~~Examiners~~ Executives may issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for nursing home administrators. No license shall be issued to a person as a nursing home administrator unless that person:

(1) is at least 21 years of age ~~and otherwise suitably qualified;~~

(2) has satisfactorily met standards set by the Board of ~~Examiners~~ Executives, which standards shall be designed to assure that nursing home administrators will be individuals who, by training or experience are qualified to serve as nursing home administrators; and

(3) has passed an examination approved by the board and designed to test for competence in the ~~subject matters~~ standards referred to in clause (2), or has been approved by the Board of ~~Examiners~~ Executives through the development and application of other appropriate techniques.

Sec. 3. Minnesota Statutes 2018, section 144A.24, is amended to read:

#### **144A.24 DUTIES OF THE BOARD.**

The Board of ~~Examiners~~ Executives shall:

(1) develop and enforce standards for nursing home administrator licensing, which standards shall be designed to assure that nursing home administrators will be individuals of good character who, by training or experience, are suitably qualified to serve as nursing home administrators;

(2) develop appropriate techniques, including examinations and investigations, for determining whether applicants and licensees meet the board's standards;

(3) issue licenses and permits to those individuals who are found to meet the board's standards;

(4) establish and implement procedures designed to assure that individuals licensed as nursing home administrators will comply with the board's standards;

(5) receive and investigate complaints and take appropriate action consistent with chapter 214, to revoke or suspend the license or permit of a nursing home administrator or acting administrator who fails to comply with sections 144A.18 to 144A.27 or the board's standards;

(6) conduct a continuing study and investigation of nursing homes, and the administrators of nursing homes within the state, with a view to the improvement of the standards imposed for the licensing of administrators and improvement of the procedures and methods used for enforcement of the board's standards; and

(7) approve or conduct courses of instruction or training designed to prepare individuals for licensing in accordance with the board's standards. ~~Courses designed to meet license renewal requirements shall be designed solely to improve professional skills and shall not include classroom attendance requirements exceeding 50 hours per year.~~ The board may approve courses conducted within or without this state.

Sec. 4. Minnesota Statutes 2018, section 144A.26, is amended to read:

**144A.26 RECIPROCITY WITH OTHER STATES AND EQUIVALENCY OF HEALTH SERVICES EXECUTIVE.**

Subdivision 1. **Reciprocity.** The Board of ~~Examiners~~ Executives may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction if the board finds that the standards for licensure in the other jurisdiction are at least the substantial equivalent of those prevailing in this state and that the applicant is otherwise qualified.

Subd. 2. **Health services executive license.** The Board of Executives may issue a health services executive license to any person who (1) has been validated by the National Association of Long Term Care Administrator Boards as a health services executive, and (2) has met the education and practice requirements for the minimum qualifications of a nursing home administrator, assisted living administrator, and home and community-based service provider. Licensure decisions made by the board under this subdivision are final.

Sec. 5. **[144A.291] FEES.**

Subdivision 1. **Payment types and nonrefundability.** The fees imposed in this section shall be paid by cash, personal check, bank draft, cashier's check, or money order made payable to the Board of Executives for Long Term Services and Supports. All fees are nonrefundable.

Subd. 2. **Amount.** The amount of fees may be set by the board with the approval of Minnesota Management and Budget up to the limits provided in this section depending upon the total amount required to sustain board operations under section 16A.1285, subdivision 2. Information about fees in effect at any time is available from the board office. The maximum amounts of fees are:

(1) application for licensure, \$150;

(2) for a prospective applicant for a review of education and experience advisory to the license application, \$50, to be applied to the fee for application for licensure if the latter is submitted within one year of the request for review of education and experience;

(3) state examination, \$75;

(4) licensed nursing home administrator initial license, \$200 if issued between July 1 and December 31, \$100 if issued between January 1 and June 30;

(5) acting administrator permit, \$250;

(6) renewal license, \$200;

(7) duplicate license, \$10;

(8) fee to a sponsor for review of individual continuing education seminars, institutes, workshops, or home study courses:

(i) for less than seven clock hours, \$30; and

(ii) for seven or more clock hours, \$50;

(9) fee to a licensee for review of continuing education seminars, institutes, workshops, or home study courses not previously approved for a sponsor and submitted with an application for license renewal:

(i) for less than seven clock hours total, \$30; and

(ii) for seven or more clock hours total, \$50;

(10) late renewal fee, \$50;

(11) fee to a licensee for verification of licensure status and examination scores, \$30;

(12) registration as a registered continuing education sponsor, \$1,000; and

(13) health services executive initial license, \$200 if issued between July 1 and December 31, \$100 if issued between January 1 and June 30.

Sec. 6. **REVISOR INSTRUCTION.**

The revisor of statutes shall change the phrases "Board of Examiners for Nursing Home Administrators" to "Board of Executives for Long Term Services and Supports" and "Board of Examiners" to "Board of Executives" wherever the phrases appear in Minnesota Statutes and apply to the board established in Minnesota Statutes, section 144A.19.

ARTICLE 8  
ASSISTED LIVING LICENSURE CONFORMING CHANGES

Section 1. Minnesota Statutes 2018, section 144.051, subdivision 4, is amended to read:

Subd. 4. **Data classification; public data.** For providers regulated pursuant to sections 144A.43 to 144A.482 and chapter 1444I, the following data collected, created, or maintained by the commissioner are classified as public data as defined in section 13.02, subdivision 15:

(1) all application data on licensees, license numbers, and license status;

(2) licensing information about licenses previously held under this chapter;

(3) correction orders, including information about compliance with the order and whether the fine was paid;

(4) final enforcement actions pursuant to chapter 14;

(5) orders for hearing, findings of fact, and conclusions of law; and

(6) when the licensee and department agree to resolve the matter without a hearing, the agreement and specific reasons for the agreement are public data.

Sec. 2. Minnesota Statutes 2018, section 144.051, subdivision 5, is amended to read:

Subd. 5. **Data classification; confidential data.** For providers regulated pursuant to sections 144A.43 to 144A.482 and chapter 144I, the following data collected, created, or maintained by the Department of Health are classified as confidential data on individuals as defined in section 13.02, subdivision 3: active investigative data relating to the investigation of potential violations of law by a licensee including data from the survey process before the correction order is issued by the department.



Sec. 3. Minnesota Statutes 2018, section 144.051, subdivision 6, is amended to read:

Subd. 6. **Release of private or confidential data.** For providers regulated pursuant to sections 144A.43 to 144A.482 and chapter 144I, the department may release private or confidential data, except Social Security numbers, to the appropriate state, federal, or local agency and law enforcement office to enhance investigative or enforcement efforts or further a public health protective process. Types of offices include Adult Protective Services, Office of the Ombudsman for Long-Term Care and Office of the Ombudsman for Mental Health and Developmental Disabilities, the health licensing boards, Department of Human Services, county or city attorney's offices, police, and local or county public health offices.

Sec. 4. Minnesota Statutes 2018, section 144.057, subdivision 1, is amended to read:

Subdivision 1. **Background studies required.** The commissioner of health shall contract with the commissioner of human services to conduct background studies of:

(1) individuals providing services ~~which~~ that have direct contact, as defined under section 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; ~~residential care homes licensed under chapter 144B~~, assisted living facilities, and assisted living facilities with dementia care licensed under chapter 144I, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17;

(2) individuals specified in section 245C.03, subdivision 1, who perform direct contact services in a nursing home, assisted living facilities, and assisted living facilities with dementia care licensed under chapter 144I, or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58. If the individual under study resides outside Minnesota, the study must include a check for substantiated findings of maltreatment of adults and children in the individual's state of residence when the information is made available by that state, and must include a check of the National Crime Information Center database;

(3) ~~beginning July 1, 1999~~, all other employees in assisted living facilities licensed under chapter 144I, nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245C.02, subdivision 8, when the employee's employment responsibilities do not include providing direct contact services;

(4) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; and

(5) controlling persons of a supplemental nursing services agency, as defined under section 144A.70.

If a facility or program is licensed by the Department of Human Services and subject to the background study provisions of chapter 245C and is also licensed by the Department of Health, the Department of Human Services is solely responsible for the background studies of individuals in the jointly licensed programs.

Sec. 5. Minnesota Statutes 2018, section 144A.44, subdivision 1, is amended to read:

Subdivision 1. **Statement of rights.** (a) A ~~person~~ client who receives home care services in the community or in an assisted living facility licensed under chapter 144I has these rights:

- (1) ~~the right to~~ receive written information, in plain language, about rights before receiving services, including what to do if rights are violated;
- (2) ~~the right to~~ receive care and services according to a suitable and up-to-date plan, and subject to accepted health care, medical or nursing standards and person-centered care, to take an active part in developing, modifying, and evaluating the plan and services;
- (3) ~~the right to~~ be told before receiving services the type and disciplines of staff who will be providing the services, the frequency of visits proposed to be furnished, other choices that are available for addressing home care needs, and the potential consequences of refusing these services;
- (4) ~~the right to~~ be told in advance of any recommended changes by the provider in the service plan and to take an active part in any decisions about changes to the service plan;
- (5) ~~the right to~~ refuse services or treatment;
- (6) ~~the right to~~ know, before receiving services or during the initial visit, any limits to the services available from a home care provider;
- (7) ~~the right to~~ be told before services are initiated what the provider charges for the services; to what extent payment may be expected from health insurance, public programs, or other sources, if known; and what charges the client may be responsible for paying;
- (8) ~~the right to~~ know that there may be other services available in the community, including other home care services and providers, and to know where to find information about these services;
- (9) ~~the right to~~ choose freely among available providers and to change providers after services have begun, within the limits of health insurance, long-term care insurance, medical assistance, ~~or~~ other health programs, or public programs;
- (10) ~~the right to~~ have personal, financial, and medical information kept private, and to be advised of the provider's policies and procedures regarding disclosure of such information;
- (11) ~~the right to~~ access the client's own records and written information from those records in accordance with sections 144.291 to 144.298;
- (12) ~~the right to~~ be served by people who are properly trained and competent to perform their duties;
- (13) ~~the right to~~ be treated with courtesy and respect, and to have the client's property treated with respect;
- (14) ~~the right to~~ be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of Minors Act;
- (15) ~~the right to~~ reasonable, advance notice of changes in services or charges;
- (16) ~~the right to~~ know the provider's reason for termination of services;
- (17) ~~the right to~~ at least ~~ten~~ 30 calendar days' advance notice of the termination of a service or housing by a provider, except in cases where:

(i) the client engages in conduct that significantly alters the terms of the service plan with the home care provider;

(ii) the client, person who lives with the client, or others create an abusive or unsafe work environment for the person providing home care services; or

(iii) an emergency or a significant change in the client's condition has resulted in service needs that exceed the current service plan and that cannot be safely met by the home care provider;

(18) ~~the right to~~ a coordinated transfer when there will be a change in the provider of services;

(19) ~~the right to~~ complain to staff and others of the client's choice about services that are provided, or fail to be provided, and the lack of courtesy or respect to the client or the client's property and the right to recommend changes in policies and services, free from retaliation including the threat of termination of services;

(20) ~~the right to~~ know how to contact an individual associated with the home care provider who is responsible for handling problems and to have the home care provider investigate and attempt to resolve the grievance or complaint;

(21) ~~the right to~~ know the name and address of the state or county agency to contact for additional information or assistance; ~~and~~

(22) ~~the right to~~ assert these rights personally, or have them asserted by the client's representative or by anyone on behalf of the client, without retaliation; and

(23) place an electronic monitoring device in the client's or resident's space in compliance with state requirements.

(b) When providers violate the rights in this section, they are subject to the fines and license actions in sections 144A.474, subdivision 11, and 144A.475.

(c) Providers must do all of the following:

(1) encourage and assist in the fullest possible exercise of these rights;

(2) provide the names and telephone numbers of individuals and organizations that provide advocacy and legal services for clients and residents seeking to assert their rights;

(3) make every effort to assist clients or residents in obtaining information regarding whether Medicare, medical assistance, other health programs, or public programs will pay for services;

(4) make reasonable accommodations for people who have communication disabilities, or those who speak a language other than English; and

(5) provide all information and notices in plain language and in terms the client or resident can understand.

(d) No provider may require or request a client or resident to waive any of the rights listed in this section at any time or for any reasons, including as a condition of initiating services or entering into an assisted living facility contract.

Sec. 6. Minnesota Statutes 2018, section 144A.471, subdivision 7, is amended to read:

Subd. 7. **Comprehensive home care license provider.** Home care services that may be provided with a comprehensive home care license include any of the basic home care services listed in subdivision 6, and one or more of the following:

(1) services of an advanced practice nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;

(2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;

(3) medication management services;

(4) hands-on assistance with transfers and mobility;

(5) treatment and therapies;

(6) assisting clients with eating when the clients have complicating eating problems as identified in the client record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed; or

~~(6)~~ (7) providing other complex or specialty health care services.

Sec. 7. Minnesota Statutes 2018, section 144A.471, subdivision 9, is amended to read:

Subd. 9. **Exclusions from home care licensure.** The following are excluded from home care licensure and are not required to provide the home care bill of rights:

(1) an individual or business entity providing only coordination of home care that includes one or more of the following:

(i) determination of whether a client needs home care services, or assisting a client in determining what services are needed;

(ii) referral of clients to a home care provider;

(iii) administration of payments for home care services; or

(iv) administration of a health care home established under section 256B.0751;

(2) an individual who is not an employee of a licensed home care provider if the individual:

(i) only provides services as an independent contractor to one or more licensed home care providers;

(ii) provides no services under direct agreements or contracts with clients; and

(iii) is contractually bound to perform services in compliance with the contracting home care provider's policies and service plans;

(3) a business that provides staff to home care providers, such as a temporary employment agency, if the business:

(i) only provides staff under contract to licensed or exempt providers;

(ii) provides no services under direct agreements with clients; and

(iii) is contractually bound to perform services under the contracting home care provider's direction and supervision;

(4) any home care services conducted by and for the adherents of any recognized church or religious denomination for its members through spiritual means, or by prayer for healing;

(5) an individual who only provides home care services to a relative;

(6) an individual not connected with a home care provider that provides assistance with basic home care needs if the assistance is provided primarily as a contribution and not as a business;

(7) an individual not connected with a home care provider that shares housing with and provides primarily housekeeping or homemaking services to an elderly or disabled person in return for free or reduced-cost housing;

(8) an individual or provider providing home-delivered meal services;

(9) an individual providing senior companion services and other older American volunteer programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United States Code, title 42, chapter 66;

~~(10) an employee of a nursing home or home care provider licensed under this chapter or an employee of a boarding care home licensed under sections 144.50 to 144.56 when responding to occasional emergency calls from individuals residing in a residential setting that is attached to or located on property contiguous to the nursing home, boarding care home, or location where home care services are also provided;~~

~~(11) an employee of a nursing home or home care provider licensed under this chapter or an employee of a boarding care home licensed under sections 144.50 to 144.56 when providing occasional minor services free of charge to individuals residing in a residential setting that is attached to or located on property contiguous to the nursing home, boarding care home, or location where home care services are also provided;~~

(12) a member of a professional corporation organized under chapter 319B that does not regularly offer or provide home care services as defined in section 144A.43, subdivision 3;

(13) the following organizations established to provide medical or surgical services that do not regularly offer or provide home care services as defined in section 144A.43, subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit corporation organized under chapter 317A, a partnership organized under chapter 323, or any other entity determined by the commissioner;

(14) an individual or agency that provides medical supplies or durable medical equipment, except when the provision of supplies or equipment is accompanied by a home care service;

(15) a physician licensed under chapter 147;

(16) an individual who provides home care services to a person with a developmental disability who lives in a place of residence with a family, foster family, or primary caregiver;

(17) a business that only provides services that are primarily instructional and not medical services or health-related support services;

(18) an individual who performs basic home care services for no more than 14 hours each calendar week to no more than one client;

(19) an individual or business licensed as hospice as defined in sections 144A.75 to 144A.755 who is not providing home care services independent of hospice service;

(20) activities conducted by the commissioner of health or a community health board as defined in section 145A.02, subdivision 5, including communicable disease investigations or testing; or

(21) administering or monitoring a prescribed therapy necessary to control or prevent a communicable disease, or the monitoring of an individual's compliance with a health directive as defined in section 144.4172, subdivision 6.

**EFFECTIVE DATE.** The amendments to clauses (10) and (11) are effective July 1, 2021.

Sec. 8. Minnesota Statutes 2018, section 144A.472, subdivision 7, is amended to read:

Subd. 7. **Fees; application, change of ownership, and renewal, and failure to notify.** (a) An initial applicant seeking temporary home care licensure must submit the following application fee to the commissioner along with a completed application:

(1) for a basic home care provider, \$2,100; or

(2) for a comprehensive home care provider, \$4,200.

(b) A home care provider who is filing a change of ownership as required under subdivision 5 must submit the following application fee to the commissioner, along with the documentation required for the change of ownership:

(1) for a basic home care provider, \$2,100; or

(2) for a comprehensive home care provider, \$4,200.

(c) For the period ending June 30, 2018, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

**License Renewal Fee**

<b>Provider Annual Revenue</b>	<b>Fee</b>
greater than \$1,500,000	\$6,625
greater than \$1,275,000 and no more than \$1,500,000	\$5,797
greater than \$1,100,000 and no more than \$1,275,000	\$4,969
greater than \$950,000 and no more than \$1,100,000	\$4,141
greater than \$850,000 and no more than \$950,000	\$3,727
greater than \$750,000 and no more than \$850,000	\$3,313
greater than \$650,000 and no more than \$750,000	\$2,898
greater than \$550,000 and no more than \$650,000	\$2,485
greater than \$450,000 and no more than \$550,000	\$2,070

greater than \$350,000 and no more than \$450,000	\$1,656
greater than \$250,000 and no more than \$350,000	\$1,242
greater than \$100,000 and no more than \$250,000	\$828
greater than \$50,000 and no more than \$100,000	\$500
greater than \$25,000 and no more than \$50,000	\$400
no more than \$25,000	\$200

(d) For the period between July 1, 2018, and June 30, 2020, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner in an amount that is ten percent higher than the applicable fee in paragraph (c). A home care provider's fee shall be based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted.

(e) Beginning July 1, 2020, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

#### **License Renewal Fee**

<b>Provider Annual Revenue</b>	<b>Fee</b>
greater than \$1,500,000	\$7,651
greater than \$1,275,000 and no more than \$1,500,000	\$6,695
greater than \$1,100,000 and no more than \$1,275,000	\$5,739
greater than \$950,000 and no more than \$1,100,000	\$4,783
greater than \$850,000 and no more than \$950,000	\$4,304
greater than \$750,000 and no more than \$850,000	\$3,826
greater than \$650,000 and no more than \$750,000	\$3,347
greater than \$550,000 and no more than \$650,000	\$2,870
greater than \$450,000 and no more than \$550,000	\$2,391
greater than \$350,000 and no more than \$450,000	\$1,913
greater than \$250,000 and no more than \$350,000	\$1,434
greater than \$100,000 and no more than \$250,000	\$957
greater than \$50,000 and no more than \$100,000	\$577
greater than \$25,000 and no more than \$50,000	\$462
no more than \$25,000	\$231

(f) If requested, the home care provider shall provide the commissioner information to verify the provider's annual revenues or other information as needed, including copies of documents submitted to the Department of Revenue.

(g) At each annual renewal, a home care provider may elect to pay the highest renewal fee for its license category, and not provide annual revenue information to the commissioner.

(h) A temporary license or license applicant, or temporary licensee or licensee that knowingly provides the commissioner incorrect revenue amounts for the purpose of paying a lower license fee, shall be subject to a civil penalty in the amount of double the fee the provider should have paid.

(i) The fee for failure to comply with the notification requirements in section 144A.473, subdivision 2, paragraph (c), is \$1,000.

(j) Fees ~~and penalties~~ collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund. All fees are nonrefundable. Fees collected under paragraphs (c), (d), and (e) are nonrefundable even if received before July 1, 2017, for temporary licenses or licenses being issued effective July 1, 2017, or later.

(k) Fines collected under this subdivision shall be deposited in a dedicated special revenue account. On an annual basis, the balance in the special revenue account will be appropriated to the commissioner to implement the recommendations of the advisory council established in section 144A.4799. Fines collected in state fiscal years 2018 and 2019 shall be deposited in the dedicated special revenue account as described in this section.

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

Sec. 9. Minnesota Statutes 2018, section 144A.474, subdivision 9, is amended to read:

Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under subdivision 11, or any violations determined to be widespread, the department shall conduct a follow-up survey within 90 calendar days of the survey. When conducting a follow-up survey, the surveyor will focus on whether the previous violations have been corrected and may also address any new violations that are observed while evaluating the corrections that have been made. ~~If a new violation is identified on a follow up survey, no fine will be imposed unless it is not corrected on the next follow up survey.~~

Sec. 10. Minnesota Statutes 2018, section 144A.474, subdivision 11, is amended to read:

Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed based on the level and scope of the violations described in paragraph (e) ~~(b) and imposed immediately with no opportunity to correct the violation first~~ as follows:

(1) Level 1, no fines or enforcement;

(2) Level 2, ~~fines ranging from \$0 to a fine of \$500 per violation~~, in addition to any of the enforcement mechanisms authorized in section 144A.475 for widespread violations;

(3) Level 3, ~~fines ranging from \$500 to \$1,000~~ a fine of \$3,000 per incident plus \$100 for each resident affected by the violation, in addition to any of the enforcement mechanisms authorized in section 144A.475; ~~and~~

(4) Level 4, ~~fines ranging from \$1,000 to a fine of \$5,000 per incident plus \$200 for each resident affected by the violation~~, in addition to any of the enforcement mechanisms authorized in section 144A.475;

(5) for maltreatment violations as defined in section 626.557 including abuse, neglect, financial exploitation, and drug diversion, that are determined against the provider, an immediate fine shall be imposed of \$5,000 per incident plus \$200 for each resident affected by the violation; and

(6) the fines in clauses (1) to (4) are increased and immediate fine imposition is authorized for both surveys and investigations conducted.

(b) Correction orders for violations are categorized by both level and scope and fines shall be assessed as follows:

(1) level of violation:



(i) Level 1 is a violation that has no potential to cause more than a minimal impact on the client and does not affect health or safety;

(ii) Level 2 is a violation that did not harm a client's health or safety but had the potential to have harmed a client's health or safety, but was not likely to cause serious injury, impairment, or death;

(iii) Level 3 is a violation that harmed a client's health or safety, not including serious injury, impairment, or death, or a violation that has the potential to lead to serious injury, impairment, or death; and

(iv) Level 4 is a violation that results in serious injury, impairment, or death;

(2) scope of violation:

(i) isolated, when one or a limited number of clients are affected or one or a limited number of staff are involved or the situation has occurred only occasionally;

(ii) pattern, when more than a limited number of clients are affected, more than a limited number of staff are involved, or the situation has occurred repeatedly but is not found to be pervasive; and

(iii) widespread, when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the clients.

(c) If the commissioner finds that the applicant or a home care provider ~~required to be licensed under sections 144A.43 to 144A.482~~ has not corrected violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigation, the commissioner ~~may impose a fine.~~ A shall provide a notice of noncompliance with a correction order ~~must be mailed by e-mail~~ to the applicant's or provider's last known e-mail address. The noncompliance notice must list the violations not corrected.

(d) For every violation identified by the commissioner, the commissioner shall issue an immediate fine pursuant to paragraph (a), clause (6). The license holder must still correct the violation in the time specified. The issuance of an immediate fine can occur in addition to any enforcement mechanism authorized under section 144A.475. The immediate fine may be appealed as allowed under this subdivision.

~~(d)~~ (e) The license holder must pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies by paying the fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

~~(e)~~ (f) A license holder shall promptly notify the commissioner in writing when a violation specified in the order is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order, the commissioner may issue a second fine. The commissioner shall notify the license holder by mail to the last known address in the licensing record that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

~~(f)~~ (g) A home care provider that has been assessed a fine under this subdivision has a right to a reconsideration or a hearing under this section and chapter 14.

~~(g)~~ (h) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder shall be liable for payment of the fine.

~~(h)~~ (i) In addition to any fine imposed under this section, the commissioner may assess a penalty amount based on costs related to an investigation that results in a final order assessing a fine or other enforcement action authorized by this chapter.

~~(i)~~ (j) Fines collected under this subdivision shall be deposited in ~~the state government~~ a dedicated special revenue ~~fund and credited to an account separate from the revenue collected under section 144A.472. Subject to an appropriation by the legislature, the revenue from the fines collected must be used by the commissioner for special projects to improve home care in Minnesota as recommended by account. On an annual basis, the balance in the special revenue account shall be appropriated to the commissioner to implement the recommendations of the advisory council established in section 144A.4799. Fines collected in state fiscal years 2018 and 2019 shall be deposited in the dedicated special revenue account as described in this section.~~

**EFFECTIVE DATE.** This section is effective July 1, 2019.

Sec. 11. Minnesota Statutes 2018, section 144A.475, subdivision 3b, is amended to read:

Subd. 3b. **Expedited hearing.** (a) Within five business days of receipt of the license holder's timely appeal of a temporary suspension or issuance of a conditional license, the commissioner shall request assignment of an administrative law judge. The request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within 30 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause. The commissioner shall issue a notice of hearing by certified mail or personal service at least ten business days before the hearing. Certified mail to the last known address is sufficient. The scope of the hearing shall be limited solely to the issue of whether the temporary suspension or issuance of a conditional license should remain in effect and whether there is sufficient evidence to conclude that the licensee's actions or failure to comply with applicable laws are level 3 or 4 violations as defined in section 144A.474, subdivision 11, paragraph (b), or that there were violations that posed an imminent risk of harm to the health and safety of persons in the provider's care.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten business days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record shall close at the end of the ten-day period for submission of exceptions. The commissioner's final order shall be issued within ten business days from the close of the record. When an appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed, the commissioner shall issue a final order affirming the temporary immediate suspension or conditional license within ten calendar days of the commissioner's receipt of the withdrawal or dismissal. The license holder is prohibited from operation during the temporary suspension period.

(c) When the final order under paragraph (b) affirms an immediate suspension, and a final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that sanction, the licensee is prohibited from operation pending a final commissioner's order after the contested case hearing conducted under chapter 14.

(d) A licensee whose license is temporarily suspended must comply with the requirements for notification and transfer of clients in subdivision 5. These requirements remain if an appeal is requested.

Sec. 12. Minnesota Statutes 2018, section 144A.475, subdivision 5, is amended to read:

Subd. 5. **Plan required.** (a) The process of suspending ~~or~~ revoking, or refusing to renew a license must include a plan for transferring affected ~~clients~~ clients' care to other providers by the home care provider, which will be monitored by the commissioner. Within three ~~business~~ calendar days of being notified of the ~~final~~ revocation,

refusal to renew, or suspension ~~action~~, the home care provider shall provide the commissioner, the lead agencies as defined in section 256B.0911, county adult protection and case managers, and the ombudsman for long-term care with the following information:

- (1) a list of all clients, including full names and all contact information on file;
- (2) a list of each client's representative or emergency contact person, including full names and all contact information on file;
- (3) the location or current residence of each client;
- (4) the payor sources for each client, including payor source identification numbers; and
- (5) for each client, a copy of the client's service plan, and a list of the types of services being provided.

(b) The revocation, refusal to renew, or suspension notification requirement is satisfied by mailing the notice to the address in the license record. The home care provider shall cooperate with the commissioner and the lead agencies, county adult protection and county managers, and the ombudsman for long term care during the process of transferring care of clients to qualified providers. Within three ~~business~~ calendar days of being notified of the final revocation, refusal to renew, or suspension action, the home care provider must notify and disclose to each of the home care provider's clients, or the client's representative or emergency contact persons, that the commissioner is taking action against the home care provider's license by providing a copy of the revocation, refusal to renew, or suspension notice issued by the commissioner. If the provider does not comply with the disclosure requirements in this section, the commissioner shall notify the clients, client representatives, or emergency contact persons, about the action being taken. Lead agencies, county adult protection and county managers, and the Office of Ombudsman for Long-Term Care may also provide this information. The revocation, refusal to renew, or suspension notice is public data except for any private data contained therein.

(c) A home care provider subject to this subdivision may continue operating during the period of time home care clients are being transferred to other providers.

Sec. 13. Minnesota Statutes 2018, section 144A.476, subdivision 1, is amended to read:

Subdivision 1. **Prior criminal convictions; owner and managerial officials.** (a) Before the commissioner issues a temporary license, issues a license as a result of an approved change in ownership, or renews a license, an owner or managerial official is required to complete a background study under section 144.057. No person may be involved in the management, operation, or control of a home care provider if the person has been disqualified under chapter 245C. If an individual is disqualified under section 144.057 or chapter 245C, the individual may request reconsideration of the disqualification. If the individual requests reconsideration and the commissioner sets aside or rescinds the disqualification, the individual is eligible to be involved in the management, operation, or control of the provider. If an individual has a disqualification under section 245C.15, subdivision 1, and the disqualification is affirmed, the individual's disqualification is barred from a set aside, and the individual must not be involved in the management, operation, or control of the provider.

(b) For purposes of this section, owners of a home care provider subject to the background check requirement are those individuals whose ownership interest provides sufficient authority or control to affect or change decisions related to the operation of the home care provider. An owner includes a sole proprietor, a general partner, or any other individual whose individual ownership interest can affect the management and direction of the policies of the home care provider.

(c) For the purposes of this section, managerial officials subject to the background check requirement are individuals who provide direct contact as defined in section 245C.02, subdivision 11, or individuals who have the responsibility for the ongoing management or direction of the policies, services, or employees of the home care provider. Data collected under this subdivision shall be classified as private data on individuals under section 13.02, subdivision 12.

(d) The department shall not issue any license if the applicant or owner or managerial official has been unsuccessful in having a background study disqualification set aside under section 144.057 and chapter 245C; if the owner or managerial official, as an owner or managerial official of another home care provider, was substantially responsible for the other home care provider's failure to substantially comply with sections 144A.43 to 144A.482; or if an owner that has ceased doing business, either individually or as an owner of a home care provider, was issued a correction order for failing to assist clients in violation of this chapter.

Sec. 14. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to read:

Subd. 10. **Termination of service plan.** (a) If a home care provider terminates a service plan with a client, and the client continues to need home care services, the home care provider shall provide the client and the client's representative, if any, with a 30-day written notice of termination which includes the following information:

(1) the effective date of termination;

(2) the reason for termination;

(3) a list of known licensed home care providers in the client's immediate geographic area;

(4) a statement that the home care provider will participate in a coordinated transfer of care of the client to another home care provider, health care provider, or caregiver, as required by the home care bill of rights, section 144A.44, subdivision 1, clause (17);

(5) the name and contact information of a person employed by the home care provider with whom the client may discuss the notice of termination; and

(6) if applicable, a statement that the notice of termination of home care services does not constitute notice of termination of the housing with services contract with a housing with services establishment.

(b) When the home care provider voluntarily discontinues services to all clients, the home care provider must notify the commissioner, lead agencies, and ombudsman for long-term care about its clients and comply with the requirements in this subdivision.

Sec. 15. Minnesota Statutes 2018, section 144A.4799, is amended to read:

**144A.4799 DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER ADVISORY COUNCIL.**

Subdivision 1. **Membership.** The commissioner of health shall appoint eight persons to a home care and assisted living program advisory council consisting of the following:

(1) three public members as defined in section 214.02 who shall be ~~either~~ persons who are currently receiving home care services ~~or~~ persons who have received home care services within five years of the application date, persons who have family members receiving home care services, or persons who have family members who have received home care services within five years of the application date;

(2) three Minnesota home care licensees representing basic and comprehensive levels of licensure who may be a managerial official, an administrator, a supervising registered nurse, or an unlicensed personnel performing home care tasks;

(3) one member representing the Minnesota Board of Nursing; ~~and~~

(4) one member representing the office of ombudsman for long-term care; and

(5) beginning July 1, 2021, one member of a county health and human services or county adult protection office.

Subd. 2. **Organizations and meetings.** The advisory council shall be organized and administered under section 15.059 with per diems and costs paid within the limits of available appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees may be developed as necessary by the commissioner. Advisory council meetings are subject to the Open Meeting Law under chapter 13D.

Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide advice regarding regulations of Department of Health licensed home care providers in this chapter, including advice on the following:

(1) community standards for home care practices;

(2) enforcement of licensing standards and whether certain disciplinary actions are appropriate;

(3) ways of distributing information to licensees and consumers of home care;

(4) training standards;

(5) identifying emerging issues and opportunities in ~~the home care field, including;~~

(6) identifying the use of technology in home and telehealth capabilities;

~~(6) (7) allowable home care licensing modifications and exemptions, including a method for an integrated license with an existing license for rural licensed nursing homes to provide limited home care services in an adjacent independent living apartment building owned by the licensed nursing home; and~~

~~(7) (8) recommendations for studies using the data in section 62U.04, subdivision 4, including but not limited to studies concerning costs related to dementia and chronic disease among an elderly population over 60 and additional long-term care costs, as described in section 62U.10, subdivision 6.~~

(b) The advisory council shall perform other duties as directed by the commissioner.

(c) The advisory council shall annually ~~review the balance of the account in the state government special revenue fund described in section 144A.474, subdivision 11, paragraph (i), and make annual recommendations by January 15 directly to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services regarding appropriations to the commissioner for the purposes in section 144A.474, subdivision 11, paragraph (i).~~ The recommendations shall address ways the commissioner may improve protection of the public under existing statutes and laws and include but are not limited to projects that create and administer training of licensees and their employees to improve residents lives, supporting ways that licensees can improve and enhance quality care, ways to provide technical assistance to licensees to improve compliance; information technology and data projects that analyze and communicate information about trends of violations or lead to ways of improving client care; communications strategies to licensees and the public; and other projects or pilots that benefit clients, families, and the public.

Sec. 16. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

Subd. 15. **Supportive housing.** "Supportive housing" means housing ~~with support services according to the continuum of care coordinated assessment system established under Code of Federal Regulations, title 24, section 578.3 that is not time-limited and provides or coordinates services necessary for a resident to maintain housing stability.~~

Sec. 17. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

Subd. 2a. **License required; staffing qualifications.** (a) Except as provided in paragraph (b), an agency may not enter into an agreement with an establishment to provide housing support unless:

(1) the establishment is licensed by the Department of Health as a hotel and restaurant; a board and lodging establishment; a boarding care home before March 1, 1985; or a supervised living facility, and the service provider for residents of the facility is licensed under chapter 245A. However, an establishment licensed by the Department of Health to provide lodging need not also be licensed to provide board if meals are being supplied to residents under a contract with a food vendor who is licensed by the Department of Health;

(2) the residence is: (i) licensed by the commissioner of human services under Minnesota Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265; (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120, with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02, subdivision 4a, as a community residential setting by the commissioner of human services; or

(3) ~~the establishment facility is registered licensed under chapter 144D~~ chapter 144I and provides three meals a day.

(b) The requirements under paragraph (a) do not apply to establishments exempt from state licensure because they are:

(1) located on Indian reservations and subject to tribal health and safety requirements; or

(2) ~~a supportive housing establishment that has an approved habitability inspection and an individual lease agreement and that serves people who have experienced long term homelessness and were referred through a coordinated assessment in section 256I.03, subdivision 15~~ supportive housing establishments where an individual has an approved habitability inspection and an individual lease agreement.

(c) Supportive housing establishments that serve individuals who have experienced long-term homelessness and emergency shelters must participate in the homeless management information system and a coordinated assessment system as defined by the commissioner.

(d) Effective July 1, 2016, an agency shall not have an agreement with a provider of housing support unless all staff members who have direct contact with recipients:

(1) have skills and knowledge acquired through one or more of the following:

(i) a course of study in a health- or human services-related field leading to a bachelor of arts, bachelor of science, or associate's degree;

(ii) one year of experience with the target population served;

(iii) experience as a mental health certified peer specialist according to section 256B.0615; or

- (iv) meeting the requirements for unlicensed personnel under sections 144A.43 to 144A.483;
- (2) hold a current driver's license appropriate to the vehicle driven if transporting recipients;
- (3) complete training on vulnerable adults mandated reporting and child maltreatment mandated reporting, where applicable; and
- (4) complete housing support orientation training offered by the commissioner.

Sec. 18. Minnesota Statutes 2018, section 325F.72, subdivision 1, is amended to read:

Subdivision 1. **Persons to whom disclosure is required.** ~~Housing with services establishments, as defined in sections 144D.01 to 144D.07, that secure, segregate, or provide a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or a related disorder or that advertise, market, or otherwise promote the establishment as providing specialized care for Alzheimer's disease or a related disorder are considered a "special care unit." All special care units assisted living facilities with dementia care, as defined in section 144I.01,~~ shall provide a written disclosure to the following:

- (1) the commissioner of health, if requested;
- (2) the Office of Ombudsman for Long-Term Care; and
- (3) each person seeking placement within a residence, or the person's authorized representative, before an agreement to provide the care is entered into.

Sec. 19. Minnesota Statutes 2018, section 325F.72, subdivision 2, is amended to read:

Subd. 2. **Content.** Written disclosure shall include, but is not limited to, the following:

- (1) a statement of the overall philosophy and how it reflects the special needs of residents with Alzheimer's disease or other dementias;
- (2) the criteria for determining who may reside in the ~~special~~ dementia care unit;
- (3) the process used for assessment and establishment of the service plan or agreement, including how the plan is responsive to changes in the resident's condition;
- (4) staffing credentials, job descriptions, and staff duties and availability, including any training specific to dementia;
- (5) physical environment as well as design and security features that specifically address the needs of residents with Alzheimer's disease or other dementias;
- (6) frequency and type of programs and activities for residents ~~of the special care unit~~;
- (7) involvement of families in resident care and availability of family support programs;
- (8) fee schedules for additional services to the residents ~~of the special care unit~~; and
- (9) a statement that residents will be given a written notice 30 calendar days prior to changes in the fee schedule.

Sec. 20. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:

Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a facility or service required to be licensed under chapter 245A; an assisted living facility required to be licensed under chapter 144I; a home care provider licensed or required to be licensed under sections 144A.43 to 144A.482; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, 256B.0659, or 256B.85.

(b) For services identified in paragraph (a) that are provided in the vulnerable adult's own home or in another unlicensed location, the term "facility" refers to the provider, person, or organization that offers, provides, or arranges for personal care services, and does not refer to the vulnerable adult's home or other location at which services are rendered.

Sec. 21. **REPEALER.**

(a) Minnesota Statutes 2018, section 144A.472, subdivision 4, is repealed July 1, 2019.

(b) Minnesota Statutes 2018, sections 144A.441; and 144A.442, are repealed August 1, 2021.

## ARTICLE 9 APPROPRIATIONS

### Section 1. **HEALTH AND HUMAN SERVICES APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2020" and "2021" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2020, or June 30, 2021, respectively. "The first year" is fiscal year 2020. "The second year" is fiscal year 2021. "The biennium" is fiscal years 2020 and 2021.

	<b><u>APPROPRIATIONS</u></b>	
	<b><u>Available for the Year</u></b>	
	<b><u>Ending June 30</u></b>	
	<b><u>2020</u></b>	<b><u>2021</u></b>
Sec. 2. <b><u>COMMISSIONER OF HUMAN SERVICES</u></b>		
Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$7,793,000</u></b>	<b><u>\$4,088,000</u></b>
<u>The amounts that may be spent for each purpose are specified in the following subdivisions.</u>		
Subd. 2. <b><u>Central Office; Operations</u></b>	<u>2,654,000</u>	<u>740,000</u>
<b><u>Base Level Adjustment.</u></b> <u>The general fund base for this appropriation is \$711,000 in fiscal year 2022 and \$711,000 in fiscal year 2023.</u>		



**Subd. 3. Central Office; Continuing Care for Older Adults** 5,139,000 2,848,000

(a) **Assisted Living Survey.** Beginning in fiscal year 2020, \$2,500,000 in the even numbered year of each biennium is to fund a resident experience survey and family survey for all housing with services sites. This paragraph does not expire.

(b) **Information and Assistance Grant Transfer.** \$1,000,000 in fiscal year 2020 and \$1,000,000 in fiscal year 2021 are transferred to the continuing care for older adults administration from the aging and adult services grants for developing the Home and Community-Based Report Card for assisted living. This transfer is ongoing.

(c) **Base Level Adjustment.** The general fund base for this appropriation is \$5,323,000 in fiscal year 2022 and \$2,823,000 in fiscal year 2023.

**Subd. 4. Grant Programs; Children and Community Service Grants** 1,000,000 1,500,000

(a) **Adult Protection Grants.** \$1,000,000 in fiscal year 2020 and \$1,500,000 in fiscal year 2021 are for grant funding for adult abuse maltreatment investigations and adult protective services to counties and tribes as allocated and specified under Minnesota Statutes, section 256M.42.

(b) **Base Level Adjustment.** The general fund base for this appropriation is \$2,050,000 in fiscal year 2022 and \$2,655,000 in fiscal year 2023.

**Subd. 5. Grant Programs; Aging and Adult Services Grants** (1,000,000) (1,000,000)

**Base Level Adjustment.** The general fund base for this appropriation is reduced by \$1,000,000 in fiscal year 2022 and \$1,000,000 in fiscal year 2023.

**Sec. 3. COMMISSIONER OF HEALTH**

**Subdivision 1. Total Appropriation** **\$10,973,000** **\$13,519,000**

Appropriations by Fund

	<u>2020</u>	<u>2021</u>
<u>General</u>	<u>9,870,000</u>	<u>12,416,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>1,103,000</u>	<u>1,103,000</u>

The amounts that may be spent for each purpose are specified in the following subdivision.

**Subd. 2. Health Protection**Appropriations by Fund

<u>General</u>	<u>9,870,000</u>	<u>12,416,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>1,103,000</u>	<u>1,103,000</u>

(a) **Vulnerable Adults Program Improvements.** \$7,438,000 in fiscal year 2020 and \$4,302,000 in fiscal year 2021 are from the general fund for the commissioner to continue necessary current operations improvements to the regulatory activities, systems, analysis, reporting, and communications that contribute to the health, safety, care quality, and abuse prevention for vulnerable adults in Minnesota. \$1,103,000 in fiscal year 2020 and \$1,103,000 in fiscal year 2021 are from the state government special revenue fund to improve the frequency of home care provider inspections. The state government special revenue appropriations under this paragraph are onetime appropriations.

(b) **Vulnerable Adults Regulatory Reform.** \$2,432,000 in fiscal year 2020 and \$8,114,000 in fiscal year 2021 are from the general fund for the commissioner to establish the assisted living licensure under Minnesota Statutes, section 144I.01. This is a onetime appropriation. The commissioner shall transfer fine revenue previously deposited to the state government special revenue fund under Minnesota Statutes, section 144A.474, subdivision 11, which is estimated to be \$632,000, to a dedicated account in the state treasury.

(c) **Base Level Adjustment.** The general fund base for this appropriation is \$5,800,000 in fiscal year 2022 and \$5,369,000 in fiscal year 2023. The state government special revenue fund base for this appropriation is \$13,458,000 in fiscal year 2022 and \$13,458,000 in fiscal year 2023.

**Sec. 4. APPROPRIATIONS OR TRANSFERS ENACTED MORE THAN ONCE; EFFECT.**

If an appropriation or transfer in this act is enacted more than once in the 2019 legislative session, the appropriation or transfer must be given effect only once."

Delete the title and insert:

"A bill for an act relating to health; establishing consumer protections for residents of assisted living establishments; prohibiting deceptive marketing and business practices; establishing provisions for independent senior living facilities; establishing an assisted living establishment license; changing the name for Board of Examiners for Nursing Home Administrators; imposing fees; establishing a health services executive license; making certain conforming changes; providing penalties; granting rulemaking authority; requiring reports; appropriating money; amending Minnesota Statutes 2018, sections 144.051, subdivisions 4, 5, 6; 144.057, subdivision 1; 144.122; 144A.04, subdivision 5; 144A.20, subdivision 1; 144A.24; 144A.26; 144A.44, subdivision 1; 144A.471, subdivisions 7, 9; 144A.472, subdivision 7; 144A.474, subdivisions 9, 11; 144A.475, subdivisions 3b, 5;

144A.476, subdivision 1; 144A.4791, subdivision 10; 144A.4799; 256I.03, subdivision 15; 256I.04, subdivision 2a; 325F.72, subdivisions 1, 2, 4; 626.5572, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; 144G; proposing coding for new law as Minnesota Statutes, chapters 144I; 144J; 144K; repealing Minnesota Statutes 2018, sections 144A.441; 144A.442; 144A.472, subdivision 4; 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; 144G.06."

With the recommendation that when so amended the bill be placed on the General Register.

The report was adopted.

### **SECOND READING OF HOUSE BILLS**

H. F. Nos. 6, 11 and 90 were read for the second time.

### **SECOND READING OF SENATE BILLS**

S. F. No. 2227 was read for the second time.

### **INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Johnson introduced:

H. F. No. 2857, A bill for an act relating to public safety; providing for senate confirmation of certain members of the Minnesota Sentencing Guidelines Commission; amending Minnesota Statutes 2018, section 244.09, subdivisions 2, 3.

The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division.

Mariani introduced:

H. F. No. 2858, A bill for an act relating to public safety; proposing an amendment to the Minnesota Constitution by adding a section to article XIII; providing for a Sentencing Guidelines Commission.

The bill was read for the first time and referred to the Committee on Government Operations.

Winkler moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

Nelson, N., was excused for the remainder of today's session.

**CALENDAR FOR THE DAY**

S. F. No. 2226 was reported to the House.

Poppe moved to amend S. F. No. 2226, the third engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2200, the first engrossment:

"ARTICLE 1  
AGRICULTURE

Section 1. **AGRICULTURE APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this act. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2020" and "2021" used in this act mean that the appropriations listed under them are available for the fiscal year ending June 30, 2020, or June 30, 2021, respectively. "The first year" is fiscal year 2020. "The second year" is fiscal year 2021. "The biennium" is fiscal years 2020 and 2021.

	<b><u>APPROPRIATIONS</u></b>	
	<b><u>Available for the Year</u></b>	
	<b><u>Ending June 30</u></b>	
	<b><u>2020</u></b>	<b><u>2021</u></b>
Sec. 2. <b><u>DEPARTMENT OF AGRICULTURE</u></b>		
Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$56,154,000</u></b>	<b><u>\$54,839,000</u></b>
<b><u>Appropriations by Fund</u></b>		
	<b><u>2020</u></b>	<b><u>2021</u></b>
<b><u>General</u></b>	<b><u>55,755,000</u></b>	<b><u>54,440,000</u></b>
<b><u>Remediation</u></b>	<b><u>399,000</u></b>	<b><u>399,000</u></b>

The amounts that may be spent for each purpose are specified in the following subdivisions.

**Subd. 2. Protection Services**Appropriations by Fund

	<u>2020</u>	<u>2021</u>
<u>General</u>	<u>20,050,000</u>	<u>19,225,000</u>
<u>Remediation</u>	<u>399,000</u>	<u>399,000</u>

(a) \$399,000 the first year and \$399,000 the second year are from the remediation fund for administrative funding for the voluntary cleanup program.

(b) \$250,000 the first year and \$250,000 the second year are for rapid detection, identification, containment, control, and management of high-priority plant pests and pathogens including emerald ash borer.

(c) \$375,000 the first year and \$375,000 the second year are for transfer to the noxious weed and invasive plant species assistance account in the agricultural fund to award grants to local units of government under Minnesota Statutes, section 18.90, with preference given to local units of government responding to Palmer amaranth or other weeds on the eradicate list.

(d) \$525,000 the first year and \$525,000 the second year are additional funding for the noxious weed and invasive plant program.

(e) \$300,000 the first year and \$300,000 the second year are for industrial hemp development.

(f) \$150,000 the first year and \$150,000 the second year are for additional meat and poultry inspection services.

(g) \$650,000 the first year and \$150,000 the second year are to replace capital equipment in the Department of Agriculture's analytical laboratory. The base for this appropriation is \$154,000 in fiscal year 2022 and \$154,000 in fiscal year 2023.

(h) \$300,000 the first year and \$300,000 the second year are for agricultural emergency preparedness and response.

(i) \$325,000 the first year is for transfer to the agricultural emergency account in the agricultural fund.

(j) \$175,000 the first year and \$175,000 the second year are for compensation for destroyed or crippled livestock under Minnesota Statutes, section 3.737. The first year appropriation may be spent to compensate for livestock that were destroyed or crippled during fiscal year 2019. If the amount in the first year is insufficient, the

amount in the second year is available in the first year. The commissioner may use up to \$5,000 each year to reimburse expenses incurred by university extension educators to provide fair market values of destroyed or crippled livestock.

(k) \$155,000 the first year and \$155,000 the second year are for compensation for crop damage under Minnesota Statutes, section 3.7371. If the amount in the first year is insufficient, the amount in the second year is available in the first year. The commissioner may use up to \$30,000 of the appropriation each year to reimburse expenses incurred by the commissioner or the commissioner's approved agent to investigate and resolve claims.

If the commissioner determines that claims made under Minnesota Statutes, section 3.737 or 3.7371, are unusually high, amounts appropriated for either program may be transferred to the appropriation for the other program.

**Subd. 3. Agricultural Marketing and Development**

4,121,000

4,121,000

(a) \$200,000 the first year and \$200,000 the second year are to expand domestic and international marketing opportunities for farmers and value-added processors, including staffing to facilitate farm-to-school sales and new markets for Minnesota-grown hemp.

(b) \$75,000 the first year and \$75,000 the second year are for additional community outreach on farms and rural mental health services including the 24-hour hotline, service availability, and mental health forums. Of this appropriation, \$12,000 each year is to provide professional development training for Farm Business Management instructors in the Minnesota State system. The base for this appropriation is \$63,000 in fiscal year 2022 and \$63,000 in fiscal year 2023.

(c) \$186,000 the first year and \$186,000 the second year are for transfer to the Minnesota grown account and may be used as grants for Minnesota grown promotion under Minnesota Statutes, section 17.102. Grants may be made for one year. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2021, for Minnesota grown grants in this paragraph are available until June 30, 2023.

(d) \$634,000 the first year and \$634,000 the second year are for continuation of the dairy development and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2. The commissioner may allocate the available sums among permissible activities, including efforts to improve the quality of milk produced in the state, in the proportions that the

commissioner deems most beneficial to Minnesota's dairy farmers. The commissioner must submit a detailed accomplishment report and a work plan detailing future plans for, and anticipated accomplishments from, expenditures under this program to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture policy and finance on or before the start of each fiscal year. If significant changes are made to the plans in the course of the year, the commissioner must notify the chairs and ranking minority members.

(e) The commissioner may use funds appropriated in this subdivision for annual cost-share payments to resident farmers or entities that sell, process, or package agricultural products in this state for the costs of organic certification. The commissioner may allocate these funds for assistance to persons transitioning from conventional to organic agriculture.

**Subd. 4. Agriculture, Bioenergy, and Bioproduct Advancement**

23,900,000

23,575,000

(a) \$9,300,000 the first year and \$9,300,000 the second year are for transfer to the agriculture research, education, extension, and technology transfer account under Minnesota Statutes, section 41A.14, subdivision 3. Of these amounts: at least \$600,000 the first year and \$600,000 the second year are for the Minnesota Agricultural Experiment Station's agriculture rapid response fund under Minnesota Statutes, section 41A.14, subdivision 1, clause (2); \$2,000,000 the first year and \$2,000,000 the second year are for grants to the Minnesota Agriculture Education Leadership Council to enhance agricultural education with priority given to Farm Business Management challenge grants; \$350,000 the first year and \$350,000 the second year are for potato breeding; and \$450,000 the first year and \$450,000 the second year are for the cultivated wild rice breeding project at the North Central Research and Outreach Center to include a tenure track/research associate plant breeder. The commissioner shall transfer the remaining funds in this appropriation each year to the Board of Regents of the University of Minnesota for purposes of Minnesota Statutes, section 41A.14. Of the amount transferred to the Board of Regents, up to \$2,500,000 each year is for research on avian influenza, African swine fever, and chronic wasting disease.

To the extent practicable, money expended under Minnesota Statutes, section 41A.14, subdivision 1, clauses (1) and (2), must supplement and not supplant existing sources and levels of funding. The commissioner may use up to one percent of this appropriation for costs incurred to administer the program.

(b) \$14,275,000 the first year and \$14,275,000 the second year are for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. Except as provided below,

the commissioner may allocate the appropriation each year among the following areas: facilitating the start-up, modernization, improvement, or expansion of livestock operations including beginning and transitioning livestock operations; providing funding not to exceed \$450,000 each year to develop and enhance farm-to-school markets for Minnesota farmers by providing more fruits, vegetables, meat, grain, and dairy for Minnesota children in school and child care settings including by reimbursing schools for purchases from local farmers; assisting value-added agricultural businesses to begin or expand, access new markets, or diversify; providing funding not to exceed \$350,000 each year for urban youth agricultural education or urban agriculture community development; providing funding not to exceed \$350,000 each year for the good food access program under Minnesota Statutes, section 17.1017; facilitating the start-up, modernization, or expansion of other beginning and transitioning farms including by providing loans under Minnesota Statutes, section 41B.056; sustainable agriculture on-farm research and demonstration; development or expansion of food hubs and other alternative community-based food distribution systems; enhancing renewable energy infrastructure and use; crop research; Farm Business Management tuition assistance; and good agricultural practices/good handling practices certification assistance. The commissioner may use up to 6.5 percent of this appropriation for costs incurred to administer the program.

Of the amount appropriated for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12:

(1) \$1,000,000 the first year and \$1,000,000 the second year are for distribution in equal amounts to each of the state's county fairs to preserve and promote Minnesota agriculture; and

(2) \$1,500,000 the first year and \$1,500,000 the second year are for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2021, and the second year appropriation is available until June 30, 2022. If this appropriation exceeds the total amount for which all producers are eligible in a fiscal year, the balance of the appropriation is available for the agricultural growth, research, and innovation program.

The commissioner may use up to \$2,000,000 per year of the funds appropriated under this subdivision to award value-added agriculture grants of between \$200,000 and \$1,000,000 per grant for new or expanding agricultural production, aquaponics, or processing facilities that provide significant economic impact to the region.



Notwithstanding Minnesota Statutes, section 16A.28, any unencumbered balance does not cancel at the end of the first year and is available for the second year and appropriations encumbered under contract on or before June 30, 2021, for agricultural growth, research, and innovation grants are available until June 30, 2024.

(c) \$325,000 the first year is for grants to motor fuel wholesalers and retail motor fueling station operators to install the equipment necessary to store or dispense biofuels to the public to meet the biofuel requirement goals established under Minnesota Statutes, section 239.7911. Motor fuel wholesalers are eligible for grant money under this paragraph for up to two storage sites if each site is located in Minnesota and stores, or uses tank systems to blend, motor fuel comprised of at least 15 percent agriculturally derived, denatured ethanol by volume. A retail motor fueling station operator is eligible for grant money under this paragraph for up to and including 15 retail motor fuel dispensing sites if each site is located in Minnesota and the grant money under this paragraph is used to modify or install storage and dispensing components that dispense gasoline blended with at least 15 percent of agriculturally derived, denatured ethanol by volume for use in spark ignition engines. A grant award under this paragraph must not exceed 90 percent of the cost of the installation project. The commissioner must coordinate with stakeholders to establish grant criteria and distribute grants in a manner to more fully attain the requirements in Minnesota Statutes, section 239.7911. Of this appropriation, up to \$50,000 is for grants to create greater awareness among motorists of the availability of motor fuel comprised of 15 percent agriculturally derived, denatured ethanol by volume for use in spark ignition engines. Notwithstanding Minnesota Statutes, section 16A.28, the appropriation in this paragraph is available until June 30, 2023. The commissioner must report to the legislative committees and divisions with jurisdiction over agriculture policy and finance by February 1 of each year in which funds are available, detailing the number of grants awarded and the projected effect of the grant program on meeting the biofuel replacement goals under Minnesota Statutes, section 239.7911.

**Subd. 5. Administration and Financial Assistance**

7,684,000

7,519,000

(a) \$25,000 the first year and \$25,000 the second year are for grants to the Southern Minnesota Initiative Foundation to promote local foods through an annual event that raises public awareness of local foods and connects local food producers and processors with potential buyers.

(b) \$75,000 the first year is for a grant to Greater Mankato Growth, Inc. for assistance to agricultural-related businesses to promote jobs, innovation, and synergy development.

(c) \$25,000 the first year and \$25,000 the second year are for grants to a nonprofit organization to provide a legal assistance hotline for farmers. These are onetime appropriations.

(d) \$474,000 the first year and \$474,000 the second year are for payments to county and district agricultural societies and associations under Minnesota Statutes, section 38.02, subdivision 1. Aid payments to county and district agricultural societies and associations shall be disbursed no later than July 15 of each year. These payments are the amount of aid from the state for an annual fair held in the previous calendar year.

(e) \$1,000 the first year and \$1,000 the second year are for grants to the Minnesota State Poultry Association.

(f) \$18,000 the first year and \$18,000 the second year are for grants to the Minnesota Livestock Breeders Association.

(g) \$47,000 the first year and \$47,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment.

(h) \$267,000 the first year and \$267,000 the second year are for farm advocate services.

(i) \$17,000 the first year and \$17,000 the second year are for grants to the Minnesota Horticultural Society.

(j) \$250,000 the first year and \$250,000 the second year are for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for statewide mental health counseling support to farm families and business operators through the Minnesota State Agricultural Centers of Excellence. South Central College and Central Lakes College shall serve as the fiscal agents.

(k) \$1,700,000 the first year and \$1,700,000 the second year are for grants to Second Harvest Heartland on behalf of Minnesota's six Feeding America food banks for the following:

(1) to purchase milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Milk purchased under the grants must be acquired from Minnesota milk processors and based on low-cost bids. The milk must be allocated to each Feeding America food bank serving Minnesota according to the formula used in the distribution of United States Department of Agriculture commodities under The Emergency Food Assistance Program. Second Harvest Heartland may enter into contracts or agreements with food banks for shared funding or reimbursement of the direct purchase of milk. Each food bank that receives funding under this clause may use up to two percent for administrative expenses; and

(2) to compensate agricultural producers and processors for costs incurred to harvest and package for transfer surplus fruits, vegetables, and other agricultural commodities that would otherwise go unharvested, be discarded, or sold in a secondary market. Surplus commodities must be distributed statewide to food shelves and other charitable organizations that are eligible to receive food from the food banks. Surplus food acquired under this clause must be from Minnesota producers and processors. Second Harvest Heartland may use up to 15 percent of each grant awarded under this clause to match administrative and transportation expenses.

Of the amount appropriated under this paragraph, at least \$600,000 each year must be allocated under clause (1). Notwithstanding Minnesota Statutes, section 16A.28, any unencumbered balance the first year does not cancel and is available in the second year. Second Harvest Heartland must submit quarterly reports to the commissioner in the form prescribed by the commissioner. The reports must include but are not limited to information on the expenditure of funds, the amount of milk or other commodities purchased, and the organizations to which this food was distributed. The base for this appropriation is \$1,650,000 in fiscal year 2022 and \$1,650,000 in fiscal year 2023.

(l) \$200,000 the first year and \$150,000 the second year are for grants to the Center for Rural Policy and Development. \$50,000 the first year is for the study required under section 24 and notwithstanding Minnesota Statutes, section 16A.28, is available until June 30, 2021.

(m) \$275,000 the first year and \$235,000 the second year are for grants to the Minnesota Agricultural Education and Leadership Council for programs of the council under Minnesota Statutes, chapter 41D. Of the first year appropriation, \$40,000 is to facilitate development of a farm transitions curriculum. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2021.

Sec. 3. **BOARD OF ANIMAL HEALTH**

\$5,757,000

\$6,077,000

(a) \$30,000 the first year and \$350,000 the second year are to improve oversight of farmed Cervidae.

(b) \$250,000 the first year and \$250,000 the second year are for agricultural emergency preparedness and response.

(c) \$6,000 the first year and \$6,000 the second year are from the Cervidae inspection account in the special revenue fund to develop electronic forms to better track farmed Cervidae movement and record keeping. These are onetime appropriations.

Sec. 4. **AGRICULTURAL UTILIZATION RESEARCH  
INSTITUTE**

\$3,897,000

\$3,900,000

\$104,000 the first year and \$107,000 the second year are to maintain the current level of service delivery.

Sec. 5. Minnesota Statutes 2018, section 17.118, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Livestock" means beef cattle, dairy cattle, swine, poultry, goats, mules, farmed Cervidae, Ratitae, bison, sheep, horses, and llamas.

(c) "Qualifying expenditures" means the amount spent for:

(1) the acquisition, construction, or improvement of buildings or facilities for the production of livestock or livestock products;

(2) the development of pasture for use by livestock including, but not limited to, the acquisition, development, or improvement of:

(i) lanes used by livestock that connect pastures to a central location;

(ii) watering systems for livestock on pasture including water lines, booster pumps, and well installations;

(iii) livestock stream crossing stabilization; and

(iv) fences; or

(3) the acquisition of equipment for livestock housing, confinement, feeding, and waste management including, but not limited to, the following:

(i) freestall barns;

(ii) watering facilities;

(iii) feed storage and handling equipment;

(iv) milking parlors;

(v) robotic equipment;

(vi) scales;

(vii) milk storage and cooling facilities;

(viii) bulk tanks;

(ix) computer hardware and software and associated equipment used to monitor the productivity and feeding of livestock;

(x) manure pumping and storage facilities;

(xi) swine farrowing facilities;

(xii) swine and cattle finishing barns;

(xiii) calving facilities;

(xiv) digesters;

(xv) equipment used to produce energy;

(xvi) on-farm processing facilities equipment;

(xvii) fences, including but not limited to farmed Cervidae perimeter fences required under section 35.155, subdivision 4; and

(xviii) livestock pens and corrals and sorting, restraining, and loading chutes.

Except for qualifying pasture development expenditures under clause (2), qualifying expenditures only include amounts that are allowed to be capitalized and deducted under either section 167 or 179 of the Internal Revenue Code in computing federal taxable income. Qualifying expenditures do not include an amount paid to refinance existing debt.

Sec. 6. Minnesota Statutes 2018, section 18B.07, subdivision 2, is amended to read:

Subd. 2. **Prohibited pesticide use.** (a) A person may not use, store, handle, distribute, or dispose of a pesticide, rinsate, pesticide container, or pesticide application equipment in a manner:

(1) that is inconsistent with a label or labeling as defined by FIFRA;

(2) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife; or

(3) that will cause unreasonable adverse effects on the environment.

(b) A person may not direct a pesticide onto property beyond the boundaries of the target site. A person may not apply a pesticide resulting in damage to adjacent property. A person who applies a pesticide resulting in damage to adjacent property that is part of the state outdoor recreation system is subject to enhanced monetary penalties as provided in section 18D.40.

(c) A person may not directly apply a pesticide on a human by overspray or target site spray, except when:

(1) the pesticide is intended for use on a human;

(2) the pesticide application is for mosquito control operations;

(3) the pesticide application is for control of gypsy moth, forest tent caterpillar, or other pest species, as determined by the commissioner, and the pesticide used is a biological agent; or

(4) the pesticide application is for a public health risk, as determined by the commissioner of health, and the commissioner of health, in consultation with the commissioner of agriculture, determines that the application is warranted based on the commissioner's balancing of the public health risk with the risk that the pesticide application poses to the health of the general population, with special attention to the health of children.

(d) For pesticide applications under paragraph (c), clause (2), the following conditions apply:

(1) no practicable and effective alternative method of control exists;

(2) the pesticide is among the least toxic available for control of the target pest; and

(3) notification to residents in the area to be treated is provided at least 24 hours before application through direct notification, posting daily on the treating organization's website, if any, and by sending a broadcast e-mail to those persons who request notification of such, of those areas to be treated by adult mosquito control techniques during the next calendar day. For control operations related to human disease, notice under this paragraph may be given less than 24 hours in advance.

(e) For pesticide applications under paragraph (c), clauses (3) and (4), the following conditions apply:

(1) no practicable and effective alternative method of control exists;

(2) the pesticide is among the least toxic available for control of the target pest; and

(3) notification of residents in the area to be treated is provided by direct notification and through publication in a newspaper of general circulation within the affected area.

(f) For purposes of this subdivision, "direct notification" may include mailings, public meetings, posted placards, neighborhood newsletters, or other means of contact designed to reach as many residents as possible. Public meetings held to meet this requirement for adult mosquito control, under paragraph (d), must be held within each city or town where the pesticide treatments are to be made, at a time and location that is convenient for residents of the area where the treatments will occur.

(g) A person may not apply a pesticide in a manner so as to expose a worker in an immediately adjacent, open field.

(h) Notwithstanding that the application is done in a manner consistent with the label or labeling, it is a violation of this chapter to directly apply a pesticide to a site where an application has not been: (1) requested, ordered, contracted for, or permitted; or (2) performed pursuant to paragraph (c), clause (2), (3), or (4).

Sec. 7. Minnesota Statutes 2018, section 18B.34, subdivision 5, is amended to read:

Subd. 5. **Fees.** (a) Except as provided under paragraph (b), a person initially applying for or renewing a noncommercial applicator license must pay a nonrefundable application fee of \$50, ~~except an applicant who is a government or Conservation Corps Minnesota employee who uses pesticides in the course of performing official duties must pay a nonrefundable application fee of \$10.~~

(b) A government employee, a contractor providing rest area custodial services for the commissioner of transportation, or a Conservation Corps Minnesota employee is eligible for a reduced fee of \$10 if the employee or contractor uses pesticides in the course of performing official duties.

~~(c)~~ (c) A license renewal application received after March 1 in the year for which the license is to be issued is subject to a penalty fee of 50 percent of the application fee. The penalty fee must be paid before the renewal license may be issued.

~~(d)~~ (d) An application for a duplicate noncommercial applicator license must be accompanied by a nonrefundable application fee of \$10.

Sec. 8. Minnesota Statutes 2018, section 18C.425, subdivision 6, is amended to read:

Subd. 6. **Payment of inspection fee.** (a) The person who registers and distributes in the state a specialty fertilizer, soil amendment, or plant amendment under section 18C.411 shall pay the inspection fee to the commissioner.

(b) The person licensed under section 18C.415 who distributes a fertilizer to a person not required to be so licensed shall pay the inspection fee to the commissioner, except as exempted under section 18C.421, subdivision 1, paragraph (b).

(c) The person responsible for payment of the inspection fees for fertilizers, soil amendments, or plant amendments sold and used in this state must pay an inspection fee of 39 cents per ton, and until June 30, ~~2019~~ 2024, an additional 40 cents per ton, of fertilizer, soil amendment, and plant amendment sold or distributed in this state, with a minimum of \$10 on all tonnage reports. Notwithstanding section 18C.131, the commissioner must deposit all revenue from the additional 40 cents per ton fee in the agricultural fertilizer research and education account in section 18C.80. Products sold or distributed to manufacturers or exchanged between them are exempt from the inspection fee imposed by this subdivision if the products are used exclusively for manufacturing purposes.

(d) A registrant or licensee must retain invoices showing proof of fertilizer, plant amendment, or soil amendment distribution amounts and inspection fees paid for a period of three years.

Sec. 9. Minnesota Statutes 2018, section 18C.70, subdivision 5, is amended to read:

Subd. 5. **Expiration.** This section expires June 30, ~~2020~~ 2025.

Sec. 10. Minnesota Statutes 2018, section 18C.71, subdivision 1, is amended to read:

Subdivision 1. **Eligible projects.** Eligible project activities include research, education, and technology transfer related to the production and application of fertilizer, soil amendments, and other plant amendments. Chosen projects must contain a component of outreach that achieves a timely dissemination of findings and their applicability to the production agricultural community or metropolitan fertilizer users.

Sec. 11. Minnesota Statutes 2018, section 18C.71, subdivision 2, is amended to read:

Subd. 2. **Awarding grants.** Applications for program grants must be submitted in the form prescribed by the Minnesota Agricultural Fertilizer Research and Education Council. Applications must be submitted on or before the deadline prescribed by the council. All applications are subject to a thorough in-state review by a peer committee established and approved by the council. Each project meeting the basic qualifications is subject to a yes or no vote by each council member. Projects chosen to receive funding must achieve an affirmative vote from at least eight of the 12 council members or two-thirds of voting members present. Projects awarded program funds must submit an annual progress report in the form prescribed by the council. Up to ten percent of the grant dollars awarded each cycle may be for projects that concern fertilizer use in metropolitan areas.

Sec. 12. Minnesota Statutes 2018, section 18C.71, subdivision 4, is amended to read:

Subd. 4. **Expiration.** This section expires June 30, ~~2020~~ 2025.

Sec. 13. Minnesota Statutes 2018, section 18C.80, subdivision 2, is amended to read:

Subd. 2. **Expiration.** This section expires June 30, ~~2020~~ 2025.

Sec. 14. **[18D.40] ENHANCED PENALTIES; OUTDOOR RECREATION LANDS.**

Notwithstanding limitations placed on administrative or civil penalty amounts under sections 18D.315 and 18D.325, a person who applies a pesticide resulting in damage to adjacent property that is part of the state outdoor recreation system is subject to a monetary penalty equal to twice the amount that the commissioner would otherwise assess for a comparable violation.

Sec. 15. Minnesota Statutes 2018, section 18H.14, is amended to read:

**18H.14 LABELING AND ADVERTISING OF NURSERY STOCK.**

(a) Plants, plant materials, or nursery stock must not be labeled or advertised with false or misleading information including, but not limited to, scientific name, variety, place of origin, hardiness zone as defined by the United States Department of Agriculture, and growth habit.

(b) All nonhardy nursery stock as designated by the commissioner must be labeled correctly for hardiness or be labeled "nonhardy" in Minnesota.

(c) A person may not offer for distribution plants, plant materials, or nursery stock, represented by some specific or special form of notation, including, but not limited to, "free from" or "grown free of," unless the plants are produced under a specific program approved by the commissioner to address the specific plant properties addressed in the special notation claim.

(d) Nursery stock collected from the wild state must be inspected and certified prior to sale and at the time of sale must be labeled "Collected from the Wild." The label must remain on each plant or clump of plants while it is offered for sale and during the distribution process. The collected stock may be grown in nursery rows at least two years, after which the plants may be sold without the labeling required by this paragraph.

(e) A person ~~selling at retail or providing to an end user~~ may not label or advertise an annual plant, bedding plant, or other plant, plant material, or nursery stock as beneficial to pollinators if the annual plant, bedding plant, plant material, or nursery stock has:

~~(1)~~ been treated with and has a detectable level of a systemic insecticide that:

~~(i)~~ (1) has a pollinator protection box on the label; or

~~(ii)~~ (2) has a pollinator, bee, or honey bee precautionary statement in the environmental hazards section of the insecticide product label; ~~and,~~

~~(2)~~ ~~a concentration in its flowers greater than the no-observed adverse effect level of a systemic insecticide.~~

The commissioner shall enforce this paragraph as provided in chapter 18J.

(f) For the purposes of paragraph (e):

~~(1)~~ "systemic insecticide" means an insecticide that is both absorbed by the plant and translocated through the plant's vascular system; ~~and,~~

~~(2)~~ "no-observed adverse effect level" means the level established by the United States Environmental Protection Agency for acute oral toxicity for adult honeybees.



Sec. 16. Minnesota Statutes 2018, section 18K.02, subdivision 3, is amended to read:

Subd. 3. **Industrial hemp.** "Industrial hemp" means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, including the plant's seeds, and all the plant's derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Industrial hemp is not marijuana as defined in section 152.01, subdivision 9.

Sec. 17. Minnesota Statutes 2018, section 18K.03, is amended to read:

**18K.03 AGRICULTURAL CROP; POSSESSION AUTHORIZED.**

Industrial hemp is an agricultural crop in this state. A person may possess, transport, process, sell, or buy industrial hemp that is grown pursuant to this chapter or lawfully grown in another state.

Sec. 18. Minnesota Statutes 2018, section 28A.16, is amended to read:

**28A.16 PERSONS SELLING LIQUOR.**

(a) The provisions of the Minnesota consolidated food licensing law, sections 28A.01 to 28A.16 and acts amendatory thereto, shall not apply to persons licensed to sell 3.2 percent malt liquor "on-sale" as provided in section 340A.403, or to persons licensed to sell intoxicating liquors "on-sale" or "off-sale" as provided in sections 340A.404 to 340A.407, provided that these persons sell only ice manufactured and packaged by another, or bottled or canned soft drinks and prepacked candy at retail.

(b) When an exclusive liquor store is not exempt under paragraph (a), the commissioner must exclude all gross sales of off-sale alcoholic beverages when determining the applicable license fee under section 28A.08, subdivision 3. For purposes of this paragraph, "exclusive liquor store" and "alcoholic beverage" have the meanings given in section 340A.101.

Sec. 19. Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended by Laws 2016, chapter 184, section 11, Laws 2016, chapter 189, article 2, section 26, and Laws 2017, chapter 88, article 1, section 5, is amended to read:

Subd. 4. <b>Agriculture, Bioenergy, and Bioproduct Advancement</b>	14,993,000	18,316,000
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\$4,483,000 the first year and \$8,500,000 the second year are for transfer to the agriculture research, education, extension, and technology transfer account under Minnesota Statutes, section 41A.14, subdivision 3. The transfer in this paragraph includes money for plant breeders at the University of Minnesota for wild rice, potatoes, and grapes. Of these amounts, at least \$600,000 each year is for the Minnesota Agricultural Experiment Station's Agriculture Rapid Response Fund under Minnesota Statutes, section 41A.14, subdivision 1, clause (2). Of the amount appropriated in this paragraph, \$1,000,000 each year is for transfer to the Board of Regents of the University of Minnesota for research to determine (1) what is causing avian influenza, (2) why some fowl are more susceptible, and (3) prevention measures that can be taken. Of the amount appropriated in this paragraph, \$2,000,000 each year is for grants to the Minnesota Agriculture

Education Leadership Council to enhance agricultural education with priority given to Farm Business Management challenge grants. The commissioner shall transfer the remaining grant funds in this appropriation each year to the Board of Regents of the University of Minnesota for purposes of Minnesota Statutes, section 41A.14.

To the extent practicable, funds expended under Minnesota Statutes, section 41A.14, subdivision 1, clauses (1) and (2), must supplement and not supplant existing sources and levels of funding. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

\$10,235,000 the first year and \$9,541,000 the second year are for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. No later than February 1, 2016, and February 1, 2017, the commissioner must report to the legislative committees with jurisdiction over agriculture policy and finance regarding the commissioner's accomplishments and anticipated accomplishments in the following areas: facilitating the start-up, modernization, or expansion of livestock operations including beginning and transitioning livestock operations; developing new markets for Minnesota farmers by providing more fruits, vegetables, meat, grain, and dairy for Minnesota school children; assisting value-added agricultural businesses to begin or expand, access new markets, or diversify products; developing urban agriculture; facilitating the start-up, modernization, or expansion of other beginning and transitioning farms including loans under Minnesota Statutes, section 41B.056; sustainable agriculture on farm research and demonstration; development or expansion of food hubs and other alternative community-based food distribution systems; incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18; and research on bioenergy, biobased content, or biobased formulated products and other renewable energy development. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2017, for agricultural growth, research, and innovation grants are available until June 30, ~~2019~~ 2020.

The commissioner may use funds appropriated for the agricultural growth, research, and innovation program as provided in this paragraph. The commissioner may award grants to owners of Minnesota facilities producing bioenergy, biobased content, or a biobased formulated product; to organizations that provide for on-station, on-farm field scale research and outreach to develop

and test the agronomic and economic requirements of diverse strands of prairie plants and other perennials for bioenergy systems; or to certain nongovernmental entities. For the purposes of this paragraph, "bioenergy" includes transportation fuels derived from cellulosic material, as well as the generation of energy for commercial heat, industrial process heat, or electrical power from cellulosic materials via gasification or other processes. Grants are limited to 50 percent of the cost of research, technical assistance, or equipment related to bioenergy, biobased content, or biobased formulated product production or \$500,000, whichever is less. Grants to nongovernmental entities for the development of business plans and structures related to community ownership of eligible bioenergy facilities together may not exceed \$150,000. The commissioner shall make a good-faith effort to select projects that have merit and, when taken together, represent a variety of bioenergy technologies, biomass feedstocks, and geographic regions of the state. Projects must have a qualified engineer provide certification on the technology and fuel source. Grantees must provide reports at the request of the commissioner.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$1,000,000 the first year and \$1,000,000 the second year are for distribution in equal amounts to each of the state's county fairs to preserve and promote Minnesota agriculture.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$500,000 in fiscal year 2016 and \$806,000 in fiscal year 2017 are for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18. If the appropriation exceeds the total amount for which all producers are eligible in a fiscal year, the balance of the appropriation is available to the commissioner for the agricultural growth, research, and innovation program. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2017, and the second year appropriation is available until June 30, 2018. The commissioner may use up to 4.5 percent of the appropriation for administration of the incentive payment programs.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$250,000 the first year is for grants to communities to develop or expand food hubs and other alternative community-based food distribution systems. Of this amount, \$50,000 is for the commissioner to consult with existing food hubs, alternative community-based food distribution systems, and University of Minnesota Extension to identify best practices for use by other Minnesota communities. No later than December 15, 2015, the commissioner must report to the legislative committees with jurisdiction over agriculture and health regarding the status of emerging alternative community-based food

distribution systems in the state along with recommendations to eliminate any barriers to success. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. This is a onetime appropriation.

\$250,000 the first year and \$250,000 the second year are for grants that enable retail petroleum dispensers to dispense biofuels to the public in accordance with the biofuel replacement goals established under Minnesota Statutes, section 239.7911. A retail petroleum dispenser selling petroleum for use in spark ignition engines for vehicle model years after 2000 is eligible for grant money under this paragraph if the retail petroleum dispenser has no more than 15 retail petroleum dispensing sites and each site is located in Minnesota. The grant money received under this paragraph must be used for the installation of appropriate technology that uses fuel dispensing equipment appropriate for at least one fuel dispensing site to dispense gasoline that is blended with 15 percent of agriculturally derived, denatured ethanol, by volume, and appropriate technical assistance related to the installation. A grant award must not exceed 85 percent of the cost of the technical assistance and appropriate technology, including remetering of and retrofits for retail petroleum dispensers and replacement of petroleum dispenser projects. The commissioner may use up to \$35,000 of this appropriation for administrative expenses. The commissioner shall cooperate with biofuel stakeholders in the implementation of the grant program. The commissioner must report to the legislative committees with jurisdiction over agriculture policy and finance by February 1 each year, detailing the number of grants awarded under this paragraph and the projected effect of the grant program on meeting the biofuel replacement goals under Minnesota Statutes, section 239.7911. These are onetime appropriations.

\$25,000 the first year and \$25,000 the second year are for grants to the Southern Minnesota Initiative Foundation to promote local foods through an annual event that raises public awareness of local foods and connects local food producers and processors with potential buyers.

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

Sec. 20. Laws 2017, chapter 88, article 1, section 2, subdivision 2, is amended to read:

Subd. 2. <b>Protection Services</b>	17,821,000	17,825,000
Appropriations by Fund		
	2018	2019
General	17,428,000	17,428,000
Remediation	393,000	397,000

(a) \$25,000 the first year and \$25,000 the second year are to develop and maintain cottage food license exemption outreach and training materials.

(b) \$75,000 the first year and \$75,000 the second year are to coordinate the correctional facility vocational training program and to assist entities that have explored the feasibility of establishing a USDA-certified or state "equal to" food processing facility within 30 miles of the Northeast Regional Corrections Center.

(c) \$125,000 the first year and \$125,000 the second year are for additional funding for the noxious weed and invasive plant program. These are onetime appropriations.

(d) \$250,000 the first year and \$250,000 the second year are for transfer to the pollinator habitat and research account in the agricultural fund. These are onetime transfers.

(e) \$393,000 the first year and \$397,000 the second year are from the remediation fund for administrative funding for the voluntary cleanup program.

(f) \$200,000 the first year and \$200,000 the second year are for the industrial hemp pilot program under Minnesota Statutes, section 18K.09. These are onetime appropriations.

(g) \$175,000 the first year and \$175,000 the second year are for compensation for destroyed or crippled livestock under Minnesota Statutes, section 3.737. This appropriation may be spent to compensate for livestock that were destroyed or crippled during fiscal year 2017. If the amount in the first year is insufficient, the amount in the second year is available in the first year. The commissioner may use up to \$5,000 of this appropriation the second year to reimburse expenses incurred by university extension educators to provide fair market values of destroyed or crippled livestock.

(h) \$155,000 the first year and \$155,000 the second year are for compensation for crop damage under Minnesota Statutes, section 3.7371. If the amount in the first year is insufficient, the amount in the second year is available in the first year. The commissioner may use up to \$30,000 of the appropriation each year to reimburse expenses incurred by the commissioner or the commissioner's approved agent to investigate and resolve claims.

If the commissioner determines that claims made under Minnesota Statutes, section 3.737 or 3.7371, are unusually high, amounts appropriated for either program may be transferred to the appropriation for the other program.

(i) \$250,000 the first year and \$250,000 the second year are to expand current capabilities for rapid detection, identification, containment, control, and management of high priority plant pests and pathogens. These are onetime appropriations.

(j) \$300,000 the first year and \$300,000 the second year are for transfer to the noxious weed and invasive plant species assistance account in the agricultural fund to award grants to local units of government under Minnesota Statutes, section 18.90, with preference given to local units of government responding to Palmer amaranth or other weeds on the eradicate list. These are onetime transfers.

(k) \$120,000 the first year and \$120,000 the second year are for wolf-livestock conflict prevention grants under article 2, section 89. The commissioner must submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture policy and finance by January 15, 2020, on the outcomes of the wolf-livestock conflict prevention grants and whether livestock compensation claims were reduced in the areas that grants were awarded. These are onetime appropriations.

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

Sec. 21. Laws 2017, chapter 88, article 1, section 2, subdivision 4, is amended to read:

Subd. 4. <b>Agriculture, Bioenergy, and Bioproduct Advancement</b>	22,581,000	22,636,000
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(a) \$9,300,000 the first year and \$9,300,000 the second year are for transfer to the agriculture research, education, extension, and technology transfer account under Minnesota Statutes, section 41A.14, subdivision 3. Of these amounts: at least \$600,000 the first year and \$600,000 the second year are for the Minnesota Agricultural Experiment Station's agriculture rapid response fund under Minnesota Statutes, section 41A.14, subdivision 1, clause (2); \$2,000,000 the first year and \$2,000,000 the second year are for grants to the Minnesota Agriculture Education Leadership Council to enhance agricultural education with priority given to Farm Business Management challenge grants; \$350,000 the first year and \$350,000 the second year are for potato breeding; and \$450,000 the first year and \$450,000 the second year are for the cultivated wild rice breeding project at the North Central Research and Outreach Center to include a tenure track/research associate plant breeder. The commissioner shall transfer the remaining funds in this appropriation each year to the Board of Regents of the University of Minnesota for purposes of Minnesota Statutes, section 41A.14. Of the amount transferred to the Board of Regents, up to \$1,000,000 each year is for research on avian influenza, including prevention measures that can be taken.

To the extent practicable, funds expended under Minnesota Statutes, section 41A.14, subdivision 1, clauses (1) and (2), must supplement and not supplant existing sources and levels of funding. The commissioner may use up to one percent of this appropriation for costs incurred to administer the program.

(b) \$13,256,000 the first year and \$13,311,000 the second year are for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. Except as provided below, the commissioner may allocate the appropriation each year among the following areas: facilitating the start-up, modernization, or expansion of livestock operations including beginning and transitioning livestock operations; developing new markets for Minnesota farmers by providing more fruits, vegetables, meat, grain, and dairy for Minnesota school children; assisting value-added agricultural businesses to begin or expand, access new markets, or diversify; providing funding not to exceed \$250,000 each year for urban youth agricultural education or urban agriculture community development; providing funding not to exceed \$250,000 each year for the good food access program under Minnesota Statutes, section 17.1017; facilitating the start-up, modernization, or expansion of other beginning and transitioning farms including by providing loans under Minnesota Statutes, section 41B.056; sustainable agriculture on-farm research and demonstration; development or expansion of food hubs and other alternative community-based food distribution systems; enhancing renewable energy infrastructure and use; crop research; Farm Business Management tuition assistance; good agricultural practices/good handling practices certification assistance; establishing and supporting farmer-led water management councils; and implementing farmer-led water quality improvement practices. The commissioner may use up to 6.5 percent of this appropriation for costs incurred to administer the program.

Of the amount appropriated for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12:

(1) \$1,000,000 the first year and \$1,000,000 the second year are for distribution in equal amounts to each of the state's county fairs to preserve and promote Minnesota agriculture; and

(2) \$1,500,000 the first year and \$1,500,000 the second year are for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2019, and the second year appropriation is available until June 30, 2020. If this appropriation exceeds the total amount for which all producers are eligible in a fiscal year, the balance of the appropriation is available for the agricultural growth, research, and innovation program.

The commissioner may use funds appropriated under this subdivision to award up to two value-added agriculture grants per year of up to \$1,000,000 per grant for new or expanding agricultural production or processing facilities that provide significant economic impact to the region. The commissioner may use funds appropriated under this subdivision for additional value-added agriculture grants for awards between \$1,000 and \$200,000 per grant.

Appropriations in clauses (1) and (2) are onetime. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. Notwithstanding Minnesota Statutes, section 16A.28, appropriations encumbered under contract on or before June 30, 2019, for agricultural growth, research, and innovation grants are available until June 30, ~~2021~~ 2022.

The base budget for the agricultural growth, research, and innovation program is \$14,275,000 for fiscal years 2020 and 2021 and includes funding for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, 41A.18, and 41A.20.

The commissioner must develop additional innovative production incentive programs to be funded by the agricultural growth, research, and innovation program.

The commissioner must consult with the commissioner of transportation, the commissioner of administration, and local units of government to identify parcels of publicly owned land that are suitable for urban agriculture.

(c) \$25,000 the first year and \$25,000 the second year are for grants to the Southern Minnesota Initiative Foundation to promote local foods through an annual event that raises public awareness of local foods and connects local food producers and processors with potential buyers.

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

Sec. 22. **INDUSTRIAL HEMP; REPORT.**

(a) The commissioner of agriculture must submit a plan to the secretary of the United States Department of Agriculture and request primary regulatory authority over the production of industrial hemp in this state, as provided under section 10113 of the Agriculture Improvement Act of 2018.

(b) The commissioner of agriculture, in consultation with the commissioners of public safety and health, must develop a framework for regulating the possession and use of tetrahydrocannabinol resulting from industrial hemp processing, including but not limited to the extraction of cannabidiol or other components. No later than February 15, 2020, the commissioner of agriculture must submit the proposed framework to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture, public safety, and health.



Sec. 23. **REPORT REQUIRED; BEGINNING FARMERS.**

No later than February 1, 2020, the commissioner of agriculture must report recommendations to the legislative committees and divisions with jurisdiction over agriculture finance regarding how best to cultivate and support beginning farmers, with priority given to beginning farmers who are women, veterans, persons with disabilities, American Indian or Alaskan Native, and members of communities of color. When preparing this report, the commissioner must consult the commissioners of labor and industry and employment and economic development and consider development of a next generation farmer internship program.

Sec. 24. **REPORT REQUIRED; COMMUNITY SOLAR.**

(a) The Center for Rural Policy and Development must study the economic benefits to farmers and the local farm economy of community solar gardens. The study must analyze to what extent:

(1) revenue generated by community solar garden leases has a measurable economic benefit for farmers and the local farm economy;

(2) activity related to community solar garden construction, operation, and maintenance, and the associated private investment to upgrade the utility's local distribution infrastructure, has a measurable economic benefit for the local farm economy;

(3) community solar gardens provide an economic benefit, helping farmers obtain financing for farm operations and decreasing the number of farm foreclosures;

(4) community solar gardens provide economic benefits for land conservation, habitat, and soil health; and

(5) community solar gardens impact the value of adjacent properties.

(b) No later than January 15, 2021, the Center for Rural Policy and Development must submit the study and any policy recommendations to the legislative committees and divisions with jurisdiction over agriculture and energy.

ARTICLE 2  
FARMED CERVIDAE

Section 1. Minnesota Statutes 2018, section 35.155, subdivision 4, is amended to read:

Subd. 4. **Fencing.** Farmed Cervidae must be confined in a manner designed to prevent escape. All perimeter fences for farmed Cervidae must be comprised of two or more rows of fencing, or one high tensile fence. All perimeter fences must be at least 96 inches in height and be constructed and maintained in a way that prevents the escape of farmed Cervidae or entry into the premises by free-roaming Cervidae. All entry areas for farmed Cervidae enclosure areas shall have two redundant gates, which must be maintained to prevent the escape of animals through an open gate. If a fence deficiency allows imminent entry or exit by farmed or free-roaming Cervidae, the owner must repair the deficiency within a reasonable period of time as determined by the board. If a fence deficiency is detected during an annual inspection under subdivision 7, the facility must be reinspected not less than two times in the subsequent six months. If the facility experiences more than two escape incidents in any 12-month period, the board may revoke the facility's registration and order the owner to remove or destroy the animals as directed by the board.

Sec. 2. Minnesota Statutes 2018, section 35.155, subdivision 6, is amended to read:

Subd. 6. **Identification.** (a) Farmed Cervidae must be identified by means approved by the Board of Animal Health. The identification must include a distinct number that has not been used during the previous three years and must be visible to the naked eye during daylight under normal conditions at a distance of 50 yards. Newborn animals must be identified ~~before December 31 of the year in which the animal is born~~ within 24 hours of birth or before movement from the premises, whichever occurs first. As coordinated by the board, the commissioner of natural resources may destroy any animal that is not identified as required under this subdivision.

(b) The Board of Animal Health shall register farmed Cervidae. The owner must submit the registration request on forms provided by the board. The forms must include sales receipts or other documentation of the origin of the Cervidae. The board shall provide copies of the registration information to the commissioner of natural resources upon request. The owner must keep written records of the acquisition and disposition of registered farmed Cervidae.

Sec. 3. Minnesota Statutes 2018, section 35.155, subdivision 7, is amended to read:

Subd. 7. **Inspection.** (a) The commissioner of agriculture and the Board of Animal Health may inspect farmed Cervidae, farmed Cervidae facilities, and farmed Cervidae records. For each herd, the owner or owners must, on or before January 1, pay an annual inspection fee equal to \$10 for each cervid in the herd as reflected in the most recent inventory submitted to the Board of Animal Health, up to a maximum fee of \$100. The board shall coordinate inspections authorized under this paragraph.

(b) The Board of Animal Health shall annually inspect each farmed Cervidae facility. Upon request by the Board of Animal Health, the commissioner of agriculture shall assist the board with annual inspections required under this paragraph. The annual inspection shall include a physical inspection of all perimeter fencing around the facility and a viewing to ensure all animals are tagged. The owner of a farmed Cervidae facility must present to the regulatory agency conducting the annual inspection an accurate inventory of the owner's farmed Cervidae for review. During an annual inspection, the owner must present individual animals in a herd for a physical inventory, if required by the board.

(c) The commissioner of natural resources may inspect farmed Cervidae, farmed Cervidae facilities, and farmed Cervidae records with reasonable suspicion that laws protecting native wild animals have been violated and must notify the owner in writing at the time of the inspection of the reason for the inspection and must inform the owner in writing after the inspection of whether (1) the cause of the inspection was unfounded; or (2) there will be an ongoing investigation or continuing evaluation.

(d) If the owner of a farmed Cervidae facility does not repair fence deficiencies within the reasonable period of time determined by the board or is not otherwise in compliance with this section after an inspection and review of the owner's farmed Cervidae facility, the board may revoke the owner's registration and order the owner to remove or destroy the animals as directed by the board.

Sec. 4. Minnesota Statutes 2018, section 35.155, is amended by adding a subdivision to read:

Subd. 7a. **Fees.** For each herd, the owner must, on or before January 1, pay to the board an annual inspection fee of \$500 unless:

(1) the owner sells the ability to shoot animals in the herd, in which case the annual inspection fee is \$1,000; or

(2) the herd consists of more than one species, in which case the annual inspection fee is \$650.

Sec. 5. Minnesota Statutes 2018, section 35.155, subdivision 9, is amended to read:

Subd. 9. **Contested case hearing.** (a) A person raising farmed Cervidae that is aggrieved with any decision regarding the farmed Cervidae may request a contested case hearing under chapter 14.

(b) A person requesting a contested case hearing regarding a registration revocation under this section must make the request within 30 days of the revocation notice.

Sec. 6. Minnesota Statutes 2018, section 35.155, subdivision 10, is amended to read:

Subd. 10. **Mandatory registration.** (a) A person may not possess live Cervidae in Minnesota unless the person is registered with the Board of Animal Health and meets all the requirements for farmed Cervidae under this section. Cervidae possessed in violation of this subdivision may be seized and destroyed by the commissioner of natural resources.

(b) A person whose registration is revoked by the board is ineligible for future registration under this section.

(c) Effective July 1, 2019, to July 1, 2022, the board must not approve a new registration under this subdivision for possession of white-tailed deer. This paragraph does not prohibit a person holding a valid registration under this subdivision from selling or transferring their herd to a family member if the person has no history of violations under this section and the herd is free from chronic wasting disease.

Sec. 7. Minnesota Statutes 2018, section 35.155, subdivision 11, is amended to read:

Subd. 11. **Mandatory surveillance for chronic wasting disease; herd depopulation.** (a) An inventory for each farmed Cervidae herd must be verified by an accredited veterinarian and filed with the Board of Animal Health every 12 months.

(b) Movement of farmed Cervidae from any premises to another location must be reported to the Board of Animal Health within ~~14 days~~ 48 hours of the movement on forms approved by the Board of Animal Health. If an animal in a farmed Cervidae herd tests positive for chronic wasting disease, the board must alert each person registered under subdivision 7 as soon as practicable and farmed Cervidae must not be moved from any premises in this state for a minimum of 72 hours. The board must examine the movement of farmed Cervidae and other chronic wasting disease vectors related to farmed Cervidae both in and out of the premises where the infected herd was located and take reasonable action necessary to slow or prevent the spread of chronic wasting disease from the infected herd to other farmed or free-roaming Cervidae.

(c) All animals from farmed Cervidae herds that are over ~~46~~ 12 months of age that die or are slaughtered must be tested for chronic wasting disease.

(d) If an animal in a farmed Cervidae herd tests positive for chronic wasting disease, the entire herd must be euthanized and disposed of in a manner, and within a reasonable period of time, determined by the board in consultation with the commissioner of natural resources.

(e) The owner of a herd that euthanizes and disposes of the herd as required by paragraph (d) must:

(1) maintain the fencing required under subdivision 4;

(2) prevent any free-roaming or farmed Cervidae from accessing the former cervid pens and other areas that were accessible by the farmed Cervidae; and

(3) post the premises as directed by the board.

The requirements under this paragraph must be met for at least 60 months from the date depopulation is completed.

(f) Before signing an agreement to sell or transfer the property, the owner of a premises where chronic wasting disease is detected must disclose in writing to the buyer or transferee the date of depopulation and the requirements incumbent upon the premises and the buyer or transferee under paragraph (e).

Sec. 8. **REPORT REQUIRED.**

No later than February 1, 2020, the Board of Animal Health must report to the legislative committees and divisions with jurisdiction over agriculture policy and finance regarding the board's progress in implementing recommendations in the Office of the Legislative Auditor's April 2018 program evaluation report "Board of Animal Health's Oversight of Deer and Elk Farms."

ARTICLE 3  
GRAIN BUYERS

Section 1. Minnesota Statutes 2018, section 223.16, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** For the purpose of sections 223.15 to ~~223.22~~ 223.23, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2018, section 223.16, subdivision 2a, is amended to read:

Subd. 2a. **Cash sale.** "Cash sale" means:

~~(a) a sale that is not reduced to writing as a voluntary extension of credit contract and for which payment is tendered to the seller not later than the close of business on the next business day after the sale, either in cash or by check, or by mailing or wiring funds to the seller's account in the amount of at least 80 percent of the value of the grain at delivery; or,~~

~~(b) a sale of a shipment of grain which is part of a multiple shipment sale, for which a scale ticket clearly marked "CASH" has been received by the seller before completion of the entire sale, and for which payment is tendered in cash or by check not later than ten days after the sale of that shipment, except that when the entire sale is completed, payment is tendered in cash or by check not later than the close of business on the next business day, or within 48 hours, whichever is later.~~

Sec. 3. Minnesota Statutes 2018, section 223.16, is amended by adding a subdivision to read:

Subd. 2b. **Cash.** "Cash" means currency or an equivalent manner of payment, including but not limited to a certified check, a cashier's check, or a postal, bank, or express money order in which the amount of payment is verified and secured prior to issuance.

Sec. 4. Minnesota Statutes 2018, section 223.16, is amended by adding a subdivision to read:

Subd. 2c. **Cash buyer.** "Cash buyer" means a person that purchases grain only with cash and in amounts of less than \$100,000 total annually.

Sec. 5. Minnesota Statutes 2018, section 223.16, subdivision 4, is amended to read:

Subd. 4. **Grain.** "Grain" means any cereal grain, coarse grain, or oilseed in unprocessed form for which a standard has been established by the United States Secretary of Agriculture ~~or the Minnesota Board of Grain Standards~~, dry edible beans, or other agricultural crops designated by the commissioner by rule.

Sec. 6. Minnesota Statutes 2018, section 223.17, subdivision 3, is amended to read:

Subd. 3. **Grain buyers and storage account; fees.** ~~(a) A grain buyer must pay to the commissioner shall set the fees for inspections under sections 223.15 to 223.22 at levels necessary to pay the expenses of administering and enforcing sections 223.15 to 223.22. an annual license fee as follows:~~

~~The fee for any license issued or renewed after June 30, 2005, shall be set according to the following schedule:~~

~~(a) (1) \$140 plus \$110 for each additional location for grain buyers whose gross annual purchases are less than \$100,000;~~

~~(b) (2) \$275 plus \$110 for each additional location for grain buyers whose gross annual purchases are at least \$100,000, but not more than \$750,000;~~

~~(c) (3) \$415 plus \$220 for each additional location for grain buyers whose gross annual purchases are more than \$750,000 but not more than \$1,500,000;~~

~~(d) (4) \$550 plus \$220 for each additional location for grain buyers whose gross annual purchases are more than \$1,500,000 but not more than \$3,000,000; and~~

~~(e) (5) \$700 plus \$220 for each additional location for grain buyers whose gross annual purchases are more than \$3,000,000.~~

~~(b) In addition to the license fee required under paragraph (a), a grain buyer must pay to the commissioner an annual examination fee for each licensed location, as follows:~~

<u>Bushel Capacity</u>	<u>Examination Fee</u>
<u>Examinations without a grain measure</u>	<u>\$100</u>
<u>Less than 150,001</u>	<u>\$300</u>
<u>150,001 to 250,000</u>	<u>\$425</u>
<u>250,001 to 500,000</u>	<u>\$545</u>
<u>500,001 to 750,000</u>	<u>\$700</u>
<u>750,001 to 1,000,000</u>	<u>\$865</u>
<u>1,000,001 to 1,200,000</u>	<u>\$1,040</u>
<u>1,200,001 to 1,500,000</u>	<u>\$1,205</u>
<u>1,500,001 to 2,000,000</u>	<u>\$1,380</u>
<u>More than 2,000,000</u>	<u>\$1,555</u>

~~The fee for any supplemental examination required by the commissioner under section 223.23 is \$55 per hour per examiner.~~

~~(c) A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.~~

(d) There is created the grain buyers and storage account in the agricultural fund. Money collected pursuant to sections 223.15 to ~~223.19~~ 223.23 shall be paid into the state treasury and credited to the grain buyers and storage account ~~and~~. Money in the account, including interest, is appropriated to the commissioner for the administration and enforcement of sections 223.15 to ~~223.22~~ 223.23.

Sec. 7. Minnesota Statutes 2018, section 223.17, subdivision 4, is amended to read:

Subd. 4. **Bond.** (a) Except as provided in paragraphs (c) to (e), before a grain buyer's license is issued, the applicant for the license must file with the commissioner a bond in a penal sum prescribed by the commissioner but not less than the following amounts:

- (1) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;
- (2) \$20,000 for grain buyers whose gross annual purchases are more than \$100,000 but not more than \$750,000;
- (3) \$30,000 for grain buyers whose gross annual purchases are more than \$750,000 but not more than \$1,500,000;
- (4) \$40,000 for grain buyers whose gross annual purchases are more than \$1,500,000 but not more than \$3,000,000;
- (5) \$50,000 for grain buyers whose gross annual purchases are more than \$3,000,000 but not more than \$6,000,000;
- (6) \$70,000 for grain buyers whose gross annual purchases are more than \$6,000,000 but not more than \$12,000,000;
- (7) \$125,000 for grain buyers whose gross annual purchases are more than \$12,000,000 but not more than \$24,000,000; and
- (8) \$150,000 for grain buyers whose gross annual purchases exceed \$24,000,000.

~~(b) A grain buyer who has filed a bond with the commissioner prior to July 1, 2004, is not required to increase the amount of the bond to comply with this section until July 1, 2005. The commissioner may postpone an increase in the amount of the bond until July 1, 2006, if a licensee demonstrates that the increase will impose undue financial hardship on the licensee, and that producers will not be harmed as a result of the postponement. The commissioner may impose other restrictions on a licensee whose bond increase has been postponed. The amount of the bond shall be based on the most recent gross annual grain purchase report of the grain buyer.~~

(c) A first-time applicant for a grain buyer's license shall file a \$50,000 bond with the commissioner. This bond shall remain in effect for the first year of the license. Thereafter, the licensee shall comply with the applicable bonding requirements contained in paragraph (a), clauses (1) to (8).

(d) In lieu of the bond required by this subdivision the applicant may deposit with the commissioner of management and budget ~~cash, a certified check, a cashier's check, a postal, bank, or express money order, assignable bonds or notes of the United States, or an assignment of a bank savings account or investment certificate or an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.~~

(e) A cash buyer is exempt from the requirements under this subdivision.

(f) Bonds must be continuous until canceled. To cancel a bond, a surety must provide 90 days' written notice of the bond's termination date to the licensee and the commissioner.

Sec. 8. Minnesota Statutes 2018, section 223.17, subdivision 5, is amended to read:

Subd. 5. **Cash sales; manner of payment.** For a cash sale of a shipment of grain ~~which is part of a multiple shipment sale~~, the grain buyer shall tender payment to the seller in cash or by check ~~not later than ten days after the sale of that shipment, except that when the entire sale is completed, payment shall be tendered not later than the close of business on the next day, or within 48 hours, whichever is later.~~ For other cash sales the grain buyer, before the close of business on the next business day after the sale, shall tender payment to the seller in cash or by check, or shall wire or mail funds to the seller's account in the amount of at least 80 percent of the value of the grain at the time of delivery, or wire or mail funds to the seller's account. The grain buyer shall complete final settlement after the sale of the shipment as rapidly as possible through ordinary diligence.

Sec. 9. Minnesota Statutes 2018, section 223.17, subdivision 6, is amended to read:

Subd. 6. **Financial statements.** (a) Except as required in paragraph (c), the commissioner ~~may~~ must require an annual financial statement from a licensee which has been prepared in accordance with generally accepted accounting principles and which meets the following requirements:

(1) The financial statement shall include, but not be limited to the following:

(i) a balance sheet;

(ii) a statement of income (profit and loss);

(iii) a statement of retained earnings;

(iv) a statement of changes in financial position; and

(v) a statement of the dollar amount of grain purchased in the previous fiscal year of the grain buyer.

~~(2) The financial statement shall be accompanied by a compilation report of the financial statement that is prepared by a grain commission firm or a management firm approved by the commissioner or by an independent public accountant, in accordance with standards established by the American Institute of Certified Public Accountants. Grain buyers purchasing less than 150,000 bushels of grain per calendar year may submit a financial statement prepared by a public accountant who is not an employee or a relative within the third degree of kindred according to civil law.~~

~~(3)~~ (2) The financial statement shall be accompanied by a certification by the chief executive officer or the chief executive officer's designee of the licensee, under penalty of perjury, that the financial statement accurately reflects the financial condition of the licensee for the period specified in the statement.

(3) A grain buyer purchasing less than \$2,000,000 of grain annually must have the financial statement reviewed by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants, and must show that the financial statements are free from material misstatements.

(4) A grain buyer purchasing \$2,000,000 or more of grain annually must have the financial statement audited by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants, and must submit an opinion statement from the certified public accountant.

(b) Only one financial statement must be filed for a chain of warehouses owned or operated as a single business entity, unless otherwise required by the commissioner. ~~Any grain buyer having a net worth in excess of \$500,000,000 need not file the financial statement required by this subdivision but must provide the commissioner with a certified net worth statement.~~ All financial statements filed with the commissioner are private or nonpublic data as provided in section 13.02.

(c) A cash buyer is exempt from the requirements of this subdivision.

Sec. 10. Minnesota Statutes 2018, section 223.177, subdivision 2, is amended to read:

Subd. 2. **Oral contracts.** Any grain buyer entering into a voluntary extension of credit contract orally or by phone shall give or mail to the seller a written confirmation conforming to the requirements of section 223.175 before the close of the next business day within 30 days. Written confirmation of oral contracts must meet the requirements under section 223.177, subdivision 3.

Sec. 11. Minnesota Statutes 2018, section 223.177, subdivision 3, is amended to read:

Subd. 3. **Contracts reduced to writing.** A voluntary extension of credit contract must be reduced to writing by the grain buyer ~~and~~, mailed or given to the seller ~~before the close of the next business day after the contract is entered into or, in the case of an oral or phone contract, after the written confirmation is received by the seller. Provided, however, that if a scale ticket has been received by the seller prior to the completion of the grain shipment, the contract must be reduced to writing within ten days after the sale, but not later than the close of the next business day after the completion of the entire sale, and signed by both buyer and seller within 30 days of the date of delivery.~~ The form of the contract shall comply with the requirements of section 223.175. A grain buyer may use an electronic version of a voluntary extension of credit contract that contains the same information as a written document and that conforms to the requirements of this chapter to which a seller has applied an electronic signature in place of a written document. There must not at any time be an electronic and paper voluntary extension of credit contract representing the same lot of grain.

Sec. 12. Minnesota Statutes 2018, section 223.19, is amended to read:

#### **223.19 RULES.**

The commissioner may make rules pursuant to chapter 14 to carry out the provisions of sections 223.15 to ~~223.22~~ 223.23.

Sec. 13. **[223.23] ANNUAL EXAMINATION REQUIRED; SUPPLEMENTAL EXAMINATIONS.**

A licensed grain buyer is subject to an annual examination conducted by the commissioner or the Agricultural Marketing Service of the United States Department of Agriculture. Examinations must include a measurement of all grain owned and maintained by the grain buyer. The commissioner may require supplemental examinations of a grain buyer as the commissioner deems necessary.

#### ARTICLE 4 GRAIN WAREHOUSES

Section 1. Minnesota Statutes 2018, section 232.21, subdivision 7, is amended to read:

Subd. 7. **Grain.** "Grain" means any cereal grain, coarse grain, or oilseed in unprocessed form for which a standard has been established by the United States Secretary of Agriculture ~~or the Minnesota Board of Grain Standards~~, dry edible beans, or agricultural crops designated by the commissioner by rule.

Sec. 2. Minnesota Statutes 2018, section 232.21, is amended by adding a subdivision to read:

Subd. 7a. **Grain bank.** "Grain bank" means a feed processing plant that receives and stores grain it processes and returns to the grain's owner in amounts, at intervals, and with added ingredients that are mutually agreeable to the grain's owner and the person operating the plant. "Grain bank" does not include a seed cleaning plant. Grain assigned to a grain bank is considered stored grain.



Sec. 3. Minnesota Statutes 2018, section 232.22, subdivision 3, is amended to read:

Subd. 3. **Fees; grain buyers and storage account.** (a) There is created in the agricultural fund an account known as the grain buyers and storage account. ~~The commissioner shall set the fees for examinations, certifications, and licenses under sections 232.20 to 232.24 at levels necessary to pay the costs of administering and enforcing sections 232.20 to 232.24.~~ All money collected pursuant to sections 232.20 to 232.24 shall be paid by the commissioner into the state treasury and credited to the grain buyers and storage account ~~and~~. Money in the account, including interest, is appropriated to the commissioner for the administration and enforcement of sections 232.20 to 232.24.

(b) All money collected pursuant to chapter 231 shall be paid by the commissioner into the grain buyers and storage account ~~and~~. Money in the account is appropriated to the commissioner for the administration and enforcement of chapter 231.

(c) The fees for a license to store grain are as follows:

~~(a)~~ (1) For a license to store grain, \$110 for each home rule charter or statutory city or town in which a public grain warehouse is operated.

~~(b)~~ (2) In addition to the license fee required under clause (1), a person with a license to store grain in a public grain warehouse is subject to an examination fee for each licensed location, ~~based on the following schedule for one examination as follows:~~

Bushel Capacity	Examination Fee
Less than 150,001	\$300
150,001 to 250,000	\$425
250,001 to 500,000	\$545
500,001 to 750,000	\$700
750,001 to 1,000,000	\$865
1,000,001 to 1,200,000	\$1,040
1,200,001 to 1,500,000	\$1,205
1,500,001 to 2,000,000	\$1,380
More than 2,000,000	\$1,555

~~(c)~~ (3) The fee for ~~the second examination~~ supplemental examinations required by the commissioner under section 232.24 is \$55 per hour per examiner ~~for warehouse operators who choose to have it performed by the commissioner.~~

(d) A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.

Sec. 4. Minnesota Statutes 2018, section 232.22, subdivision 4, is amended to read:

Subd. 4. **Bonding.** (a) Before a license is issued, except as provided under paragraph (c), the applicant for a public grain warehouse operator's license shall file with the commissioner a bond in a penal sum prescribed by the commissioner based on the annual average storage liability as stated on the statement of grain in storage report or on the gross annual grain purchase report, whichever is greater, and applying the following amounts:

(1) \$10,000 for storages with annual average storage liability of more than \$0 but not more than \$25,000;

- (2) \$20,000 for storages with annual average storage liability of more than \$25,001 but not more than \$50,000;
- (3) \$30,000 for storages with annual average storage liability of more than \$50,001 but not more than \$75,000;
- (4) \$50,000 for storages with annual average storage liability of more than \$75,001 but not more than \$100,000;
- (5) \$75,000 for storages with annual average storage liability of more than \$100,001 but not more than \$200,000;
- (6) \$125,000 for storages with annual average storage liability of more than \$200,001 but not more than \$300,000;
- (7) \$175,000 for storages with annual average storage liability of more than \$300,001 but not more than \$400,000;
- (8) \$225,000 for storages with annual average storage liability of more than \$400,001 but not more than \$500,000;
- (9) \$275,000 for storages with annual average storage liability of more than \$500,001 but not more than \$600,000;
- (10) \$325,000 for storages with annual average storage liability of more than \$600,001 but not more than \$700,000;
- (11) \$375,000 for storages with annual average storage liability of more than \$700,001 but not more than \$800,000;
- (12) \$425,000 for storages with annual average storage liability of more than \$800,001 but not more than \$900,000;
- (13) \$475,000 for storages with annual average storage liability of more than \$900,001 but not more than \$1,000,000; and
- (14) \$500,000 for storages with annual average storage liability of more than \$1,000,000.

(b) Bonds must be continuous until canceled. To cancel a bond, a surety must provide 90 days' written notice of the bond's termination date to the licensee and the commissioner.

(c) In lieu of the bond required by this subdivision, the applicant may deposit with the commissioner of management and budget an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.

Sec. 5. Minnesota Statutes 2018, section 232.24, is amended to read:

#### **232.24 SCHEDULE OF INSPECTION, FINANCIAL REPORTS.**

Subdivision 1. **Schedule of examination.** A licensee under sections 232.20 to 232.24 is subject to ~~two examinations~~ an examination annually conducted by the commissioner or the Agricultural Marketing Service of the United States Department of Agriculture. The commissioner may, ~~by rule, authorize one examination to be conducted by a qualified nongovernmental unit~~ require supplemental examinations of a licensee as the commissioner deems necessary.

Subd. 2. **Financial reports.** A licensee under sections 232.20 to 232.24 ~~upon request~~ must provide to the commissioner a copy of the financial ~~reports of an audit conducted by a qualified nongovernmental unit containing information the commissioner requires~~ report that satisfies the requirements under section 223.17, subdivision 6, paragraph (a), clause (1).

ARTICLE 5  
HOUSING FINANCE AGENCY APPROPRIATIONS

Section 1. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2020" and "2021" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2020, or June 30, 2021, respectively. "The first year" is fiscal year 2020. "The second year" is fiscal year 2021. "The biennium" is fiscal years 2020 and 2021.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2020</u></b>	<b><u>2021</u></b>

Sec. 2. **HOUSING FINANCE AGENCY**

Subdivision 1. **Total Appropriation**

**\$69,298,000**

**\$62,298,000**

(a) The amounts that may be spent for each purpose are specified in the following subdivisions.

(b) Unless otherwise specified, this appropriation is for transfer to the housing development fund for the programs specified in this section. Except as otherwise indicated, this transfer is part of the agency's permanent budget base.

Subd. 2. **Challenge Program**

**14,925,000**

**14,925,000**

(a) This appropriation is for the economic development and housing challenge program under Minnesota Statutes, section 462A.33.

(b) The base for this program in fiscal year 2022 and beyond is \$14,425,000.

Subd. 3. **Local Housing Trust Fund Grants**

**7,000,000**

**-0-**

(a) This appropriation is for grants to housing trust funds established under Minnesota Statutes, section 462C.16, to incentivize local funding. This is a onetime appropriation.

(b) A grantee is eligible to receive a grant amount equal to 100 percent of the public revenue committed to the local housing trust fund from any source other than the state or federal government, up to \$150,000, and in addition, an amount equal to 50 percent of the public revenue committed to the local housing trust fund from any source other than the state or federal government that is more than \$150,000 but not more than \$300,000.

(c) \$100,000 of this appropriation is for technical assistance grants to local and regional housing trust funds. A housing trust fund may apply for a technical assistance grant at the time and in the manner and form required by the agency. The agency shall make grants on a first-come, first-served basis. A technical assistance grant must not exceed \$5,000.

(d) A grantee must use grant funds within eight years of receipt for purposes (1) authorized under Minnesota Statutes, section 462C.16, subdivision 3, and (2) benefiting households with incomes at or below 115 percent of the state median income. A grantee must return any grant funds not used for these purposes within eight years of receipt to the commissioner of the Housing Finance Agency for deposit into the housing development fund.

(e) Before the agency makes any grants with money from this appropriation, the commissioner shall consult with interested stakeholders when developing the guidelines and procedures for the grant program.

**Subd. 4. Workforce Housing Development**

2,000,000

2,000,000

This appropriation is for the workforce housing development program under Minnesota Statutes, section 462A.39. If requested by the applicant and approved by the agency, funded properties may include a portion of income and rent restricted units.

**Subd. 5. Housing Trust Fund**

11,646,000

11,646,000

This appropriation is for deposit in the housing trust fund account created under Minnesota Statutes, section 462A.201, and may be used for the purposes provided in that section.

**Subd. 6. Homework Starts with Home**

3,000,000

3,000,000

This appropriation is for the homework starts with home program under Minnesota Statutes, sections 462A.201, subdivision 2, paragraph (a), clause (4), and 462A.204, subdivision 8, to provide assistance to homeless or highly mobile families with children eligible for enrollment in a prekindergarten through grade 12 academic program.

**Subd. 7. Rental Assistance for Mentally Ill**5,088,0005,088,000

This appropriation is for the rental housing assistance program for persons with a mental illness or families with an adult member with a mental illness under Minnesota Statutes, section 462A.2097. Among comparable proposals, the agency shall prioritize those proposals that target, in part, eligible persons who desire to move to more integrated, community-based settings.

**Subd. 8. Family Homeless Prevention**9,519,0009,519,000

This appropriation is for the family homeless prevention and assistance programs under Minnesota Statutes, section 462A.204.

**Subd. 9. Workforce Homeownership Program**1,000,0001,000,000

(a) This appropriation is for the workforce homeownership program under Minnesota Statutes, section 462A.38.

(b) The base for this program in fiscal year 2022 and beyond is \$500,000.

**Subd. 10. Affordable Rental Investment Fund**4,218,0004,218,000

(a) This appropriation is for the affordable rental investment fund program under Minnesota Statutes, section 462A.21, subdivision 8b, to finance the acquisition, rehabilitation, and debt restructuring of federally assisted rental property and for making equity take-out loans under Minnesota Statutes, section 462A.05, subdivision 39.

(b) The owner of federally assisted rental property must agree to participate in the applicable federally assisted housing program and to extend any existing low-income affordability restrictions on the housing for the maximum term permitted. The owner must also enter into an agreement that gives local units of government, housing and redevelopment authorities, and nonprofit housing organizations the right of first refusal if the rental property is offered for sale. Priority must be given among comparable federally assisted rental properties to properties with the longest remaining term under an agreement for federal assistance. Priority must also be given among comparable rental housing developments to developments that are or will be owned by local government units, a housing and redevelopment authority, or a nonprofit housing organization.

(c) The appropriation also may be used to finance the acquisition, rehabilitation, and debt restructuring of existing supportive housing properties and naturally occurring affordable housing as determined by the commissioner. For purposes of this paragraph, "supportive housing" means affordable rental housing with links to services necessary for individuals, youth, and families with children to maintain housing stability.

**Subd. 11. Housing Rehabilitation**6,515,0006,515,000

(a) This appropriation is for the housing rehabilitation program under Minnesota Statutes, section 462A.05, subdivision 14. Of this amount, \$2,772,000 each year is for the rehabilitation of owner-occupied housing and \$3,743,000 each year is for the rehabilitation of eligible rental housing. In administering a rehabilitation program for rental housing, the agency may apply the processes and priorities adopted for administration of the economic development and housing challenge program under Minnesota Statutes, section 462A.33, and may provide grants or forgivable loans if approved by the agency.

(b) Notwithstanding any law to the contrary, grants or loans under this subdivision may be made without rent or income restrictions of owners or tenants. To the extent practicable, grants or loans must be made available statewide.

**Subd. 12. Home Ownership Assistance Fund**885,000885,000

This appropriation is for the home ownership assistance program under Minnesota Statutes, section 462A.21, subdivision 8. The agency shall continue to strengthen its efforts to address the disparity gap in the homeownership rate between white households and indigenous American Indians and communities of color. To better understand and address the disparity gap, the agency is required to collect, on a voluntary basis, demographic information regarding race, color, national origin, and sex of applicants for agency programs intended to benefit homeowners and homebuyers.

**Subd. 13. Lead Safe Homes Grant Program**1,000,0001,000,000

(a) This appropriation is for grants under the lead safe homes grant program under Minnesota Statutes, section 462A.2095.

(b) At least one grant must be to a nonprofit organization or political subdivision serving an area in the seven-county metropolitan area, as defined in Minnesota Statutes, section 473.121, and at least one grant must be to a nonprofit organization or political subdivision serving an area outside the seven-county metropolitan area.

(c) The base for this program in fiscal year 2022 and beyond is \$500,000.

Subd. 14. <b><u>Homeownership Education, Counseling, and Training</u></b>	<u>857,000</u>	<u>857,000</u>
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This appropriation is for the homeownership education, counseling, and training program under Minnesota Statutes, section 462A.209.

Subd. 15. <b><u>Capacity-Building Grants</u></b>	<u>745,000</u>	<u>745,000</u>
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This appropriation is for nonprofit capacity-building grants under Minnesota Statutes, section 462A.21, subdivision 3b. Of this amount, \$125,000 each year is for support of the Homeless Management Information System (HMIS). Of this amount, \$300,000 each year is for a statewide tenant hotline that provides free and confidential legal advice for all Minnesota renters.

Subd. 16. <b><u>Build Wealth MN</u></b>	<u>500,000</u>	<u>500,000</u>
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This appropriation is for a grant to Build Wealth Minnesota to provide a family stabilization plan program including program outreach, financial literacy education, and budget and debt counseling.

Subd. 17. <b><u>Homeownership Capacity</u></b>	<u>400,000</u>	<u>400,000</u>
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This appropriation is for competitive grants to nonprofit housing organizations, housing and redevelopment authorities, or other political subdivisions to provide intensive financial education and coaching services to individuals or families who have the goal of homeownership. Financial education and coaching services include but are not limited to asset building, development of spending plans, credit report education, repair and rebuilding, consumer protection training, and debt reduction. Priority must be given to organizations that have experience serving underserved populations.

Sec. 3. **EFFECTIVE DATE.**

This article is effective July 1, 2019.

ARTICLE 6  
HOUSING PROGRAMS

Section 1. **[462A.2095] LEAD SAFE HOMES GRANT PROGRAM.**

Subdivision 1. **Establishment.** The Housing Finance Agency shall establish a lead safe homes grant program to increase lead testing in residential rental housing and make residential rental housing units lead safe. The agency shall give priority to grantees that target landlords and tenants in areas with a high concentration of lead poisoning in children based on information provided by the commissioner of health.

Subd. 2. **Eligibility.** (a) An eligible grantee must be a nonprofit organization or political subdivision capable of administering funding and services to a defined geographic area.

(b) Up to ten percent of a grant award may be used to administer the grant and provide education and outreach about lead health hazards.

Subd. 3. **Inspection; lead hazard reduction.** (a) A grantee must provide lead risk assessments completed by a lead inspector or a lead risk assessor licensed by the commissioner of health pursuant to section 144.9505 for properties built before 1978 to determine the presence of lead hazards and to provide interim controls to reduce lead health hazards. The grantee must conduct testing and provide lead hazard reduction to:

(1) landlords of residential buildings with 11 units or less where the tenants have incomes that do not exceed 60 percent of area median income;

(2) landlords of residential buildings with 12 units or more where at least 50 percent of the tenants have incomes that are below 60 percent of the median income; and

(3) tenants with an income that does not exceed 60 percent of area median income.

(b) A landlord or tenant must first access other available state and federal funding related to lead testing and lead hazard reduction for which they are eligible.

Subd. 4. **Short title.** This section shall be known as the "Dustin Luke Shields Act."

**EFFECTIVE DATE.** This section is effective July 1, 2019."

Delete the title and insert:

"A bill for an act relating to agriculture; housing; establishing a budget for the Department of Agriculture, the Board of Animal Health, the Agricultural Utilization Research Institute, and the Housing Finance Agency; continuing the Agricultural Fertilizer Research and Education Council; continuing a fertilizer fee; modifying a noncommercial pesticide applicator fee; modifying definitions of hemp and marijuana; modifying requirements for Cervidae farmers, grain buyers, and grain warehouse operators; modifying other agricultural statutes; providing lead safe grant program; requiring reports; appropriating money; amending Minnesota Statutes 2018, sections 17.118, subdivision 2; 18B.07, subdivision 2; 18B.34, subdivision 5; 18C.425, subdivision 6; 18C.70, subdivision 5; 18C.71, subdivisions 1, 2, 4; 18C.80, subdivision 2; 18H.14; 18K.02, subdivision 3; 18K.03; 28A.16; 35.155, subdivisions 4, 6, 7, 9, 10, 11, by adding a subdivision; 223.16, subdivisions 1, 2a, 4, by adding subdivisions; 223.17, subdivisions 3, 4, 5, 6; 223.177, subdivisions 2, 3; 223.19; 232.21, subdivision 7, by adding a subdivision; 232.22, subdivisions 3, 4; 232.24; Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended; Laws 2017, chapter 88, article 1, section 2, subdivisions 2, 4; proposing coding for new law in Minnesota Statutes, chapters 18D; 223; 462A."

The motion prevailed and the amendment was adopted.

Poppe moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 8, line 19, after "research" insert "including basic and applied turf seed research"

Page 14, line 7, delete "\$200,000" and insert "\$175,000"



Page 14, line 9, delete everything after the period

Page 14, delete lines 10 to 13

Page 14, after line 23, insert:

"(n) \$25,000 the first year is to study solar energy as it relates to Minnesota's farmers and rural economy."

Page 36, delete section 24

Page 37, line 17, reinstate the stricken language and strike "December" and insert "October" and delete "within 24 hours of" and insert ", at the time of weaning."

Page 37, line 18, delete "birth"

Page 39, line 31, after the comma, insert "except as provided in paragraph (g)."

Page 40, after line 14, insert:

"(g) An owner is not required to euthanize and dispose of any animal that tests negative for chronic wasting disease using a live-animal test approved by the board. A live-animal test is not approved for purposes of this paragraph until the board publishes notice in the State Register and provides written notice to the chairs of the house of representatives and senate committees and divisions with jurisdiction over agriculture and natural resources policy and finance that the board has:

(1) obtained the approval of the commissioners of agriculture and natural resources;

(2) consulted relevant stakeholders and higher education institutions;

(3) determined that the test, when used as directed by the board, does not pose an unreasonable risk to the health of free-roaming and farmed Cervidae; and

(4) developed corresponding animal and herd testing and reporting protocols in coordination with the commissioners of agriculture and natural resources, including but not limited to periodic and ongoing herd testing requirements which reflect the latest scientific understanding of chronic wasting disease."

Page 40, line 16, before "No" insert "(a)"

Page 40, after line 20, insert:

"(b) No later than March 15, 2020, the Board of Animal Health must report to the legislative committees and divisions with jurisdiction over agriculture and natural resources policy and finance regarding the development of chronic wasting disease testing protocols under Minnesota Statutes, section 35.155, subdivision 11, paragraph (g)."

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

Anderson moved to amend the Poppe amendment to S. F. No. 2226, the third engrossment, as amended, as follows:

Page 1, line 23, delete "commissioners" and insert "commissioner" and delete "and natural resources"

The motion did not prevail and the amendment to the amendment was not adopted.

Lueck moved to amend the Poppe amendment to S. F. No. 2226, the third engrossment, as amended, as follows:

Page 1, line 8, delete "study solar" and insert "update the livestock industry study submitted to the legislature under Laws 2015, First Special Session chapter 4, article 2, section 83. The commissioner must update the data and causes of relative growth in the number of head of livestock and poultry produced in Minnesota and neighboring states, including but not limited to the impact of current adverse market conditions and nuisance lawsuits filed against livestock or poultry farms. No later than January 15, 2020, the commissioner must submit the updated study to the legislative committees and divisions with jurisdiction over agriculture policy. These are onetime appropriations."

Page 1, delete lines 9 and 10

A roll call was requested and properly seconded.

The question was taken on the Lueck amendment to the Poppe amendment and the roll was called. There were 53 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Drazkowski	Hamilton	Layman	Nornes	Schomacker
Anderson	Erickson	Heinrich	Lucero	O'Driscoll	Scott
Bahr	Fabian	Heintzeman	Lueck	O'Neill	Theis
Baker	Franson	Hertaus	McDonald	Petersburg	Torkelson
Bennett	Green	Johnson	Mekeland	Pierson	Urdahl
Boe	Grossell	Jurgens	Miller	Poston	Vogel
Daniels	Gruenhagen	Kiel	Munson	Quam	West
Davids	Gunther	Koznick	Nash	Robbins	Zerwas
Dettmer	Haley	Kresha	Neu	Runbeck	

Those who voted in the negative were:

Acomb	Dehn	Howard	Loeffler	Persell	Wagenius
Bahner	Ecklund	Huot	Long	Pinto	Wazlawik
Becker-Finn	Edelson	Klevorn	Mann	Poppe	Winkler
Bernardy	Elkins	Koegel	Mariani	Pryor	Wolgamott
Bierman	Fischer	Kotzya-Witthuhn	Marquart	Richardson	Xiong, J.
Brand	Freiberg	Kunesh-Podein	Masin	Sandell	Xiong, T.
Cantrell	Gomez	Lee	Moller	Sandstede	Youakim
Carlson, A.	Halverson	Lesch	Morrison	Sauke	Spk. Hortman
Carlson, L.	Hansen	Liebling	Murphy	Schultz	
Christensen	Hassan	Lien	Nelson, M.	Stephenson	
Clafin	Hausman	Lillie	Noor	Sundin	
Considine	Her	Lippert	Olson	Tabke	
Davnie	Hornstein	Lislegard	Pelowski	Vang	

The motion did not prevail and the amendment to the amendment was not adopted.

The question recurred on the Poppe amendment to S. F. No. 2226, the third engrossment, as amended. The motion prevailed and the amendment was adopted.

Kiel moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 17, line 1, after "system" insert "or the metropolitan area regional park system"

Page 20, line 10, after "system" insert "or the metropolitan area regional park system"

The motion prevailed and the amendment was adopted.

Anderson moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 19, line 6, delete "2024" and insert "2029"

Page 19, line 17, delete "2025" and insert "2030"

Page 20, line 4, delete "2025" and insert "2030"

Page 20, line 6, delete "2025" and insert "2030"

Anderson moved to amend the Anderson amendment to S. F. No. 2226, the third engrossment, as amended, as follows:

Page 1, after line 4, insert:

"Page 19, delete sections 10 and 11"

Page 1, after line 6, insert:

"Renumber the sections in sequence and correct the internal references

Amend the title accordingly"

A roll call was requested and properly seconded.

The question was taken on the Anderson amendment to the Anderson amendment and the roll was called. There were 52 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Boe	Erickson	Gruenhagen	Heintzeman	Kresha
Anderson	Daniels	Fabian	Gunther	Hertaus	Layman
Bahr	Davids	Franson	Haley	Johnson	Lucero
Baker	Dettmer	Green	Hamilton	Jurgens	Lueck
Bennett	Drazkowski	Grossell	Heinrich	Kiel	McDonald

Mekeland	Neu	Petersburg	Robbins	Theis	West
Miller	Nornes	Pierson	Runbeck	Torkelson	Zerwas
Munson	O'Driscoll	Poston	Schomacker	Urdahl	
Nash	O'Neill	Quam	Scott	Vogel	

Those who voted in the negative were:

Acomb	Dehn	Howard	Loeffler	Persell	Wagenius
Bahner	Ecklund	Huot	Long	Pinto	Wazlawik
Becker-Finn	Edelson	Klevorn	Mann	Poppe	Winkler
Bernardy	Elkins	Koegel	Mariani	Pryor	Wolgamott
Bierman	Fischer	Kotzya-Witthuhn	Marquart	Richardson	Xiong, J.
Brand	Freiberg	Kunesh-Podein	Masin	Sandell	Xiong, T.
Cantrell	Gomez	Lee	Moller	Sandstede	Youakim
Carlson, A.	Halverson	Lesch	Morrison	Sauke	Spk. Hortman
Carlson, L.	Hansen	Liebling	Murphy	Schultz	
Christensen	Hassan	Lien	Nelson, M.	Stephenson	
Clafin	Hausman	Lillie	Noor	Sundin	
Considine	Her	Lippert	Olson	Tabke	
Davnie	Hornstein	Lislegard	Pelowski	Vang	

The motion did not prevail and the amendment to the amendment was not adopted.

The question recurred on the Anderson amendment to S. F. No. 2226, the third engrossment, as amended. The motion did not prevail and the amendment was not adopted.

Poston moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 20, delete section 15

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Poston amendment and the roll was called. There were 53 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Drazkowski	Hamilton	Layman	Nornes	Schomacker
Anderson	Erickson	Heinrich	Lucero	O'Driscoll	Scott
Bahr	Fabian	Heintzeman	Lueck	O'Neill	Theis
Baker	Franson	Hertaus	McDonald	Petersburg	Torkelson
Bennett	Green	Johnson	Mekeland	Pierson	Urdahl
Boe	Grossell	Jurgens	Miller	Poston	Vogel
Daniels	Gruenhagen	Kiel	Munson	Quam	West
Davids	Gunther	Koznick	Nash	Robbins	Zerwas
Dettmer	Haley	Kresha	Neu	Runbeck	

Those who voted in the negative were:

Acomb	Dehn	Howard	Loeffler	Persell	Wagenius
Bahner	Ecklund	Huot	Long	Pinto	Wazlawik
Becker-Finn	Edelson	Klevorn	Mann	Poppe	Winkler
Bernardy	Elkins	Koegel	Mariani	Pryor	Wolgammott
Bierman	Fischer	Kotyza-Witthuhn	Marquart	Richardson	Xiong, J.
Brand	Freiberg	Kunesh-Podein	Masin	Sandell	Xiong, T.
Cantrell	Gomez	Lee	Moller	Sandstede	Youakim
Carlson, A.	Halverson	Lesch	Morrison	Sauke	Spk. Hortman
Carlson, L.	Hansen	Liebling	Murphy	Schultz	
Christensen	Hassan	Lien	Nelson, M.	Stephenson	
Clafin	Hausman	Lillie	Noor	Sundin	
Considine	Her	Lippert	Olson	Tabke	
Davnie	Hornstein	Lislegard	Pelowski	Vang	

The motion did not prevail and the amendment was not adopted.

Kiel moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 16, delete section 6

Page 20, delete section 14

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Kiel amendment and the roll was called. There were 54 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Dettmer	Haley	Kresha	Neu	Runbeck
Anderson	Drazkowski	Hamilton	Layman	Nornes	Schomacker
Backer	Erickson	Heinrich	Lucero	O'Driscoll	Scott
Bahr	Fabian	Heintzeman	Lueck	O'Neill	Theis
Baker	Franson	Hertaus	McDonald	Petersburg	Torkelson
Bennett	Green	Johnson	Mekeland	Pierson	Urdahl
Boe	Grossell	Jurgens	Miller	Poston	Vogel
Daniels	Gruenhagen	Kiel	Munson	Quam	West
Davids	Gunther	Koznick	Nash	Robbins	Zerwas

Those who voted in the negative were:

Acomb	Bierman	Carlson, L.	Davnie	Elkins	Halverson
Bahner	Brand	Christensen	Dehn	Fischer	Hansen
Becker-Finn	Cantrell	Clafin	Ecklund	Freiberg	Hassan
Bernardy	Carlson, A.	Considine	Edelson	Gomez	Hausman

Her	Lesch	Mariani	Pelowski	Schultz	Xiong, J.
Hornstein	Liebling	Marquart	Persell	Stephenson	Xiong, T.
Howard	Lien	Masin	Pinto	Sundin	Youakim
Huot	Lillie	Moller	Poppe	Tabke	Spk. Hortman
Klevorn	Lippert	Morrison	Pryor	Vang	
Koegel	Lislegard	Murphy	Richardson	Wagenius	
Kotzya-Witthuhn	Loeffler	Nelson, M.	Sandell	Wazlawik	
Kunesh-Podein	Long	Noor	Sandstede	Winkler	
Lee	Mann	Olson	Sauke	Wolgamott	

The motion did not prevail and the amendment was not adopted.

Anderson moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 6, line 16, delete "23,900,000" and insert "23,250,000" and delete "23,575,000" and insert "22,925,000"

Page 7, line 20, delete "\$14,275,000" and insert "\$13,625,000" and delete "\$14,275,000" and insert "\$13,625,000"

Page 7, line 30, delete "\$450,000" and insert "\$350,000"

Page 8, line 4, delete "\$350,000" and insert "\$250,000"

Page 8, line 7, delete everything after the semicolon

Page 8, line 8, delete "\$350,000 each year for"

Page 11, line 4, delete "7,684,000" and insert "8,334,000" and delete "7,519,000" and insert "8,169,000"

Page 12, line 22, delete "\$1,700,000" and insert "\$2,350,000" and delete "\$1,700,000" and insert "\$2,350,000"

Page 13, line 10, delete "and"

Page 13, line 25, delete the period and insert "; and"

Page 13, after line 25, insert:

"(3) to award grants to food shelves to purchase milk, cheese, and other dairy products; fresh or frozen beef, pork, lamb, and poultry; and Minnesota grown fish and seafood."

Page 14, line 5, delete "\$1,650,000" and insert "\$2,300,000"

Page 14, line 6, delete "\$1,650,000" and insert "\$2,300,000"

A roll call was requested and properly seconded.

The question was taken on the Anderson amendment and the roll was called. There were 52 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Dettmer	Haley	Layman	O'Driscoll	Scott
Anderson	Drazkowski	Hamilton	Lucero	O'Neill	Theis
Backer	Erickson	Heinrich	Lueck	Petersburg	Torkelson
Bahr	Fabian	Heintzeman	McDonald	Pierson	Urdahl
Baker	Franson	Hertaus	Mekeland	Poston	Vogel
Bennett	Green	Johnson	Miller	Quam	West
Boe	Grossell	Jurgens	Nash	Robbins	Zerwas
Daniels	Gruenhagen	Kiel	Neu	Runbeck	
Davids	Gunther	Kresha	Nornes	Schomacker	

Those who voted in the negative were:

Acomb	Dehn	Howard	Loeffler	Persell	Wagenius
Bahner	Ecklund	Huot	Long	Pinto	Wazlawik
Becker-Finn	Edelson	Klevorn	Mann	Poppe	Winkler
Bernardy	Elkins	Koegel	Mariani	Pryor	Wolgamott
Bierman	Fischer	Kotzya-Witthuhn	Marquart	Richardson	Xiong, J.
Brand	Freiberg	Kunesh-Podein	Masin	Sandell	Xiong, T.
Cantrell	Gomez	Lee	Moller	Sandstede	Youakim
Carlson, A.	Halverson	Lesch	Morrison	Sauke	Spk. Hortman
Carlson, L.	Hansen	Liebling	Murphy	Schultz	
Christensen	Hassan	Lien	Nelson, M.	Stephenson	
Claflin	Hausman	Lillie	Noor	Sundin	
Considine	Her	Lippert	Olson	Tabke	
Davnie	Hornstein	Lislegard	Pelowski	Vang	

The motion did not prevail and the amendment was not adopted.

Anderson moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 2, line 30, delete "\$375,000" and insert "\$450,000" and delete "\$375,000" and insert "\$450,000"

Page 3, line 5, delete "\$525,000" and insert "\$450,000" and delete "\$525,000" and insert "\$450,000"

A roll call was requested and properly seconded.

The question was taken on the Anderson amendment and the roll was called. There were 54 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Bennett	Drazkowski	Grossell	Heinrich	Kiel
Anderson	Boe	Erickson	Gruenhagen	Heintzeman	Koznick
Backer	Daniels	Fabian	Gunther	Hertaus	Kresha
Bahr	Davids	Franson	Haley	Johnson	Layman
Baker	Dettmer	Green	Hamilton	Jurgens	Lucero

Lueck	Munson	O'Driscoll	Poston	Schomacker	Urdahl
McDonald	Nash	O'Neill	Quam	Scott	Vogel
Mekeland	Neu	Petersburg	Robbins	Theis	West
Miller	Nornes	Pierson	Runbeck	Torkelson	Zerwas

Those who voted in the negative were:

Acomb	Dehn	Howard	Loeffler	Persell	Wagenius
Bahner	Ecklund	Huot	Long	Pinto	Wazlawik
Becker-Finn	Edelson	Klevorn	Mann	Poppe	Winkler
Bernardy	Elkins	Koegel	Mariani	Pryor	Wolgamott
Bierman	Fischer	Kotzya-Witthuhn	Marquart	Richardson	Xiong, J.
Brand	Freiberg	Kunesh-Podein	Masin	Sandell	Xiong, T.
Cantrell	Gomez	Lee	Moller	Sandstede	Youakim
Carlson, A.	Halverson	Lesch	Morrison	Sauke	Spk. Hortman
Carlson, L.	Hansen	Liebling	Murphy	Schultz	
Christensen	Hassan	Lien	Nelson, M.	Stephenson	
Clafin	Hausman	Lillie	Noor	Sundin	
Considine	Her	Lippert	Olson	Tabke	
Davnie	Hornstein	Lislegard	Pelowski	Vang	

The motion did not prevail and the amendment was not adopted.

Poston moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 22, after line 12, insert:

"Sec. 19. Minnesota Statutes 2018, section 35.02, subdivision 1, is amended to read:

Subdivision 1. **Members; officers.** ~~(a) The board has five~~ consists of nine members appointed by the governor, with the advice and consent of the senate, ~~three of whom are producers of livestock in the state, and two of whom are practicing veterinarians licensed in Minnesota.~~ as follows:

(1) one member who produces beef in Minnesota;

(2) one member who produces pork in Minnesota;

(3) one member who produces dairy in Minnesota;

(4) one member who produces poultry in Minnesota;

(5) one member who produces deer or elk in Minnesota;

(6) two members who are practicing large-animal veterinarians licensed in Minnesota;

(7) one member who is a practicing swine veterinarian licensed in Minnesota; and

(8) one member who is a practicing poultry veterinarian licensed in Minnesota.

(b) The commissioners of agriculture, natural resources, and health, the dean of the College of Veterinary Medicine, and the director of the Veterinary Diagnostic Laboratory of the University of Minnesota may serve as consultants to the board without vote.



(c) Appointments to fill unexpired terms must be made from the classes to which the retiring members belong.

(d) The board shall elect a president and a vice-president from among its members and a veterinarian licensed in Minnesota who is not a member to be its executive director for a term of one year and until a successor qualifies. The board shall set the duties of the director."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Lueck moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 11, after line 15, insert:

"(c) \$25,000 the first year and \$25,000 the second year are to update the livestock industry study submitted to the legislature under Laws 2015, First Special Session chapter 4, article 2, section 83. The commissioner must update the data and causes of relative growth in the number of head of livestock and poultry produced in Minnesota and neighboring states, including but not limited to the impact of nuisance lawsuits filed against livestock or poultry farms. No later than January 15, 2021, the commissioner must submit the updated study to the legislative committees and divisions with jurisdiction over agriculture policy. These are onetime appropriations."

Page 11, delete lines 16 to 20

A roll call was requested and properly seconded.

Lueck moved to amend the Lueck amendment to S. F. No. 2226, the third engrossment, as amended, as follows:

Page 1, line 5, delete everything after "are" and insert "for additional meat and poultry inspection services. This appropriation is in addition to the amount appropriated for this purpose under subdivision 2."

Page 1, delete lines 6 to 19

The motion did not prevail and the amendment to the amendment was not adopted.

The question recurred on the Lueck amendment and the roll was called. There were 53 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Bahr	Boe	Dettmer	Fabian	Grossell
Anderson	Baker	Daniels	Drazkowski	Franson	Gruenhagen
Backer	Bennett	Davids	Erickson	Green	Gunther

Haley	Kiel	McDonald	Nornes	Quam	Torkelson
Hamilton	Koznick	Mekeland	O'Driscoll	Robbins	Urdahl
Heinrich	Kresha	Miller	O'Neill	Runbeck	Vogel
Heintzeman	Layman	Munson	Petersburg	Schomacker	West
Johnson	Lucero	Nash	Pierson	Scott	Zerwas
Jurgens	Lueck	Neu	Poston	Theis	

Those who voted in the negative were:

Acomb	Dehn	Howard	Loeffler	Persell	Wagenius
Bahner	Ecklund	Huot	Long	Pinto	Wazlawik
Becker-Finn	Edelson	Klevorn	Mann	Poppe	Winkler
Bernardy	Elkins	Koegel	Mariani	Pryor	Wolgamott
Bierman	Fischer	Kotyza-Witthuhn	Marquart	Richardson	Xiong, J.
Brand	Freiberg	Kunesh-Podein	Masin	Sandell	Xiong, T.
Cantrell	Gomez	Lee	Moller	Sandstede	Youakim
Carlson, A.	Halverson	Lesch	Morrison	Sauke	Spk. Hortman
Carlson, L.	Hansen	Liebling	Murphy	Schultz	
Christensen	Hassan	Lien	Nelson, M.	Stephenson	
Clafin	Hausman	Lillie	Noor	Sundin	
Considine	Her	Lippert	Olson	Tabke	
Davnie	Hornstein	Lislegard	Pelowski	Vang	

The motion did not prevail and the amendment was not adopted.

Lueck moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 37, line 1, before the period, insert "beginning December 1, 2020"

The motion did not prevail and the amendment was not adopted.

Lueck moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 39, delete lines 10 to 14

The motion did not prevail and the amendment was not adopted.

Sandstede moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 57, after line 28, insert:

"Sec. 2. **ITASCA COUNTY; CERTAIN FEES MAY BE REGULATED.**

Itasca County may adopt an ordinance to regulate license fee increases that may be imposed on a homeowner by the owner or licensor of the underlying land on which the house is located. If the county adopts an ordinance under this section, the ordinance must limit any license fee increase to no more than ten percent of the license fee charged in the preceding 12-month period. In addition, the ordinance must not allow more than one increase in a 12-month

period. "License fee" means a fee paid by a licensee pursuant to a license agreement granting the licensee permission to use, enter, or occupy an owner's or licensor's property. The ordinance adopted may only apply to fees imposed pursuant to license agreements entered into or renewed on or after the effective date of the ordinance.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

This moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 50, line 26, delete "14,925,000" and insert "16,425,000" and delete "14,925,000" and insert "16,425,000"

Page 50, line 32, delete "7,000,000" and insert "2,000,000"

Page 52, line 4, delete "2,000,000" and insert "3,000,000" and delete "2,000,000" and insert "3,000,000"

Adjust amounts accordingly

This moved to amend the This amendment to S. F. No. 2226, the third engrossment, as amended, as follows:

Page 1, after line 4, insert:

"Page 50, line 29, after the period, insert "Of the amount appropriated in this subdivision, \$1,500,000 each year is onetime."

Page 1, after line 7, insert:

"Page 52, line 10, after the period, insert "Of the amount appropriated in this subdivision, \$1,000,000 each year is onetime."

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the This amendment, as amended, to S. F. No. 2226, the third engrossment, as amended. The motion prevailed and the amendment, as amended, was adopted.

This moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 56, line 5, before "This" insert "(a)"

Page 56, line 10, before "Of" insert "(b)"

Page 56, line 13, after the period, insert "This money must be distributed through a competitive grant process. A grant must supplement the recipient's traditional sources for providing free and confidential legal advice to Minnesota renters and must not be used as a substitute for other funding sources. This appropriation must not be used to make a grant to an entity that employs a registered lobbyist as defined in Minnesota Statutes, section 10A.01, subdivision 21."

A roll call was requested and properly seconded.

The question was taken on the Theis amendment and the roll was called. There were 53 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Dettmer	Hamilton	Layman	Nornes	Schomacker
Anderson	Drazkowski	Heinrich	Lucero	O'Driscoll	Scott
Backer	Erickson	Heintzeman	Lueck	O'Neill	Theis
Bahr	Fabian	Hertaus	McDonald	Petersburg	Torkelson
Baker	Franson	Johnson	Mekeland	Pierson	Urdahl
Bennett	Green	Jurgens	Miller	Poston	Vogel
Boe	Grossell	Kiel	Munson	Quam	West
Daniels	Gruenhagen	Koznick	Nash	Robbins	Zerwas
Davids	Gunther	Kresha	Neu	Runbeck	

Those who voted in the negative were:

Acomb	Dehn	Howard	Loeffler	Pelowski	Wagenius
Bahner	Ecklund	Huot	Long	Persell	Wazlawik
Becker-Finn	Edelson	Klevorn	Mahoney	Pinto	Winkler
Bernardy	Elkins	Koegel	Mann	Poppe	Wolgamott
Bierman	Fischer	Kotzya-Witthuhn	Mariani	Pryor	Xiong, J.
Brand	Freiberg	Kunesh-Podein	Marquart	Richardson	Xiong, T.
Cantrell	Gomez	Lee	Masin	Sandell	Youakim
Carlson, A.	Halverson	Lesch	Moller	Sandstede	Spk. Hortman
Carlson, L.	Hansen	Liebling	Morrison	Sauke	
Christensen	Hassan	Lien	Murphy	Schultz	
Clafin	Hausman	Lillie	Nelson, M.	Stephenson	
Considine	Her	Lippert	Noor	Sundin	
Davnie	Hornstein	Lislegard	Olson	Tabke	

The motion did not prevail and the amendment was not adopted.

Theis moved to amend S. F. No. 2226, the third engrossment, as amended, as follows:

Page 53, line 1, delete "9,519,000" and insert "9,819,000" and delete "9,519,000" and insert "9,819,000"

Page 53, line 4, after the period, insert "Of this amount, \$300,000 each year is for grants to provide rent assistance to prevent homelessness."

Page 56, line 4, delete "745,000" and insert "445,000" and delete "745,000" and insert "445,000"

Page 56, line 10, delete everything after the period

Page 56, delete lines 11 to 13

The motion did not prevail and the amendment was not adopted.

The Speaker called Halverson to the Chair.

S. F. No. 2226, A bill for an act relating to agriculture; establishing a budget for the Department of Agriculture, the Board of Animal Health, the Agricultural Utilization Research Institute, and the Minnesota Housing Finance Agency; modifying programs; amending Minnesota Statutes 2018, sections 17.041, subdivision 1; 18B.34, subdivision 5; 18C.425, subdivision 6; 18C.70, subdivision 5; 18C.71, subdivision 4; 18C.80, subdivision 2; 18K.02, subdivision 3; 18K.06; 28A.16; 41A.15, subdivision 10, by adding a subdivision; 41A.16, subdivisions 1, 2, 4; 41A.17, subdivisions 1, 2, 3; 41A.18, subdivisions 1, 2, 3; 41B.055, subdivision 4; 116.06, by adding a subdivision; 116.07, subdivisions 7, 7d; 223.16, subdivisions 2a, 4; 223.17, subdivisions 3, 4, 5, 6, by adding subdivisions; 223.177, subdivisions 2, 3, 8; 232.21, by adding subdivisions; 232.22, subdivisions 3, 4; 232.23, subdivision 3; 232.24, subdivisions 1, 2; 299D.085, by adding a subdivision; 326B.815, subdivision 1; 327.31, by adding a subdivision; 327B.041; 327C.095, subdivisions 4, 6, 12, 13, by adding a subdivision; 428A.11, subdivisions 4, 6; 462A.2035, subdivisions 1a, 1b; 462A.209, subdivision 8; 462A.22, subdivision 9; 462A.24; 462A.33, subdivisions 1, 2, 3; 462A.37, subdivision 2; 462A.38, subdivision 1; 474A.02, by adding subdivisions; 474A.03, subdivision 1; 474A.061, subdivisions 1, 2a, by adding a subdivision; 474A.091, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapters 41B; 327.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 99 yeas and 28 nays as follows:

Those who voted in the affirmative were:

Acomb	Dettmer	Johnson	Long	Pelowski	Theis
Albright	Ecklund	Jurgens	Lueck	Persell	Urdahl
Bahner	Edelson	Klevorn	Mahoney	Petersburg	Vang
Baker	Elkins	Koegel	Mann	Pinto	Vogel
Becker-Finn	Fischer	Kotzya-Witthuhn	Mariani	Poppe	Wagenius
Bennett	Freiberg	Koznick	Marquart	Poston	Wazlawik
Bierman	Gomez	Kresha	Masin	Pryor	West
Brand	Gunther	Kunesh-Podein	Moller	Richardson	Winkler
Cantrell	Halverson	Layman	Morrison	Runbeck	Wolgamott
Carlson, A.	Hamilton	Lee	Murphy	Sandell	Xiong, J.
Carlson, L.	Hansen	Lesch	Nelson, M.	Sandstede	Xiong, T.
Christensen	Hassan	Liebling	Neu	Sauke	Youakim
Claflin	Hausman	Lien	Noor	Schomacker	Zerwas
Considine	Her	Lillie	Nornes	Schultz	Spk. Hortman
Davids	Hornstein	Lippert	O'Driscoll	Stephenson	
Davnie	Howard	Lislegard	Olson	Sundin	
Dehn	Huot	Loeffler	O'Neill	Tabke	

Those who voted in the negative were:

Anderson	Daniels	Green	Heintzeman	Mekeland	Robbins
Backer	Drazkowski	Grossell	Hertaus	Miller	Scott
Bahr	Erickson	Gruenhagen	Kiel	Munson	Torkelson
Bernardy	Fabian	Haley	Lucero	Nash	
Boe	Franson	Heinrich	McDonald	Pierson	

The bill was passed, as amended, and its title agreed to.

Winkler moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

Zerwas was excused for the remainder of today's session.

### CALENDAR FOR THE DAY, Continued

H. F. No. 1555 was reported to the House.

Hornstein moved to amend H. F. No. 1555, the first engrossment, as follows:

Page 15, line 23, delete "67,735,000" and insert "67,945,000"

Adjust amounts accordingly

The motion prevailed and the amendment was adopted.

Pelowski moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 5, line 6, delete "6,723,000" and insert "6,883,000"

Page 5, after line 10, insert:

"\$160,000 in fiscal year 2020 is from the general fund for port development assistance grants under Minnesota Statutes, chapter 457A, to the Port Authority of Winona. Any improvements made with the proceeds of the grants must be publicly owned. This is a onetime appropriation and is available in the second year."

Page 23, after line 23, insert:

"Sec. 7. **APPROPRIATION CANCELLATION; PORT DEVELOPMENT ASSISTANCE.**

\$160,000 of the appropriation for port development assistance under Laws 2017, First Special Session chapter 3, article 1, section 2, subdivision 2, paragraph (e), is canceled to the general fund on June 30, 2019.

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

Adjust amounts accordingly

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Elkins moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 97, after line 25, insert:

"Sec. 64. Minnesota Statutes 2018, section 169.58, is amended by adding a subdivision to read:

Subd. 5. **Transportation network company vehicle.** (a) For purposes of this subdivision, the definitions in section 65B.472, subdivision 1, apply except that "transportation network company vehicle" has the meaning given to "personal vehicle" in section 65B.472, subdivision 1, paragraph (c).

(b) A transportation network company vehicle may be equipped with no more than two removable, interior-mounted, trade dress identifying devices as provided by the transportation network company that are designed to assist riders in identifying and communicating with drivers. The identifying device may be illuminated and emit a steady beam of solid colored light in any direction when the driver is logged into the digital network. The identifying device must not: (1) display the colors red, amber, or blue; (2) project a flashing, oscillating, alternating, or rotating light; or (3) project a glaring or dazzling light."

Page 98, after line 3, insert:

"Sec. 66. Minnesota Statutes 2018, section 169.71, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions generally; exceptions.** (a) A person shall not drive or operate any motor vehicle with:

(1) a windshield cracked or discolored to an extent to limit or obstruct proper vision;

(2) any objects suspended between the driver and the windshield, other than:

(i) sun visors;

(ii) rearview mirrors;

(iii) driver feedback and safety monitoring equipment when mounted immediately behind, slightly above, or slightly below the rearview mirror;

(iv) global positioning systems or navigation systems when mounted or located near the bottommost portion of the windshield; ~~and~~

(v) electronic toll collection devices; ~~or~~ and

(vi) an identifying device as provided in section 169.58, subdivision 5, when the device is mounted or located near the bottommost portion of the windshield; or

(3) any sign, poster, or other nontransparent material upon the front windshield, sidewings, or side or rear windows of the vehicle, other than a certificate or other paper required to be so displayed by law or authorized by the state director of the Division of Emergency Management or the commissioner of public safety.

(b) Paragraph (a), clauses (2) and (3), do not apply to law enforcement vehicles.

(c) Paragraph (a), clause (2), does not apply to authorized emergency vehicles."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Ecklund moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 73, after line 8, insert:

"Sec. 20. Minnesota Statutes 2018, section 168.013, subdivision 3, is amended to read:

Subd. 3. **Application; cancellation; excessive gross weight forbidden.** (a) The applicant for all licenses based on gross weight shall state the unloaded weight of the motor vehicle, trailer, or semitrailer and the maximum load the applicant proposes to carry on it, the sum of which constitutes the gross weight upon which the license tax must be paid. However, the declared gross weight upon which the tax is paid must not be less than 1-1/4 times the declared unloaded weight of the motor vehicle, trailer, or semitrailer to be registered, except recreational vehicles taxed under subdivision 1g, school buses taxed under subdivision 18, and tow trucks or towing vehicles defined in section 168B.011, subdivision 12a. The gross weight of a tow truck or towing vehicle is the actual weight of the tow truck or towing vehicle fully equipped, but does not include the weight of a wrecked or disabled vehicle towed or drawn by the tow truck or towing vehicle.

(b) Except as provided by special permit issued under section 169.86, the gross weight of a motor vehicle, trailer, or semitrailer must not exceed the gross weight upon which the license tax has been paid by more than four percent or 1,000 pounds, whichever is greater; provided that, a vehicle transporting unfinished forest products on a highway, other than a highway that is part of the system of interstate and defense highways, unless a federal exemption is granted, in accordance with paragraph (d)(3):

(1) shall not exceed its gross vehicle weight upon which the license tax has been paid, or gross axle weight on any axle, by more than five percent and, notwithstanding other law to the contrary, is not subject to any fee, fine, or other assessment or penalty for exceeding a gross vehicle or axle weight by up to five percent. This clause applies year round; and



(2) ~~between the dates set by the commissioner in accordance with section 169.826, subdivision 1,~~ is not subject to any provision of paragraph (d) or chapter 169 limiting the gross axle weight of any individual axle unless the entire vehicle also exceeds its gross vehicle weight plus its weight allowance allowed in clause (1) and plus any weight allowance permitted under section 169.826, in which case the vehicle is subject to all applicable penalties for excess weight violations.

(c) The gross weight of the motor vehicle, trailer, or semitrailer for which the license tax is paid must be indicated by a distinctive character on the license plate or plates except as provided in subdivision 12 or section 169.86, subdivision 5a, as applicable, and the plate or plates must be kept clean and clearly visible at all times.

(d) The owner, driver, or user of a motor vehicle, trailer, or semitrailer, upon conviction for transporting a gross weight in excess of the gross weight for which it was registered or for operating a vehicle with an axle weight exceeding the maximum lawful axle load weight, is guilty of a misdemeanor and subject to increased registration or reregistration according to the following schedule:

(1) Upon conviction for transporting a gross weight in excess of the gross weight for which a motor vehicle, trailer, or semitrailer is registered by more than the allowance set forth in paragraph (b) but less than 25 percent, or for operating or using a motor vehicle, trailer, or semitrailer with an axle weight exceeding the maximum lawful axle load as provided in sections 169.822 to 169.829 by more than the allowance set forth in paragraph (b) but less than 25 percent, the owner, driver, or user of the motor vehicle, trailer, or semitrailer used to commit the violation, in addition to any penalty imposed for the misdemeanor, shall apply to the registrar to increase the authorized gross weight to be carried on the vehicle to a weight equal to or greater than the gross weight the owner, driver, or user was convicted of carrying. The increase is computed for the balance of the calendar year on the basis of 1/12 of the annual tax for each month remaining in the calendar year beginning with the first day of the month in which the violation occurred. If the additional registration tax computed upon that weight, plus the tax already paid, amounts to more than the regular tax for the maximum gross weight permitted for the vehicle under sections 169.822 to 169.829, that additional amount must nevertheless be paid into the highway fund, but the additional tax thus paid does not authorize or permit any person to operate the vehicle with a gross weight in excess of the maximum legal weight as provided by sections 169.822 to 169.829. Unless the owner within 30 days after a conviction applies to increase the authorized weight and pays the additional tax as provided in this section, the registrar shall revoke the registration on the vehicle and demand the return of the registration card and plates issued on that registration.

(2) Upon conviction of an owner, driver, or user of a motor vehicle, trailer, or semitrailer for transporting a gross weight in excess of the gross weight for which the motor vehicle, trailer, or semitrailer was registered by 25 percent or more or for operating or using the vehicle or trailer with an axle weight exceeding the maximum lawful axle load as provided in sections 169.822 to 169.829 by 25 percent or more, and in addition to any penalty imposed for the misdemeanor, the registrar shall either (i) cancel the reciprocity privileges on the vehicle involved if the vehicle is being operated under reciprocity or (ii) if the vehicle is not being operated under reciprocity, cancel the certificate of registration on the vehicle operated and demand the return of the registration certificate and registration plates. The registrar may not cancel the registration or reciprocity privileges for any vehicle found in violation of seasonal load restrictions imposed under section 169.87 unless the axle weight exceeds the year-round weight limit for the highway on which the violation occurred. The registrar may investigate any allegation of gross weight violations and demand that the operator show cause why all future operating privileges in the state should not be revoked unless the additional tax assessed is paid.

(3) Clause (1) does not apply to the first haul of unprocessed or raw farm products or unfinished forest products, when the registered gross weight is not exceeded by more than ten percent. For purposes of this clause, "first haul" means (i) the first, continuous transportation of unprocessed or raw farm products from the place of production or on-farm storage site to any other location within 100 miles of the place of production or on-farm storage site, or (ii) the continuous or noncontinuous transportation of unfinished forest products from the place of production to the place of final processing or manufacture located within 200 miles of the place of production.

(4) When the registration on a motor vehicle, trailer, or semitrailer is revoked by the registrar according to this section, the vehicle must not be operated on the highways of the state until it is registered or reregistered, as the case may be, and new plates issued, and the registration fee is the annual tax for the total gross weight of the vehicle at the time of violation. The reregistration pursuant to this subdivision of any vehicle operating under reciprocity agreements pursuant to section 168.181 or 168.187 must be at the full annual registration fee without regard to the percentage of vehicle miles traveled in this state."

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

Ecklund moved to amend the Ecklund amendment to H. F. No. 1555, the first engrossment, as amended, as follows:

Page 1, line 24, after "round" insert "to suppliers of unfinished forest products to mills"

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the Ecklund amendment, as amended, to H. F. No. 1555, the first engrossment, as amended. The motion prevailed and the amendment, as amended, was adopted.

Bernardy moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 132, after line 3, insert:

"Sec. 116. Minnesota Statutes 2018, section 473.408, is amended by adding a subdivision to read:

Subd. 11. **Campus zone pass.** (a) The council must implement passes for light rail transit in the University of Minnesota campus. The zone for the passes must include (1) each station located within the campus, and (2) at least one additional contiguous station.

(b) The council must use funds available from the metropolitan area transportation sales and use tax under section 297A.9925 for all net costs of the passes under this subdivision.

**EFFECTIVE DATE: APPLICATION.** Paragraph (a) is effective the day following final enactment. Paragraph (b) is effective January 1, 2020. This section applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Murphy moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 133, after line 43, insert:

"Sec. 118. Laws 2014, chapter 312, article 11, section 38, subdivision 5, is amended to read:

Subd. 5. **Pilot program evaluation.** In coordination with the city, the commissioner of transportation shall evaluate effectiveness of the pilot program under this section, which must include analysis of traffic safety impacts, utility to motorists and tourists, costs and expenditures, extent of community support, and pilot program termination or continuation. By January 15, ~~2024~~ 2025, the commissioner shall submit a report on the evaluation to the ~~chairs~~ and ranking minority members and staff of the legislative committees with jurisdiction over transportation policy and finance.

Sec. 119. Laws 2014, chapter 312, article 11, section 38, subdivision 6, is amended to read:

Subd. 6. **Expiration.** The pilot program under this section expires January 1, ~~2022~~ 2026."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Hansen and Hornstein moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 142, after line 3, insert:

"(b) Minnesota Statutes 2018, section 3.972, subdivision 4, is repealed."

Page 142, line 4, delete "(b)" and insert "(c)"

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Theis moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 68, after line 5, insert:

"Sec. 6. Minnesota Statutes 2018, section 160.263, subdivision 2, is amended to read:

Subd. 2. **Powers of political subdivisions.** (a) The governing body of any political subdivision may by ordinance or resolution:

(1) designate any roadway or shoulder or portion thereof under its jurisdiction as a bicycle lane or bicycle route;

(2) designate any sidewalk or portion thereof under its jurisdiction as a bicycle path provided that the designation does not destroy a pedestrian way or pedestrian access;

(3) develop and designate bicycle paths;

(4) designate as bikeways all bicycle lanes, bicycle routes, and bicycle paths.

(b) A governing body may not prohibit or otherwise restrict operation of an electric-assisted bicycle, as defined in section 169.011, subdivision 27, on any bikeway, roadway, or shoulder, unless the governing body determines that operation of the electric-assisted bicycle is not consistent with (1) the safety or general welfare of bikeway, roadway, or shoulder users; or (2) the terms of any property conveyance.

(c) A governing body may not establish a bikeway in a segment of public road right-of-way that results in elimination or relocation of any disability parking that is designated under section 169.346, subdivision 2.

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

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

A roll call was requested and properly seconded.

Hornstein moved to amend the Theis amendment to H. F. No. 1555, the first engrossment, as amended, as follows:

Page 1, line 17, delete "A governing body may not establish" and insert "When establishing"

Page 1, line 18, delete everything before "disability" and insert "right-of-way, a governing body must place a high priority on preservation of existing"

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the Theis amendment, as amended, and the roll was called. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Acomb	Carlson, A.	Elkins	Hansen	Koegel	Long
Albright	Carlson, L.	Erickson	Hassan	Kotyza-Witthuhn	Lucero
Anderson	Christensen	Fabian	Hausman	Koznick	Lueck
Backer	Clafin	Fischer	Heinrich	Kresha	Mahoney
Bahner	Considine	Franson	Heintzeman	Kunesh-Podein	Mann
Bahr	Daniels	Freiberg	Her	Layman	Mariani
Baker	Daudt	Gomez	Hertaus	Lee	Marquart
Becker-Finn	Davids	Green	Hornstein	Lesch	Masin
Bennett	Davnie	Grossell	Howard	Liebling	Mekeland
Bernardy	Dehn	Gruenhagen	Huot	Lien	Miller
Bierman	Dettmer	Gunther	Johnson	Lillie	Moller
Boe	Drazkowski	Haley	Jurgens	Lippert	Morrison
Brand	Ecklund	Halverson	Kiel	Lislegard	Munson
Cantrell	Edelson	Hamilton	Klevorn	Loeffler	Murphy

Nash	O'Neill	Poston	Sauke	Theis	West
Nelson, M.	Pelowski	Pryor	Schomacker	Torkelson	Winkler
Neu	Persell	Quam	Schultz	Urdahl	Wolgamott
Noor	Petersburg	Richardson	Scott	Vang	Xiong, J.
Nornes	Pierson	Robbins	Stephenson	Vogel	Xiong, T.
O'Driscoll	Pinto	Sandell	Sundin	Wagenius	Youakim
Olson	Poppe	Sandstede	Tabke	Wazlawik	Spk. Hortman

The motion prevailed and the amendment, as amended, was adopted.

McDonald was excused for the remainder of today's session.

Bahr moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 4, delete lines 16 to 19 and 33

Page 5, delete lines 1 to 5

Page 5, line 6, delete "(f)" and insert "(e)"

Adjust amounts accordingly

A roll call was requested and properly seconded.

The question was taken on the Bahr amendment and the roll was called. There were 46 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Albright	Dettmer	Gunther	Koznick	Neu	Robbins
Anderson	Drazkowski	Haley	Kresha	Nornes	Runbeck
Bahr	Erickson	Heinrich	Lucero	O'Driscoll	Schomacker
Bennett	Fabian	Heintzeman	Lueck	O'Neill	Torkelson
Boe	Franson	Hertaus	Mekeland	Petersburg	Vogel
Daniels	Green	Johnson	Miller	Pierson	West
Daudt	Grossell	Jurgens	Munson	Poston	
Davids	Gruenhagen	Kiel	Nash	Quam	

Those who voted in the negative were:

Acomb	Christensen	Gomez	Koegel	Lislegard	Murphy
Backer	Clafin	Halverson	Kotyza-Witthuhn	Loeffler	Nelson, M.
Bahner	Considine	Hansen	Kunesh-Podein	Long	Noor
Becker-Finn	Davnie	Hassan	Layman	Mahoney	Olson
Bernardy	Dehn	Hausman	Lee	Mann	Pelowski
Bierman	Ecklund	Her	Lesch	Mariani	Persell
Brand	Edelson	Hornstein	Liebling	Marquart	Pinto
Cantrell	Elkins	Howard	Lien	Masin	Poppe
Carlson, A.	Fischer	Huot	Lillie	Moller	Pryor
Carlson, L.	Freiberg	Klevorn	Lippert	Morrison	Richardson

Sandell	Schultz	Tabke	Vang	Winkler	Xiong, T.
Sandstede	Stephenson	Theis	Wagenius	Wolgamott	Youakim
Sauke	Sundin	Urdahl	Wazlawik	Xiong, J.	Spk. Hortman

The motion did not prevail and the amendment was not adopted.

O'Driscoll was excused for the remainder of today's session.

The Speaker called Halverson to the Chair.

Torkelson moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 133, after line 43, insert:

"Sec. 118. Laws 2018, chapter 165, section 1, is amended to read:

Section 1. **TRUNK HIGHWAY MOWING OR HAYING; PERMIT MORATORIUM.**

(a) Except as provided in paragraph (b), the commissioner of transportation must implement a moratorium until April 30, ~~2019~~ 2020, on enforcing permits under Minnesota Statutes, sections 160.232 and 160.2715, or any other Minnesota statute or administrative rule, to mow or bale hay in the right-of-way of a trunk highway.

(b) This section applies regardless of the date of any permit issuance. This section does not apply to a right-of-way adjacent to land under the jurisdiction of the state or a political subdivision.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Torkelson amendment and the roll was called. There were 60 yeas and 65 nays as follows:

Those who voted in the affirmative were:

Albright	Davids	Gunther	Kresha	Nornes	Runbeck
Anderson	Dettmer	Haley	Layman	O'Neill	Sandell
Backer	Drazkowski	Hamilton	Lucero	Pelowski	Sauke
Bahr	Ecklund	Heinrich	Lueck	Persell	Schomacker
Baker	Erickson	Heintzeman	Marquart	Petersburg	Scott
Bennett	Fabian	Hertaus	Mekeland	Pierson	Theis
Boe	Franson	Johnson	Miller	Poppe	Torkelson
Brand	Green	Jurgens	Munson	Poston	Urdahl
Daniels	Grossell	Kiel	Nash	Quam	Vogel
Daudt	Gruenhagen	Koznick	Neu	Robbins	West

Those who voted in the negative were:

Acomb	Dehn	Hornstein	Lillie	Murphy	Tabke
Bahner	Edelson	Howard	Lippert	Nelson, M.	Vang
Becker-Finn	Elkins	Huot	Lislegard	Noor	Wagenius
Bernardy	Fischer	Klevorn	Loeffler	Olson	Wazlawik
Bierman	Freiberg	Koegel	Long	Pinto	Winkler
Cantrell	Gomez	Kotyza-Witthuhn	Mahoney	Pryor	Wolgamott
Carlson, A.	Halverson	Kunesh-Podein	Mann	Richardson	Xiong, J.
Carlson, L.	Hansen	Lee	Mariani	Sandstede	Xiong, T.
Christensen	Hassan	Lesch	Masin	Schultz	Youakim
Clafin	Hausman	Liebling	Moller	Stephenson	Spk. Hortman
Davnie	Her	Lien	Morrison	Sundin	

The motion did not prevail and the amendment was not adopted.

Torkelson moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 67, after line 24, insert:

"Sec. 5. Minnesota Statutes 2018, section 160.23, is amended to read:

**160.23 DESTRUCTION OF NOXIOUS WEEDS.**

Road authorities, including road authorities of cities ~~shall cause, must cut down, eradicate, or otherwise destroy~~ all noxious weeds on ~~their respective~~ highways and streets ~~to be cut down or otherwise destroyed or eradicated~~ owned or controlled by the road authority. The cutting, eradication, or destruction must occur as often as may be is necessary to prevent the ripening or scattering of seed and other propagating parts of such the noxious weeds. When destroying noxious weeds within a right-of-way, a road authority must use the most effective integrated pest management method that is minimally disruptive to pollinators. If noxious weed conditions do not merit full treatment of the entire right-of-way, spot treatment must be used.

Sec. 6. Minnesota Statutes 2018, section 160.232, is amended to read:

**160.232 MOWING DITCHES ~~OUTSIDE CITIES~~; POLLINATOR MANAGEMENT.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Integrated roadside vegetation management" means an approach to right-of-way maintenance that combines a variety of techniques with sound ecological principles to establish and maintain safe, healthy, and functional roadsides. Integrated roadside vegetation management includes but is not limited to judicious use of herbicides, spot mowing, biological control, prescribed burning, mechanical tree and brush removal, erosion prevention and treatment, and prevention and treatment of other right-of-way disturbances.

(c) "Pollinator" has the meaning given in section 18B.01, subdivision 20a.

Subd. 2. **Applicability.** (a) The commissioner must comply with the provisions of this section with respect to trunk highways and other roadway rights-of-way owned or controlled by the Department of Transportation.

(b) Other road authorities, including counties, municipalities, and other local government units, may and are encouraged to comply with the provisions of this section with respect to highway and other roadway rights-of-way owned or controlled by the road authority.

**Subd. 3. Right-of-way mowing; maintenance.** (a) To provide enhanced roadside habitat for pollinators, nesting birds, and other small wildlife, a road authority is prohibited from mowing, burning, tilling, or haying the right-of-way of a highway located outside of a home rule charter or statutory city except as allowed in provided by this section and section 160.23.

(b) On any highway, an area equal to the width of the mowing equipment away from the road surface, or shoulder if one exists, may be mowed as necessary for use as a safety zone for vehicles to stop on the roadway or to maintain sight distance for safety. The mowing equipment may make only one pass over the mowed area.

(c) One side of an entire right-of-way may be mowed after July 31. From August 31 to the following July 31, the entire right-of-way may only be mowed once per year. Mowing more than once per year is allowed if the road authority demonstrates via a management plan that doing so is necessary for safety or maintenance reasons, but may not be mowed to a height of less than 12 inches. A road authority is prohibited from mowing both sides of an entire right-of-way during the same calendar year unless allowed by a management plan.

(d) A right-of-way may be mowed as necessary to maintain sight distance for safety and may be mowed at other times under rules of the commissioner, or by ordinance of a local road authority not conflicting with the rules of the commissioner.

(e) (d) A right-of-way may be mowed, burned, or tilled, or hayed to prepare the right-of-way for the establishment of to establish or maintain permanent vegetative cover or for prairie vegetation management, including forbs and native flowering plants.

(f) When feasible, road authorities are encouraged to utilize low maintenance, native vegetation that reduces the need to mow, provides wildlife habitat, and maintains public safety.

(g) The commissioner of natural resources shall cooperate with the commissioner of transportation to provide enhanced roadside habitat for nesting birds and other small wildlife.

**Subd. 4. Pollinator habitat management practices; right-of-way mapping.** (a) In collaboration with the commissioners of agriculture and natural resources and the Board of Water and Soil Resources, the commissioner of transportation must establish pollinator habitat management best practices for public highway and roadway rights-of-way in Minnesota. The pollinator habitat management practices must include the establishment of native plantings and designated wildflower highways where mowing, tilling, burning, or haying is prohibited.

(b) When feasible, road authorities are encouraged to utilize low maintenance, native vegetation that reduces the need to mow, provides wildlife habitat, and maintains public safety. The commissioner of natural resources must cooperate with the commissioner of transportation to provide enhanced roadside habitat for nesting birds, pollinators, and other small wildlife.

(c) The commissioner of transportation must make available on a public website maps and management plans indicating where trunk highway rights-of-way subject to this section exist, including any newly constructed rights-of-way.



Subd. 5. **Pollinator habitat management performance plan.** (a) The commissioner must develop and implement a performance-based pollinator habitat management plan for the trunk highway system to improve the condition of existing pollinator habitat and enhance the effectiveness of pollinator habitat management. The performance plan must include strategies to achieve best practices for pollinator habitat management within all trunk highway rights-of-way.

(b) At a minimum, the performance plan must:

(1) measure, enhance, and restore acres of trunk highway rights-of-way as prairie lands, wetlands, and recreational lands such as parks, trails, and open space;

(2) measure and reduce pounds of pesticides and other chemicals applied within trunk highway rights-of-way;

(3) measure and reduce tons of greenhouse gases produced by the Department of Transportation mowing within trunk highway rights-of-way;

(4) measure and reduce energy consumption due to the Department of Transportation mowing within trunk highway rights-of-way;

(5) measure financial penalties and settlements paid due to environmental damage, worker safety violations, and worker health violations due to mowing; and

(6) reduce the number of instances of environmental damage, worker safety violations, and worker health violations due to mowing.

(c) The commissioner must include annual performance targets to be achieved by each district of the department for each measure under paragraph (b). Additional predictive and consequential performance measures and annual performance targets may be identified in collaboration with the public.

(d) Annually by December 15, the commissioner must submit the pollinator habitat management plan, including information detailing the department's progress on implementing the plan and an annual investment plan for each district of the department, to the chairs and ranking minority members of the legislative committees having jurisdiction over transportation policy and finance. The pollinator habitat management plan must be signed by the commissioner of transportation."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Torkelson amendment and the roll was called. There was 1 yea and 125 nays as follows:

Those who voted in the affirmative were:

Elkins

Those who voted in the negative were:

Acomb	Davids	Hassan	Liebling	Nelson, M.	Schomacker
Albright	Davnie	Hausman	Lien	Neu	Schultz
Anderson	Dehn	Heinrich	Lillie	Noor	Scott
Backer	Dettmer	Heintzeman	Lippert	Nornes	Stephenson
Bahner	Drazkowski	Her	Lislegard	Olson	Sundin
Bahr	Ecklund	Hertaus	Loeffler	O'Neill	Tabke
Baker	Edelson	Hornstein	Long	Pelowski	Theis
Becker-Finn	Erickson	Howard	Lucero	Persell	Torkelson
Bennett	Fabian	Huot	Lueck	Petersburg	Urdahl
Bernardy	Fischer	Johnson	Mahoney	Pierson	Vang
Bierman	Franson	Jurgens	Mann	Pinto	Vogel
Boe	Freiberg	Kiel	Mariani	Poppe	Wagenius
Brand	Gomez	Klevorn	Marquart	Poston	Wazlawik
Cantrell	Green	Koegel	Masin	Pryor	West
Carlson, A.	Grossell	Kotzya-Witthuhn	Mekeland	Quam	Winkler
Carlson, L.	Gruenhagen	Koznick	Miller	Richardson	Wolgamott
Christensen	Gunther	Kresha	Moller	Robbins	Xiong, J.
Claflin	Haley	Kunesh-Podein	Morrison	Runbeck	Xiong, T.
Considine	Halverson	Layman	Munson	Sandell	Youakim
Daniels	Hamilton	Lee	Murphy	Sandstede	Spk. Hortman
Daudt	Hansen	Lesch	Nash	Sauke	

The motion did not prevail and the amendment was not adopted.

Daudt offered an amendment to H. F. No. 1555, the first engrossment, as amended.

Winkler requested a division of the Daudt amendment to H. F. No. 1555, the first engrossment, as amended.

Winkler further requested that the second portion of the divided Daudt amendment be voted on first.

The second portion of the Daudt amendment to H. F. No. 1555, the first engrossment, as amended, reads as follows:

Page 57, delete sections 14 and 15

Page 60, delete section 17

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the second portion of the Daudt amendment and the roll was called. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Acomb	Davids	Hansen	Lesch	Nash	Sauke
Albright	Davnie	Hassan	Liebling	Nelson, M.	Schomacker
Anderson	Dehn	Hausman	Lien	Neu	Schultz
Backer	Dettmer	Heinrich	Lillie	Noor	Scott
Bahner	Drazkowski	Heintzeman	Lippert	Nornes	Stephenson
Bahr	Ecklund	Her	Lislegard	Olson	Sundin
Baker	Edelson	Hertaus	Loeffler	O'Neill	Tabke
Becker-Finn	Elkins	Hornstein	Long	Pelowski	Theis
Bennett	Erickson	Howard	Lucero	Persell	Torkelson
Bernardy	Fabian	Huot	Lueck	Petersburg	Urdahl
Bierman	Fischer	Johnson	Mahoney	Pierson	Vang
Boe	Franson	Jurgens	Mann	Pinto	Vogel
Brand	Freiberg	Kiel	Mariani	Poppe	Wagenius
Cantrell	Gomez	Klevorn	Marquart	Poston	Wazlawik
Carlson, A.	Green	Koegel	Masin	Pryor	West
Carlson, L.	Grossell	Kotyza-Witthuhn	Mekeland	Quam	Winkler
Christensen	Gruenhagen	Koznick	Miller	Richardson	Wolgamott
Clafin	Gunther	Kresha	Moller	Robbins	Xiong, J.
Considine	Haley	Kunesh-Podein	Morrison	Runbeck	Xiong, T.
Daniels	Halverson	Layman	Munson	Sandell	Youakim
Daudt	Hamilton	Lee	Murphy	Sandstede	Spk. Hortman

The motion prevailed and the second portion of the Daudt amendment was adopted.

Erickson was excused for the remainder of today's session.

The first portion of the Daudt amendment to H. F. No. 1555, the first engrossment, as amended, reads as follows:

Page 47, delete section 1

Page 55, delete sections 10 and 11

Page 56, delete sections 12 and 13

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the first portion of the Daudt amendment and the roll was called. There were 55 yeas and 70 nays as follows:

Those who voted in the affirmative were:

Albright	Bahr	Boe	Davids	Fabian	Grossell
Anderson	Baker	Daniels	Dettmer	Franson	Gruenhagen
Backer	Bennett	Daudt	Drazkowski	Green	Gunther

Haley	Kiel	Marquart	O'Neill	Robbins	Vogel
Hamilton	Koznick	Mekeland	Pelowski	Runbeck	West
Heinrich	Kresha	Miller	Petersburg	Schomacker	
Heintzeman	Layman	Munson	Pierson	Scott	
Hertaus	Lien	Nash	Poppe	Theis	
Johnson	Lucero	Neu	Poston	Torkelson	
Jurgens	Lueck	Nornes	Quam	Urdahl	

Those who voted in the negative were:

Acomb	Davnie	Her	Lippert	Noor	Tabke
Bahner	Dehn	Hornstein	Lislegard	Olson	Vang
Becker-Finn	Ecklund	Howard	Loeffler	Persell	Wagenius
Bernardy	Edelson	Huot	Long	Pinto	Wazlawik
Bierman	Elkins	Klevorn	Mahoney	Pryor	Winkler
Brand	Fischer	Koegel	Mann	Richardson	Wolgamott
Cantrell	Freiberg	Kotzya-Witthuhn	Mariani	Sandell	Xiong, J.
Carlson, A.	Gomez	Kunesh-Podein	Masin	Sandstede	Xiong, T.
Carlson, L.	Halverson	Lee	Moller	Sauke	Youakim
Christensen	Hansen	Lesch	Morrison	Schultz	Spk. Hortman
Claflin	Hassan	Liebling	Murphy	Stephenson	
Considine	Hausman	Lillie	Nelson, M.	Sundin	

The motion did not prevail and the first portion of the Daudt amendment was not adopted.

Runbeck moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 107, after line 23, insert:

"Sec. 78. Minnesota Statutes 2018, section 171.13, is amended by adding a subdivision to read:

**Subd. 8. Driver testing stations.** The commissioner must enter into agreements with a qualified entity, which may include a driver's license agent, for driver's license examination. An agreement must specify that the administering entity meets the 14-day appointment scheduling requirement under subdivision 1, paragraph (d).

**EFFECTIVE DATE; APPLICATION.** This section is effective July 1, 2020, and applies to examinations performed on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Drazkowski moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 67, delete section 5

Page 68, delete section 7

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

The motion did not prevail and the amendment was not adopted.

Quam moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 81, after line 30, insert:

"Sec. 31. **[168.85] BICYCLE REGISTRATION.**

Subdivision 1. **Definition.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Bikeway" has the meaning given in section 169.011, subdivision 9.

(c) "Full-size bicycle" means a bicycle, as defined in section 169.011, subdivision 4, that is designed with wheels having a diameter of at least 24 inches.

Subd. 2. **Registration required.** No person may operate a full-size bicycle on a public street or highway, or on a bikeway, unless the bicycle is registered as provided in this section.

Subd. 3. **Bicycle account; appropriation.** (a) A bicycle account is created in the special revenue fund. The account consists of funds collected under this section, and any other money donated, allotted, transferred, or otherwise provided to the account.

(b) Money in the account is annually appropriated:

(1) to the commissioner of public safety for the annual cost of administering bicycle registration; and

(2) remaining funds after the appropriation in clause (1) to the commissioner of transportation for development and maintenance of state bicycle routes under section 160.266.

Subd. 4. **General requirements.** (a) The owner of a bicycle may apply for registration of the bicycle to the commissioner or any deputy registrar. Applications must be in the manner prescribed by the commissioner.

(b) If available, proof of ownership must be submitted as part of the application. Bicycles for which proof of ownership is lacking may be registered if there is no evidence that the bicycle is stolen.

(c) The commissioner must retain information concerning each registration.

(d) The commissioner must provide to the registrant a suitable registration card that has the registration number on the card and that indicates the date of registration, the make and serial number of the bicycle, the owner's name and address, and any additional information as determined by the commissioner.

Subd. 5. **Registration period.** Bicycle registration under this section is valid for two years, and ends on the last day of the final month of the registration period.

**Subd. 6. Securement to bicycle.** (a) The commissioner must issue a registration sticker to the owner of a bicycle registered under this section. The registration sticker must be securely attached to the bicycle for which it is issued.

(b) The commissioner must designate a number to be affixed on the frames of bicycles for which no serial number can be found, or on which the number is illegible or insufficient for identification purposes.

**Subd. 7. Fees.** (a) The bicycle registration fee is \$25. Bicycle registration is subject to the filing fee under section 168.33, subdivision 7.

(b) The fee must be paid at the time of registration. The bicycle registration fee, and any donations in excess of the fee, must be deposited in the bicycle account in the special revenue fund.

**Subd. 8. Transfer.** Every person who sells or transfers ownership of any bicycle registered under this section must report the sale or transfer to the commissioner within 14 days. The report of sale or transfer must be in the manner prescribed by the commissioner. A sale or transfer does not change the registration period for the bicycle.

**Subd. 9. Change of address.** Within 14 days of moving or change of address, the owner of a bicycle registered under this section must notify the commissioner of the new address in the manner prescribed by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2020."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Bahr moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 14, delete lines 27 to 34

Page 15, delete lines 1 to 9

Page 15, line 10, delete "(c)" and insert "(b)"

Page 15, line 16, delete "(d)" and insert "(c)"

Page 15, line 21, delete "(e)" and insert "(d)"

The motion did not prevail and the amendment was not adopted.

Bahr moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 45, delete section 1

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

The motion did not prevail and the amendment was not adopted.

Torkelson moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 27, line 29, before "In" insert "(a)"

Page 27, line 30, strike "\$75" and insert "\$150" and before the period, insert ", and a surcharge of \$75 is imposed for an electric vehicle, as defined in section 169.011, subdivision 26a, that is not an all-electric vehicle"

Page 28, after line 3, insert:

"(b) On or before April 1, 2023, and on or before April 1 in each subsequent year, the commissioner must determine revised surcharge rates under this subdivision for taxes payable for a registration period starting on or after October 1, by adding to each current fiscal year surcharge rate the percentage increase, if any, in the National Highway Construction Cost Index for the previous calendar year. Each surcharge rate must be rounded to the nearest dollar. Each surcharge rate must not be lower than the amounts specified in paragraph (a)."

The motion did not prevail and the amendment was not adopted.

Heinrich moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 120, line 17, after "without" insert "(1)"

Page 120, line 18, before the period, insert "; or (2) a camera that is capable of recording the train or locomotive operator and the interior of the vehicle in vicinity of the operator"

A roll call was requested and properly seconded.

The question was taken on the Heinrich amendment and the roll was called. There were 52 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Albright	Davids	Haley	Layman	O'Neill	Scott
Anderson	Dettmer	Heinrich	Lucero	Petersburg	Stephenson
Backer	Drazkowski	Heintzeman	Lueck	Pierson	Theis
Bahr	Fabian	Hertaus	Mekeland	Poston	Torkelson
Baker	Franson	Johnson	Miller	Quam	Urdahl
Bennett	Green	Jurgens	Munson	Robbins	Vogel
Boe	Grossell	Kiel	Nash	Runbeck	West
Daniels	Gruenhagen	Koznick	Neu	Sandell	
Daudt	Gunther	Kresha	Nornes	Schomacker	

Those who voted in the negative were:

Acomb	Cantrell	Davnie	Freiberg	Hausman	Koegel
Bahner	Carlson, A.	Dehn	Gomez	Her	Kotyza-Witthuhn
Becker-Finn	Carlson, L.	Ecklund	Halverson	Hornstein	Kunesh-Podein
Bernardy	Christensen	Edelson	Hamilton	Howard	Lee
Bierman	Clafin	Elkins	Hansen	Huot	Lesch
Brand	Considine	Fischer	Hassan	Klevorn	Liebling

Lien	Mann	Nelson, M.	Pryor	Vang	Youakim
Lillie	Mariani	Noor	Richardson	Wagenius	Spk. Hortman
Lippert	Marquart	Olson	Sandstede	Wazlawik	
Lislegard	Masin	Pelowski	Sauke	Winkler	
Loeffler	Moller	Persell	Schultz	Wolgamott	
Long	Morrison	Pinto	Sundin	Xiong, J.	
Mahoney	Murphy	Poppe	Tabke	Xiong, T.	

The motion did not prevail and the amendment was not adopted.

Gruenhagen moved to amend H. F. No. 1555, the first engrossment, as amended, as follows:

Page 46, line 13, after "CLIMATE" insert "AND CONGESTION MANAGEMENT"

Page 46, line 18, delete everything after "how" and insert "insufficient availability of general purpose vehicle lanes of travel causes congestion that results in negative climate impacts; and"

Page 46, delete lines 19 to 23

Page 46, line 24, delete "(4)" and insert "(2)"

Page 46, line 25, delete "the identified" and insert "congestion management"

A roll call was requested and properly seconded.

The question was taken on the Gruenhagen amendment and the roll was called. There were 51 yeas and 74 nays as follows:

Those who voted in the affirmative were:

Albright	Davids	Haley	Kresha	Nornes	Scott
Anderson	Dettmer	Hamilton	Layman	O'Neill	Theis
Backer	Drazkowski	Heinrich	Lucero	Petersburg	Torkelson
Bahr	Fabian	Heintzeman	Lueck	Pierson	Urdahl
Baker	Franson	Hertaus	Mekeland	Poston	Vogel
Bennett	Green	Johnson	Miller	Quam	West
Boe	Grossell	Jurgens	Munson	Robbins	
Daniels	Gruenhagen	Kiel	Nash	Runbeck	
Daudt	Gunther	Koznick	Neu	Schomacker	

Those who voted in the negative were:

Acomb	Christensen	Freiberg	Huot	Lillie	Masin
Bahner	Clafin	Gomez	Klevorn	Lippert	Moller
Becker-Finn	Considine	Halverson	Koegel	Lislegard	Morrison
Bernardy	Davnie	Hansen	Kotyza-Witthuhn	Loeffler	Murphy
Bierman	Dehn	Hassan	Kunesh-Podein	Long	Nelson, M.
Brand	Ecklund	Hausman	Lee	Mahoney	Noor
Cantrell	Edelson	Her	Lesch	Mann	Olson
Carlson, A.	Elkins	Hornstein	Liebling	Mariani	Pelowski
Carlson, L.	Fischer	Howard	Lien	Marquart	Persell



Pinto	Sandell	Stephenson	Wagenius	Xiong, J.
Poppe	Sandstede	Sundin	Wazlawik	Xiong, T.
Pryor	Sauke	Tabke	Winkler	Youakim
Richardson	Schultz	Vang	Wolgamott	Spk. Hortman

The motion did not prevail and the amendment was not adopted.

#### LAY ON THE TABLE

Winkler moved that H. F. No. 1555, the first engrossment, as amended, be laid on the table. The motion prevailed.

#### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Winkler from the Committee on Rules and Legislative Administration, pursuant to rules 1.21 and 3.33, designated the following bills to be placed on the Calendar for the Day for Tuesday, April 30, 2019 and established a prefiling requirement for amendments offered to the following bills:

S. F. Nos. 2227 and 2314.

#### MOTIONS AND RESOLUTIONS

Becker-Finn moved that the names of Moller and Heinrich be added as authors on H. F. No. 347. The motion prevailed.

Becker-Finn moved that the name of Bernardy be added as an author on H. F. No. 359. The motion prevailed.

Long moved that the name of Elkins be added as an author on H. F. No. 689. The motion prevailed.

Cantrell moved that the name of Brand be added as an author on H. F. No. 724. The motion prevailed.

Mahoney moved that the name of Brand be added as an author on H. F. No. 753. The motion prevailed.

Gunther moved that the name of Lee be added as an author on H. F. No. 859. The motion prevailed.

Wazlawik moved that the name of Fischer be added as an author on H. F. No. 880. The motion prevailed.

Cantrell moved that the names of Bernardy and Olson be added as authors on H. F. No. 883. The motion prevailed.

Pryor moved that the name of Brand be added as an author on H. F. No. 1034. The motion prevailed.

Lesch moved that the name of Elkins be added as an author on H. F. No. 1060. The motion prevailed.

Lesch moved that the name of Elkins be added as an author on H. F. No. 1061. The motion prevailed.

Elkins moved that the name of Edelson be added as an author on H. F. No. 1095. The motion prevailed.

Fischer moved that the names of Long and Bernardy be added as authors on H. F. No. 1138. The motion prevailed.

Stephenson moved that the name of Brand be added as an author on H. F. No. 1253. The motion prevailed.

Persell moved that the name of Brand be added as an author on H. F. No. 1284. The motion prevailed.

Baker moved that the name of Runbeck be added as an author on H. F. No. 1306. The motion prevailed.

Fischer moved that the name of Edelson be added as an author on H. F. No. 1327. The motion prevailed.

Howard moved that the name of Lee be added as an author on H. F. No. 1401. The motion prevailed.

Pinto moved that the names of Bernardy and Fischer be added as authors on H. F. No. 1446. The motion prevailed.

Cantrell moved that the name of Brand be added as an author on H. F. No. 1523. The motion prevailed.

Dehn moved that the name of Bernardy be added as an author on H. F. No. 1603. The motion prevailed.

Klevorn moved that the name of Fischer be added as an author on H. F. No. 1605. The motion prevailed.

Lippert moved that the name of Brand be added as an author on H. F. No. 1706. The motion prevailed.

Sandstede moved that the name of Wagenius be added as an author on H. F. No. 1769. The motion prevailed.

Youakim moved that the name of Edelson be added as an author on H. F. No. 1782. The motion prevailed.

Nash moved that the name of Ecklund be added as an author on H. F. No. 1827. The motion prevailed.

Nelson, M., moved that the name of Lesch be added as an author on H. F. No. 1962. The motion prevailed.

Ecklund moved that the name of Dettmer be added as an author on H. F. No. 2086. The motion prevailed.

Poppe moved that the names of Hausman, Howard and Fischer be added as authors on H. F. No. 2200. The motion prevailed.

Hansen moved that the names of Fischer, Lee and Clafin be added as authors on H. F. No. 2258. The motion prevailed.

Liebling moved that the name of Schultz be added as an author on H. F. No. 2414. The motion prevailed.

Pierson moved that the names of Becker-Finn and Halverson be added as authors on H. F. No. 2500. The motion prevailed.

Bernardy moved that the names of Moran, Masin and Fischer be added as authors on H. F. No. 2551. The motion prevailed.

Elkins moved that the name of Dettmer be added as an author on H. F. No. 2664. The motion prevailed.

Winkler moved that the name of Elkins be added as an author on H. F. No. 2735. The motion prevailed.

Runbeck moved that the name of Fischer be added as an author on H. F. No. 2814. The motion prevailed.

Moller moved that the name of Tabke be added as an author on H. F. No. 2840. The motion prevailed.

Miller moved that the name of Bahr be added as an author on H. F. No. 2847. The motion prevailed.

Vang moved that the names of Becker-Finn and Gomez be added as authors on H. F. No. 2848. The motion prevailed.

Bernardy moved that the names of Nornes, Pryor, Edelson, Lillie, Lien, Daniels, Layman, Klevorn, Moran, Gomez, Vang and Runbeck be added as authors on H. F. No. 2849. The motion prevailed.

Elkins moved that the name of Sandell be added as an author on H. F. No. 2850. The motion prevailed.

Dettmer moved that the name of Poston be added as an author on H. F. No. 2855. The motion prevailed.

Erickson, Sandstede, Hertaus, Green and Gruenhagen introduced:

House Resolution No. 1, A House resolution recognizing the first Thursday in May as a day of statewide prayer, fasting, and repentance in Minnesota.

The resolution was referred to the Committee on Rules and Legislative Administration.

#### ADJOURNMENT

Winkler moved that when the House adjourns today it adjourn until 9:00 a.m., Monday, April 29, 2019. The motion prevailed.

Olson moved that the House adjourn. The motion prevailed, and Speaker pro tempore Halverson declared the House stands adjourned until 9:00 a.m., Monday, April 29, 2019.

PATRICK D. MURPHY, Chief Clerk, House of Representatives

