

EIGHTY-SIXTH DAY

St. Paul, Minnesota, Wednesday, March 14, 2012

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

Senator Miller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Richard Buller.

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

The roll was called, and the following Senators answered to their names:

Bakk	Gazelka	Kelash	Newman	Sieben
Benson	Gerlach	Koch	Nienow	Skoe
Bonoff	Gimse	Kruse	Olson	Sparks
Brown	Goodwin	Langseth	Ortman	Thompson
Carlson	Hall	Lillie	Parry	Tomassoni
Chamberlain	Hann	Limmer	Pederson	Torres Ray
Dahms	Harrington	Lourey	Reinert	Vanderveer
Daley	Hayden	Marty	Rest	Wiger
DeKruif	Higgins	McGuire	Robling	Wolf
Dibble	Hoffman	Metzen	Rosen	
Dziedzic	Howe	Michel	Saxhaug	
Eaton	Ingebrigtsen	Miller	Senjem	
Fischbach	Jungbauer	Nelson	Sheran	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

REPORTS OF COMMITTEES

Senator Senjem moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 1843: A bill for an act relating to natural resources; providing for continued operation of state parks and recreation areas when biennial appropriations have not been enacted; appropriating

money; amending Minnesota Statutes 2010, section 85.055, subdivision 2.

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

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 2084: A bill for an act relating to public safety; eliminating a Department of Corrections report on performance measures and targets; authorizing the fugitive apprehension unit to apply for search warrants; restoring the commissioner of corrections' discretion in selecting inmates to participate in the challenge incarceration program and requiring the commissioner to report to the legislature on how close to capacity the program is being operated; permitting victim notification regarding offenders by Department of Corrections to include electronic notification in addition to written notification; amending Minnesota Statutes 2010, sections 241.016, subdivision 1; 241.025, subdivision 2; 244.17, subdivisions 1, 2; 253B.18, subdivision 5a; 253B.185, subdivision 10; 611A.06, subdivisions 1, 2; 626.05, subdivision 2.

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

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 230: A bill for an act relating to health occupations; providing for a Nurse Licensure Compact; providing for appointments; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 148.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Report adopted.

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 1960: A bill for an act relating to transportation; directing commissioners of transportation and employment and economic development to study and report to the legislature about economic development related to freight railroad operation; amending Minnesota Statutes 2010, section 174.03, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 21, delete "money" and insert "up to \$216,000 in fiscal year 2013"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 1678: A bill for an act relating to public defenders; amending provisions related to public defender representation, appointment, and reimbursement obligations; outlining financial responsibility for public defender costs, cost for counsel in CHIPS cases, pretrial appeals costs, and standby counsel costs; amending Minnesota Statutes 2010, sections 244.052, subdivision 6; 257.69, subdivision 1; 260B.163, subdivision 4; 260B.331, subdivision 5; 260C.163, subdivision 3; 260C.331, subdivision 5; 609.115, subdivision 4; 609.131, subdivision 1; 611.14; 611.16; 611.17; 611.18; 611.20, subdivision 4; 611.25, subdivision 1; 611.26, subdivision 6; 611.27, subdivision 5, by adding a subdivision; repealing Minnesota Statutes 2010, section 611.20, subdivision 6.

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

Senator Gerlach from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 2035: A bill for an act relating to insurance; regulating insurance agents; defining a term; amending Minnesota Statutes 2010, sections 60K.31, subdivision 6, by adding a subdivision; 60K.32.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 60K.31, is amended by adding a subdivision to read:

Subd. 11a. **Navigator.** "Navigator" means a person described in Public Law 111-148, section 1311, paragraph (i).

Sec. 2. Minnesota Statutes 2010, section 60K.32, is amended to read:

60K.32 LICENSE REQUIRED.

A person shall not sell, solicit, ~~or~~ negotiate, or act as a navigator in regard to insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority under sections 60K.30 to 60K.56. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier. A navigator that only facilitates enrollment in state subsidized public programs administered by the Department of Human Services does not need to be licensed under this section.

Sec. 3. **EFFECTIVE DATE.**

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

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Gerlach from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 2139: A bill for an act relating to insurance; shifting regulatory authority over health maintenance organizations from the commissioner of health to the commissioner of commerce; amending Minnesota Statutes 2010, sections 62D.02, subdivision 3; 62D.05, subdivision 6; 62D.12, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, before line 7, insert:

"Section 1. Minnesota Statutes 2010, section 62A.047, is amended to read:

62A.047 CHILDREN'S HEALTH SUPERVISION SERVICES AND PRENATAL CARE

SERVICES.

A policy of individual or group health and accident insurance regulated under this chapter, or individual or group subscriber contract regulated under chapter 62C, health maintenance contract regulated under chapter 62D, or health benefit certificate regulated under chapter 64B, issued, renewed, or continued to provide coverage to a Minnesota resident, must provide coverage for child health supervision services and prenatal care services. The policy, contract, or certificate must specifically exempt reasonable and customary charges for child health supervision services and prenatal care services from a deductible, co-payment, or other coinsurance or dollar limitation requirement. Nothing in this section prohibits a health plan company that has a network of providers from imposing a deductible, co-payment, or other coinsurance or dollar limitation requirement for child health supervision services and prenatal care services that are delivered by an out-of-network provider. This section does not prohibit the use of policy waiting periods or preexisting condition limitations for these services. Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit cited in this section subject to the schedule set forth in this section. ~~Nothing in this section applies to a commercial health insurance policy issued as a companion to a health maintenance organization contract, a policy designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or a policy that provides only accident coverage.~~ Nothing in this section prevents a health plan company from using reasonable medical management techniques to determine the frequency, method, treatment, or setting for child health supervision services and prenatal care services.

"Child health supervision services" means pediatric preventive services, appropriate immunizations, developmental assessments, and laboratory services appropriate to the age of a child from birth to age six, and appropriate immunizations from ages six to 18, as defined by Standards of Child Health Care issued by the American Academy of Pediatrics. Reimbursement must be made for at least five child health supervision visits from birth to 12 months, three child health supervision visits from 12 months to 24 months, once a year from 24 months to 72 months.

"Prenatal care services" means the comprehensive package of medical and psychosocial support provided throughout the pregnancy, including risk assessment, serial surveillance, prenatal education, and use of specialized skills and technology, when needed, as defined by Standards for Obstetric-Gynecologic Services issued by the American College of Obstetricians and Gynecologists.

Sec. 2. Minnesota Statutes 2010, section 62A.21, subdivision 2a, is amended to read:

Subd. 2a. **Continuation privilege.** Every policy described in subdivision 1 shall contain a provision which permits continuation of coverage under the policy for the insured's former spouse and dependent children upon entry of a valid decree of dissolution of marriage. The coverage shall be continued until the earlier of the following dates:

- (a) the date the insured's former spouse becomes covered under any other group health plan; or
- (b) the date coverage would otherwise terminate under the policy.

If the coverage is provided under a group policy, any required premium contributions for the coverage shall be paid by the insured on a monthly basis to the group policyholder for remittance to the insurer. The policy must require the group policyholder to, upon request, provide the insured with written verification from the insurer of the cost of this coverage promptly at the time of eligibility

for this coverage and at any time during the continuation period. ~~In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated spouses and dependent children with respect to whom the marital relationship has not dissolved, without regard to whether such cost is paid by the employer or employee~~ The required premium amount for continuation of the coverage shall be calculated in the same manner as provided under section 4980B of the Internal Revenue Code, its implementing regulations and Internal Revenue Service rulings on section 4980B.

Upon request by the insured's former spouse or dependent child, a health carrier must provide the instructions necessary to enable the child or former spouse to elect continuation of coverage."

Page 2, after line 19, insert:

"Sec. 5. Minnesota Statutes 2010, section 62D.101, subdivision 2a, is amended to read:

Subd. 2a. **Continuation privilege.** Every health maintenance contract as described in subdivision 1 shall contain a provision which permits continuation of coverage under the contract for the enrollee's former spouse and children upon entry of a valid decree of dissolution of marriage. The coverage shall be continued until the earlier of the following dates:

(a) the date the enrollee's former spouse becomes covered under another group plan or Medicare;
or

(b) the date coverage would otherwise terminate under the health maintenance contract.

If coverage is provided under a group policy, any required premium contributions for the coverage shall be paid by the enrollee on a monthly basis to the group contract holder to be paid to the health maintenance organization. The contract must require the group contract holder to, upon request, provide the enrollee with written verification from the insurer of the cost of this coverage promptly at the time of eligibility for this coverage and at any time during the continuation period. ~~In no event shall the fee charged exceed 102 percent of the cost to the plan for the period of coverage for other similarly situated spouses and dependent children when the marital relationship has not dissolved, regardless of whether the cost is paid by the employer or employee~~ The required premium amount for continuation of the coverage shall be calculated in the same manner as provided under section 4980B in the Internal Revenue Code, its implementing regulations and Internal Revenue Service rulings on section 4980B."

Page 2, line 31, delete "1" and insert "3"

Page 3, line 2, delete "4" and insert "7"

Reorder the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "regulating coverage for prenatal care services and continuation coverage upon divorce;"

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Michel from the Committee on Jobs and Economic Growth, to which was referred

S.F. No. 1774: A bill for an act relating to taxation; modifying the small business investment credit; providing a credit for start-up and emerging Minnesota businesses; amending Minnesota Statutes 2010, section 116J.8737, subdivisions 5, 8; Minnesota Statutes 2011 Supplement, section 116J.8737, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 116J; 297I.

Reports the same back with the recommendation that the bill be amended as follows:

Page 11, line 25, after "jobs" insert ", including information on gender and ethnicity,"

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

Senator Michel from the Committee on Jobs and Economic Growth, to which was referred

S.F. No. 2390: A bill for an act relating to economic development; establishing a technology corporate franchise tax certificate transfer program; amending Minnesota Statutes 2010, sections 290.01, subdivision 29; 290.06, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, after line 2, insert:

"(f) "Technology company" means an emerging corporation that:

(1) has its headquarters or base of operations in this state;

(2) owns, has filed for, or has a valid license to use protected, proprietary intellectual property;
and

(3) employs some combination of the following: highly educated or trained managers and workers, or both, employed in this state who use sophisticated scientific research service or production equipment, processes, or knowledge to discover, develop, test, transfer, or manufacture a product or service."

Page 3, line 6, delete "carryover" and insert "carryovers"

Page 3, line 9, delete "80" and insert "75"

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

Senator Michel from the Committee on Jobs and Economic Growth, to which was referred

S.F. No. 827: A bill for an act relating to employment; modifying certain prevailing hours of labor requirements; amending Minnesota Statutes 2010, section 177.42, subdivision 4.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 11, delete "and heavy construction projects, as defined by Minnesota Rules" and

insert "projects and projects on underground facilities as defined in section 216D.01, subdivision 11"

Page 1, line 12, delete "part 5200.1010,"

Page 1, line 13, after the period, insert "As used in this paragraph, "week" applies to work performed Monday through Saturday."

And when so amended the bill do pass and be re-referred to the Committee on Transportation. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 1933: A bill for an act relating to health care; creating a health care compact; proposing coding for new law as Minnesota Statutes, chapter 143.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Report adopted.

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 1226: A bill for an act relating to motor vehicles; establishing Start Seeing Motorcycles special license plates; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 168.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 9, before "one-ton" insert "noncommercial"

Page 1, line 18, delete "After consultation with" and insert "The"

Page 1, line 19, delete ", the commissioner"

Page 1, delete line 20 and insert "special plate to contain the inscription "Start Seeing Motorcycles" between the bolt holes on the bottom of the plate with a design area on the left side of the plate, subject to the approval of the commissioner."

Page 1, line 21, after "On" insert "application to the commissioner and"

Page 1, line 22, delete "that is registered to the" and insert "if the subsequent vehicle is:"

Page 1, delete line 23 and insert:

"(1) qualified under subdivision 1, clause (1), to bear the special plates; and

(2) registered to the same individual to whom the special plates were originally issued."

Page 2, after line 4, insert:

"Subd. 6. No refund. Contributions under this section must not be refunded."

Page 2, line 5, delete "2012" and insert "2013"

And when so amended the bill do pass and be re-referred to the Committee on Finance.

Amendments adopted. Report adopted.

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 2273: A bill for an act relating to public safety; motor vehicles; motor vehicle dealer regulations; expanding the class of eligible buyers for junked vehicles; amending Minnesota Statutes 2010, sections 168.27, subdivisions 2, 3, 3c; 168A.151, subdivision 6; repealing Minnesota Rules, part 7400.5300, subpart 3.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, delete section 5 and insert:

"Sec. 5. **RULE CHANGE.**

The commissioner shall amend Minnesota Rules, part 7400.5300, subpart 3, to remove the words "from Minnesota" and to allow a dealer to sell a junked vehicle as described in subpart 3 to a purchaser whom the dealer verifies is a licensed scrap metal processor. The commissioner must comply with Minnesota Statutes, section 14.389, subdivision 5, in adopting the amendment."

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 2243: A bill for an act relating to transportation; contracts; establishing a public-private partnership pilot program and related regulations.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Report adopted.

Senator Ingebrigtsen from the Committee on Environment and Natural Resources, to which was re-referred

S.F. No. 1749: A bill for an act relating to data practices; authorizing access to Department of Natural Resources electronic licensing data for certain purposes; amending Minnesota Statutes 2010, section 84.0874.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 5, delete "or"

Page 2, line 9, strike the period and insert a semicolon

Page 2, after line 9, insert:

"(5) for use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting; or

(6) for use by any licensed private investigative agency or licensed security service."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 2147: A bill for an act relating to human services; modifying chemical use assessment requirements for civil commitments; providing rulemaking authority; amending Minnesota Statutes 2010, section 254A.19, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 254A.19, is amended by adding a subdivision to read:

Subd. 4. **Civil commitments.** A Rule 25 assessment, under Minnesota Rules, part 9530.6615, does not need to be completed for an individual being committed as a chemically dependent person, as defined in section 253B.02, and for the duration of a civil commitment under section 253B.065, 253B.09, or 253B.095 in order for a county to access consolidated chemical dependency treatment funds under section 254B.04. The county must determine if the individual meets the financial eligibility requirements for the consolidated chemical dependency treatment funds under section 254B.04. Nothing in this subdivision prohibits placement in a treatment facility or treatment program governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655."

Amend the title accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was re-referred

S.F. No. 1738: A bill for an act relating to insurance; making changes in the public employee insurance program administered by Minnesota Management and Budget; establishing a temporary moratorium to preclude employees from joining the public employee insurance program if their employer is not in the program as of the date of enactment; amending Minnesota Statutes 2010, section 43A.316, subdivision 5.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 21, before the period, insert ", except that a city that has received a formal written bid from the program as of the date of enactment shall be allowed to enter the program based on the bid if they so choose"

Page 2, line 3, before the period, insert ", except that a city that has received a formal written bid from the program as of the date of enactment shall be allowed to enter the program based on the bid if they so choose"

Page 2, after line 17, insert:

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

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 1426: A bill for an act relating to health occupations; establishing licensure for medical laboratory science professionals; creating the Board of Medical Laboratory Science; establishing fees; proposing coding for new law as Minnesota Statutes, chapter 148F.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [148F.01] DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of this chapter, the following terms have the meanings given them.

Subd. 2. **Accredited medical laboratory educational program.** "Accredited medical laboratory educational program" means a program to provide instruction and experience in medical laboratory science that has been accredited by an accrediting agency recognized by the United States Department of Health and Human Services.

Subd. 3. **Categorical medical laboratory scientist.** "Categorical medical laboratory scientist" means an individual eligible for licensure under this chapter who performs the functions of a medical laboratory scientist in one or more of the following areas of the laboratory depending upon the certification examinations passed: chemistry, hematology, immunohematology, and microbiology.

Subd. 4. **CLIA.** "CLIA" means Clinical Laboratory Improvement Amendments of 1988 and includes Public Law 10-578 and Code of Federal Regulations, title 42, section 493. CLIA regulations provide a minimum foundation upon which personnel standards for entry level technical personnel in this state are built. Qualifications and responsibilities for laboratory director, technical supervisor, and technical consultant are as specified in CLIA regulations. All medical laboratory personnel are under the supervision, control, and responsibility of the laboratory director.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 6. **Cytotechnologist.** "Cytotechnologist" means an individual who specializes in the cellular analysis of patient samples from all body sites, for the purpose of evaluating, detecting, and identifying potential disease processes through the exercise of independent technical judgment, under the supervision, control, and responsibility of the laboratory director, and who:

(1) assists health care providers with the collection, detection, and identification of normal and abnormal cells, infectious agents, and other noncellular material from submitted specimens;

(2) performs a variety of medical laboratory tests that may include the use of molecular techniques with approval and oversight of a medical director, to ascertain information to help in classification of a specimen consistent with the scope of work provided under the Clinical Laboratory Improvement Amendments of 1988;

(3) establishes and implements protocols, quality control, method selection, equipment selection and maintenance, and activities related to the preanalytic, analytic, and postanalytic phases of testing; and

(4) may direct, supervise, consult, and educate and perform research functions.

Subd. 7. **Histotechnician.** "Histotechnician" means an individual who, with the approval, supervision, and control of a board-certified anatomic pathologist, may perform the following functions:

(1) prepares tissue specimens for microscopic examination;

(2) monitors, performs, selects, develops, evaluates, correlates, and ensures accuracy and validity of laboratory testing and procedures, including, but not limited to, techniques in fixation, processing, embedding, microtomy, cryotomy, ultramicrotomy, and staining;

(3) prepares gross specimens as defined by and under the direction of a board-certified anatomic pathologist;

(4) establishes and implements protocols, quality assurance, and quality control related to the following procedures: histochemical, immunohistochemical, electron microscopy, cytopreparation, in situ hybridization, enzyme histochemical, DNA hydrolysis, laser capturing, molecular techniques, and research; and

(5) participates in method selection, development, equipment selection and maintenance, and activities related to the preanalytical and analytical phases of tissue preparation.

Subd. 8. **Histotechnologist.** "Histotechnologist" means an individual who, with the approval, supervision, and control of a board-certified anatomic pathologist, may perform the following functions:

(1) prepares tissue specimens for microscopic examination;

(2) monitors, performs, selects, develops, evaluates, correlates, and ensures accuracy and validity of laboratory testing and procedures including, but not limited to, techniques in fixation, processing, embedding, microtomy, cryotomy, ultramicrotomy, and staining;

(3) prepares gross specimens as defined by and under the direction of a board-certified anatomic pathologist;

(4) establishes and implements protocols, quality assurance, and quality control related to the following procedures: histochemical, immunohistochemical, electron microscopy, cytopreparation, in situ hybridization, enzyme histochemical, DNA hydrolysis, laser capturing, molecular techniques, and research;

(5) establishes and implements new protocols and procedures dealing directly in quality assessment, method development, and equipment selection and maintenance and all activities related to preanalytical and analytical phases of tissue preparation; and

(6) may direct, supervise, consult, educate, and perform research functions.

Subd. 9. **Independent medical judgment.** In the laboratory, "independent medical judgment" is exercised only by a pathologist or other licensed physician in the diagnosis and treatment decisions related to clinical laboratory tests.

Subd. 10. **Independent technical judgment.** "Independent technical judgment" means

the performance or conduct of clinical laboratory tests and assumption of responsibility for determination of the validity of clinical laboratory test. The authorized exercise of independent technical judgment shall not be deemed to include or permit the exercise of independent medical judgment in the diagnosis or treatment of, or reporting of clinical laboratory test results or their interpretation to patients, except as authorized by a laboratory director and according to CLIA.

Subd. 11. **Medical laboratory or laboratory.** "Medical laboratory" or "laboratory" means any facility or office in Minnesota in which medical laboratory tests are performed.

Subd. 12. **Medical laboratory scientist or generalist.** "Medical laboratory scientist" or "generalist" means an individual eligible for licensure under this chapter who:

(1) performs medical laboratory tests, including tests that require the exercise of independent technical judgment;

(2) establishes and implements protocols, quality assessment, method development and selection, equipment selection and maintenance, and all activities related to the preanalytic, analytic, and postanalytic phases of laboratory testing; and

(3) may direct, supervise, consult, educate, and perform research functions.

Subd. 13. **Medical laboratory specialist.** "Medical laboratory specialist" means an individual certified and eligible for licensure in one of the categories described in subdivisions 14, 15, and 16, to perform testing, including tests that require the exercise of independent technical judgment needed to establish and implement protocols, quality assessment, method development and selection, equipment selection and maintenance, and all activities related to the preanalytic, analytic, and postanalytic phases of laboratory testing, and who direct, supervise, consult, and educate in a specific specialized section of the laboratory.

Subd. 14. **Medical laboratory specialist in cytogenetics.** "Medical laboratory specialist in cytogenetics" means an individual eligible for licensure under this chapter to perform standard cytogenetic and molecular testing procedures used to evaluate possible genetic anomalies.

Subd. 15. **Medical laboratory specialist in molecular biology/pathology.** "Medical laboratory specialist in molecular biology/pathology" means an individual eligible for licensure under this chapter to perform all aspects of molecular analysis, including, but not limited to, recombinant DNA technology, polymerase chain reaction, and hybridization techniques.

Subd. 16. **Medical laboratory specialist in histocompatibility.** "Medical laboratory specialist in histocompatibility" means an individual eligible for licensure under this chapter to perform histocompatibility testing procedures, including, but not limited to, molecular and serological techniques.

Subd. 17. **Medical laboratory technician.** "Medical laboratory technician" means an individual eligible for licensure under this chapter who performs medical laboratory tests at all CLIA complexity levels according to established and approved protocols and requiring limited exercise of independent judgment.

Subd. 18. **Medical laboratory test or laboratory test.** "Medical laboratory test" or "laboratory test" means a microbiological, serological, chemical, biological, hematological, immunological, immunohematological, radiobioassay, cytological, histological preparation, molecular, biophysical,

or any other test or procedure performed on material derived from or existing in a human body, that provides information for the diagnosis, prevention, or monitoring of a disease or impairment or assessment of a medical condition. A medical laboratory test includes components of the preanalytic and postanalytic phases of testing, as well as the analytic phase, that occurs in the laboratory.

Subd. 19. **Medical laboratory subspecialists.** "Medical laboratory subspecialists" means an individual eligible for licensure under this chapter to perform the functions of a medical laboratory scientist in a subspecialty or esoteric clinical laboratory that is not one of the general categorical areas of the laboratory. The subspecialty/esoteric laboratories may be disease or medical specialty-oriented or utilize advanced technology not routinely used in the clinical laboratory. These subspecialty/esoteric laboratories may be subspecialized areas within the hematology, chemistry, immunology, transfusion, medicine, genetics, or microbiology disciplines.

Subd. 20. **Nationally recognized certification agency.** "Nationally recognized certification agency" means an agency that provides certification examinations for medical laboratory professionals. As the agency defines new certification examinations, the commissioner and the advisory council will recognize these examinations.

Subd. 21. **Pathologist's assistant.** "Pathologist's assistant" means an individual specializing in prediagnostic surgical pathology and autopsy pathology who assists pathologists.

Subd. 22. **Phlebotomist.** "Phlebotomist" means an individual who is qualified to obtain blood samples for testing by means of venipuncture, capillary puncture, or access of venous access devices, to perform specimen processing and preparation of samples for testing, and to perform waived and point-of-care testing.

Subd. 23. **Point-of-care testing.** "Point-of-care testing" means analytical patient testing activities provided within a facility that do not require permanent dedicated space, including, but not limited to, analytic instruments that are temporarily brought to a patient care location. Point-of-care testing must be under the direction of an individual licensed under this chapter at the baccalaureate degree level or who qualifies as a laboratory director under federal CLIA regulations.

Subd. 24. **Trainee/student.** "Trainee/student" means an individual who has not fulfilled the educational requirements to take an approved nationally recognized certification examination or who needs to obtain full-time comprehensive experience under supervision.

Subd. 25. **Waived test.** "Waived test" means a laboratory examination or procedure as determined by the United States Food and Drug Administration that has an insignificant risk of an erroneous result, including those that:

- (1) have been approved by the United States Food and Drug Administration for home use;
- (2) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible; or
- (3) pose no reasonable risk of harm to the patient if performed incorrectly.

Sec. 2. [148F.02] EXCEPTIONS.

This chapter does not apply to:

- (1) the qualifications as established by federal CLIA for laboratory directors, technical

supervisors, or technical consultants;

(2) other licensed or registered professionals performing functions within the professional's scope of practice;

(3) medical laboratory science professionals employed by the United States government, or any bureau, division, or agency, while performing duties within the scope of the professional's federal employment;

(4) medical laboratory science professionals engaged exclusively in basic science or investigative research, provided that the results of any examination performed are not used in health maintenance, diagnosis, or treatment of disease as described in federal CLIA regulations under Code of Federal Regulations, title 42, section 493;

(5) professionals engaged exclusively in assay development or management-related activities in the clinical laboratory, provided the results of any examination performed are not used in health maintenance, diagnosis, or treatment of disease as described in federal CLIA regulations;

(6) professionals engaged exclusively in the education of medical laboratory science professionals, provided that results of any examination performed are not used in health maintenance, diagnosis, or treatment of disease as described in federal CLIA regulations;

(7) professionals engaged exclusively in providing phlebotomy services;

(8) pathologist's assistants or individuals performing pathology assistant activities under supervision by pathologists;

(9) students or trainees enrolled in a medical laboratory science education program provided that:

(i) the activities performed by the student or trainee constitute a part of a planned course in the program;

(ii) the student or trainee is clearly designated as intern, trainee, or student; and

(iii) the student or trainee is working directly under an individual licensed under this chapter to practice medical laboratory science or by a professional who is exempt under this section;

(10) individuals who only perform waived tests or moderately complex point-of-care tests under the direction of a qualified CLIA laboratory director according to federal CLIA regulations; and

(11) individuals who perform moderately complex testing as defined by federal CLIA regulations provided that the laboratory complies with the following requirements:

(i) within the laboratory, a licensed medical laboratory scientist or individual who qualifies as a laboratory director under federal CLIA regulations is responsible for:

(A) designing, providing, and supervising the training programs for the testing personnel;

(B) supervising and monitoring the quality assurance and quality control activities of the testing site;

(C) assisting in the selection of technology;

(D) reviewing the results of proficiency testing and recommending corrective action, if necessary; and

(E) monitoring the continued laboratory testing competency of the testing personnel;

(ii) documented personnel evaluation processes are in place, which ensure and document the continued competency of the testing personnel; and

(iii) after July 1, 2012, the licensed medical laboratory scientist or individual who qualifies as a laboratory director under CLIA regulations must ensure that new employees have initial certification as a certified or registered medical assistant or certified office laboratory technician by the American Medical Technologists (AMT) or the American Association of Medical Assistants (AAMS) or other national certification agency recognized by the commissioner. Individuals employed as a medical assistant or office laboratory technician on July 1, 2012, are not required to be certified. Failure of a laboratory to comply with the requirements described in clause (11) subjects the individual to the requirements of this chapter and requires the individual to be licensed as required under this chapter.

This chapter does not apply to a declared emergency as defined in section 12.03 that reduces laboratory capacity or increases testing demands, or other loss of critical laboratory capacity. Practitioners who are not licensed in any state, but are certified by one of the agencies recognized in this chapter or deemed competent by the affected laboratory director, may practice as needed in the emergency situation.

Sec. 3. [148F.03] LICENSURE REQUIRED; TITLES USED, RESTRICTED, AND ALLOWED.

Subdivision 1. **Unlicensed practice prohibited.** Effective January 1, 2014, no individual shall perform a medical laboratory test unless the individual is licensed under this chapter as a medical laboratory scientist, categorical medical laboratory scientist, medical laboratory technician, medical laboratory specialist in cytogenetics, medical laboratory specialist in molecular biology/pathology, or medical laboratory specialist in histocompatibility, medical laboratory subspecialist, cytotechnologist, histotechnician, or histotechnologist, or is exempt from licensure under section 148F.02.

Subd. 2. **Protected titles and restrictions on use.** No individual shall use the phrase medical laboratory scientist, categorical medical laboratory scientist, medical laboratory technician, medical laboratory specialist in cytogenetics, medical laboratory specialist in molecular biology/pathology, or medical laboratory specialist in histocompatibility, or medical laboratory subspecialist, cytotechnologist, histotechnician, or histotechnologist, or the initials MLS, MLT, CT, HT, or HTL, alone or in combination with any other words or initials to form an occupational title, or to indicate or imply that the person is licensed as one of the professionals listed, unless the individual is licensed under this chapter.

Subd. 3. **Persons licensed or certified in other states.** An individual who is licensed under this chapter and licensed or certified in another state may use the designation licensed or certified with a protected title only if the state of licensure or certification (if other than Minnesota) is clearly indicated.

Sec. 4. [148F.035] SCOPE OF PRACTICE.

Medical laboratory professionals licensed under this chapter shall perform laboratory tests and

provide test results to physicians and patients upon request or upon physician referral according to CLIA. The practice of medical laboratory science includes:

- (1) the production of test data;
- (2) monitoring the accuracy, precision, and utility of laboratory testing;
- (3) analytical correlation and interpretation of test data;
- (4) designing, evaluating, and implementing new laboratory test methods; and
- (5) documenting and reporting test results.

The services provided by medical laboratory professionals must be consistent with good practice and sound professional ethics.

Sec. 5. [148F.04] DUTIES OF THE COMMISSIONER.

The commissioner, with the advice of the advisory council, shall:

(1) administer the procedures for this chapter, including, but not limited to, verifying the qualifications and standards for education, experience, examinations, and continuing education, as established by the certification agencies recognized in this chapter, and other methods for determining whether an applicant or licensee is qualified, as specified under this chapter;

(2) enforce standards for professional conduct found in the Code of Professional Ethics;

(3) issue licenses to qualified individuals;

(4) collect and deposit fees as established under section 148F.16;

(5) on the recommendation of the advisory council, approve future nationally recognized, validated, competency-based written, oral, or practical examinations developed by the American Society for Clinical Pathology Board of Certification, American Medical Technologists, American Association of Bioanalysts, and American Society for Histocompatibility and Immunogenetics, or successor organizations, for purposes of licensure of medical laboratory science professionals as provided for in this chapter; and

(6) maintain a roster of the names and addresses of individuals currently licensed under this chapter and of all individuals whose licenses have been disciplined under this chapter.

Sec. 6. [148F.05] MEDICAL LABORATORY SCIENCE PROFESSIONAL LICENSING ADVISORY COUNCIL.

Subdivision 1. **Membership and qualifications of advisory council.** (a) The commissioner shall appoint a 11-member advisory council that may include applicants recommended by laboratory professional associations. Members must be actively employed for at least two years in their specific area of practice.

(b) Six members must be medical laboratory science professionals who are licensed under this chapter and include:

- (1) one nonphysician laboratory director;

- (2) one medical laboratory scientist;
- (3) one medical laboratory technician;
- (4) one specialist in cytogenetics, histocompatibility, or molecular biology;
- (5) one cytotechnologist; and
- (6) one histotechnician or histotechnologist.

(c) Three members must be physicians certified by the American Board of Pathology or the American Board of Osteopathic Pathology. Two must be certified in clinical pathology.

(d) One of the members must be a physician who is not a laboratory director and is not a pathologist.

(e) One member must be a public member as defined in section 214.02.

Subd. 2. **Duties.** The advisory council shall:

(1) advise and make recommendations to the commissioner regarding the medical laboratory science practitioner licensure standards;

(2) advise the commissioner on enforcement of this chapter;

(3) provide for distribution of information regarding medical laboratory science practitioners licensure standards;

(4) review applications upon the request of the commissioner and make recommendations on granting or denying licensure or licensure renewal;

(5) advise the commissioner on issues related to receiving and investigating complaints, conducting objective hearings, and imposing disciplinary action in relation to complaints received against medical laboratory science practitioners; and

(6) perform other duties requested by the commissioner.

Subd. 3. **Organization.** The advisory council shall be organized and administered under section 15.059. The advisory council shall select a chair from its membership at the first meeting of the advisory council.

Subd. 4. **Support.** The commissioner shall provide the necessary staff support and meeting space for the advisory council.

Sec. 7. [148F.06] TEMPORARY REQUIREMENTS FOR LICENSURE; TRANSITION PERIOD.

Subdivision 1. **Experienced medical laboratory science professionals transition.** (a) Notwithstanding section 148F.03, an individual who is certified by or eligible to be certified by a certification agency recognized by the commissioner to perform medical laboratory testing, or meets the subspecialty requirements in section 148F.07, subdivision 7, may perform medical laboratory tests without the appropriate license provided the individual has applied to the commissioner for licensure and the application:

(1) has not been denied by the commissioner; or

(2) has not been withdrawn.

(b) This subdivision expires January 1, 2014.

Subd. 2. **Employed medical laboratory science professional transition.** (a) An individual who does not meet the education, training, and experience qualifications for any license described in this chapter on July 1, 2012, has until January 1, 2014, to be licensed under this subdivision.

(b) The commissioner shall issue a license under this subdivision if the applicant:

(1) is practicing in the field on July 1, 2012, or has six months of acceptable experience of at least half time, 1040 hours per year, in the three years immediately prior to July 1, 2012; and

(2) on a form provided by the commissioner, submits the job, title, description of the position, period of employment, and confirmation of competent practice, as attested by the applicant's employer, who shall submit a signed statement stating that the applicant is not the subject of a disciplinary action or past disciplinary action in their employment, professional association membership, or under any credentialing authority in this or another jurisdiction, and is not disqualified on the basis of section 148F.14.

(c) The commissioner and advisory council shall determine which type of license the applicant is eligible for and issue the license if the requirements of this subdivision are met.

(d) An initial license issued under this subdivision must be renewed following the procedures required under section 148F.10, provided the license is maintained without interruption.

(e) This subdivision expires January 1, 2013.

Sec. 8. [148F.07] STANDARDS FOR LICENSURE.

Subdivision 1. **Medical laboratory scientist (MLS).** (a) The commissioner shall issue a medical laboratory scientist's license to an individual who meets the following requirements in paragraph (b):

(1) possesses a baccalaureate degree from a regionally accredited college or university and verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, American Medical Technologists, American Association of Bioanalysts, or successor organizations.

(b) The commissioner shall issue a medical laboratory scientist's license to an individual who has completed an official military training program of at least 50 weeks, which was approved by the National Accrediting Agency for Clinical Laboratory Sciences (NAACLS) or a national accrediting agency acceptable to the commissioner, and held the military enlisted occupational specialty of medical laboratory specialist and possesses a baccalaureate degree from a regionally accredited college or university.

Subd. 2. **Medical laboratory scientist, categorical.** The commissioner shall issue a categorical medical laboratory scientist's license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university and verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, American Medical Technologists, American Association of Bioanalysts, or successor organizations.

Subd. 3. **Medical laboratory technician (MLT).** (a) The commissioner shall issue a medical laboratory technician's license to an individual who meets the following requirements in paragraph (b):

(1) possesses an associate degree from a regionally accredited college or university verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, American Medical Technologists, American Association of Bioanalysts, or successor organizations.

(b) The commissioner shall issue a medical laboratory technician's license to an individual who has completed an official military training program of at least 50 weeks, which was approved by the National Accrediting Agency for Clinical Laboratory Sciences (NAACLS) or a national accrediting agency acceptable to the commissioner, and held the military enlisted occupational specialty of medical laboratory specialist and possesses an associate degree from a regionally accredited college or university.

Subd. 4. **Medical laboratory specialist in molecular biology.** The commissioner shall issue a medical laboratory specialist in molecular biology license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university verified by the recognized certification agencies;

(2) meets the medical laboratory experience and training required by the nationally recognized certification agencies, or alternatively one year of on-the-job training; and

(3) either passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, American Association of Bioanalysts, or successor organizations.

Subd. 5. **Medical laboratory specialist in cytogenetics.** The commissioner shall issue a medical laboratory specialist in cytogenetics license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the nationally recognized certification agencies or alternatively one year of on-the-job training; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, or successor organizations.

Subd. 6. Histocompatibility technologist. The commissioner shall issue a medical laboratory specialist in histocompatibility license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the nationally recognized certification agencies or alternatively one year of on-the-job training; and

(3) passes a nationally recognized certification examination administered by the American Board of Histocompatibility and Immunogenetics.

Subd. 7. Medical laboratory subspecialist. The commissioner shall issue a medical laboratory subspecialist license to an individual who:

(1) possesses a baccalaureate from a regionally accredited college or university verified by the recognized certification agencies;

(2) has met the required medical laboratory experience and training through one year of on-the-job training; and

(3) either is deemed competent via written confirmation by the respective laboratory director or passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, or successor organizations.

Subd. 8. Cytotechnologist. The commissioner shall issue a cytotechnologist license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university required and verified by the recognized certification agencies;

(2) has met the medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, or successor organizations.

Subd. 9. Histotechnologist. The commissioner shall issue a histotechnologist license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university required and verified by the recognized certification agencies;

(2) has met the medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American

Society for Clinical Pathology Board of Certification, or successor organizations.

Subd. 10. **Histotechnician.** The commissioner shall issue a histotechnician license to an individual who:

(1) possesses an associate degree from a regionally accredited college or university required and verified by the recognized certification agencies;

(2) has medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Certification, or successor organizations.

Sec. 9. [148F.08] RECIPROCIITY.

Subdivision 1. **Licensure.** The commissioner may waive the licensure requirements for an applicant who holds a valid license or its equivalent issued by another state provided that the requirements under which that license or its equivalent was issued are equivalent to or exceed the standards required by this chapter. Once the license is up for renewal, the applicant shall be issued a Minnesota license upon meeting the license renewal requirements in section 148F.11.

Subd. 2. **Current credentials required.** An applicant applying for licensure by reciprocity must provide all necessary evidence to the commissioner that the applicant holds a current and unrestricted license for the practice of medical laboratory science in another jurisdiction that has requirements equivalent to or higher than the standards required to be licensed as a medical laboratory professional in one of the categories defined in this chapter.

Subd. 3. **Verification of credentials required.** An applicant for licensure under this section must have maintained the appropriate and unrestricted credentials in each jurisdiction during the last five years as demonstrated by submitting letters of verification to the commissioner. Each letter must state the applicant's name, date of birth, credential number, date of issuance, a statement regarding disciplinary actions, if any, taken against the applicant, and the terms under which the credential was issued.

Sec. 10. [148F.09] TEMPORARY LICENSE REQUIREMENTS.

(a) The commissioner may issue a temporary license to an applicant who:

(1) is eligible to sit for and registered to take a certification examination or has taken the examination and is awaiting results;

(2) meets the educational requirements of the nationally recognized certification agency and is seeking to qualify for the certification examination by completing the required supervised medical laboratory experience; or

(3) meets the educational requirements for the position and is undergoing the required on-the-job training necessary for a specialized clinical laboratory.

(b) A temporary license shall be issued for a 12-month period and may be renewed for two additional 12-month periods at the discretion of the commissioner, in order to allow the applicant to complete the required supervised medical laboratory experience or retake a certification

examination, or be deemed competent by the laboratory director.

(c) A temporary license expires 12 months after it is issued or on the date the commissioner issues or denies a permanent license to the holder.

(d) A temporary license authorizes the holder to perform medical laboratory tests only in the area of practice for which the individual seeks to be permanently licensed.

Sec. 11. [148F.10] LICENSURE APPLICATION PROCEDURES.

(a) Applicants must submit an application for licensure to the commissioner upon the forms prescribed and furnished by the commissioner, and must submit with the application the designated application fee as specified in section 148F.16.

(b) Upon receipt of the application and the application fee, the commissioner shall issue a license for a medical laboratory scientist, a medical laboratory technician, or an appropriate specialty license to an individual who meets the qualifications specified in this chapter.

(c) The commissioner shall approve, approve with conditions, or deny licensure. The commissioner shall act on an application for licensure according to paragraphs (b) to (d).

(d) The commissioner shall determine if the applicant meets the requirements for licensure. The commissioner, or the advisory council at the commissioner's request, may investigate information provided by an applicant to determine whether the information is accurate and complete.

(e) The commissioner shall notify an applicant of action taken on the application, and if licensure is denied or approved with conditions, the grounds for the commissioner's determination.

(f) An applicant denied licensure or granted licensure with conditions may make a written request to the commissioner, within 30 days of the date of the commissioner's determination, for reconsideration of the commissioner's determination. Individuals requesting reconsideration may submit information that the applicant wants considered in the reconsideration. After reconsideration of the commissioner's determination to deny licensure or grant licensure with conditions, the commissioner shall determine whether the original determination should be affirmed or modified. An applicant is allowed no more than one request in any one biennial licensure period for reconsideration of the commissioner's determination to deny licensure or approve licensure with conditions.

Sec. 12. [148F.11] LICENSURE RENEWAL.

Subdivision 1. **Renewal term.** Licenses issued under this chapter must be renewed every two years. The renewal term is the effective date of the initial license or renewed license to the date of expiration of the license.

Subd. 2. **Renewal applications.** In order to renew a license, a licensee must submit:

(1) a completed and signed application for renewal on a form prescribed by the commissioner;

(2) the applicable renewal fee as specified in section 148F.16; and

(3) documentation that the licensee has completed continuing education requirements as prescribed by the recognized certification agencies or 12 hours of documented continuing

education.

Sec. 13. [148F.12] LICENSURE FOLLOWING LAPSE OF LICENSURE STATUS.

For an applicant whose licensure status has lapsed, the applicant must:

(1) apply for licensure renewal according to section 148F.11 and document compliance with the continuing education requirements as prescribed by the nationally recognized certification agency since the applicant's license lapsed; and

(2) fulfill the requirements of section 148F.07 and provide evidence of compliance with the continuing education requirements as prescribed by one of the nationally recognized certification agencies.

Sec. 14. [148F.13] CONTINUING EDUCATION REQUIREMENTS.

Continuing education requirements shall be as described by the applicable certification agencies recognized under this chapter.

Sec. 15. [148F.14] INVESTIGATION PROCESS; GROUNDS FOR DISCIPLINARY ACTION.

Subdivision 1. **Disciplinary action.** (a) The commissioner may impose disciplinary action as described in paragraph (b) against an applicant or licensee whom the commissioner, by a preponderance of the evidence, determines:

(1) has violated a statute, rule, or order that the commissioner issued or is empowered to enforce;

(2) has been convicted of or pled guilty to a felony, gross misdemeanor, misdemeanor, an essential element of which is dishonesty, or of any crime that is directly related to the practice of the profession;

(3) has made a misrepresentation for the purpose of obtaining licensure, either on an application provided by the commissioner or in response to oral or written questions from the commissioner;

(4) violated the code of professional conduct in subdivisions 2 to 4;

(5) engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(6) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol, drugs, or other physical or mental impairment;

(7) aided or assisted another person in violating any provision of this chapter or any applicable rules;

(8) made any misrepresentation with regard to the existence or category of license or other certification or professional qualification held in connection with any employment application;

(9) intentionally submitted false or misleading information in response to a written request by the commissioner or advisory council;

(10) failed, within 30 days, to provide information in response to a written request by the commissioner or advisory council;

(11) performed services for which the license is issued in an incompetent manner or in a manner that falls below community standards;

(12) violated any provision of this chapter;

(13) been convicted of violating any state or federal law, rule, or regulation which directly relates to the practice related to the discipline for which the individual is licensed;

(14) violated a federal or state court order, including a conciliation court judgment, or a disciplinary order issued by the commissioner, related to the individual's practice for which they are licensed under this chapter;

(15) aided or abetted another person in violating any provision of this chapter;

(16) been disciplined for conduct in the practice of an occupation by the state of Minnesota, another jurisdiction, or a national professional association, if any of the grounds are the same or substantially equivalent to those in this chapter;

(17) not cooperated with the commissioner or the advisory council in an investigation conducted according to this paragraph;

(18) engaged in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient; or

(19) any other just cause related to the practice for which they are licensed under this chapter.

(b) If grounds for disciplinary action exist under paragraph (a), the commissioner may take one or more of the following actions:

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a license, including, but not limited to, practice under supervision, continued practice on the demonstration of knowledge or skill by appropriate examination or other review of knowledge, skill, and competence;

(5) censure or reprimand the licensee;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage similar violations, or to reimburse the commissioner for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, advisory council members per diem compensation, staff time, and travel costs and expenses incurred by staff and advisory council members; or

(7) any reasonable lesser action, including, but not limited to, censure, reprimand, or restriction on licensure, or any action authorized by statute.

(c) Upon notice from the commissioner denying licensure renewal or upon notice that disciplinary actions have been imposed and the person is no longer entitled to provide the services for which the person was previously licensed under this chapter, the person shall cease to provide the services under this chapter, to use the protected titles pursuant to this chapter, and to represent to the public that the person is licensed by the commissioner.

(d) A person who has had licensure suspended may request and provide justification for reinstatement following the period of suspension specified by the commissioner. The requirement of this chapter for renewing licensure and any other conditions imposed with the suspension must be met before licensure may be reinstated.

(e) The commissioner shall contract with the health professional services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professional services program does not affect the commissioner's authority to discipline violations of this chapter.

Subd. 2. **Duty to patient.** Medical laboratory professionals shall:

- (1) be accountable for the quality and integrity of the laboratory services they provide;
- (2) maintain high standards of practice and sound judgment in establishing, performing, and evaluating laboratory testing; and
- (3) safeguard the dignity and privacy of patients and provide accurate information to other health care professionals about the services they provide.

Subd. 3. **Duty to colleagues and profession.** Medical laboratory professionals shall:

- (1) uphold and maintain the dignity and respect of the profession and strive to maintain a reputation of honesty, integrity, and reliability; and
- (2) actively strive to establish cooperative and respectful working relationships with other health care professionals with the primary objective of ensuring a high standard of care for the patients they serve.

Sec. 16. **[148F.15] REPORTING OBLIGATIONS.**

Subdivision 1. **Permission to report.** A person who has knowledge of any conduct constituting grounds for disciplinary action under this chapter may report the violation to the commissioner.

Subd. 2. **Institutions.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the commissioner any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition a medical laboratory professional's privilege to practice in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the commissioner under this chapter. The institution, organization, or governmental entity shall also report the resignation of any medical laboratory science professional before the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or before the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or

were being prepared.

Subd. 3. **Professional societies.** A state or local professional society for medical laboratory science professionals shall report to the commissioner any termination, revocation, or suspension of membership or any other disciplinary action taken against a medical laboratory science professional. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the commissioner.

Subd. 4. **Licensed professionals.** A licensed health professional shall report to the commissioner personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by a medical laboratory science professional, including conduct indicating that the individual may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is a medical laboratory science professional, and the treating individual successfully counsels the medical laboratory science professional to limit or withdraw from practice to the extent required by the impairment, the commissioner may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

Subd. 5. **Self-reporting.** A medical laboratory science professional shall report to the commissioner any personal action that would require that a report be filed with the commissioner by any person, health care facility, business, or organization under subdivisions 2 to 4. The medical laboratory science professional shall also report the revocation, suspension, restriction, limitation, or other disciplinary action in this state and report the filing of charges regarding the practitioner's license or right of practice in another state or jurisdiction.

Subd. 6. **Deadlines; forms.** Reports required by subdivisions 2 to 5 must be submitted no later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The commissioner may provide forms for the submission of required reports, may require that reports be submitted on the forms provided, and may adopt rules necessary to ensure prompt and accurate reporting.

Subd. 7. **Immunity for reporting.** A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for reporting to the commissioner violations or alleged violations of this chapter. All such reports are classified under section 13.41.

Subd. 8. **Immunity for investigation.** The commissioner, employees of the Minnesota Department of Health, consultants to the department, and advisory council members are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

Sec. 17. [148F.16] FEES.

Subdivision 1. **Initial licensure fee.** The initial licensure fee for medical laboratory scientist, categorical medical laboratory scientist, medical laboratory specialist in molecular biology, medical laboratory specialist in cytogenetics, histocompatibility technologist, other specialists and categoricals, and medical laboratory technicians is \$155. The commissioner shall prorate fees based on the number of quarters remaining in the biennial licensure period.

Subd. 2. **Licensure renewal fee.** The biennial licensure renewal fee for medical laboratory scientist, categorical medical laboratory scientist, medical laboratory specialist in molecular biology, medical laboratory specialist in cytogenetics, histocompatibility technologist, other specialists and categoricals, and medical laboratory technicians is \$115.

Subd. 3. **Late fee.** The fee for late submission of a renewal application is \$45.

Subd. 4. **Temporary licensure fee.** The fee for temporary licensure is \$50.

Subd. 5. **Verification to other states.** The fee for verification of licensure to other states is \$25.

Subd. 6. **Verification to institutions.** The fee for verification of licensure to institutions is \$10.

Subd. 7. **Nonrefundable fees.** All fees are nonrefundable.

Subd. 8. **Penalty fees.** (a) The penalty fee for practicing medical laboratory science without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of medical laboratory science before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of medical laboratory science.

(c) The penalty fee for failing to submit a continuing education report by the due date with the correct number or type of hours in the correct time period is \$50. The licensee must obtain the missing number of continuing education hours by the next reporting due date.

(d) Civil penalties and discipline incurred by licensees prior to January 1, 2014, for conduct described in paragraph (a), (b), or (c), shall be recorded as nondisciplinary penalty fees. For conduct described in paragraph (a) or (b) occurring after January 1, 2014, and exceeding six months, payment of a penalty fee does not preclude any disciplinary action reasonably justified by the individual case.

Sec. 18. **ADVISORY COUNCIL; DEADLINES.**

The commissioner of health shall complete the first appointments required by Minnesota Statutes, section 148F.05, no later than September 1, 2012. The commissioner's designee shall convene the first meeting of the council no later than October 1, 2012. The council must select its chair as required by Minnesota Statutes, section 148F.05, at the first meeting of the council.

Sec. 19. **APPROPRIATION.**

\$284,000 in fiscal year 2013 is appropriated from the state government special revenue fund to the commissioner of health to implement this act. Base funding is \$488,000 in fiscal year 2014 and \$376,000 in fiscal year 2015.

Sec. 20. **EFFECTIVE DATE.**

Sections 1 to 18 are effective July 1, 2012."

Amend the title accordingly

And when so amended the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 2357: A bill for an act relating to human services; changing human services legal provisions; modifying provisions related to human services licensing, licensing data, and the Office of Inspector General; amending the Human Services Background Studies Act; amending Minnesota Statutes 2010, sections 13.46, subdivisions 2, 3, 4; 13.82, subdivision 1; 245A.04, subdivisions 1, 7, 11, by adding a subdivision; 245A.05; 245A.07, subdivision 3; 245A.08, subdivision 2a; 245A.14, subdivision 11, by adding a subdivision; 245A.146, subdivisions 2, 3; 245A.18, subdivision 1; 245A.22, subdivision 2; 245A.66, subdivisions 2, 3; 245C.03, subdivision 1; 245C.04, subdivision 1; 245C.05, subdivisions 2, 4, 7, by adding a subdivision; 245C.07; 245C.16, subdivision 1; 245C.17, subdivision 2; 245C.22, subdivision 5; 245C.24, subdivision 2; Minnesota Statutes 2011 Supplement, section 256B.04, subdivision 21; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Rules, part 9503.0150, item E.

Reports the same back with the recommendation that the bill be amended as follows:

Page 13, line 6, before "address" insert "and" and delete ", and Social"

Page 13, line 7, delete "Security number"

And when so amended the bill do pass and be re-referred to the Committee on Judiciary and Public Safety. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was re-referred

S.F. No. 880: A bill for an act relating to health; changing provisions for evaluation of health coverage mandates; amending Minnesota Statutes 2010, section 62J.26.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 62J.26, subdivision 3, is amended to read:

Subd. 3. **Requests for evaluation.** (a) Whenever a legislative measure containing a mandated health benefit proposal is introduced as a bill or offered as an amendment to a bill, ~~or is likely to be introduced as a bill or offered as an amendment,~~ a the chair of any standing the legislative committee that has jurisdiction over the subject matter of the proposal ~~may~~ must request that the commissioner complete an evaluation of the proposal under this section, to inform any committee of floor action by either house of the legislature.

(b) The commissioner must conduct an evaluation described in subdivision 2 of each mandated health benefit proposal ~~for which an evaluation is requested under paragraph (a), unless the commissioner determines under paragraph (c) or subdivision 4 that priorities and resources do not permit its evaluation.~~

~~(c) If requests for evaluation of multiple proposals are received, the commissioner must consult~~

~~with the chairs of the standing legislative committees having jurisdiction over the subject matter of the mandated health benefit proposals to prioritize the requests and establish a reporting date for each proposal to be evaluated. The commissioner is not required to direct an unreasonable quantity of the commissioner's resources to these evaluations.~~

Sec. 2. Minnesota Statutes 2010, section 62J.26, subdivision 5, is amended to read:

Subd. 5. **Report to legislature.** The commissioner must submit a written report on the evaluation to the legislature no later than 180 30 days after the request. The report must be submitted in compliance with sections 3.195 and 3.197.

Sec. 3. Minnesota Statutes 2010, section 62J.26, is amended by adding a subdivision to read:

Subd. 6. **Evaluation of mandated health benefits.** (a) The commissioner of commerce, in consultation with the commissioners of health and management and budget, shall evaluate each mandated health benefit currently required in Minnesota Statutes or Rules in accordance with the evaluation process described in subdivision 2.

(b) For purposes of this subdivision, a "mandated health benefit" means a statutory or administrative requirement that a health plan do the following:

(1) provide coverage or increase the amount of coverage for the treatment of a particular disease, condition, or other health care need;

(2) provide coverage or increase the amount of coverage of a particular type of health care treatment or service, or of equipment, supplies, or drugs used in connection with a health care treatment or service; or

(3) provide coverage for care delivered by a specific type of provider.

(c) The commissioner must submit a written report on the evaluation of existing state mandated health benefits to the legislature by December 31, 2015."

Delete the title and insert:

"A bill for an act relating to health; changing provisions for evaluation of health coverage mandates; amending Minnesota Statutes 2010, section 62J.26, subdivisions 3, 5, by adding a subdivision."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 2208: A bill for an act relating to health; changing a requirement for electronic claims and electronic transactions; amending Minnesota Statutes 2010, section 62J.536, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 8, after "were" insert "prescription drug claims"

Page 2, line 9, delete everything after "pharmacy"

Page 2, line 10, delete everything before the period

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 1053: A bill for an act relating to nursing; requiring a criminal history record check; appropriating money; amending Minnesota Statutes 2010, section 364.09; proposing coding for new law in Minnesota Statutes, chapter 148.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[148.192] REQUIREMENT FOR CRIMINAL HISTORY RECORD CHECK.**

Subdivision 1. **Applicants.** The board shall complete a criminal background check on each applicant for licensure prior to the board's issuance of a license. Each applicant for licensure must:

(1) submit a full set of fingerprints to the board or its designee in a form and manner specified by the board; and

(2) provide consent authorizing the board to obtain the applicant's state and national criminal history record information for the purpose of determining the applicant's suitability and eligibility for licensure.

Subd. 2. **Additional background check required.** An applicant shall be required to complete a criminal background check if more than one year has elapsed since the applicant last submitted a background check to the board.

Subd. 3. **Fees.** The applicant shall be responsible for all fees associated with preparation of the fingerprints and the criminal background check. The fees for the background check are determined by the Minnesota Bureau of Criminal Apprehension (BCA) and the Federal Bureau of Investigation (FBI) and are not refundable.

Subd. 4. **Refusal to consent.** The board shall not issue a license to any applicant who refuses to consent to a criminal background check or fails to submit fingerprints within 90 days after submission of an application for licensure. Any fees paid by the applicant to the board shall be forfeited if the applicant refuses to consent to the criminal background check or fails to submit the required fingerprints.

Subd. 5. **Submission of fingerprints to Minnesota BCA.** The board or its designee shall submit applicant fingerprints to the Minnesota BCA. The BCA shall perform a check for state criminal justice information and shall forward the applicant's fingerprints to the FBI to perform a check for national criminal justice information regarding the applicant. The BCA shall report to the board the results of the state and national criminal justice information checks.

Subd. 6. **Alternatives to fingerprint-based background check.** The board may require an alternative method of criminal history check for an applicant who has submitted at least three sets of fingerprints under this section that the BCA or FBI have been unable to read.

Subd. 7. **Temporary permits.** An applicant for licensure by interstate endorsement who has submitted fingerprints, consents to a background check, and meets all other requirements for

issuance of a temporary permit may be granted a nonrenewable permit prior to the board's receipt of the criminal justice information, but shall not be issued a license until the board receives and completes its review of the applicant's criminal justice information.

Subd. 8. **Opportunity to challenge accuracy of report.** Prior to taking disciplinary action against an applicant based on a criminal conviction, the board shall provide the applicant with the opportunity to complete or challenge the accuracy of, the criminal justice information reported to the board. The applicant shall have 30 calendar days following notice from the board of the intent to deny licensure to request an opportunity to correct or complete the record prior to the board taking disciplinary action based on the report. The board shall provide the applicant up to 180 days to challenge the accuracy or completeness of the report with the agency responsible for the record.

Subd. 9. **Denial of licensure.** The board shall deny licensure to an applicant who has been convicted of any of the following crimes or an offense in any other state where the elements of the offense are substantially similar:

(1) murder in the first degree (section 609.185), in the second degree (section 609.19), or in the third degree (section 609.195);

(2) manslaughter in the first degree (section 609.20);

(3) felony domestic assault (section 609.2242, subdivision 4);

(4) kidnapping (section 609.25);

(5) domestic assault by strangulation (section 609.2247);

(6) murder of an unborn child in the first degree (section 609.2661);

(7) solicitation, inducement, and promotion of prostitution (section 609.322);

(8) patrons, prostitutes, housing individuals engaged in prostitution (minors) (section 609.324, subdivision 1);

(9) criminal sexual conduct in the first degree (section 609.342), in the second degree (section 609.343), in the third degree (section 609.344), in the fourth degree (section 609.345), or in the fifth degree (section 609.3451);

(10) criminal sexual predatory conduct (section 609.3453);

(11) solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children (section 609.352);

(12) incest (section 609.365);

(13) felony malicious punishment of a child (section 609.377);

(14) felony neglect or endangerment of a child (section 609.378);

(15) arson in the first degree (section 609.561);

(16) felony stalking (section 609.749, subdivision 3, 4, or 5);

(17) controlled substance crimes in the first degree (section 152.021) or in the second degree

(section 152.022);

(18) violation of predatory offender registration law (section 243.166);

(19) indecent exposure involving a minor (section 617.23, subdivision 2, clause (1), or subdivision 3, clause (1));

(20) use of minors in sexual performance (section 617.246);

(21) possession of pornographic work involving minors (section 617.247);

(22) manslaughter in the second degree (section 609.205);

(23) assault in the first degree (section 609.221) or in the second degree (section 609.222);

(24) assault in the fifth degree (section 609.224, subdivision 2, paragraph (c), or subdivision 4);

(25) great bodily harm caused by distribution of drugs (section 609.228);

(26) mistreatment of persons confined (section 609.23);

(27) mistreatment of residents or patients (section 609.231);

(28) criminal abuse (section 609.2325);

(29) criminal neglect (section 609.233);

(30) financial exploitation of a vulnerable adult (section 609.2335);

(31) failure to report (section 609.234);

(32) simple robbery (section 609.24);

(33) aggravated robbery (section 609.245);

(34) false imprisonment (section 609.255);

(35) murder of unborn child in the second degree (section 609.2662) or in the third degree (section 609.2663);

(36) presenting false claims to a public officer or body (section 609.465);

(37) medical assistance fraud (section 609.466);

(38) felony theft (section 609.52);

(39) fraud in obtaining credit (section 609.82);

(40) felony identity theft (section 609.527);

(41) arson in the second degree (section 609.562) or in the third degree (section 609.563);

(42) felony burglary (section 609.582);

(43) felony insurance fraud (section 609.611);

(44) aggravated forgery (section 609.625);

- (45) forgery (section 609.63);
- (46) felony check forgery (section 609.631);
- (47) felony drive-by shooting (section 609.66, subdivision 1e);
- (48) felony riot (section 609.71);
- (49) terroristic threats (section 609.713);
- (50) disorderly conduct (section 609.72, subdivision 3);
- (51) felony financial transaction card fraud (section 609.821);
- (52) shooting at or in a public transit vehicle or facility (section 609.855, subdivision 5);
- (53) controlled substance crimes in the third degree (section 152.023), fourth degree (section 152.024), or fifth degree (section 152.025); or
- (54) aiding and abetting, attempting, or conspiring to commit any of the offenses in this subdivision.

Subd. 10. **Conviction.** For purposes of this section, an applicant is considered to have been convicted of a crime if the applicant has pleaded guilty or nolo contendere, been found guilty, or entered an Alford plea to any of the offenses in this section by any court in the state of Minnesota or any similar offense in another state or United States territory or federal court. The consequences of the conviction shall apply if the applicant has been convicted or found guilty but the sentence of adjudication is stayed or otherwise withheld.

Subd. 11. **Consideration of other crimes.** When determining an applicant's suitability and eligibility for nurse licensure, nothing in this section shall preclude the board from considering an applicant's conviction of a crime that is not listed in subdivision 9 or public records from a juvenile delinquency proceeding where there has been a judicial determination that the elements of an offense occurred.

Subd. 12. **Order of denial.** When an applicant is denied licensure based on conviction of a crime listed in subdivision 9, and following an opportunity to challenge the accuracy and completeness of the criminal history report, the board may issue a public order of denial and is not required to provide the applicant a hearing prior to denying licensure.

Subd. 13. **Reconsideration of denial.** (a) An applicant denied licensure based on a conviction of a crime listed in subdivision 9, clauses (1) to (21), may not request reconsideration of the denial of licensure and may not reapply for licensure by the board until ten years following absolute discharge from sentence, or unless the applicant has received a court order of expungement of the record or a pardon of conviction. Absolute discharge from sentence means completion of any sentence, including imprisonment, probation, parole, community service, and any form of court supervision.

(b) An applicant denied licensure based on a conviction of a crime listed in subdivision 9, clauses (22) to (54), may request reconsideration of the board's decision to deny licensure. The applicant requesting reconsideration has the burden of showing, to the satisfaction of the board, that the applicant has been sufficiently rehabilitated and does not pose a risk of harm to the public.

(c) An applicant seeking reconsideration of a denial of licensure under this chapter shall present evidence to the board addressing the following factors, which the board may consider in determining whether to grant a license to the previously denied applicant:

- (1) the number of crimes for which the applicant has been convicted;
- (2) the nature and seriousness of the crimes and vulnerability of the victims of the crimes, including whether the commission of the crimes involved the abuse of trust or the exploitation of a unique position or knowledge;
- (3) the relationship between the crimes and the practice of nursing;
- (4) the age of the applicant at the time the crimes were committed;
- (5) the amount of time that has elapsed since the crimes occurred and since the completion of the terms of any sentence imposed;
- (6) steps taken by the applicant to address substance abuse or mental or physical health issues present at the time of the crimes or subsequent to the crimes;
- (7) evidence of the applicant's work history; and
- (8) any other evidence demonstrating the applicant does not pose a risk of harm to the health or safety of the public.

(d) The board may impose limitations and conditions on an applicant's license if the board grants the applicant a license following reconsideration.

Subd. 14. **Data practices.** All state or national criminal history record information obtained by the board from the BCA or the FBI is private data on individuals under section 13.02, subdivision 12, and restricted to the exclusive use of the board, its members, officers, investigative staff, agents, and attorneys for the purpose of evaluating an applicant's eligibility or qualification for licensure.

Subd. 15. **Current licensees.** The board may request that a licensee who is the subject of an investigation by the board submit to a criminal background check if there is reason to believe the licensee has been charged with or convicted of a crime in this or any other jurisdiction.

Subd. 16. **Instructions to the board; plan.** The board shall collaborate with the Minnesota Department of Human Services and the BCA to establish a plan for completing criminal background checks of all licensees who were licensed before the effective date of this section. The plan for background checks of current licensees shall be developed no later than 2017 and may be contingent upon the BCA's implementation of a system in which any new crimes that an applicant or licensee commits after an initial background check are flagged in the BCA's database and reported back to the board. The plan shall include recommendations for any necessary statutory changes and shall seek to minimize duplication of requirements for background studies.

Sec. 2. Minnesota Statutes 2010, section 148.261, subdivision 1, is amended to read:

Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or condition the license and registration of any person to practice professional, advanced practice registered, or practical nursing under sections 148.171 to 148.285, or to otherwise discipline a licensee or applicant as described in section 148.262. The following are grounds for disciplinary action:

(1) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in sections 148.171 to 148.285 or rules of the board. In the case of a person applying for a license, the burden of proof is upon the applicant to demonstrate the qualifications or satisfaction of the requirements.

(2) Employing fraud or deceit in procuring or attempting to procure a permit, license, or registration certificate to practice professional or practical nursing or attempting to subvert the licensing examination process. Conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to:

(i) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(ii) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(3) Conviction ~~during the previous five years~~ of a felony or gross misdemeanor reasonably related to the practice of professional, advanced practice registered, or practical nursing, including, but not limited to, the crimes listed in section 148.192, subdivision 9. Conviction as used in this subdivision includes a conviction of an offense that if committed in this state would be considered a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

(4) Revocation, suspension, limitation, conditioning, or other disciplinary action against the person's professional or practical nursing license or advanced practice registered nursing credential, in another state, territory, or country; failure to report to the board that charges regarding the person's nursing license or other credential are pending in another state, territory, or country; or having been refused a license or other credential by another state, territory, or country.

(5) Failure to or inability to perform professional or practical nursing as defined in section 148.171, subdivision 14 or 15, with reasonable skill and safety, including failure of a registered nurse to supervise or a licensed practical nurse to monitor adequately the performance of acts by any person working at the nurse's direction.

(6) Engaging in unprofessional conduct, including, but not limited to, a departure from or failure to conform to board rules of professional or practical nursing practice that interpret the statutory definition of professional or practical nursing as well as provide criteria for violations of the statutes, or, if no rule exists, to the minimal standards of acceptable and prevailing professional or practical nursing practice, or any nursing practice that may create unnecessary danger to a patient's life, health, or safety. Actual injury to a patient need not be established under this clause.

(7) Failure of an advanced practice registered nurse to practice with reasonable skill and safety or departure from or failure to conform to standards of acceptable and prevailing advanced practice registered nursing.

(8) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care.

(9) Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

(10) Adjudication as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction, within or without this state.

(11) Engaging in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established under this clause.

(12) Engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

(13) Obtaining money, property, or services from a patient, other than reasonable fees for services provided to the patient, through the use of undue influence, harassment, duress, deception, or fraud.

(14) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

(15) Engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws.

(16) Improper management of patient records, including failure to maintain adequate patient records, to comply with a patient's request made pursuant to sections 144.291 to 144.298, or to furnish a patient record or report required by law.

(17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of professional, advanced practice registered, or practical nursing.

(18) Violating a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of professional, advanced practice registered, or practical nursing, or a state or federal narcotics or controlled substance law.

(19) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(20) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision

5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

(21) Practicing outside the scope of practice authorized by section 148.171, subdivision 5, 10, 11, 13, 14, 15, or 21.

(22) Practicing outside the specific field of nursing practice for which an advanced practice registered nurse is certified unless the practice is authorized under section 148.284.

(23) Making a false statement or knowingly providing false information to the board, failing to make reports as required by section 148.263, or failing to cooperate with an investigation of the board as required by section 148.265.

(24) Engaging in false, fraudulent, deceptive, or misleading advertising.

(25) Failure to inform the board of the person's certification status as a nurse anesthetist, nurse-midwife, nurse practitioner, or clinical nurse specialist.

(26) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice without current certification by a national nurse certification organization acceptable to the board, except during the period between completion of an advanced practice registered nurse course of study and certification, not to exceed six months or as authorized by the board.

(27) Engaging in conduct that is prohibited under section 145.412.

(28) Failing to report employment to the board as required by section 148.211, subdivision 2a, or knowingly aiding, assisting, advising, or allowing a person to fail to report as required by section 148.211, subdivision 2a.

Sec. 3. Minnesota Statutes 2010, section 364.09, is amended to read:

364.09 EXCEPTIONS.

(a) This chapter does not apply to the licensing process for peace officers; to law enforcement agencies as defined in section 626.84, subdivision 1, paragraph (f); to fire protection agencies; to eligibility for a private detective or protective agent license; to the licensing and background study process under chapters 245A and 245C; to eligibility for school bus driver endorsements; to eligibility for special transportation service endorsements; to eligibility for a commercial driver training instructor license, which is governed by section 171.35 and rules adopted under that section; to emergency medical services personnel, or to the licensing by political subdivisions of taxicab drivers, if the applicant for the license has been discharged from sentence for a conviction within the ten years immediately preceding application of a violation of any of the following:

(1) sections 609.185 to 609.21, 609.221 to 609.223, 609.342 to 609.3451, or 617.23, subdivision 2 or 3;

(2) any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more;

or

(3) a violation of chapter 169 or 169A involving driving under the influence, leaving the scene of an accident, or reckless or careless driving.

This chapter also shall not apply to eligibility for juvenile corrections employment, where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district or to eligibility for a license issued or renewed by the Board of Teaching or the commissioner of education.

(c) Nothing in this section precludes the Minnesota Police and Peace Officers Training Board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

(d) This chapter does not apply to a license to practice medicine that has been denied or revoked by the Board of Medical Practice pursuant to section 147.091, subdivision 1a.

(e) This chapter does not apply to any person who has been denied a license to practice chiropractic or whose license to practice chiropractic has been revoked by the board in accordance with section 148.10, subdivision 7.

(f) This chapter does not apply to a person who has been denied a license to practice nursing by the Board of Nursing pursuant to section 148.192.

Sec. 4. APPROPRIATION.

\$200,000 in fiscal year 2013 is appropriated from the state government special revenue fund to the Board of Nursing for implementation of section 1.

Sec. 5. EFFECTIVE DATE.

Sections 1 and 2 are effective July 1, 2013, or as soon as the necessary interagency infrastructure and related business processes are operational, whichever is later. Sections 3 and 4 are effective the day following final enactment."

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Judiciary and Public Safety. Amendments adopted. Report adopted.

Senator Limmer from the Committee on Judiciary and Public Safety, to which was re-referred

S.F. No. 1921: A bill for an act relating to health; requiring licensure of certain facilities that perform abortions; requiring a licensing fee; proposing coding for new law in Minnesota Statutes, chapter 145.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2010, section 13.381, is amended by adding a subdivision to read:

Subd. 12a. **Abortion facility inspections and investigations.** Certain data collected by the commissioner of health in connection with the inspection and investigation of facilities that perform abortions is governed by section 145.479, subdivision 2."

Page 1, line 14, after "Information" insert "collected or"

Page 1, line 16, delete "according to" and insert "as defined in" and delete "and must"

Page 1, delete line 17

Page 1, line 18, before "another" insert "but may be disclosed to"

Page 1, line 19, delete everything after the period

Page 1, delete line 20

Renumber the sections in sequence

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Amendments adopted. Report adopted.

Senator Limmer from the Committee on Judiciary and Public Safety, to which was referred

H.F. No. 1829: A bill for an act relating to public safety; authorizing county attorneys and assistant county attorneys to carry firearms on duty under the terms of a permit to carry; amending Minnesota Statutes 2010, section 388.051, by adding a subdivision.

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1843, 2084, 1960, 1678, 2035, 2273, 1749, 2147, 1738, 880 and 2208 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 1829 was read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Tomassoni, Metzen and Bakk introduced—

S.F. No. 2431: A bill for an act relating to public officials; providing an exception to the gift ban in certain circumstances; amending Minnesota Statutes 2010, section 10A.071, subdivision 3.

Referred to the Committee on Local Government and Elections.

Senator Vandever introduced—

S.F. No. 2432: A bill for an act relating to environment; directing the Environmental Quality Board to amend rules relating to alternative urban areawide review.

Referred to the Committee on Environment and Natural Resources.

Senator Nienow introduced—

S.F. No. 2433: A bill for an act relating to law enforcement; prohibiting immigration law enforcement noncooperation ordinances and policies; providing for use of immigration-related data; proposing coding for new law in Minnesota Statutes, chapters 13; 299A.

Referred to the Committee on Judiciary and Public Safety.

Senators Howe, Sieben and Metzen introduced—

S.F. No. 2434: A bill for an act relating to capital investment; appropriating money for a pedestrian bridge over the Cannon River; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senators DeKruif and Chamberlain introduced—

S.F. No. 2435: A bill for an act relating to elections; amending same day voter registration provisions; amending the process for challenged voters; providing for provisional ballots; amending Minnesota Statutes 2010, sections 201.061, subdivision 3; 204C.12, subdivision 3; 204C.32, subdivision 2; 204C.33, subdivision 1; 204C.37; 205.185, subdivision 3; 205A.10, subdivision 3; Minnesota Statutes 2011 Supplement, sections 205.065, subdivision 5; 205A.03, subdivision 4; Laws 2011, chapter 65, section 4; proposing coding for new law in Minnesota Statutes, chapter 204C.

Referred to the Committee on Local Government and Elections.

Senator Pederson introduced—

S.F. No. 2436: A bill for an act relating to taxation; property; modifying the allowable holding period for exempt property held for economic development; amending Minnesota Statutes 2011 Supplement, section 272.02, subdivision 39.

Referred to the Committee on Taxes.

Senator Pederson introduced—

S.F. No. 2437: A bill for an act relating to tax increment financing; authorizing certain expenditures of tax increments by the St. Cloud Economic Development Authority; ratifying certain tax increment financing actions.

Referred to the Committee on Taxes.

Senator Vandever introduced—

S.F. No. 2438: A resolution memorializing Congress and the President of the United States to amend federal veterans cemetery law to expand eligibility for burial in state veterans cemeteries developed with federal funding to include allied Hmong-American and Lao-American veterans of America's Secret War in Laos.

Referred to the Committee on State Government Innovation and Veterans.

Senator Vandever introduced—

S.F. No. 2439: A bill for an act relating to veterans; expanding eligibility for burial in the Minnesota State Veterans Cemetery to include deceased allied Hmong-American or Lao-American veterans of the American Secret War in Laos; amending Minnesota Statutes 2010, section 197.236, subdivision 8.

Referred to the Committee on State Government Innovation and Veterans.

Senators Higgins and Jungbauer introduced—

S.F. No. 2440: A bill for an act relating to health; providing for an exemption for the Webber Pool project in the city of Minneapolis; amending Minnesota Statutes 2010, section 144.1222, by adding a subdivision.

Referred to the Committee on Health and Human Services.

Senator Hayden introduced—

S.F. No. 2441: A bill for an act relating to insurance; creating the Minnesota Health Benefits Exchange and specifying its functions and duties; proposing coding for new law as Minnesota Statutes, chapter 62V.

Referred to the Committee on Commerce and Consumer Protection.

Senators Nelson and Hall introduced—

S.F. No. 2442: A bill for an act relating to public safety; requiring all 911 public safety answering points to provide for emergency medical instruction for certain emergency calls; specifically providing that any expenses related to this change be covered under the current allowable expenditures for 911 funds; amending Minnesota Statutes 2010, section 403.113, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 403.

Referred to the Committee on Judiciary and Public Safety.

Senator Kruse introduced—

S.F. No. 2443: A bill for an act relating to employment; providing for the application of gratuities

in calculating the minimum wage; amending Minnesota Statutes 2010, section 177.24, subdivisions 1, 2.

Referred to the Committee on Jobs and Economic Growth.

Senator Kruse introduced—

S.F. No. 2444: A bill for an act relating to taxes; expanding the sales tax exemption for certain meals and drinks; expanding the sales tax exemption for certain capital equipment purchases; amending Minnesota Statutes 2010, section 297A.68, subdivision 5, by adding subdivisions.

Referred to the Committee on Taxes.

Senator Gimse introduced—

S.F. No. 2445: A bill for an act relating to counties; providing a process for making certain county offices appointive in Kandiyohi, Lyon, and Swift Counties.

Referred to the Committee on Local Government and Elections.

Senator Gimse introduced—

S.F. No. 2446: A bill for an act relating to cultural heritage; appropriating money for Let's Go Fishing.

Referred to the Committee on Environment and Natural Resources.

Senators Eaton, Dibble, Torres Ray and Dzedzic introduced—

S.F. No. 2447: A bill for an act relating to real estate; foreclosure forbearance for unemployed long-term homeowners; proposing coding for new law in Minnesota Statutes, chapter 580.

Referred to the Committee on Judiciary and Public Safety.

Senators Ortman, Hoffman, Chamberlain and Rosen introduced—

S.F. No. 2448: A bill for an act relating to taxation; setting 2013 local government aid payments at an amount equal to 2012 payments; amending Minnesota Statutes 2011 Supplement, sections 477A.013, subdivision 9; 477A.03, subdivision 2a.

Referred to the Committee on Taxes.

Senator Ortman introduced—

S.F. No. 2449: A bill for an act relating to taxes; income and corporate franchise; modifying the historic structure rehabilitation credit; amending Minnesota Statutes 2010, section 290.0681, subdivisions 1, 3, 4, 5; Laws 2010, chapter 216, section 11.

Referred to the Committee on Taxes.

Senator Dahms introduced—

S.F. No. 2450: A bill for an act relating to capital investment; appropriating money for flood hazard mitigation in Granite Falls; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senators Ingebrigtsen, Parry, Saxhaug and Skoe introduced—

S.F. No. 2451: A bill for an act relating to natural resources; requiring certain accessibility to publicly funded shooting ranges; proposing coding for new law in Minnesota Statutes, chapter 87A.

Referred to the Committee on Environment and Natural Resources.

Senators Nienow and Marty introduced—

S.F. No. 2452: A bill for an act relating to human services; modifying requirements for the medical assistance spenddown; amending Minnesota Statutes 2010, section 256B.056, subdivision 5.

Referred to the Committee on Health and Human Services.

Senators Nienow and Marty introduced—

S.F. No. 2453: A bill for an act relating to human services; clarifying services in the medical assistance program; amending Minnesota Statutes 2010, section 256B.0625, by adding a subdivision.

Referred to the Committee on Health and Human Services.

Senators Newman, Limmer and Thompson introduced—

S.F. No. 2454: A bill for an act relating to state government operations; prohibiting courts from appropriating money or ordering the governor, executive branch agencies, or the legislature to spend money; requiring the commissioner of management and budget to reduce the appropriation to the judiciary in certain situations; proposing coding for new law in Minnesota Statutes, chapter 1.

Referred to the Committee on Judiciary and Public Safety.

Senators Daley, Cohen, Nelson, Lillie and DeKruif introduced—

S.F. No. 2455: A bill for an act relating to taxation; income; providing for a film investment credit; proposing coding for new law in Minnesota Statutes, chapter 290.

Referred to the Committee on Taxes.

Senators Saxhaug, Lourey, Sieben, Rest and Higgins introduced—

S.F. No. 2456: A bill for an act relating to natural resources; establishing a Minnesota-Wisconsin Boundary Area Invasive Species Commission; appropriating money; proposing coding for new law

in Minnesota Statutes, chapter 84D.

Referred to the Committee on Environment and Natural Resources.

Senator Sparks introduced—

S.F. No. 2457: A bill for an act relating to local government; authorizing the city of Albert Lea to offer industrial sewer charge rebates as an economic development incentive.

Referred to the Committee on Local Government and Elections.

Senator Ingebrigtsen introduced—

S.F. No. 2458: A bill for an act relating to capital improvements; appropriating money for local road improvement; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senator Ingebrigtsen introduced—

S.F. No. 2459: A bill for an act relating to taxation; minerals; authorizing the city of Vergas in Otter Tail County to impose an aggregate tax under certain circumstances; amending Minnesota Statutes 2010, section 298.75, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Harrington and Wolf introduced—

S.F. No. 2460: A bill for an act relating to education; clarifying accountability measures for certain charter school student populations; amending Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 10.

Referred to the Committee on Education.

Senator Jungbauer introduced—

S.F. No. 2461: A bill for an act relating to water; providing a grant amendment for the city of Elk River to allow the beneficial use of wastewater effluent.

Referred to the Committee on Environment and Natural Resources.

Senators Daley and Thompson introduced—

S.F. No. 2462: A bill for an act relating to education; authorizing suspensions without pay for teachers charged with felonies; amending Minnesota Statutes 2010, section 122A.40, subdivision 13.

Referred to the Committee on Education.

Senator Hann, by request, introduced—

S.F. No. 2463: A bill for an act relating to health; changing provisions of the newborn screening program; amending Minnesota Statutes 2010, sections 144.125, subdivision 3, by adding subdivisions; 144.128.

Referred to the Committee on Health and Human Services.

Senator Limmer introduced—

S.F. No. 2464: A bill for an act relating to public safety; requiring a modification to the sex offender sentencing grid.

Referred to the Committee on Judiciary and Public Safety.

Senator Thompson introduced—

S.F. No. 2465: A bill for an act relating to workers' compensation; modifying payment provisions; amending Minnesota Statutes 2010, sections 176.101, subdivision 4; 353.656, subdivision 2.

Referred to the Committee on Jobs and Economic Growth.

MOTIONS AND RESOLUTIONS

Senator DeKruif moved that the name of Senator Sheran be added as a co-author to S.F. No. 1226. The motion prevailed.

Senator Hoffman moved that the name of Senator Gazelka be added as a co-author to S.F. No. 2004. The motion prevailed.

Senator Benson moved that the name of Senator Sheran be added as a co-author to S.F. No. 2147. The motion prevailed.

Senator Kruse moved that the name of Senator Sheran be added as a co-author to S.F. No. 2173. The motion prevailed.

Senator Thompson moved that the name of Senator Sparks be added as a co-author to S.F. No. 2340. The motion prevailed.

Senator Daley moved that the name of Senator Wiger be added as a co-author to S.F. No. 2354. The motion prevailed.

Senator Hall moved that the name of Senator Daley be added as a co-author to S.F. No. 2409. The motion prevailed.

Senator Robling moved that S.F. No. 2121, No. 48 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

MEMBERS EXCUSED

Senators Cohen, Latz, Magnus, Pappas and Stumpf were excused from the Session of today.

ADJOURNMENT

Senator Senjem moved that the Senate do now adjourn until 11:00 a.m., Thursday, March 15, 2012. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate