

## SEVENTY-SECOND DAY

St. Paul, Minnesota, Tuesday, March 9, 2010

The Senate met at 11:00 a.m. and was called to order by the President.

## CALL OF THE SENATE

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

Prayer was offered by Senator Gary W. Kubly.

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

Anderson	Fischbach	Koering	Olson, G.	Scheid
Berglin	Fobbe	Kubly	Olson, M.	Senjem
Betzold	Foley	Langseth	Pappas	Sheran
Bonoff	Frederickson	Latz	Pariseau	Sieben
Carlson	Gerlach	Limmer	Parry	Skoe
Chaudhary	Gimse	Lourey	Pogemiller	Skogen
Clark	Hann	Lynch	Prettner Solon	Sparks
Cohen	Higgins	Marty	Rest	Stumpf
Dahle	Ingebrigtsen	Metzen	Robling	Tomassoni
Dibble	Johnson	Michel	Rosen	Torres Ray
Dille	Jungbauer	Moua	Rummel	Vandever
Doll	Kelash	Murphy	Saltzman	Vickerman
Erickson Ropes	Koch	Olseen	Saxhaug	Wiger

The President declared a quorum present.

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

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

March 5, 2010

The Honorable James P. Metzen  
President of the Senate

Dear Senator Metzen:

The following appointments are hereby respectfully submitted to the Senate for confirmation as required by law:

## BOARD ON JUDICIAL STANDARDS

William J. Egan, 5237 Wooddale Ave., Edina, in the county of Hennepin, effective March 10, 2010, for a term that expires on January 6, 2014.

Cynthia C. Jepsen, 901 Wilke St., Marine on Saint Croix, in the county of Washington, effective March 10, 2010, for a term that expires on January 6, 2014.

(Referred to the Committee on Judiciary.)

Sincerely,  
Tim Pawlenty, Governor

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the adoption by the House of the following House Concurrent Resolution, herewith transmitted:

**House Concurrent Resolution No. 3:** A house concurrent resolution adopting deadlines for the 2010 regular session.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted March 8, 2010

Senator Pogemiller moved that House Concurrent Resolution No. 3 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 2253:** A bill for an act relating to capital improvements; repealing moratorium on demolition or removal of the Rock Island Bridge; repealing Laws 2009, chapter 93, article 1, section 45.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned March 8, 2010

## CONCURRENCE AND REPASSAGE

Senator Metzen moved that the Senate concur in the amendments by the House to S.F. No. 2253 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2253 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fobbe	Langseth	Pariseau	Sieben
Berglin	Foley	Latz	Parry	Skoe
Betzold	Frederickson	Limmer	Pogemiller	Skogen
Bonoff	Gerlach	Lourey	Prettner Solon	Sparks
Carlson	Gimse	Lynch	Rest	Stumpf
Chaudhary	Hann	Marty	Robling	Tomassoni
Clark	Higgins	Metzen	Rosen	Torres Ray
Cohen	Ingebrigtsen	Michel	Rummel	Vandever
Dahle	Johnson	Moua	Saltzman	Vickerman
Dibble	Jungbauer	Murphy	Saxhaug	Wiger
Dille	Koch	Olseen	Scheid	
Erickson Ropes	Koering	Olson, G.	Senjem	
Fischbach	Kubly	Olson, M.	Sheran	

So the bill, as amended, was repassed and its title was agreed to.

### MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 2918 and 3111.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted March 8, 2010

### FIRST READING OF HOUSE BILLS

The following bills were read the first time.

**H.F. No. 2918:** A bill for an act relating to food safety; authorizing certain beverage production in basements; directing the commissioner of agriculture to amend Minnesota Rules.

Referred to the Committee on State and Local Government Operations and Oversight.

**H.F. No. 3111:** A bill for an act relating to elections; requiring use of a ballot board to process absentee ballots; permitting absentee ballots to be counted starting on the fourth day prior to an election; modifying other absentee ballot processing procedures; amending Minnesota Statutes 2008, sections 201.061, subdivision 4; 203B.04, subdivision 1; 203B.05, subdivision 1; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3; 203B.125; 203B.23, subdivisions 1, 2; 203B.24, subdivision 1; 203B.26; 204B.45, subdivision 2; 204B.46, as amended; 204C.32, subdivision 1; 204C.33, subdivisions 1, 3; 205.065, subdivision 5; 205.185, subdivision 3; 205A.03, subdivision 4; 205A.10, subdivision 3; 206.89, subdivision 2; 208.05; proposing coding for new law in Minnesota Statutes, chapter 203B; repealing Minnesota Statutes 2008, sections 203B.10; 203B.12, subdivisions 1, 2, 3, 4, 6; 203B.13, subdivisions 1, 2, 3, 4; 203B.25.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2622, now on the Calendar.

### REPORTS OF COMMITTEES

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

#### **Senator Moua from the Committee on Judiciary, to which was re-referred**

**S.F. No. 2170:** A bill for an act relating to real property; providing for mediation prior to commencement of mortgage foreclosure proceedings on homestead property; creating a homestead-lender mediation account; amending Minnesota Statutes 2008, sections 580.021, as amended; 580.022, subdivision 1; 580.23, by adding a subdivision; 582.30, subdivision 2; Minnesota Statutes 2009 Supplement, sections 357.18, subdivision 1; 508.82, subdivision 1; 508A.82, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 583.

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

#### **Senator Moua from the Committee on Judiciary, to which was re-referred**

**S.F. No. 2726:** A bill for an act relating to labor and industry; modifying boiler provisions; amending and imposing civil and criminal penalties; amending Minnesota Statutes 2008, sections 326B.94, as amended; 326B.954; 326B.956; 326B.958; 326B.96; 326B.961, as added if enacted; 326B.964; 326B.966; 326B.97; 326B.98; 326B.986, subdivision 10; 326B.99; 326B.994, subdivision 3; 326B.998; Minnesota Statutes 2009 Supplement, sections 326B.972; 326B.986, subdivision 8; 326B.988; proposing coding for new law in Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2008, sections 326B.952; 326B.962; 326B.968; 326B.982; 326B.996; Minnesota Statutes 2009 Supplement, section 326B.986, subdivision 2; Minnesota Rules, parts 5225.1400; 5225.3100; 5225.3150; 5225.3200.

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

#### **Senator Moua from the Committee on Judiciary, to which was referred**

**S.F. No. 2636:** A bill for an act relating to public safety; authorizing a pilot project to allow judges to order electronic monitoring for domestic abuse offenders on pretrial release; amending Minnesota Statutes 2008, section 629.72, subdivision 2a.

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

Page 1, line 18, after the first comma, insert "defense attorneys,"

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

#### **Senator Moua from the Committee on Judiciary, to which was referred**

**S.F. No. 333:** A bill for an act relating to courts; eliminating the prerequisite of pretrial filing of a transcript for admission into evidence of law enforcement vehicle recordings; proposing coding for new law in Minnesota Statutes, chapter 634.

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

Page 1, line 15, delete "2009" and insert "2010"

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

**Senator Moua from the Committee on Judiciary, to which was referred**

**S.F. No. 2817:** A bill for an act relating to public safety; authorizing certain qualified persons with medical training or supervision to take blood samples from DWI offenders; providing legal immunity; amending Minnesota Statutes 2008, section 169A.51, subdivision 7.

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

Page 2, line 8, delete "or acting under"

Page 2, line 9, delete everything before the period

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

**Senator Moua from the Committee on Judiciary, to which was referred**

**S.F. No. 2602:** A bill for an act relating to eminent domain; providing for discharge of a portion of an easement acquired by condemnation; amending Minnesota Statutes 2008, section 117.225.

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

Page 1, line 11, strike "Provided,"

Page 1, line 12, strike "however,"

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

**Senator Moua from the Committee on Judiciary, to which was referred**

**S.F. No. 2715:** A bill for an act relating to public safety; providing an exception to the statutory cap on bail for certain nonfelony domestic abuse offenders; recodifying and clarifying the domestic abuse no contact order law; expanding the tampering with a witness crime; clarifying the requirement that the data communications network include orders for protection and no contact orders; imposing criminal penalties; amending Minnesota Statutes 2008, sections 299C.46, subdivision 6; 609.498, subdivision 2; 629.471, subdivision 3, by adding a subdivision; 629.72, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapter 629; repealing Minnesota Statutes 2008, section 518B.01, subdivision 22.

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

Delete everything after the enacting clause and insert:

"Section 1. [13.823] DOMESTIC ABUSE OR SEXUAL ATTACK PROGRAMS.

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

- (1) "domestic abuse" has the meaning given in section 518B.01, subdivision 2; and
- (2) "sexual attack" has the meaning given in section 611A.21, subdivision 2.

Subd. 2. **Provisions not applicable.** Except as otherwise provided in this subdivision, a program that provides shelter or support services to victims of domestic abuse or a sexual attack and whose employees or volunteers are not under the direct supervision of a government entity is not subject to this chapter, except that the program shall comply with sections 611A.32, subdivision 5, and 611A.371, subdivision 3.

Sec. 2. Minnesota Statutes 2008, section 299C.46, subdivision 6, is amended to read:

Subd. 6. **Orders for protection and no contact orders.** (a) As used in this subdivision, "no contact orders" include orders issued as pretrial orders under section 629.72, subdivision 2; orders under section 629.75; and orders issued as probationary or sentencing orders at the time of disposition in a criminal domestic abuse case.

(b) The data communications network must include orders for protection issued under section 518B.01 and no contact orders issued ~~under section 629.715, subdivision 4~~ against adults and juveniles. A no contact order must be accompanied by a photograph of the offender for the purpose of enforcement of the order, if a photograph is available and verified by the court to be an image of the defendant.

Sec. 3. Minnesota Statutes 2008, section 518B.01, subdivision 7, is amended to read:

Subd. 7. **Ex parte order.** (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte order for protection and granting relief as the court deems proper, including an order:

- (1) restraining the abusing party from committing acts of domestic abuse;
- (2) excluding any party from the dwelling they share or from the residence of the other, including a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order, except by further order of the court;
- (3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment;
- (4) ordering the abusing party to have no contact with the petitioner whether in person, by telephone, mail, e-mail, through electronic devices, or through a third party; and
- (5) continuing all currently available insurance coverage without change in coverage or beneficiary designation.

(b) A finding by the court that there is a basis for issuing an ex parte order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed period

set by the court, as provided in subdivision 6, paragraph (b), or until modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order becomes effective upon the referee's signature. Upon request, a hearing, as provided by this section, shall be set. Except as provided in paragraph (d), the respondent shall be personally served forthwith a copy of the ex parte order along with a copy of the petition and, if requested by the petitioner, notice of the date set for the hearing. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, must be accompanied by a form that can be used by the respondent to request a hearing and must include a conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

(d) Service of the ex parte order may be made by published notice, as provided under subdivision 5, provided that the petitioner files the affidavit required under that subdivision. If personal service is not made or the affidavit is not filed within 14 days of issuance of the ex parte order, the order expires. If the petitioner does not request a hearing, the petition mailed to the respondent's residence, if known, must be accompanied by the form for requesting a hearing and notice described in paragraph (c). Unless personal service is completed, if service by published notice is not completed within 28 days of issuance of the ex parte order, the order expires.

(e) If the petitioner seeks relief under subdivision 6 other than the relief described in paragraph (a), the petitioner must request a hearing to obtain the additional relief.

(f) Nothing in this subdivision affects the right of a party to seek modification of an order under subdivision 11.

Sec. 4. Minnesota Statutes 2008, section 609.498, is amended by adding a subdivision to read:

Subd. 2a. **Tampering with a witness in the third degree.** (a) Unless a greater penalty is applicable under subdivision 1, 1b, or 2, whoever does any of the following is guilty of tampering with a witness in the third degree and may be sentenced as provided in subdivision 3:

(1) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of intimidation, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law;

(2) by means of intimidation, intentionally influences or attempts to influence a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(3) intentionally prevents or dissuades or attempts to prevent or dissuade by means of intimidation, a person from providing information to law enforcement authorities concerning a crime; or

(4) by means of intimidation, intentionally influences or attempts to influence a person to provide false information concerning a crime to law enforcement authorities.

(b) In a prosecution under this subdivision, proof of intimidation may be based on a specific act or on the totality of the circumstances.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2008, section 609.498, subdivision 3, is amended to read:

Subd. 3. **Sentence.** (a) Whoever violates subdivision 2 may be sentenced to imprisonment for not more than one year or to payment of a fine not to exceed \$3,000 is guilty of a gross misdemeanor.

(b) Whoever violates subdivision 2a is guilty of a misdemeanor.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2008, section 609.749, is amended to read:

**609.749 HARASSMENT; STALKING; PENALTIES.**

Subdivision 1. **Definition.** As used in this section, "~~harass~~" "stalking" means to engage in ~~intentional~~ conduct which: ~~(1)~~ the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated; and ~~(2)~~ causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

Subd. 1a. **No proof of specific intent required.** In a prosecution under this section, the state is not required to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise provided in subdivision 3, paragraph (a), clause (4), or paragraph (b), that the actor intended to cause any other result.

Subd. 1b. **Venue.** (a) When acts constituting a violation of this section are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts in violation of this section.

(b) The conduct described in subdivision 2, clause (4), (5), or (8), may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B. The conduct described in subdivision 2, clause (2), may be prosecuted where the actor or victim resides. The conduct described in subdivision 2, clause (6), may be prosecuted where any letter, telegram, message, package, or other object is sent or received or, in the case of wireless or electronic communication or communication made through other available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B.

Subd. 1c. **Arrest.** For all violations under this section, except a violation of subdivision 2, clause (8), a peace officer may make an arrest under the provisions of section 629.34. A peace officer may not make a warrantless, custodial arrest of any person for a violation of subdivision 2, clause (8).

Subd. 2. **Harassment and Stalking crimes.** (a) A person who ~~harasses~~ stalks another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) ~~stalks,~~ follows, monitors, or pursues another, whether in person or through any available



technological or other means;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for the visually or hearing impaired, or any communication made through any available technologies or other objects; or

(7) engages in harassment as defined in section 609.748, subdivision 1, paragraph (a); or

(8) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

~~(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at the place where any call is either made or received or, additionally in the case of wireless or electronic communication, where the actor or victim resides. The conduct described in paragraph (a), clause (2), may be prosecuted where the actor or victim resides. The conduct described in paragraph (a), clause (6), may be prosecuted where any letter, telegram, message, package, or other object is either sent or received or, additionally in the case of wireless or electronic communication, where the actor or victim resides.~~

~~(c) A peace officer may not make a warrantless, custodial arrest of any person for a violation of paragraph (a), clause (7).~~

Subd. 3. **Aggravated violations.** (a) A person who commits any of the following acts is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both:

(1) commits any offense described in subdivision 2 because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;

(2) commits any offense described in subdivision 2 by falsely impersonating another;

(3) commits any offense described in subdivision 2 and possesses a dangerous weapon at the time of the offense;

(4) ~~harasses~~ stalks another, as defined in subdivision 1, with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(5) commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim.

(b) A person who commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Subd. 4. **Second or subsequent violations; felony.** (a) A person is guilty of a felony who violates any provision of subdivision 2 within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency, and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) A person is guilty of a felony who violates any provision of subdivision 2 within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency, and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Subd. 5. **Pattern of harassing stalking conduct.** (a) A person who engages in a pattern of harassing stalking conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) For purposes of this subdivision, a "pattern of harassing stalking conduct" means two or more acts within a five-year period that violate or attempt to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, ~~tribal lands~~ tribe, or United States territories:

- (1) this section;
- (2) sections 609.185 to 609.205 (first- to third-degree murder and first- and second-degree manslaughter);
- ~~(2)~~ (3) section 609.713 (terroristic threats);
- (4) section 609.221 (first-degree assault);
- (5) section 609.222 (second-degree assault);
- (6) section 609.223 (third-degree assault);
- ~~(3)~~ (7) section 609.224 (fifth-degree assault);
- ~~(4)~~ (8) section 609.2242 (domestic assault);
- (9) section 609.2247 (domestic assault by strangulation);
- ~~(5)~~ (10) section 518B.01, subdivision 14 (violations of domestic abuse orders for protection);
- ~~(6)~~ (11) section 609.748, subdivision 6 (violations of harassment restraining orders);
- ~~(7)~~ (12) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7) (certain trespass offenses);

- (13) section 609.78, subdivision 2 (interference with an emergency call);
- ~~(8)~~ (14) section 609.79 (obscene or harassing telephone calls);
- ~~(9)~~ (15) section 609.795 (letter, telegram, or package; opening; harassment);
- ~~(10)~~ (16) section 609.582 (burglary);
- ~~(11)~~ (17) section 609.595 (damage to property);
- ~~(12)~~ (18) section 609.765 (criminal defamation); or
- ~~(13)~~ (19) sections 609.342 to 609.3451 (first- to fifth-degree criminal sexual conduct); or
- (20) section 629.75, subdivision 2 (violations of domestic abuse no contact orders).

~~(c) When acts constituting a violation of this subdivision are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts constituting the pattern~~ Words set forth in parenthesis after references to statutory sections in paragraph (b) are mere catchwords included solely for convenience in reference. They are not substantive and may not be used to construe or limit the meaning of the cited statutory provision.

Subd. 6. **Mental health assessment and treatment.** (a) When a person is convicted of a felony offense under this section, or another felony offense arising out of a charge based on this section, the court shall order an independent professional mental health assessment of the offender's need for mental health treatment. The court may waive the assessment if an adequate assessment was conducted prior to the conviction.

(b) Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, or 260C.171, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

- (1) medical data under section 13.384;
- (2) welfare data under section 13.46;
- (3) corrections and detention data under section 13.85;
- (4) health records under sections 144.291 to 144.298; and
- (5) juvenile court records under sections 260B.171 and 260C.171.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

(c) If the assessment indicates that the offender is in need of and amenable to mental health treatment, the court shall include in the sentence a requirement that the offender undergo treatment.

(d) The court shall order the offender to pay the costs of assessment under this subdivision unless the offender is indigent under section 563.01.

Subd. 7. **Exception.** Conduct is not a crime under this section if it is performed under terms of a valid license, to ensure compliance with a court order, or to carry out a specific lawful commercial purpose or employment duty, is authorized or required by a valid contract, or is authorized,

required, or protected by state ~~or~~, federal, or tribal law or the state ~~or~~, federal, or tribal constitutions. Subdivision 2, clause (2), does not impair the right of any individual or group to engage in speech protected by the federal ~~Constitution~~, state, or tribal constitutions, ~~the state Constitution~~, or federal ~~or~~, state, or tribal law, including peaceful and lawful handbilling and picketing.

Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a ~~harassment or~~ stalking crime under this section and the court determines that the person used a firearm in any way during commission of the crime, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(b) Except as otherwise provided in paragraph (a), when a person is convicted of a stalking ~~or harassment~~ crime under this section, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of a stalking ~~or harassment~~ crime under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(d) If the court determines that a person convicted of a stalking ~~or harassment~~ crime under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2008, section 629.471, subdivision 3, is amended to read:

Subd. 3. **Six times fine.** For offenses under sections ~~518B.01, 609.224, 609.2242, and 609.377,~~ the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is six times the highest cash fine that may be imposed for the offense.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2008, section 629.471, is amended by adding a subdivision to read:

Subd. 3a. **Ten times fine.** For offenses under sections 518B.01 and 609.2242, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is ten times the highest cash fine that may be imposed for the offense.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2008, section 629.72, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.

(c) "Harassment" has the meaning given in section 609.749.

(d) "Violation of a domestic abuse no contact order" has the meaning given in section ~~518B.01, subdivision 22~~ 629.75.

(e) "Violation of an order for protection" has the meaning given in section 518B.01, subdivision 14.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2008, section 629.72, subdivision 2a, is amended to read:

Subd. 2a. **Electronic monitoring; condition of pretrial release.** (a) Until the commissioner of corrections has adopted standards governing electronic monitoring devices used to protect victims of domestic abuse, the court, as a condition of release, may not order a person arrested for a crime described in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring device to protect a victim's safety.

(b) Notwithstanding paragraph (a), ~~district courts in the Tenth~~ a judicial district may establish a pilot project to allow courts in the district to order, as a condition of a release, a person arrested on a charge of a crime described in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring device to protect the victim's safety. The chief judge of a judicial district conducting a pilot project under this paragraph shall convene an advisory group consisting of representatives from law enforcement, prosecutors, defense attorneys, court administrators, judges, and battered women's organizations. A judicial district must develop standards for the use of electronic monitoring devices to protect victims of domestic abuse and for evaluating the effectiveness of electronic monitoring. The courts judicial district shall make data on the use of electronic monitoring devices to protect a victim's safety in the Tenth Judicial District available to the commissioner of corrections to evaluate and to aid in development of standards for the use of devices to protect victims of domestic abuse. A district shall report information on the pilot project to the state court administrator's office as directed by that office. By January 15, 2013, the state court administrator shall report by electronic means to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy on the experience of any pilot projects established under this paragraph.

**SUNSET.** The amendments to this section expire on January 15, 2013.

Sec. 11. **[629.75] DOMESTIC ABUSE NO CONTACT ORDER.**

Subdivision 1. **Establishment; description.** (a) A domestic abuse no contact order is an order issued by a court against a defendant in a criminal proceeding or a juvenile offender in a delinquency proceeding for:

- (1) domestic abuse as defined in section 518B.01, subdivision 2;
- (2) harassment or stalking under section 609.749 when committed against a family or household member as defined in section 518B.01, subdivision 2;
- (3) violation of an order for protection under section 518B.01, subdivision 14; or
- (4) violation of a prior domestic abuse no contact order under this subdivision or section 518B.01, subdivision 22.

(b) A domestic abuse no contact order may be issued as a pretrial order before final disposition of the underlying criminal case or as a postconviction probationary order. A domestic abuse no contact order is independent of any condition of pretrial release or probation imposed on the defendant. A domestic abuse no contact order may be issued in addition to a similar restriction imposed as a condition of pretrial release or probation. In the context of a postconviction probationary order, a domestic abuse no contact order may be issued for an offense listed in paragraph (a) or for a conviction for any offense arising out of the same set of circumstances as an offense listed in paragraph (a).

(c) A no contact order under this section shall be issued in a proceeding that is separate from but held immediately following one in which any pretrial release or sentencing issues are decided.

**Subd. 2. Criminal penalties.** (a) As used in this subdivision "qualified domestic violence-related offense" has the meaning given in section 609.02, subdivision 16.

(b) A person who knows of the existence of a domestic abuse no contact order issued against the person and violates the order is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days' imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court as provided in section 518B.02. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person knowingly violates this subdivision: (1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; or (2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6. Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

**Subd. 3. Warrantless custodial arrest.** A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a domestic abuse no contact order, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in

custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this subdivision is immune from civil liability that might result from the officer's actions.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 12. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall replace references to Minnesota Statutes, section 518B.01, subdivision 22, in statutes and rules with a reference to Minnesota Statutes, section 629.75.

(b) The revisor of statutes shall make any cross-reference and technical language changes to Minnesota Statutes made necessary by section 6.

Sec. 13. **REPEALER.**

Minnesota Statutes 2008, section 518B.01, subdivision 22, is repealed.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to public safety; recodifying and clarifying the domestic abuse no contact order law; expanding the tampering with a witness crime; increasing the maximum bail for nonfelony domestic assault and domestic abuse order for protection violations; clarifying the requirement that the data communications network include orders for protection and no contact orders; exempting certain domestic abuse or sexual attack programs from data practices requirements; extending area for protection to a reasonable area around residence or dwelling in ex parte orders for protection; modifying crime of stalking; authorizing a pilot project to allow judges to order electronic monitoring for domestic abuse offenders on pretrial release; imposing criminal penalties; amending Minnesota Statutes 2008, sections 299C.46, subdivision 6; 518B.01, subdivision 7; 609.498, subdivision 3, by adding a subdivision; 609.749; 629.471, subdivision 3, by adding a subdivision; 629.72, subdivisions 1, 2a; proposing coding for new law in Minnesota Statutes, chapters 13; 629; repealing Minnesota Statutes 2008, section 518B.01, subdivision 22."

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

**Senator Moua from the Committee on Judiciary, to which was re-referred**

**S.F. No. 2741:** A bill for an act relating to public safety; modifying implied consent, driving while impaired, and ignition interlock provisions; amending Minnesota Statutes 2008, sections 169A.52, subdivisions 3, 4; 169A.54, subdivisions 2, 5; 169A.55, by adding a subdivision; 169A.60, subdivision 1; 171.09; 171.30, subdivisions 1, 2a, 4; 171.306, as amended; 609.131, subdivision 2; Minnesota Statutes 2009 Supplement, sections 169A.275, subdivision 7; 169A.54, subdivision 1; repealing Minnesota Statutes 2008, sections 169A.54, subdivision 11; 169A.55, subdivision 1; 171.30, subdivision 2c; 171.305, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11.

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

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**IMPLIED CONSENT MODIFICATIONS; IGNITION INTERLOCK PROVISIONS**

Section 1. Minnesota Statutes 2009 Supplement, section 169A.275, subdivision 7, is amended to read:

Subd. 7. **Exception.** ~~(a)~~ A judge is not required to sentence a person as provided in ~~this section subdivisions 1 to 4~~ if the judge requires the person as a condition of probation to drive only motor vehicles equipped with an ignition interlock device meeting the standards described in section 171.306.

~~(b) This subdivision expires July 1, 2011.~~

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 169A.52, subdivision 3, is amended to read:

Subd. 3. **Test refusal; license revocation.** (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and that the person refused to submit to a test, the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege, ~~for a period of one year~~ even if a test was obtained pursuant to this section after the person refused to submit to testing. The commissioner shall revoke the license, permit, or nonresident operating privilege:

(1) for a person with no qualified prior impaired driving incidents within the past ten years, for a period of one year;

(2) for a person under the age of 21 years and with no qualified prior impaired driving incidents within the past ten years, for a period of one year;

(3) for a person with one qualified prior impaired driving incident within the past ten years, or two qualified prior impaired driving incidents, for a period of not less than two years;

(4) for a person with two qualified prior impaired driving incidents within the past ten years, or three qualified prior impaired driving incidents, for a period of not less than three years;

(5) for a person with three qualified prior impaired driving incidents within the past ten years, for a period of not less than four years; or

(6) for a person with four or more qualified prior impaired driving incidents, for a period of not less than six years.

(b) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol in violation of section 169A.20 (driving while impaired), and that the person refused to submit to a test, the commissioner shall disqualify the person from operating a commercial motor vehicle and shall revoke the person's license or permit to drive or nonresident operating privilege according to the federal regulations adopted by reference in section 171.165, subdivision 2.



**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 169A.52, subdivision 4, is amended to read:

Subd. 4. **Test failure; license revocation.** (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired) and that the person submitted to a test and the test results indicate an alcohol concentration of 0.08 or more or the presence of a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:

(1) for a period of 90 days, or, if the test results indicate an alcohol concentration of 0.15 or more, not less than one year;

(2) if the person is under the age of 21 years, for a period of six months or, if the test results indicate an alcohol concentration of 0.15 or more, not less than one year;

(3) for a person with a one qualified prior impaired driving incident within the past ten years, or two qualified prior impaired driving incidents, for a period of 180 days not less than two years; or

(4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3); for a person with two qualified prior impaired driving incidents within the past ten years, or three qualified prior impaired driving incidents, for a period of not less than three years;

(5) for a person with three qualified prior impaired driving incidents within the past ten years, for a period of not less than four years; or

(6) for a person with four or more qualified prior impaired driving incidents, for a period of not less than six years.

(b) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the person from operating a commercial motor vehicle under section 171.165 (commercial driver's license disqualification).

(c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood or urine sample, the laboratory may directly certify to the commissioner the test results, and the peace officer shall certify to the commissioner that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 and that the person submitted to a test. Upon receipt of both certifications, the commissioner shall undertake the license actions described in paragraphs (a) and (b).

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 4. Minnesota Statutes 2009 Supplement, section 169A.54, subdivision 1, is amended to read:

Subdivision 1. **Revocation periods for DWI convictions.** Except as provided in subdivision 7,

the commissioner shall revoke the driver's license of a person convicted of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it, as follows:

(1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime); not less than 30 days;

(2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime); not less than 90 days;

(3) for an offense occurring within ten years of a qualified prior impaired driving incident; or occurring after two qualified prior impaired driving incidents,

~~(i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, not less than 180 days~~ two years and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70 (chemical use assessments); ~~or~~

~~(ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70;~~

(4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents; ~~or occurring after three qualified prior impaired driving incidents, not less than one year~~ three years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with according to standards established by the commissioner; ~~or~~

(5) for an offense occurring within ten years of the first of three ~~or more~~ qualified prior impaired driving incidents; ~~not less than two~~ four years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established ~~in accordance with~~ according to standards established by the commissioner; or

(6) for an offense occurring after four or more qualified prior impaired driving incidents, not less than six years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established according to standards established by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2008, section 169A.54, subdivision 2, is amended to read:

Subd. 2. **Driving while impaired by person under age 21.** If the person convicted of violating section 169A.20 (driving while impaired) is under the age of 21 years at the time of the violation, the commissioner shall revoke the offender's driver's license or operating privileges for a period of six months or for the appropriate period of time under subdivision 1, clauses (1) to ~~(5)~~ (6), for the offense committed, whichever is the greatest longer period.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 6. Minnesota Statutes 2008, section 169A.54, subdivision 5, is amended to read:

Subd. 5. **Violations involving alcohol concentration of 0.20 0.15 or more.** If the person has no qualified prior impaired driving incidents within the past ten years and is convicted of violating section 169A.20 (driving while impaired) while having an alcohol concentration of ~~0.20~~ 0.15 or

more as measured at the time, or within two hours of the time, of the offense, the commissioner shall revoke the person's driver's license for ~~twice the period of time otherwise provided for in this section~~ not less than one year.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 7. Minnesota Statutes 2008, section 169A.55, is amended by adding a subdivision to read:

**Subd. 4. Reinstatement of driving privileges; multiple incidents.** (a) A person whose driver's license has been canceled or denied as a result of three or more qualified impaired driving incidents shall not be eligible for reinstatement of driving privileges without an ignition interlock restriction until the person:

(1) has completed rehabilitation according to rules adopted by the commissioner or been granted a variance from the rules by the commissioner; and

(2) has submitted verification of abstinence from alcohol and controlled substances, as evidenced by the person's use of an ignition interlock device or other chemical monitoring device approved by the commissioner.

(b) The verification of abstinence must show that the person has abstained from the use of alcohol and controlled substances for a period of not less than:

(1) three years, for a person whose driver's license was canceled or denied for an offense occurring within ten years of the first of two qualified prior impaired driving incidents, or occurring after three qualified prior impaired driving incidents;

(2) four years, for a person whose driver's license was canceled or denied for an offense occurring within ten years of the first of three qualified prior impaired driving incidents; or

(3) six years, for a person whose driver's license was canceled or denied for an offense occurring after four or more qualified prior impaired driving incidents.

(c) The commissioner shall establish performance standards and a process for certifying chemical monitoring devices. The standards and procedures are not rules and are exempt from chapter 14, including section 14.386.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 8. Minnesota Statutes 2008, section 169A.60, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given in this subdivision.

(b) "Family or household member" has the meaning given in section 169A.63, subdivision 1.

(c) "Motor vehicle" means a self-propelled motor vehicle other than a motorboat in operation or an off-road recreational vehicle.

(d) "Plate impoundment violation" includes:

(1) a violation of section 169A.20 (driving while impaired) or 169A.52 (license revocation for test failure or refusal), or ~~a conforming~~ an ordinance from this state or a ~~conforming~~ statute or

ordinance from another state in conformity with either of those sections, that results in the revocation of a person's driver's license or driving privileges, within ten years of a qualified prior impaired driving incident;

(2) a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52 within ten years of a qualified prior impaired driving incident;

(3) a violation of section 169A.20 or 169A.52 while having an alcohol concentration of ~~0.20~~ 0.15 or more as measured at the time, or within two hours of the time, of the offense;

(4) a violation of section 169A.20 or 169A.52 while having a child under the age of 16 in the vehicle if the child is more than 36 months younger than the offender; ~~and~~ or

(5) a violation of section 171.24 (driving without valid license) by a person whose driver's license or driving privileges have been canceled or denied under section 171.04, subdivision 1, clause (10) (persons not eligible for driver's license, inimical to public safety).

(e) "Violator" means a person who was driving, operating, or in physical control of the motor vehicle when the plate impoundment violation occurred.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 9. Minnesota Statutes 2008, section 169A.63, is amended by adding a subdivision to read:

Subd. 12. **Exception.** This section does not apply if the driver who committed the designated offense or whose conduct resulted in the designated license revocation becomes a program participant in the ignition interlock program under section 171.306.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 10. Minnesota Statutes 2008, section 171.09, is amended to read:

**171.09 DRIVING RESTRICTIONS; AUTHORITY, VIOLATIONS.**

Subdivision 1. **Authority; violations.** (a) The commissioner, when good cause appears, may impose restrictions suitable to the licensee's driving ability or other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) Pursuant to Code of Federal Regulations, title 49, section 383.95, if an applicant for a commercial driver's license either does not successfully complete the air brake component of the knowledge test, or does not successfully complete the skills test in a vehicle equipped with air brakes as such tests are prescribed in Code of Federal Regulations, title 49, part 384, the department shall indicate on the class C, class B, or class A commercial driver's license, if issued, that the individual is restricted from operating a commercial motor vehicle equipped with air brakes.

(c) Upon receiving satisfactory evidence of any violation of the restrictions on the license, the commissioner may suspend or revoke the license. A license suspension under this section is subject to section 171.18, subdivisions 2 and 3.

(d) A person who drives, operates, or is in physical control of a motor vehicle while in violation

of the restrictions imposed in a restricted driver's license issued to that person under this section is guilty of a crime as follows:

(1) if the restriction relates to the possession or consumption of alcohol or controlled substances, the person is guilty of a gross misdemeanor; or

(2) if the restriction relates to another matter, the person is guilty of a misdemeanor.

(e) It is a misdemeanor for a person who holds a restricted license issued under section 171.306 to drive, operate, or be in physical control of any motor vehicle that is not equipped with a functioning ignition interlock device certified by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 11. Minnesota Statutes 2008, section 171.30, subdivision 1, is amended to read:

Subdivision 1. **Conditions of issuance.** (a) In any case where a person's license has been suspended under section 171.18, 171.173, or 171.186~~;~~ or revoked under section 169.792~~;~~ 169.797~~;~~ 169A.52, ~~169A.54,~~ subdivision 3, paragraph (a), clause (1), (2), (4), (5), or (6), or subdivision 4, paragraph (a), clause (1) or (2), if the test results indicate an alcohol concentration of less than 0.15, (4), (5), or (6); 171.17~~;~~ or 171.172~~;~~ or revoked, canceled, or denied under section 169A.54, subdivision 1, clause (1), (2), (4), (5), or (6), or subdivision 2 if the person does not have a qualified prior impaired driving incident as defined in section 169A.03, subdivision 22, on the person's record, the commissioner may issue a limited license to the driver including under the following conditions:

(1) if the driver's livelihood or attendance at a chemical dependency treatment or counseling program depends upon the use of the driver's license;

(2) if the use of a driver's license by a homemaker is necessary to prevent the substantial disruption of the education, medical, or nutritional needs of the family of the homemaker; or

(3) if attendance at a postsecondary institution of education by an enrolled student of that institution depends upon the use of the driver's license.

(b) The commissioner in issuing a limited license may impose such conditions and limitations as in the commissioner's judgment are necessary to the interests of the public safety and welfare including reexamination as to the driver's qualifications. The license may be limited to the operation of particular vehicles, to particular classes and times of operation, and to particular conditions of traffic. The commissioner may require that an applicant for a limited license affirmatively demonstrate that use of public transportation or carpooling as an alternative to a limited license would be a significant hardship.

(c) For purposes of this subdivision, "homemaker" refers to the person primarily performing the domestic tasks in a household of residents consisting of at least the person and the person's dependent child or other dependents.

(d) The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under the limited license shall have the license in possession at all times when operating as a driver.

(e) In determining whether to issue a limited license, the commissioner shall consider the number

and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

(f) If the person's driver's license or permit to drive has been revoked under section 169.792 or 169.797, the commissioner may only issue a limited license to the person after the person has presented an insurance identification card, policy, or written statement indicating that the driver or owner has insurance coverage satisfactory to the commissioner of public safety. The commissioner of public safety may require the insurance identification card provided to satisfy this subdivision be certified by the insurance company to be noncancelable for a period not to exceed 12 months.

(g) The limited license issued by the commissioner to a person under section 171.186, subdivision 4, must expire 90 days after the date it is issued. The commissioner must not issue a limited license to a person who previously has been issued a limited license under section 171.186, subdivision 4.

(h) The commissioner shall not issue a limited driver's license to any person described in section 171.04, subdivision 1, clause (6), (7), (8), ~~(10)~~, (11), or (14).

(i) The commissioner shall not issue a class A, class B, or class C limited license.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 12. Minnesota Statutes 2008, section 171.30, subdivision 2a, is amended to read:

Subd. 2a. **Other waiting periods.** Notwithstanding subdivision 2, a limited license shall not be issued for a period of:

(1) 15 days, to a person whose license or privilege has been revoked or suspended for a violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; or

~~(2) 90 days, to a person who submitted to testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections;~~

~~(3) 180 days, to a person who refused testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of sections 169A.20, 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; or~~

~~(4) (2) one year, to a person whose license or privilege has been revoked or suspended for committing manslaughter resulting from the operation of a motor vehicle, committing criminal vehicular homicide or injury under section 609.21, or violating a statute or ordinance from another state in conformity with either of those offenses.~~

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 13. Minnesota Statutes 2008, section 171.30, subdivision 4, is amended to read:

Subd. 4. **Penalty.** A person who violates a condition or limitation of a limited license issued under subdivision 1 or fails to have the license in immediate possession at all times when operating

a motor vehicle is guilty of a misdemeanor. In addition, except as otherwise provided in the ignition interlock program under section 171.306, a person who violates a condition or limitation of a limited license may not operate a motor vehicle for the remainder of the period of suspension or revocation, or 30 days, whichever is longer.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 14. Minnesota Statutes 2008, section 171.306, as amended by Laws 2009, chapter 29, sections 2 and 3, is amended to read:

**171.306 IGNITION INTERLOCK DEVICE PILOT PROJECT PROGRAM.**

Subdivision 1. ~~Pilot project established; reports~~ **Definitions.** ~~The commissioner shall conduct a statewide two-year ignition interlock device pilot project as provided in this section. The pilot project must begin on July 1, 2009, and continue until June 30, 2011. The commissioner shall submit a preliminary report by September 30, 2010, and a final report by September 30, 2011, to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding. The reports must evaluate the successes and failures of the pilot project, provide information on participation rates, and make recommendations on continuing the project.~~ (a) As used in this section, the terms in this subdivision have the meanings given them.

(b) "Ignition interlock device" or "device" means equipment that is designed to measure breath alcohol concentration and to prevent a motor vehicle's ignition from being started by a person whose breath alcohol concentration measures 0.02 or higher on the equipment.

(c) "Program participant" means a person whose driver's license has been revoked, canceled, or denied under section 169A.52 or 169A.54, and who has qualified to take part in the ignition interlock program under this section.

(d) "Qualified prior impaired driving incident" has the meaning given in section 169A.03, subdivision 22.

Subd. 2. **Performance standards; certification.** ~~The commissioner shall determine appropriate establish performance standards and a certification process for ignition interlock certifying devices for used in the pilot project. Only devices certified by the commissioner as meeting the performance standards may be used in the pilot project.~~ ignition interlock program. The manufacturer of a device must apply annually for certification of the device by submitting the form prescribed by the commissioner. The commissioner shall require manufacturers of certified devices to provide device installation, servicing, and monitoring to indigent program participants at a discounted rate, according to the standards established by the commissioner.

Subd. 3. ~~Pilot project components~~ **Program requirements.** (a) ~~Under the pilot project, the commissioner shall issue a driver's license to an individual whose driver's license has been revoked under chapter 169A for an impaired driving incident if the person qualifies under this section and agrees to all of the conditions of the project. The commissioner shall establish guidelines for participation in the ignition interlock program. A person who seeks to participate in the program shall sign a written acknowledgment that the person has received, reviewed, and agreed to abide by the program guidelines.~~

(b) ~~The commissioner must denote the person's driver's license~~ enter a notation on a person's

driving record to indicate that the person's participation in the person is a program participant. The license must authorize the person to drive only vehicles having functioning ignition interlock devices conforming with the requirements of subdivision 2.

(c) Notwithstanding any statute or rule to the contrary, the commissioner has authority to and shall determine the appropriate period for which a person participating in the ignition interlock pilot program shall be subject to this program, and when the person is eligible to be issued: A person under the age of 18 years is not eligible to be a program participant.

(1) a limited driver's license subject to the ignition interlock restriction;

(2) full driving privileges subject to the ignition interlock restriction; and

(3) a driver's license without an ignition interlock restriction.

(d) A program participant shall pay costs associated with an ignition interlock device on every motor vehicle that the participant operates or intends to operate.

(e) A person participating in this pilot project program participant shall agree to participate in any treatment recommended by in a chemical use assessment report.

(e) The commissioner shall determine guidelines for participation in the project. A person participating in the project shall sign a written agreement accepting these guidelines and agreeing to comply with them.

(f) It is a misdemeanor for a person who is licensed under this section for driving a vehicle equipped with an ignition interlock device to drive, operate, or be in physical control of a motor vehicle other than a vehicle properly equipped with an A program participant shall bring the device-equipped motor vehicle or vehicles operated by the program participant to an approved service provider for device calibration and servicing according to the schedule established by the commissioner and as indicated by the ignition interlock device.

Subd. 4. **Issuance of restricted license.** (a) The commissioner shall issue a class D driver's license, subject to the applicable limitations and restrictions of this section, to a program participant who meets the requirements of this section and the program guidelines. The commissioner shall not issue a license unless the program participant has provided satisfactory proof that a certified ignition interlock device has been installed on the participant's motor vehicle at an installation service center designated by the device's manufacturer. A license issued under authority of this section must contain a restriction prohibiting the program participant from driving, operating, or being in physical control of any motor vehicle not equipped with a functioning ignition interlock device certified by the commissioner. A participant may drive an employer-owned vehicle not equipped with an interlock device while in the normal course and scope of employment duties pursuant to the program guidelines established by the commissioner and with the employer's written consent.

(b) A program participant whose driver's license has been revoked under section 169A.52, subdivision 3, paragraph (a), clause (1), (2), or (3), or subdivision 4, paragraph (a), clause (1), (2), or (3), or section 169A.54, subdivision 1, clause (1), (2), or (3), may apply for conditional reinstatement of the driver's license, subject to the ignition interlock restriction.

(c) A program participant whose driver's license has been revoked, canceled, or denied under



section 169A.52, subdivision 3, paragraph (a), clause (4), (5), or (6), or subdivision 4, paragraph (a), clause (4), (5), or (6), or section 169A.54, subdivision 1, clause (4), (5), or (6), may apply for a limited license, subject to the ignition interlock restriction, if the program participant is enrolled in a licensed chemical dependency treatment or rehabilitation program as recommended in a chemical use assessment, and if the participant meets the other applicable requirements of section 171.30. After completing a licensed chemical dependency treatment or rehabilitation program and one year of limited license use without violating the ignition interlock restriction, the conditions of limited license use, or program guidelines, the participant may apply for conditional reinstatement of the driver's license, subject to the ignition interlock restriction. If the program participant's ignition interlock device subsequently registers a positive breath alcohol concentration of 0.02 or higher, the commissioner shall cancel the driver's license, and the program participant may apply for another limited license according to this paragraph.

(d) Notwithstanding any statute or rule to the contrary, the commissioner has authority to determine when a program participant is eligible for restoration of full driving privileges, except that the commissioner shall not reinstate full driving privileges until the program participant has met all applicable prerequisites for reinstatement under section 169A.55 and until the program participant's device has registered no positive breath alcohol concentrations of 0.02 or higher during the preceding 90 days.

Subd. 5. **Penalties; program violations.** (a) If a program participant tampers with, circumvents, or bypasses a device; drives, operates, or exercises physical control over a motor vehicle not equipped with a device certified by the commissioner; violates a condition of a limited license issued under subdivision 4 and section 171.30; or violates the program guidelines of subdivision 2, the commissioner shall extend the person's revocation period under section 169A.52 or 169A.54 by:

- (1) 180 days for a first violation;
- (2) one year for a second violation; or
- (3) 545 days for a third and each subsequent violation.

(b) Notwithstanding paragraph (a), the commissioner may terminate participation in the program by any person when, in the commissioner's judgment, termination is necessary to the interests of public safety and welfare. In the event of termination, the commissioner shall not reduce the applicable revocation period under section 169A.52 or 169A.54 by the amount of time during which the person possessed a limited or restricted driver's license issued under the authority of subdivision 4.

Subd. 6. **Penalties; tampering.** (a) A person who knowingly lends, rents, or leases a motor vehicle that is not equipped with a functioning ignition interlock device certified by the commissioner to a person with a license issued under this section is guilty of a misdemeanor.

(b) A person who tampers with, circumvents, or bypasses the ignition interlock device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a misdemeanor.

(c) The penalties of this subdivision do not apply if the action was taken for emergency purposes or for mechanical repair, and the person limited to the use of an ignition interlock device does not operate the motor vehicle while the device is disengaged.

Subd. 7. **Rulemaking.** In establishing the performance standards and certification process of subdivision 1 and the program guidelines of subdivision 2, the commissioner is exempt from chapter 14, including section 14.386. If rules are otherwise necessary to implement this section, the commissioner may adopt, amend, and repeal rules using the exempt procedures of section 14.386, except that paragraph (b) shall not apply.

**EFFECTIVE DATE.** Subdivisions 1 to 6 are effective July 1, 2011. Subdivision 7 is effective August 1, 2010.

Sec. 15. Minnesota Statutes 2008, section 609.131, subdivision 2, is amended to read:

Subd. 2. **Certain violations excepted.** Subdivision 1 does not apply to a misdemeanor violation of section 169A.20; 171.09, subdivision 1, paragraph (e); 171.306, subdivision 6; 609.224; 609.2242; 609.226; 609.324, subdivision 3; 609.52; or 617.23, or an ordinance that conforms in substantial part to any of those sections. A violation described in this subdivision must be treated as a misdemeanor unless the defendant consents to the certification of the violation as a petty misdemeanor.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 16. **RULEMAKING.**

The commissioner may adopt, amend, or repeal rules as needed to administer Minnesota Statutes, section 169A.55, subdivision 4, using the exempt procedures of Minnesota Statutes, section 14.386, except that paragraph (b) shall not apply.

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 17. **REPEALER.**

Minnesota Statutes 2008, sections 169A.54, subdivision 11; 169A.55, subdivision 1; 171.30, subdivision 2c; and 171.305, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, and 11, are repealed effective July 1, 2011.

## ARTICLE 2

### PROHIBITION ON THE USE OF DWI DRIVER'S LICENSE REVOCATIONS TO ENHANCE DWI PENALTIES

Section 1. Minnesota Statutes 2008, section 169A.03, subdivision 3, is amended to read:

Subd. 3. **Aggravating factor.** "Aggravating factor" includes:

(1) a ~~qualified~~ prior impaired driving ~~incident~~ conviction within the ten years immediately preceding the current offense;

(2) having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense; or

(3) having a child under the age of 16 in the motor vehicle at the time of the offense if the child is more than 36 months younger than the offender.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed

on or after that date.

Sec. 2. Minnesota Statutes 2008, section 169A.095, is amended to read:

**169A.095 DETERMINING NUMBER OF AGGRAVATING FACTORS.**

When determining the number of aggravating factors present for purposes of this chapter, subject to section 169A.09 (sanctions for prior behavior to be based on separate courses of conduct), each qualified prior impaired driving ~~incident~~ conviction within the ten years immediately preceding the current offense is counted as a separate aggravating factor.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2008, section 169A.24, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** A person who violates section 169A.20 (driving while impaired) is guilty of first-degree driving while impaired if the person:

(1) commits the violation within ten years of the first of three or more qualified prior impaired driving ~~incidents~~ convictions;

(2) has previously been convicted of a felony under this section; or

(3) has previously been convicted of a felony under section 609.21, subdivision 1, clause (2), (3), (4), (5), or (6).

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2008, section 169A.275, subdivision 1, is amended to read:

Subdivision 1. **Second offense.** (a) The court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of a qualified prior impaired driving ~~incident~~ conviction to either:

(1) a minimum of 30 days of incarceration, at least 48 hours of which must be served in a local correctional facility; or

(2) eight hours of community work service for each day less than 30 days that the person is ordered to serve in a local correctional facility.

Notwithstanding section 609.135 (stay of imposition or execution of sentence), the penalties in this paragraph must be executed, unless the court departs from the mandatory minimum sentence under paragraph (b) or (c).

(b) Prior to sentencing, the prosecutor may file a motion to have a defendant described in paragraph (a) sentenced without regard to the mandatory minimum sentence established by that paragraph. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the prosecutor's motion and if it finds that substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum sentence established by paragraph (a).

(c) The court may, on its own motion, sentence a defendant described in paragraph (a) without regard to the mandatory minimum sentence established by that paragraph if it finds that substantial mitigating factors exist and if its sentencing departure is accompanied by a statement on the record of the reasons for it. The court also may sentence the defendant without regard to the mandatory minimum sentence established by paragraph (a) if the defendant is sentenced to probation and ordered to participate in a program established under section 169A.74 (pilot programs of intensive probation for repeat DWI offenders).

(d) When any portion of the sentence required by paragraph (a) is not executed, the court should impose a sentence that is proportional to the extent of the offender's prior criminal and moving traffic violation record. Any sentence required under paragraph (a) must include a mandatory sentence that is not subject to suspension or a stay of imposition or execution, and that includes incarceration for not less than 48 hours or at least 80 hours of community work service.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2008, section 169A.275, subdivision 2, is amended to read:

Subd. 2. **Third offense.** (a) The court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of the first of two ~~qualified~~ prior impaired driving ~~incidents~~ convictions to either:

(1) a minimum of 90 days of incarceration, at least 30 days of which must be served consecutively in a local correctional facility; or

(2) a program of intensive supervision of the type described in section 169A.74 (pilot programs of intensive probation for repeat DWI offenders) that requires the person to consecutively serve at least six days in a local correctional facility.

(b) The court may order that the person serve not more than 60 days of the minimum penalty under paragraph (a), clause (1), on home detention or in an intensive probation program described in section 169A.74.

(c) Notwithstanding section 609.135, the penalties in this subdivision must be imposed and executed.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2008, section 169A.275, subdivision 3, is amended to read:

Subd. 3. **Fourth offense.** (a) Unless the court commits the person to the custody of the commissioner of corrections as provided in section 169A.276 (mandatory penalties; felony violations), the court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of the first of three ~~qualified~~ prior impaired driving ~~incidents~~ convictions to either:

(1) a minimum of 180 days of incarceration, at least 30 days of which must be served consecutively in a local correctional facility;

(2) a program of intensive supervision of the type described in section 169A.74 (pilot programs

of intensive probation for repeat DWI offenders) that requires the person to consecutively serve at least six days in a local correctional facility; or

(3) a program of staggered sentencing involving a minimum of 180 days of incarceration, at least 30 days of which must be served consecutively in a local correctional facility.

(b) The court may order that the person serve not more than 150 days of the minimum penalty under paragraph (a), clause (1), on home detention or in an intensive probation program described in section 169A.74. Notwithstanding section 609.135, the penalties in this subdivision must be imposed and executed.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2008, section 169A.275, subdivision 4, is amended to read:

Subd. 4. **Fifth offense or more.** (a) Unless the court commits the person to the custody of the commissioner of corrections as provided in section 169A.276 (mandatory penalties; felony violations), the court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of the first of four or more qualified prior impaired driving ~~incidents~~ convictions to either:

(1) a minimum of one year of incarceration, at least 60 days of which must be served consecutively in a local correctional facility;

(2) a program of intensive supervision of the type described in section 169A.74 (pilot programs of intensive probation for repeat DWI offenders) that requires the person to consecutively serve at least six days in a local correctional facility; or

(3) a program of staggered sentencing involving a minimum of one year of incarceration, at least 60 days of which must be served consecutively in a local correctional facility.

(b) The court may order that the person serve the remainder of the minimum penalty under paragraph (a), clause (1), on intensive probation using an electronic monitoring system or, if such a system is unavailable, on home detention. Notwithstanding section 609.135, the penalties in this subdivision must be imposed and executed.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2008, section 169A.275, subdivision 5, is amended to read:

Subd. 5. **Level of care recommended in chemical use assessment.** Unless the court commits the person to the custody of the commissioner of corrections as provided in section 169A.276 (mandatory penalties; felony violations), in addition to other penalties required under this section, the court shall order a person to submit to the level of care recommended in the chemical use assessment conducted under section 169A.70 (alcohol safety program; chemical use assessments) if the person is convicted of violating section 169A.20 (driving while impaired) while having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense or if the violation occurs within ten years of one or more qualified prior impaired driving ~~incidents~~ convictions.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2008, section 169A.28, subdivision 1, is amended to read:

Subdivision 1. **Mandatory consecutive sentences.** (a) The court shall impose consecutive sentences when it sentences a person for:

(1) violations of section 169A.20 (driving while impaired) arising out of separate courses of conduct;

(2) a violation of section 169A.20 when the person, at the time of sentencing, is on probation for, or serving, an executed sentence for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty), and the prior sentence involved a separate course of conduct; or

(3) a violation of section 169A.20 and another offense arising out of a single course of conduct that is listed in subdivision 2, paragraph (e), when the person has five or more ~~qualified~~ prior impaired driving ~~incidents~~ convictions within the past ten years.

(b) The requirement for consecutive sentencing in paragraph (a) does not apply if the person is being sentenced to an executed prison term for a violation of section 169A.20 (driving while impaired) under circumstances described in section 169A.24 (first-degree driving while impaired).

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2008, section 169A.31, subdivision 2, is amended to read:

Subd. 2. **Gross misdemeanor alcohol-related school bus or Head Start bus driving.** A person who violates subdivision 1 is guilty of gross misdemeanor alcohol-related school bus or Head Start bus driving if:

(1) the violation occurs while a child under the age of 16 is in the vehicle, if the child is more than 36 months younger than the violator; or

(2) the violation occurs within ten years of a ~~qualified~~ prior impaired driving ~~incident~~ conviction.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2008, section 169A.44, subdivision 2, is amended to read:

Subd. 2. **Felony violations.** (a) A person charged with violating section 169A.20 within ten years of the first of three or more ~~qualified~~ prior impaired driving ~~incidents~~ convictions may be released from detention only if the following conditions are imposed:

(1) the conditions described in subdivision 1, paragraph (b), if applicable;

(2) the impoundment of the registration plates of the vehicle used to commit the violation, unless already impounded;

(3) if the vehicle used to commit the violation was an off-road recreational vehicle or a motorboat, the impoundment of the off-road recreational vehicle or motorboat;

(4) a requirement that the person report weekly to a probation agent;

(5) a requirement that the person abstain from consumption of alcohol and controlled substances and submit to random alcohol tests or urine analyses at least weekly;

(6) a requirement that, if convicted, the person reimburse the court or county for the total cost of these services; and

(7) any other conditions of release ordered by the court.

(b) In addition to setting forth conditions of release under paragraph (a), if required by court rule, the court shall also fix the amount of money bail without other conditions upon which the defendant may obtain release.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2008, section 169A.63, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them.

(b) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense or to require a test under section 169A.51 (chemical tests for intoxication).

(c) "Claimant" means an owner of a motor vehicle or a person claiming a leasehold or security interest in a motor vehicle.

~~(d) "Designated license revocation" includes a license revocation under section 169A.52 (license revocation for test failure or refusal) or a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52; within ten years of the first of two or more qualified prior impaired driving incidents.~~

~~(e)~~ (d) "Designated offense" includes:

(1) a violation of section 169A.20 (driving while impaired) under the circumstances described in section 169A.24 (first-degree driving while impaired), or 169A.25 (second-degree driving while impaired); or

(2) a violation of section 169A.20 or an ordinance in conformity with it:

(i) by a person whose driver's license or driving privileges have been canceled as inimical to public safety under section 171.04, subdivision 1, clause (10), and not reinstated; or

(ii) by a person who is subject to a restriction on the person's driver's license under section 171.09 (commissioner's license restrictions), which provides that the person may not use or consume any amount of alcohol or a controlled substance.

~~(f)~~ (e) "Family or household member" means:

(1) a parent, stepparent, or guardian;

(2) any of the following persons related by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

(3) persons residing together or persons who regularly associate and communicate with one another outside of a workplace setting.

~~(g)~~ (f) "Motor vehicle" and "vehicle" do not include a vehicle which is stolen or taken in violation of the law.

~~(h)~~ (g) "Owner" means a person legally entitled to possession, use, and control of a motor vehicle, including a lessee of a motor vehicle if the lease agreement has a term of 180 days or more. There is a rebuttable presumption that a person registered as the owner of a motor vehicle according to the records of the Department of Public Safety is the legal owner. For purposes of this section, if a motor vehicle is owned jointly by two or more people, each owner's interest extends to the whole of the vehicle and is not subject to apportionment.

~~(i)~~ (h) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred who is responsible for prosecuting violations of a designated offense or a designee. If a state agency initiated the forfeiture, and the attorney responsible for prosecuting the designated offense declines to pursue forfeiture, the Attorney General's Office or its designee may initiate forfeiture under this section.

~~(j)~~ (i) "Security interest" means a bona fide security interest perfected according to section 168A.17, subdivision 2, based on a loan or other financing that, if a vehicle is required to be registered under chapter 168, is listed on the vehicle's title.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2008, section 169A.63, subdivision 3, is amended to read:

Subd. 3. **Right to possession vests immediately; custody.** All right, title, and interest in a vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense ~~or designated license revocation~~ giving rise to the forfeiture. Any vehicle seized under this section is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When a vehicle is seized under this section, the appropriate agency may:

(1) place the vehicle under seal;

(2) remove the vehicle to a place designated by it;

(3) place a disabling device on the vehicle; and

(4) take other steps reasonable and necessary to secure the vehicle and prevent waste.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.



Sec. 14. Minnesota Statutes 2008, section 169A.63, subdivision 5, is amended to read:

Subd. 5. **Evidence.** Certified copies of court records and motor vehicle and driver's license records concerning ~~qualified~~ prior impaired driving ~~incidents~~ convictions are admissible as substantive evidence where necessary to prove the commission of a designated offense ~~or the occurrence of a designated license revocation.~~

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2008, section 169A.63, subdivision 6, is amended to read:

Subd. 6. **Vehicle subject to forfeiture.** (a) A motor vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense ~~or was used in conduct resulting in a designated license revocation.~~

(b) Motorboats subject to seizure and forfeiture under this section also include their trailers.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2008, section 169A.63, subdivision 7, is amended to read:

Subd. 7. **Limitations on vehicle forfeiture.** (a) A vehicle is presumed subject to forfeiture under this section if:

(1) the driver is convicted of the designated offense upon which the forfeiture is based; or

(2) the driver fails to appear for a scheduled court appearance with respect to the designated offense charged and fails to voluntarily surrender within 48 hours after the time required for appearance; ~~or~~

~~(3) the driver's conduct results in a designated license revocation and the driver fails to seek judicial review of the revocation in a timely manner as required by section 169A.53, subdivision 2, (petition for judicial review), or the license revocation is judicially reviewed and sustained under section 169A.53, subdivision 2.~~

(b) A vehicle encumbered by a security interest perfected according to section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with the provisions of section 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds. The validity and amount of a nonperfected security interest must be established by its holder by clear and convincing evidence.

(c) Notwithstanding paragraph (b), the secured party's or lessor's interest in a vehicle is not subject to forfeiture based solely on the secured party's or lessor's knowledge of the act or omission upon which the forfeiture is based if the secured party or lessor demonstrates by clear and convincing evidence that the party or lessor took reasonable steps to terminate use of the vehicle by the offender.

(d) A motor vehicle is not subject to forfeiture under this section if its owner can demonstrate by clear and convincing evidence that the owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the owner took reasonable steps to prevent use of the vehicle by the offender. If the offender is a family or household member of the owner and has three or more prior impaired driving convictions, the owner is presumed to know of any vehicle use by the offender that is contrary to law. "Vehicle use contrary to law" includes, but is not limited to, violations of the following statutes:

- (1) section 171.24 (violations; driving without valid license);
- (2) section 169.791 (criminal penalty for failure to produce proof of insurance);
- (3) section 171.09 (driving restrictions; authority, violations);
- (4) section 169A.20 (driving while impaired);
- (5) section 169A.33 (underage drinking and driving); and
- (6) section 169A.35 (open bottle law).

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2008, section 169A.63, subdivision 8, is amended to read:

Subd. 8. **Administrative forfeiture procedure.** (a) A motor vehicle used to commit a designated offense ~~or used in conduct resulting in a designated license revocation~~ is subject to administrative forfeiture under this subdivision.

(b) When a motor vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

- (1) a description of the vehicle seized;
- (2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY

AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 169A.63, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture and the appropriate agency that initiated the forfeiture, including the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated the forfeiture, within 30 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The prosecuting authority may appear for the appropriate agency. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted as provided under subdivision 9.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2008, section 169A.63, subdivision 9, is amended to read:

**Subd. 9. Judicial forfeiture procedure.** (a) This subdivision governs judicial determinations of the forfeiture of a motor vehicle used to commit a designated offense ~~or used in conduct resulting in a designated license revocation~~. An action for forfeiture is a civil in rem action and is independent of any criminal prosecution. All proceedings are governed by the Rules of Civil Procedure.

(b) If no demand for judicial determination of the forfeiture is pending, the prosecuting authority may, in the name of the jurisdiction pursuing the forfeiture, file a separate complaint against the

vehicle, describing it, specifying that it was used in the commission of a designated offense ~~or was used in conduct resulting in a designated license revocation~~, and specifying the time and place of its unlawful use.

(c) The prosecuting authority may file an answer to a properly served demand for judicial determination, including an affirmative counterclaim for forfeiture. The prosecuting authority is not required to file an answer.

(d) A judicial determination under this subdivision must not precede adjudication in the criminal prosecution of the designated offense without the consent of the prosecuting authority. The district court administrator shall schedule the hearing as soon as practicable after adjudication in the criminal prosecution. The district court administrator shall establish procedures to ensure efficient compliance with this subdivision. The hearing is to the court without a jury.

(e) There is a presumption that a vehicle seized under this section is subject to forfeiture if the prosecuting authority establishes that the vehicle was used in the commission of a designated offense ~~or designated license revocation~~. A claimant bears the burden of proving any affirmative defense raised.

(f) If the forfeiture is based on the commission of a designated offense and the person charged with the designated offense appears in court as required and is not convicted of the offense, the court shall order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of section 169A.42. ~~If the forfeiture is based on a designated license revocation, and the license revocation is rescinded under section 169A.53, subdivision 3 (judicial review hearing, issues, order, appeal), the court shall order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of section 169A.42.~~

(g) If the lawful ownership of the vehicle used in the commission of a designated offense ~~or used in conduct resulting in a designated license revocation~~ can be determined and the owner makes the demonstration required under subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's compliance with the redemption requirements of section 169A.42.

(h) If the court orders the return of a seized vehicle under this subdivision it must order that filing fees be reimbursed to the person who filed the demand for judicial determination. In addition, the court may order sanctions under section 549.211 (sanctions in civil actions). Any reimbursement fees or sanctions must be paid from other forfeiture proceeds of the law enforcement agency and prosecuting authority involved and in the same proportion as distributed under subdivision 10, paragraph (b).

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2009 Supplement, section 609.035, subdivision 2, is amended to read:

Subd. 2. **Consecutive sentences.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive

sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), and (f).

(b) When a person is being sentenced for a violation of section 171.09, 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

(c) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135.

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169A.03 within the past ten years:

(1) section 169A.20, subdivision 1, 1a, 1b, or 1c, driving while impaired;

(2) section 169A.20, subdivision 2, test refusal;

(3) section 169.791, failure to provide proof of insurance;

(4) section 169.797, failure to provide vehicle insurance;

(5) section 171.09, violation of condition of restricted license;

(6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;

(7) section 171.24, driving without valid license; and

(8) section 171.30, violation of condition of limited license.

(f) When a court is sentencing an offender for a violation of section 169A.20 and a violation of an offense listed in paragraph (e), and the offender has five or more ~~qualified~~ prior impaired driving ~~incidents~~ convictions, as defined in section 169A.03, within the past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

**EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to public safety; modifying implied consent, driving while impaired, and ignition interlock provisions; providing that prior DWI driver's license revocations no longer enhance criminal penalties or trigger or accelerate DWI vehicle forfeitures; amending Minnesota Statutes 2008, sections 169A.03, subdivision 3; 169A.095; 169A.24, subdivision 1; 169A.275, subdivisions 1, 2, 3, 4, 5; 169A.28, subdivision 1; 169A.31, subdivision 2; 169A.44, subdivision 2; 169A.52, subdivisions 3, 4; 169A.54, subdivisions 2, 5; 169A.55, by adding a subdivision;

169A.60, subdivision 1; 169A.63, subdivisions 1, 3, 5, 6, 7, 8, 9, by adding a subdivision; 171.09; 171.30, subdivisions 1, 2a, 4; 171.306, as amended; 609.131, subdivision 2; Minnesota Statutes 2009 Supplement, sections 169A.275, subdivision 7; 169A.54, subdivision 1; 609.035, subdivision 2; repealing Minnesota Statutes 2008, sections 169A.54, subdivision 11; 169A.55, subdivision 1; 171.30, subdivision 2c; 171.305, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11."

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred**

**S.F. No. 2941:** A bill for an act relating to youth development; authorizing county and state fair surcharges; authorizing municipalities to raise and spend money on 4-H; requiring a University of Minnesota Extension Service policy; amending Minnesota Statutes 2008, section 37.13, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 38.

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

Page 1, line 14, after "including" insert ", to the extent possible,"

Page 1, line 15, after the period, insert "If funds collected under this subdivision are not sufficient to provide at least one halftime 4-H educator in each county, the Board of Regents shall distribute available funds equitably to county 4-H programs as matching grants to provide halftime 4-H educators."

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred**

**S.F. No. 2590:** A bill for an act relating to local government; providing for securities lending agreements and holding of municipal funds; amending Minnesota Statutes 2008, sections 118A.05, subdivision 3; 118A.06.

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

**Senator Marty from the Committee on Health, Housing and Family Security, to which was referred**

**S.F. No. 2700:** A bill for an act relating to health; regulating participating provider agreements between health plan companies and health care providers; amending Minnesota Statutes 2008, sections 62Q.735, by adding subdivisions; 62Q.75, subdivision 3, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62Q.

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 2008, section 62Q.735, is amended by adding a subdivision to

read:

Subd. 4. **Contract amendment and renewal provisions.** (a) A health plan company shall not require a provider to provide notice of intention to terminate its contract before communicating with the provider regarding contract or renewals. A health plan company shall not communicate with members until final termination notice is received from the provider, consistent with the requirements described in section 62D.08, subdivision 5.

(b) A health plan company shall not preclude a nonnetwork provider from subsequent network participation solely as a result of the provider having terminated its participation in accordance with the terms of its contract.

**EFFECTIVE DATE.** This section is effective January 1, 2011, and applies to contracts entered into, renewed, or amended on or after that date.

Sec. 2. Minnesota Statutes 2008, section 62Q.735, is amended by adding a subdivision to read:

Subd. 5. **Fee schedules.** A health plan company shall provide, upon request, any additional fees relevant to the particular provider's practice beyond those provided with the renewal documents for the next contract year to all participating providers, excluding claims paid under the pharmacy benefit. Health plan companies may fulfill the requirements of this section by making the full fee schedules available through a secure Web portal for contracted providers.

**EFFECTIVE DATE.** This section is effective January 1, 2011, and applies to contracts entered into, renewed, or amended on or after that date.

Sec. 3. Minnesota Statutes 2008, section 62Q.735, is amended by adding a subdivision to read:

Subd. 6. **Reimbursement tiering methodologies.** Where health plan company reimbursement is related to tiering of providers, the health plan company shall provide all providers with prior communications explaining in detail the methodology used to calculate tier ranking including, but not limited to, cost and quality measurements and constructive feedback processes.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to contracts entered into, renewed, or amended on or after that date.

Sec. 4. Minnesota Statutes 2008, section 62Q.75, subdivision 3, is amended to read:

Subd. 3. **Claims filing.** Unless otherwise provided by contract, for a longer period by section 16A.124, subdivision 4a, or by federal law, the health care providers and facilities specified in subdivision 2 must submit their charges to a health plan company or third-party administrator within six months from the date of service or the date the health care provider knew or was informed of the correct name and address of the responsible health plan company or third-party administrator, whichever is later. A health care provider or facility that does not make an initial submission of charges within the six-month period shall not be reimbursed for the charge and may not collect the charge from the recipient of the service or any other payer. The six-month submission requirement may be extended to 12 months in cases where a health care provider or facility specified in subdivision 2 has determined and can substantiate that it has experienced a significant disruption to normal operations that materially affects the ability to conduct business in a normal manner and to submit claims on a timely basis. This subdivision also applies to all health care providers and facilities that submit charges to workers' compensation payers for treatment

of a workers' compensation injury compensable under chapter 176, or to reparation obligors for treatment of an injury compensable under chapter 65B.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to contracts entered into, renewed, or amended on or after that date.

Sec. 5. Minnesota Statutes 2008, section 62Q.75, is amended by adding a subdivision to read:

**Subd. 4. Claims adjustment; by mutual agreement only; deadline on adjustments.** (a) A health plan company may implement a claims adjustment, elimination of a pending claim, settlement, and payment recoupment only with the mutual agreement of the health plan company and the provider. No contract or other agreement between a health plan company and a provider shall include any provision waiving or avoiding this mutual agreement requirement.

(b) Once a clean claim, as defined in subdivision 1, has been paid, the contract must provide a six-month deadline on all adjustments to and recoupments of the payment.

(c) Paragraphs (a) and (b) shall not apply to pharmacy contracts entered into between or on behalf of health plan companies.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to contracts entered into, renewed, or amended on or after that date.

**Sec. 6. [62Q.751] COLLECTION OF CO-PAYMENTS, DEDUCTIBLES, AND ESTIMATED PAYMENTS FROM PATIENTS.**

A health plan company shall permit providers to collect co-payments, deductibles, and coinsurance from patients at or prior to the time of service. Overpayments by patients to providers must be returned to the patient by the provider in the same form in which it was collected within 30 days of the date in which the claim adjudication is received by the provider.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to contracts entered into, renewed, or amended on or after that date."

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

**Senator Marty from the Committee on Health, Housing and Family Security, to which was referred**

**S.F. No. 2908:** A bill for an act relating to human services; making changes to the State-County Results, Accountability, and Service Delivery Redesign Act; amending Minnesota Statutes 2009 Supplement, sections 402A.01; 402A.10, subdivision 5; 402A.15; 402A.18; 402A.20; proposing coding for new law in Minnesota Statutes, chapter 402A; repealing Minnesota Statutes 2009 Supplement, sections 402A.30; 402A.45.

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

Page 7, delete subdivision 3

Page 9, line 2, delete "section 402A.30" and insert "this section"



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

**Senator Pogemiller, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2729** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2729	2400				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Pogemiller, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2856** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
				2856	2512

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Pogemiller, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2706** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
				2706	2252

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No.

2706 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2706, the first engrossment; and insert the language after the enacting clause of S.F. No. 2252, the first engrossment; further, delete the title of H.F. No. 2706, the first engrossment; and insert the title of S.F. No. 2252, the first engrossment.

And when so amended H.F. No. 2706 will be identical to S.F. No. 2252, and further recommends that H.F. No. 2706 be given its second reading and substituted for S.F. No. 2252, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

### **SECOND READING OF SENATE BILLS**

S.F. Nos. 2726, 333, 2817, 2602, 2715 and 2590 were read the second time.

### **SECOND READING OF HOUSE BILLS**

H.F. Nos. 2729, 2856 and 2706 were read the second time.

### **INTRODUCTION AND FIRST READING OF SENATE BILLS**

The following bills were read the first time.

#### **Senator Scheid introduced–**

**S.F. No. 3116:** A bill for an act relating to public safety; authorizing the collection of DNA from offenders; amending Minnesota Statutes 2008, section 609.117, by adding a subdivision.

Referred to the Committee on Judiciary.

#### **Senator Erickson Ropes introduced–**

**S.F. No. 3117:** A bill for an act relating to property taxation; extending the time for surviving spouses to receive the disabled veteran homestead market value exclusion; amending Minnesota Statutes 2008, section 273.13, subdivision 34.

Referred to the Committee on Taxes.

#### **Senators Erickson Ropes and Olseen introduced–**

**S.F. No. 3118:** A bill for an act relating to taxation; providing for continuation of Green Acres treatment after certain transfers; amending Minnesota Statutes 2009 Supplement, section 273.111, subdivision 3a.

Referred to the Committee on Taxes.

**Senators Rummel and Olson, G. introduced–**

**S.F. No. 3119:** A bill for an act relating to early childhood education; modifying the membership and duties of the State Advisory Council on Early Childhood Education and Care; amending Minnesota Statutes 2008, section 124D.141, subdivisions 1, 2.

Referred to the Committee on Education.

**Senator Murphy introduced–**

**S.F. No. 3120:** A bill for an act relating to health; regulating dental laboratories; proposing coding for new law as Minnesota Statutes, chapter 150B.

Referred to the Committee on Health, Housing and Family Security.

**Senator Murphy introduced–**

**S.F. No. 3121:** A bill for an act relating to transportation; providing for date of authorization of certain trunk highway bonds; amending Laws 2008, chapter 152, article 2, section 3, subdivision 2.

Referred to the Committee on Finance.

**Senator Olson, G. introduced–**

**S.F. No. 3122:** A bill for an act relating to drivers' licenses; requiring certain persons operating vehicle under instruction permit to display "student driver" sticker or magnet; amending Minnesota Statutes 2008, section 171.06, subdivision 2; Minnesota Statutes 2009 Supplement, section 171.05, subdivision 2b.

Referred to the Committee on Transportation.

**Senator Carlson introduced–**

**S.F. No. 3123:** A bill for an act relating to employment; modifying benefit account requirements for unemployment benefits; amending Minnesota Statutes 2009 Supplement, section 268.07, subdivision 2.

Referred to the Committee on Business, Industry and Jobs.

**Senator Skoe introduced–**

**S.F. No. 3124:** A bill for an act relating to energy; expanding small city energy efficiency grant program to include commercial buildings; amending Laws 2009, chapter 138, article 2, section 4.

Referred to the Committee on Energy, Utilities, Technology and Communications.

**Senator Skoe introduced–**

**S.F. No. 3125:** A bill for an act relating to building code requirements; modifying electrical requirements for agricultural buildings; amending Minnesota Statutes 2008, section 326B.106,

subdivision 4.

Referred to the Committee on Business, Industry and Jobs.

**Senator Skogen introduced—**

**S.F. No. 3126:** A bill for an act relating to energy; allowing for advance determination of prudence determination by Public Utilities Commission for certain environmental projects of a public utility; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Energy, Utilities, Technology and Communications.

**Senator Skogen introduced—**

**S.F. No. 3127:** A bill for an act relating to environment; delaying local ordinance adoption requirements regarding subsurface sewage treatment systems and modifying certain advisory committee requirements; amending Minnesota Statutes 2009 Supplement, section 115.55, subdivisions 3, 12.

Referred to the Committee on Environment and Natural Resources.

**Senator Kelash introduced—**

**S.F. No. 3128:** A bill for an act relating to residential construction; amending the State Building Code; modifying licensing requirements; amending Minnesota Statutes 2008, sections 326B.106, by adding a subdivision; 326B.805, by adding a subdivision.

Referred to the Committee on Business, Industry and Jobs.

**Senator Skogen introduced—**

**S.F. No. 3129:** A bill for an act relating to agriculture; requiring tree care and tree trimming company registration; regulating certain sale and distribution of firewood; amending Minnesota Statutes 2008, sections 18G.07; 239.092; 239.093.

Referred to the Committee on Agriculture and Veterans.

**Senator Vandever introduced—**

**S.F. No. 3130:** A bill for an act relating to lawful gambling; modifying term of license; amending Minnesota Statutes 2009 Supplement, section 349.16, subdivision 3.

Referred to the Committee on State and Local Government Operations and Oversight.

**Senator Clark introduced—**

**S.F. No. 3131:** A bill for an act relating to early childhood education; modifying the duties of the State Advisory Council on Early Childhood Education and Care; amending Minnesota Statutes 2008, section 124D.141, subdivision 2.

Referred to the Committee on Education.

**Senators Bakk, Skoe, Senjem and Rest introduced—**

**S.F. No. 3132:** A bill for an act relating to taxation; property; airflight property levy; amending Minnesota Statutes 2008, section 270.075, subdivision 1.

Referred to the Committee on Taxes.

**Senator Rummel introduced—**

**S.F. No. 3133:** A bill for an act relating to the environment; prohibiting the use and sale of certain coal tar products; providing civil penalties; proposing coding for new law in Minnesota Statutes, chapter 116; repealing Minnesota Statutes 2009 Supplement, section 116.201.

Referred to the Committee on Environment and Natural Resources.

**Senator Betzold, by request, introduced—**

**S.F. No. 3134:** A bill for an act relating to state government; appropriating money or making reductions to certain state government programs or activities; changing provisions for expenses of governor-elect, income earned by the permanent school fund, lease-purchase agreements, general services, resource recovery, payment of aids and credits to school districts, tax return preparers, and implied consent; imposing fees; amending Minnesota Statutes 2008, sections 4.51; 11A.16, subdivision 5; 16B.04, subdivision 2; 16B.48, subdivision 2; 79.34, subdivision 1; 115A.15, subdivision 6; 127A.46; 169A.52, subdivision 6; 169A.53; 169A.60, subdivision 10; Minnesota Statutes 2009 Supplement, sections 16A.82; 270C.145; 289A.08, subdivision 16; Laws 2009, chapter 101, article 1, section 31; proposing coding for new law in Minnesota Statutes, chapter 357.

Referred to the Committee on Finance.

**Senator Skogen introduced—**

**S.F. No. 3135:** A bill for an act relating to health; modifying definitions for lodging establishments; amending Minnesota Statutes 2008, section 157.15, subdivision 8; repealing Minnesota Statutes 2008, section 157.15, subdivisions 7, 11.

Referred to the Committee on Health, Housing and Family Security.

**Senators Ortman, Hann and Michel introduced—**

**S.F. No. 3136:** A bill for an act relating to civil actions; limiting private remedies for violations of certain unlawful business practices statutes; amending Minnesota Statutes 2008, section 8.31, subdivision 3a, by adding a subdivision.

Referred to the Committee on Judiciary.

**Senator Tomassoni introduced–**

**S.F. No. 3137:** A bill for an act relating to workforce development; clarifying duties and responsibilities; modifying unemployment insurance; amending Minnesota Statutes 2008, sections 116L.665, subdivision 3; 136F.06, by adding a subdivision; 268.095, as amended; Minnesota Statutes 2009 Supplement, section 268.105, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 116L; 268.

Referred to the Committee on Business, Industry and Jobs.

**Senators Rummel, Anderson and Chaudhary introduced–**

**S.F. No. 3138:** A bill for an act relating to water; establishing a metropolitan area groundwater monitoring account and fee; appropriating money; amending Minnesota Statutes 2009 Supplement, section 103G.271, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 103G.

Referred to the Committee on Environment and Natural Resources.

**Senator Skogen introduced–**

**S.F. No. 3139:** A bill for an act relating to state government; requiring the state chief information officer to establish a centralized statewide electronic permitting system; imposing a surcharge; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16E.

Referred to the Committee on State and Local Government Operations and Oversight.

**Senators Rosen, Frederickson and Anderson introduced–**

**S.F. No. 3140:** A bill for an act relating to natural resources; requiring a person to drain water from watercraft before transportation on public roads; modifying civil penalties; amending Minnesota Statutes 2008, sections 84D.10, by adding a subdivision; 84D.13, subdivision 5.

Referred to the Committee on Environment and Natural Resources.

**Senator Hann introduced–**

**S.F. No. 3141:** A bill for an act relating to veterans; extending period of eligibility for the surviving spouse of an eligible disabled veteran under the homestead market value exemption program; amending Minnesota Statutes 2008, section 273.13, subdivision 34.

Referred to the Committee on Taxes.

**Senator Hann introduced–**

**S.F. No. 3142:** A bill for an act relating to veterans; providing courts the option for stay of adjudication for military members and veterans diagnosed as suffering from a qualifying psychological injury or condition; proposing coding for new law in Minnesota Statutes, chapter 609.

Referred to the Committee on Judiciary.

**Senator Hann introduced—**

**S.F. No. 3143:** A bill for an act relating to human services; changing mental health diagnostic assessment payments into a three-tier budget-neutral rate structure for medical assistance reimbursement; amending Minnesota Statutes 2008, section 256B.761.

Referred to the Committee on Health, Housing and Family Security.

**Senators Dibble, Cohen, Marty, Pappas and Anderson introduced—**

**S.F. No. 3144:** A bill for an act relating to transportation; establishing skyway access requirements for stations on the Central Corridor light rail transit line.

Referred to the Committee on Transportation.

**Senators Pappas, Higgins and Latz introduced—**

**S.F. No. 3145:** A bill for an act relating to public safety; mandating measurement of the actual weight of controlled substance residue for determining severity of controlled substance offenses; amending Minnesota Statutes 2008, section 152.01, subdivision 9a.

Referred to the Committee on Judiciary.

**Senators Prettner Solon, Rosen, Lourey and Sheran introduced—**

**S.F. No. 3146:** A bill for an act relating to health; adjusting pharmacy reimbursement rates; amending Minnesota Statutes 2009 Supplement, section 256B.0625, subdivision 13e.

Referred to the Committee on Finance.

## MOTIONS AND RESOLUTIONS

Senator Tomassoni moved that the name of Senator Sieben be added as a co-author to S.F. No. 1162. The motion prevailed.

Senator Saxhaug moved that the name of Senator Wiger be added as a co-author to S.F. No. 2494. The motion prevailed.

Senator Clark moved that the name of Senator Erickson Ropes be added as a co-author to S.F. No. 2822. The motion prevailed.

Senator Clark moved that the name of Senator Erickson Ropes be added as a co-author to S.F. No. 2861. The motion prevailed.

Senator Moua moved that her name be stricken as chief author, shown as a co-author, and the name of Senator Pappas be shown as chief author to S.F. No. 3031. The motion prevailed.

Senator Michel moved that the name of Senator Rest be added as a co-author to S.F. No. 3058.

The motion prevailed.

Senator Sheran moved that the name of Senator Rest be added as a co-author to S.F. No. 3073. The motion prevailed.

Senator Prettner Solon moved that the name of Senator Sheran be added as a co-author to S.F. No. 3081. The motion prevailed.

Senator Lynch moved that the name of Senator Pappas be added as a co-author to S.F. No. 3088. The motion prevailed.

Senator Robling moved that the name of Senator Rest be added as a co-author to S.F. No. 3096. The motion prevailed.

Senator Higgins moved that the name of Senator Rest be added as a co-author to S.F. No. 3097. The motion prevailed.

Senator Marty moved that the name of Senator Torres Ray be added as a co-author to S.F. No. 3099. The motion prevailed.

Senator Kubly moved that the names of Senators Olson, M. and Koering be added as co-authors to S.F. No. 3103. The motion prevailed.

Senator Scheid moved that the name of Senator Rest be added as a co-author to S.F. No. 3111. The motion prevailed.

Senator Prettner Solon moved that S.F. No. 3082 be withdrawn from the Committee on Energy, Utilities, Technology and Communications and re-referred to the Committee on Finance. The motion prevailed.

**Senators Chaudhary, Ingebrigtsen, Pariseau and Skogen introduced –**

**Senate Resolution No. 155:** A Senate resolution designating October 2, 2010, as "Harvey K. Nelson Day."

Referred to the Committee on Rules and Administration.

Senator Dibble moved that S.F. No. 3055 be withdrawn from the Committee on Health, Housing and Family Security and re-referred to the Committee on Taxes. The motion prevailed.

Senator Pogemiller moved that House Concurrent Resolution No. 3 be taken from the table. The motion prevailed.

**House Concurrent Resolution No. 3:** A house concurrent resolution adopting deadlines for the 2010 regular session.

BE IT RESOLVED, by the House of Representatives of the State of Minnesota, the Senate concurring:

In accordance with Joint Rule 2.03, as modified by this resolution, the deadlines in this resolution apply to the 2010 regular session.

(1) The first deadline, Friday, March 12, 2010, at 11:59 p.m., is for committees to act favorably



on bills in the house of origin.

(2) The second deadline, Friday, March 19, 2010, at 11:59 p.m., is for committees to act favorably on bills, or companions of bills, that met the first deadline in the other house.

(3) The third deadline, Monday, March 29, 2010, at 5:00 p.m., is for divisions of the House of Representatives and Senate Committees on Finance to act favorably on omnibus appropriation bills.

When a committee in either house acts favorably on a bill after a deadline established in this resolution, the bill must be referred in the House of Representatives to the Committee on Rules and Legislative Administration or in the Senate to the Committee on Rules and Administration for disposition. Either rules committee, when reporting a bill referred to the committee in accordance with Joint Rule 2.03 and this resolution, may waive the application of the rule and resolution to subsequent actions on that bill by other committees.

Senator Pogemiller moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Senator Langseth moved that H.F. No. 2700 be taken from the table. The motion prevailed.

**H.F. No. 2700:** A bill for an act relating to capital improvements; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature with certain conditions; establishing new programs and modifying existing programs; authorizing the sale and issuance of state bonds; cancelling and modifying previous appropriations; appropriating money; amending Minnesota Statutes 2008, sections 16A.105; 16A.501; 16A.66, subdivision 2; 103F.161, subdivisions 1, 3; 103F.515, by adding a subdivision; 116J.435, as amended; 174.50, subdivisions 6, 7; 256E.37, subdivisions 1, 2; Minnesota Statutes 2009 Supplement, sections 16A.647, subdivisions 1, 5; 16A.86, subdivision 3a; Laws 2005, chapter 20, article 1, sections 19, subdivision 4; 23, subdivision 12, as amended; Laws 2006, chapter 258, sections 5, subdivision 3; 8, subdivision 4; 17, subdivision 5; 21, subdivision 14, as amended; Laws 2008, chapter 152, article 2, section 3, subdivision 2; Laws 2008, chapter 179, sections 5, subdivision 4; 7, subdivisions 8, 27; 21, subdivision 9; Laws 2008, chapter 365, sections 4, subdivision 3; 5, subdivision 2; 24, subdivision 2; 25; Laws 2009, chapter 93, article 1, sections 11, subdivision 5; 20; proposing coding for new law in Minnesota Statutes, chapters 16A; 16B; repealing Laws 2009, chapter 93, article 1, section 45.

Senator Langseth moved that the recommendations and Conference Committee Report on H.F. No. 2700 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the General Orders Calendar. The motion prevailed.

### GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Frederickson in the chair.

After some time spent therein, the committee arose, and Senator Frederickson reported that the committee had considered the following:

**S.F. No. 2388**, which the committee recommends to pass, subject to the following motions:

Senator Sieben moved to amend S.F. No. 2388 as follows:

Page 2, after line 29, insert:

"Sec. 3. Minnesota Statutes 2008, section 201.11, is amended to read:

**201.11 PRECINCT BOUNDARIES; HOUSE NUMBER; STREET ADDRESS CHANGED, CHANGE OF FILES.**

Subdivision 1. **Precinct boundaries changed.** When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the statewide voter registration system to accurately reflect those changes.

Subd. 2. **House number or street address changed.** If a municipality administratively changes the number or name of a street address of an existing residence, the municipal clerk shall promptly notify the county auditor and the county auditor shall immediately update the voter records of registered voters in the statewide voter registration system to accurately reflect that change. A municipality must not make a change to the number or name of a street address of an existing residence effective during the 45 days prior to any election in a jurisdiction that includes the affected residence."

Page 4, delete lines 1 to 3 and insert:

"**EFFECTIVE DATE.** This section is effective June 1, 2011."

Page 6, delete lines 7 to 9 and insert "Subdivision 3 is effective June 1, 2011. The remainder of this section is effective August 1, 2010."

Page 6, delete lines 24 to 26 and insert:

"**EFFECTIVE DATE.** This section is effective June 1, 2011."

Page 6, line 29, strike "monthly" and insert "regularly"

Page 6, line 32, strike "during the month preceding the date of the" and insert "since the last"

Page 7, line 14, strike "monthly" and insert "regularly"

Page 7, line 25, strike "monthly" and insert "regularly"

Page 8, line 22, after "statewide" insert "voter"

Page 8, after line 26, insert:

"The secretary of state must make the required determinations and provide the required lists to the county auditors at least monthly."

Page 8, delete lines 27 to 32

Page 8, line 33, delete "certification" and insert "statewide voter registration system being programmed to generate lists as required by this section"

Page 9, delete lines 16 and 17

Page 9, after line 18, insert:

"Sec. 13. Minnesota Statutes 2008, section 201.171, is amended to read:

**201.171 POSTING VOTING HISTORY; FAILURE TO VOTE; REGISTRATION REMOVED.**

Within six weeks after every election, the county auditor shall post the voting history for every person who voted in the election. After the close of the calendar year, the secretary of state shall determine if any registrants have not voted during the preceding four years. The secretary of state shall perform list maintenance by changing the status of those registrants to "inactive" in the statewide registration system. The list maintenance performed must be conducted in a manner that ensures that the name of each registered voter appears in the official list of eligible voters in the statewide registration system. A voter must not be removed from the official list of eligible voters unless the voter is not eligible or is not registered to vote. List maintenance must include procedures for eliminating duplicate names from the official list of eligible voters.

The secretary of state shall also prepare a report to the county auditor containing the names of all registrants whose status was changed to "inactive."

Registrants whose status was changed to "inactive" must register in the manner specified in section 201.054 before voting in any primary, special primary, general, school district, or special election, as required by section 201.018.

Although not counted in an election, a late or rejected absentee or mail ballot must be considered a vote for the purpose of continuing registration under this section, but is not considered voting history for the purpose of public information lists available under section 201.191, subdivision 4."

Page 20, line 1, before the semicolon, insert ", which must equal the total number of ballots cast in the precinct, as required by sections 204C.20 and 206.86, subdivision 1"

Page 25, after line 26, insert:

"Sec. 49. Minnesota Statutes 2008, section 204D.17, is amended to read:

**204D.17 ~~REPRESENTATIVE IN CONGRESS;~~ STATE SENATOR; STATE REPRESENTATIVE; VACANCY IN OFFICE; SPECIAL ELECTION.**

Subdivision 1. **Special elections; exceptions.** A vacancy in the office of ~~representative in Congress~~ or state senator or state representative shall be filled for the unexpired term by special election upon the writ of the governor as provided in sections 204D.17 to 204D.27; except that if ~~Congress~~ or the legislature will not be in session before the expiration of the vacant term no special election is required.

Subd. 2. **Two or more vacancies.** Two or more vacancies may be filled at the same special election and the candidates may be nominated at the same special primary. Any special primary or special election held pursuant to sections 204D.17 to 204D.27 may be held on the same day as any other election.

Sec. 50. Minnesota Statutes 2008, section 204D.19, subdivision 1, is amended to read:

Subdivision 1. **Vacancy filled at general election.** When a vacancy occurs more than 150 days

before the next state general election, and ~~the Congress or~~ the legislature will not be in session before the final canvass of the state general election returns, the vacancy shall be filled at the next state general election.

Sec. 51. Minnesota Statutes 2008, section 204D.19, subdivision 2, is amended to read:

Subd. 2. **Special election when ~~Congress or~~ the legislature will be in session.** Except for vacancies in the legislature which occur at any time between the last day of session in an odd-numbered year and the 40th day prior to the opening day of session in the succeeding even-numbered year, when a vacancy occurs and the ~~Congress or~~ legislature will be in session so that the individual elected as provided by this section could take office and exercise the duties of the office immediately upon election, the governor shall issue within five days after the vacancy occurs a writ calling for a special election. The special election shall be held as soon as possible, consistent with the notice requirements of section 204D.22, subdivision 3, but in no event more than 35 days after the issuance of the writ.

Sec. 52. Minnesota Statutes 2008, section 204D.19, subdivision 3, is amended to read:

Subd. 3. **Special election at other times.** When a vacancy occurs at a time other than those described in subdivisions 1 and 2 the governor shall issue a writ, calling for a special election to be held so that the individual elected may take office at the opening of the next session of ~~the Congress or~~ of the legislature, or at the reconvening of a session of ~~the Congress or~~ of the legislature."

Page 25, after line 32, insert:

"Sec. 54. **[204D.29] REPRESENTATIVE IN CONGRESS VACANCY.**

**Subdivision 1. Scope; definition.** (a) A vacancy in the office of representative in Congress must be filled as specified in this section.

(b) "Vacancy," as used in this section, means a vacancy in the office of representative in Congress.

**Subd. 2. Vacancy 27 weeks or more before state primary.** (a) If a vacancy occurs 27 weeks or more before the state primary, the governor must issue a writ within three days of the vacancy for a special election for that office to be held between 20 and 24 weeks of the vacancy, but not fewer than 47 days before a state primary. A special primary must be held 11 weeks before the special election or on the second Tuesday in August if the general election is held on the first Tuesday after the first Monday in November if any major party has more than one candidate after the time for withdrawal has expired.

(b) The filing period for a special election under this subdivision must end on or before the 131st day before the special election. Minor party and independent candidates must submit their petitions by the last day for filing and signatures on the petitions must be dated from the date of the vacancy through the last day for filing. There must be a one-day period for withdrawal of candidates after the last day for filing.

**Subd. 3. Vacancy more than 22 weeks but fewer than 27 weeks before state primary.** (a) If a vacancy occurs more than 22 weeks but fewer than 27 weeks before the state primary, the governor must issue a writ within three days of the vacancy for a special election for that office to be held on the day of the state primary with a special primary held 11 weeks before the state primary, if any major party has more than one candidate after the time for withdrawal has expired. The regularly

scheduled election to fill the next full term shall proceed pursuant to law.

(b) The filing period for a special election under this subdivision must end on or before the 147th day before the state primary. Minor party and independent candidates must submit their petitions by the last day for filing and signatures on the petitions must be dated from the date of the vacancy through the last day for filing. There must be a one-day period for withdrawal of candidates after the last day for filing. Candidates for a special election under this subdivision are not subject to the prohibition in section 204B.06 against having more than one affidavit of candidacy on file for the same election.

(c) The winner of a special election on the day of the state primary under this subdivision shall serve the remainder of the vacant term and is eligible to be seated in Congress upon issuance of the certificate of election. The winner of the regularly scheduled term for that office at the general election shall take office on the day new members of Congress take office.

Subd. 4. **Vacancy 22 or fewer weeks before state primary but before general election day.** (a) If a vacancy occurs from 22 weeks before the state primary to the day before the general election, no special election will be held. The winner of the general election for the next full term for that office will serve the remainder of the unexpired term and is eligible to be seated in Congress immediately upon issuance of a certificate of election.

(b) If the incumbent filed an affidavit of candidacy for reelection as the candidate of a major political party and was nominated for the general election ballot by that party and a vacancy occurs from the day of the state primary until the date of the general election, there is a vacancy in nomination to be resolved pursuant to section 204B.13.

Subd. 5. **Vacancy on or after election day and before the day new members of Congress take office.** (a) If a vacancy occurs between the day of the general election and the day new members of Congress take office and the incumbent was not the winner of the general election, the winner of the general election for the next full term for that office is eligible to be seated in Congress immediately upon issuance of a certificate of election or the vacancy, whichever occurs last.

(b) If a vacancy occurs on or after election day but before the day new members of Congress take office and the incumbent was the winner of the general election, the vacancy must be filled pursuant to subdivision 2.

Sec. 55. Minnesota Statutes 2008, section 205.065, subdivision 1, as amended by Laws 2010, chapter 184, section 26, is amended to read:

Subdivision 1. **Establishing primary.** A municipal primary for the purpose of nominating elective officers may be held in any city on the second Tuesday in August of any year in which a municipal general election is to be held for the purpose of electing officers. The date of a municipal primary held in an odd-numbered year may be postponed for inclement weather as provided in section 205.105."

Sec. 56. Minnesota Statutes 2008, section 205.07, subdivision 1, is amended to read:

Subdivision 1. **Date of election.** The municipal general election in each city shall be held on the first Tuesday after the first Monday in November in every even-numbered year. Notwithstanding any provision of law to the contrary and subject to the provisions of this section, the governing body of a city may, by ordinance passed at a regular meeting held before June 1 of any year, elect to hold the

election on the first Tuesday after the first Monday in November in each odd-numbered year. A city may hold elections in either the even-numbered year or the odd-numbered year, but not both. When a city changes its elections from one year to another, and does not provide for the expiration of terms by ordinance, the term of an incumbent expiring at a time when no municipal election is held in the months immediately prior to expiration is extended until the date for taking office following the next scheduled municipal election. If the change results in having three council members to be elected at a succeeding election, the two individuals receiving the highest vote shall serve for terms of four years and the individual receiving the third highest number of votes shall serve for a term of two years. To provide an orderly transition to the odd or even year election plan, the governing body of the city may adopt supplementary ordinances regulating initial elections and officers to be chosen at the elections and shortening or lengthening the terms of incumbents and those elected at the initial election. The term of office for the mayor may be either two or four years. The term of office of council members is four years. Whenever the time of the municipal election is changed, the city clerk immediately shall notify in writing the county auditor and secretary of state of the change of date. Thereafter the municipal general election shall be held on the first Tuesday after the first Monday in November in each odd-numbered or even-numbered year until the ordinance is revoked and notification of the change is made. A municipal general election scheduled to be held in an odd-numbered year may be postponed for inclement weather as provided in section 205.105.

Page 26, after line 5, insert:

"Sec. 58. **[205.105] POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.**

Subdivision 1. **Applicability.** This section applies to a primary, special, or general election held in a city that is not held in conjunction with a state or federal election, and to town elections when postponement of the town election is not subject to section 365.51.

Subd. 2. **Postponement of election.** (a) In the event of severe or inclement weather, the municipal clerk may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section."

Page 27, after line 12, insert:

"Sec. 63. Minnesota Statutes 2008, section 205A.03, subdivision 2, as amended by Laws 2010, chapter 184, section 32, is amended to read:

Subd. 2. **Date.** The school district primary must be held on the second Tuesday in August in the year when the school district general election is held. The clerk shall give notice of the primary in the manner provided in section 205A.07. The date of a school district primary held in an odd-numbered year may be postponed for inclement weather as provided in section 205A.055.

Sec. 64. Minnesota Statutes 2008, section 205A.04, subdivision 1, is amended to read:

Subdivision 1. **School district general election.** The general election in each school district must be held on the first Tuesday after the first Monday in November of either the odd-numbered or the even-numbered year. A general election held in an odd-numbered year may be postponed for inclement weather as provided in section 205A.055."

Page 28, after line 2, insert:

"Sec. 67. **[205A.055] POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.**

Subdivision 1. **Applicability.** This section applies to a primary, special, or general election held in a school district that is not held in conjunction with a state or federal election.

Subd. 2. **Postponement of election.** (a) In the event of severe or inclement weather, the school district clerk may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section."

Page 28, after line 19, insert:

"Sec. 69. Minnesota Statutes 2008, section 206.57, subdivision 6, is amended to read:

Subd. 6. **Required certification.** In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority ~~approved~~ accredited by the ~~secretary of state and conform to current standards for voting equipment~~ Election Assistance Commission at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the ~~Federal Election Commission or its successor,~~ the Election Assistance Commission. The application must be accompanied by the certification report of the voting systems test laboratory. A certification under this section from an independent testing authority accredited by the Election Assistance Commission meets the requirement of Minnesota Rules, part 8220.0350, item L. A vendor must provide a copy of the source code for the voting system to the secretary of state. A chair of a major political party or the secretary of

state may select, in consultation with the vendor, an independent third-party evaluator to examine the source code to ensure that it functions as represented by the vendor and that the code is free from defects. A major political party that elects to have the source code examined must pay for the examination. Except as provided by this subdivision, a source code that is trade secret information must be treated as nonpublic information, according to section 13.37. A third-party evaluator must not disclose the source code to anyone else.

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

Page 28, after line 29, insert:

"Sec. 71. Minnesota Statutes 2008, section 365.51, subdivision 1, is amended to read:

Subdivision 1. **When; postponement for bad weather.** (a) A town's annual town meeting must be held on the second Tuesday of March at the place named by the last annual town meeting. If no place was named then, the meeting must be held at the place named by the town board. The place may be outside the town if the place is within five miles of a town boundary. If ~~there is bad weather~~ on the day of the meeting and election in March, ~~the town board shall set~~ the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories such that the clerk determines travel to a polling place would be difficult or hazardous for voters and election judges, the clerk may postpone the election and meeting. If the meeting and election are postponed, the meeting and election ~~for~~ shall be held on the third Tuesday in March. ~~If there is bad weather on the third Tuesday in March~~ Prior to providing notice of the election and meeting, the town board shall by resolution set another date for the meeting and election within 30 days of the third Tuesday in March on which the meeting and election shall be held if bad weather forces postponement of the meeting and election on the third Tuesday in March. The decision to postpone the meeting and election must be made no later than three hours before the opening of the polling place or the convening of the meeting, whichever comes first. The clerk shall notify the election judges and local media offices of the decision to postpone the meeting and election. If the meeting and election are postponed, the notice requirements in subdivision 2 shall apply to the postponed meeting and election.

The balloting of the town election must be concluded on the same day the election is commenced.

(b) If any other political subdivision is conducting an election in conjunction with the township election, postponement of the election shall be subject to section 205.105, 205A.055, or 373.50. If an election is postponed under section 205.105, 205A.055, or 373.50, the town meeting shall also be postponed as if postponed under this section.

**Sec. 72. [373.50] POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.**

Subdivision 1. **Applicability.** This section applies to a primary, special, or general election held in a county that is not held in conjunction with a state or federal election.

Subd. 2. **Postponement of election.** (a) In the event of severe or inclement weather, the county auditor may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make



the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The auditor must contact the election judges and notify local media outlets of the postponement. The auditor must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section.

Sec. 73. Minnesota Statutes 2008, section 375.101, subdivision 1, is amended to read:

Subdivision 1. **Option for filling vacancies; special election in 30 to 90 days.** Except as provided in subdivision 3, a vacancy in the office of county commissioner may be filled as provided in this subdivision ~~and subdivision 2~~, or as provided in subdivision 4. If the vacancy is to be filled under this subdivision ~~and subdivision 2~~, it must be filled at a special election ~~not less than 30 nor more than 90 days after the vacancy occurs. The special primary or special election may be held on the same day as a regular primary or regular election but the special election shall be held not less than 14 days after the special primary.~~ The county board may by resolution call for the special election to be held as soon as practicable following the declaration of vacancy, but not less than 12 weeks before the next regularly scheduled primary election; at an election held concurrently with the next regularly scheduled primary and general elections; or at an election held no sooner than 120 days following the next regularly scheduled general election. The person elected at the special election shall take office immediately after receipt of the certificate of election and upon filing the bond and taking the oath of office and shall serve the remainder of the unexpired term. If the county has been reapportioned since the commencement of the term of the vacant office, the election shall be based on the district as reapportioned.

Sec. 74. Minnesota Statutes 2008, section 375.101, subdivision 4, is amended to read:

Subd. 4. **Vacancies of less than one year; appointment option.** Except as provided in subdivision 3, and as an alternative to the procedure provided in ~~subdivisions~~ subdivision 1 and 2, ~~any other~~, a vacancy in the office of county commissioner may be filled by board appointment at a regular or special meeting. The appointment shall be evidenced by a resolution entered in the minutes and shall continue until an election is held ~~under this subdivision~~. All elections to fill vacancies shall be for the unexpired term. If one year or more remains in the unexpired term, a special election must be held under subdivision 1. ~~If less than one year remains~~ Regardless of the time remaining in the unexpired term, the county board may appoint a person to fill the a vacancy for the remainder of the unexpired term, unless the vacancy occurs within 90 days of the next county general election, in which case an appointment shall not be made and the vacancy must be filled at the general election until a successor is elected and qualified. The person elected ~~to fill a vacancy~~ at the general election takes office immediately in the same manner as for a special election under subdivision 1, and serves the remainder of the unexpired term and the new term for which the election was otherwise held."

Page 28, line 32, after the second semicolon, insert "206.805, subdivision 2;" and delete "and" and after "206.91" insert "; and 375.101, subdivision 2"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Gerlach moved to amend S.F. No. 2388 as follows:

Page 2, after line 29, insert:

"Sec. 3. Minnesota Statutes 2008, section 201.061, subdivision 3, is amended to read:

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

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

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

(3) presenting one of the following:

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

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

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

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

(b) The operator of a residential facility shall prepare a list of the names of its employees currently working in the residential facility and the address of the residential facility. The operator

shall certify the list and provide it to the appropriate county auditor no less than 20 days before each election for use in election day registration.

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

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

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

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

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

Sec. 4. Minnesota Statutes 2008, section 201.061, subdivision 5, is amended to read:

Subd. 5. **Unregistered voters; penalty.** Except for provisional ballots authorized by section 201.062, no election judge in any precinct in which registration is required may receive the vote at any election of any individual whose name is not registered in a manner specified in section 201.054, subdivision 1 or not recorded under section 203B.19. A violation of this subdivision is a felony.

Sec. 5. **[201.062] UNREGISTERED VOTERS; PROVISIONAL BALLOTS.**

(a) A person who claims to be a resident of a precinct but whose name does not appear on the list of registered voters and who does not have any of the proofs of residence authorized in section 201.061, subdivision 3, must be offered the opportunity to vote using a provisional ballot. Provisional ballots must be accumulated in a separate container at each precinct. A provisional ballot must not be counted in any election unless, within ten days following the election, the person who cast the ballot provides to the county auditor responsible for that precinct proof that the person is a resident of the precinct using a form of proof authorized under section 201.061, subdivision 3.

(b) The secretary of state shall adopt rules governing the administration of this section, including procedures to be followed by election officials in:

(1) informing persons at precincts on election day about the availability of provisional ballots

and how to provide verification to the county auditor so that the ballot will be counted;

(2) verifying that a person who cast a provisional ballot was at the time of the election a resident of the precinct in which the ballot was cast; and

(3) counting and preserving verified provisional ballots."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 20 and nays 45, as follows:

Those who voted in the affirmative were:

Dille	Gimse	Jungbauer	Michel	Robling
Fischbach	Hann	Koch	Olson, G.	Rosen
Frederickson	Ingebrigtsen	Koering	Pariseau	Senjem
Gerlach	Johnson	Limmer	Parry	Vandev eer

Those who voted in the negative were:

Anderson	Dibble	Latz	Pappas	Sieben
Berglin	Doll	Lourey	Pogemiller	Skoe
Betzold	Erickson Ropes	Lynch	Prettner Solon	Skogen
Bonoff	Fobbe	Marty	Rest	Sparks
Carlson	Foley	Metzen	Rummel	Stumpf
Chaudhary	Higgins	Moua	Saltzman	Tomassoni
Clark	Kelash	Murphy	Saxhaug	Torres Ray
Cohen	Kubly	Olseen	Scheid	Vickerman
Dahle	Langseth	Olson, M.	Sheran	Wiger

The motion did not prevail. So the amendment was not adopted.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

Without objection, the Senate reverted to the Order of Business of Introduction and First Reading of Senate Bills.

### INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time.

#### **Senator Erickson Ropes introduced—**

**S.F. No. 3147:** A bill for an act relating to health occupation; requiring license revocation for chiropractors convicted of a felony-level criminal sexual conduct offense; amending Minnesota Statutes 2008, section 148.10, by adding a subdivision.

Referred to the Committee on Health, Housing and Family Security.

Without objection, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills..

**REPORTS OF COMMITTEES**

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred**

**S.F. No. 1605:** A bill for an act relating to municipal planning; authorizing amendments to a municipal comprehensive plan for affordable housing to be approved by a simple majority; amending Minnesota Statutes 2008, section 462.355, subdivision 3.

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred**

**S.F. No. 2555:** A bill for an act relating to civil actions; modifying volunteer protections during an emergency or disaster; specifying immunity for certain entities; amending Minnesota Statutes 2008, sections 12.03, by adding a subdivision; 12.22, by adding a subdivision.

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred**

**S.F. No. 2752:** A bill for an act relating to natural resources; allowing conditional uses on certain lands within the Lower St. Croix River area; amending Minnesota Statutes 2008, section 103F.351, subdivision 4.

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred**

**S.F. No. 834:** A bill for an act relating to elections; changing certain municipal precinct and ward boundary procedures and requirements; amending Minnesota Statutes 2008, sections 204B.135, subdivisions 1, 3; 204B.14, subdivisions 3, 4; 205.84, subdivisions 1, 2.

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

Page 1, line 14, delete "if the legislature"

Page 1, line 15, delete "has not been redistricted by June 1 of that year,"

Page 2, line 34, delete "14 days" and insert "four weeks"

Page 3, delete section 4 and insert:

"Sec. 4. Minnesota Statutes 2008, section 204B.14, subdivision 4, as amended by Laws 2010,

chapter 184, section 14, is amended to read:

Subd. 4. **Boundary change procedure.** Any change in the boundary of an election precinct must be adopted at least ~~90 days~~ ten weeks before the date of the next election and, for the state primary and general election, no later than May 1 in the year of the state general election. The precinct boundary change shall not take effect until notice of the change has been posted in the office of the municipal clerk or county auditor for at least ~~60~~ 56 days.

The county auditor must publish a notice illustrating or describing the congressional, legislative, and county commissioner district boundaries in the county in one or more qualified newspapers in the county at least 14 days before the first day to file affidavits of candidacy for the state general election in the year ending in two.

Alternate dates for adopting changes in precinct boundaries, posting notices of boundary changes, and notifying voters affected by boundary changes pursuant to this subdivision, and procedures for coordinating precinct boundary changes with reestablishing local government election district boundaries may be established in the manner provided in the rules of the secretary of state."

Page 4, delete line 15

Page 4, line 17, delete "Sections 1 to 6 are" and insert "This act is"

Amend the title numbers accordingly

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred**

**S.F. No. 2286:** A bill for an act relating to recycling; requiring certain state building projects to recycle at least 50 percent of nonhazardous construction and demolition waste; proposing coding for new law in Minnesota Statutes, chapter 16B.

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

Page 1, line 8, delete "of administration"

Page 1, line 13, after "requirement" insert "applies to a project to construct, renovate, or demolish a state building that receives funding from the bond proceeds fund after January 1, 2011, provided that:"

Page 1, delete lines 14 to 16 and insert:

"(1) the project is located within 40 miles of a construction and demolition waste recycling facility that meets the requirements of this section and can process the applicable building materials; and

(2) for construction and renovation projects, funding from the bond proceeds fund is \$5,000,000 or more.

For the purposes of this section, "state building" means a building wholly owned or leased by a

state agency, the Minnesota State Colleges and Universities, or the University of Minnesota."

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred**

**S.F. No. 1818:** A bill for an act relating to elections; prohibiting landlords from limiting posting of campaign material in window of tenant's residence; proposing coding for new law in Minnesota Statutes, chapter 211B.

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

Page 1, line 8, before "A" insert "During a time period when applicable state or local law authorizes the posting of noncommercial signs,"

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred**

**S.F. No. 2226:** A bill for an act relating to elections; prohibiting threats of reprisal against a person who is or is considering being a candidate; amending Minnesota Statutes 2008, section 211B.10, subdivision 1.

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 2008, section 211B.10, subdivision 1, is amended to read:

Subdivision 1. **Inducing or refraining from candidacy.** A person may not reward or promise to reward another in any manner, and may not coerce another as prohibited by section 609.27, subdivision 1, to induce the person to be or refrain from or cease being a candidate. A person may not solicit or receive a payment, promise, or reward from another for this purpose.

Sec. 2. **EFFECTIVE DATE.**

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to elections; prohibiting coercion of a person who is or is considering being a candidate; amending Minnesota Statutes 2008, section 211B.10, subdivision 1."

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

**Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred**

**S.F. No. 3014:** A bill for an act relating to economic development; creating the Minnesota Science and Technology Authority; appropriating money; amending Laws 2009, chapter 78, article

1, section 3, subdivision 2; proposing coding for new law as Minnesota Statutes, chapter 116W; repealing Minnesota Statutes 2008, section 116J.657.

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

**Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred**

**S.F. No. 2844:** A bill for an act relating to labor and industry; modifying elevator provisions; amending Minnesota Statutes 2008, section 326B.184, subdivision 2; Minnesota Statutes 2009 Supplement, section 326B.163, subdivision 5.

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

Page 2, line 18, delete "church" and insert "house of worship"

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

**Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred**

**S.F. No. 2310:** A bill for an act relating to business development; providing for a comparative study of state laws affecting small business start-ups in Minnesota and Wisconsin; appropriating money.

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

Page 1, line 10, after "Minnesota" insert ", Iowa, North Dakota, South Dakota,"

Page 1, line 13, delete "two" and insert "five"

Page 1, line 14, delete "a"

Page 1, line 15, delete "specific type of business" and insert "to study similar types of businesses"

Amend the title as follows:

Page 1, line 3, delete "Wisconsin" and insert "bordering states"

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

**Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred**

**S.F. No. 2928:** A bill for an act relating to labor and industry; modifying construction codes and licensing provisions; modifying certain notice provisions; imposing criminal penalties; amending Minnesota Statutes 2008, sections 178.01; 178.03, subdivisions 3, 4; 178.06; 178.08; 178.11; 326B.04, subdivision 2; 326B.127, subdivision 3; 326B.13, subdivisions 3, 4, 5, 6; 326B.133, subdivision 5; 326B.139; 326B.142; 326B.148, subdivisions 2, 3; 326B.191; 326B.31, subdivision 28; 326B.33, subdivision 17; 326B.84; 326B.89, subdivisions 1, 5, 6, 7, 8, 10, 13, by adding subdivisions; Minnesota Statutes 2009 Supplement, sections 14.14, subdivision 1a; 326B.145; repealing Minnesota Statutes 2008, sections 299G.11; 299G.13, subdivisions 1, 6, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28; 299G.14; 299G.15; 299G.16; 299G.17; 299G.18; 326B.115;



326B.37, subdivision 13; Minnesota Rules, parts 5200.0020; 5200.0050; 5200.0080, subparts 2, 3, 4, 4a, 4b, 6, 7, 8.

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

Page 3, line 14, after "those" insert "(1)"

Page 3, line 15, reinstate the stricken language and insert ", and (2)"

Page 5, after line 17, insert:

"Sec. 8. Minnesota Statutes 2008, section 326.02, subdivision 5, is amended to read:

Subd. 5. **Limitation.** The provisions of sections 326.02 to 326.15 shall not apply to the preparation of plans and specifications for the erection, enlargement, or alteration of any building or other structure by any person, for that person's exclusive occupancy or use, unless such occupancy or use involves the public health or safety or the health or safety of the employees of said person, or of the buildings listed in section 326.03, subdivision 2, nor to any detailed or shop plans required to be furnished by a contractor to a registered engineer, landscape architect, architect, or certified interior designer, nor to any standardized manufactured product, nor to any construction superintendent supervising the execution of work designed by an architect, landscape architect, engineer, or certified interior designer licensed or certified in accordance with section 326.03, nor to the planning for and supervision of the construction and installation of work by an electrical contractor or master plumber as defined in and licensed pursuant to ~~this~~ chapter 326B, where such work is within the scope of such licensed activity and not within the practice of professional engineering, or architecture, or where the person does not claim to be a certified interior designer as defined in subdivision 2, 3, or 4b."

Page 10, after line 20, insert:

"Sec. 24. Minnesota Statutes 2008, section 326B.42, subdivision 2, is amended to read:

Subd. 2. **Direct supervision.** The term "direct supervision," with respect to direct supervision of a plumber's apprentice or registered unlicensed individual by a master, restricted master, journeyman, or restricted journeyman plumber, means that:

(1) at all times while the plumber's apprentice or registered unlicensed individual is performing plumbing work, the supervising plumber is present at the location where the plumber's apprentice or registered unlicensed individual is working;

(2) the supervising plumber is physically present and immediately available to the plumber's apprentice or registered unlicensed individual at all times for assistance and direction;

(3) any form of electronic supervision does not meet the requirement of physically present;

(4) the supervising plumber actually reviews the plumbing work performed by the plumber's apprentice or registered unlicensed individual before the plumbing is operated; and

(5) the supervising plumber is able to and does determine that all plumbing work performed by the plumber's apprentice or registered unlicensed individual is performed in compliance with the plumbing code.

Sec. 25. Minnesota Statutes 2008, section 326B.42, subdivision 6, is amended to read:

Subd. 6. **Plumber's apprentice.** A "plumber's apprentice" is any individual, ~~other than a master, restricted master, journeyman, or restricted journeyman plumber who, as a principal occupation, is engaged in working as an employee of a plumbing contractor under the direct supervision of a master, restricted master, journeyman, or restricted journeyman plumber and is learning and assisting in the installation of plumbing~~ who is employed in the practical installation of plumbing under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0340.

Sec. 26. Minnesota Statutes 2008, section 326B.435, subdivision 2, is amended to read:

Subd. 2. **Powers; duties; administrative support.** (a) The board shall have the power to:

- (1) elect its chair, vice-chair, and secretary;
- (2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;
- (3) adopt the plumbing code that must be followed in this state and any plumbing code amendments thereto. The board shall adopt the plumbing code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b), (c), and (d);
- (4) review requests for final interpretations and issue final interpretations as provided in section 326B.127, subdivision 5;
- (5) except for rules regulating continuing education, adopt rules that regulate the licensure or registration of plumbing contractors, journeymen, ~~apprentices~~ unlicensed individuals, master plumbers, restricted master plumbers, and restricted journeymen and other persons engaged in the design, installation, and alteration of plumbing systems, except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);
- (6) advise the commissioner regarding educational requirements for plumbing inspectors;
- (7) refer complaints or other communications to the commissioner, whether oral or written, as provided in subdivision 8, that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed plumbing services;
- (8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;
- (9) approve license reciprocity agreements;
- (10) select from its members individuals to serve on any other state advisory council, board, or committee; and
- (11) recommend the fees for licenses and certifications.

Except for the powers granted to the Plumbing Board, the Board of Electricity, and the Board of

High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards created pursuant to this chapter. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

Sec. 27. Minnesota Statutes 2008, section 326B.47, is amended to read:

**326B.47 PLUMBER'S APPRENTICES UNLICENSED INDIVIDUALS.**

Subdivision 1. **Registration.** All unlicensed individuals, other than plumber's apprentices, must be registered under subdivision 3. ~~To be a registered plumber's apprentice, an individual must either:~~

~~(1) be an individual employed in the trade of plumbing under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0300; or~~

~~(2) be an unlicensed individual registered with the commissioner under subdivision 3.~~ A plumber's apprentice or registered unlicensed individual is authorized to assist in the installation of plumbing only while under the direct supervision of a master, restricted master, journeyman, or restricted journeyman plumber. The master, restricted master, journeyman, or restricted journeyman plumber is responsible for ensuring that all plumbing work performed by the plumber's apprentice or registered unlicensed individual complies with the plumbing code.

Subd. 2. **Journeyman exam.** A plumber's apprentice or registered unlicensed individual who has completed four years of practical plumbing experience is eligible to take the journeyman plumbing examination. Up to 24 months of practical plumbing experience prior to becoming a plumber's apprentice or registered unlicensed individual may be applied to the four-year experience requirement. However, none of this practical plumbing experience may be applied if the individual did not have any practical plumbing experience in the 12-month period immediately prior to becoming a plumber's apprentice or registered unlicensed individual. The Plumbing Board may adopt rules to evaluate whether the individual's past practical plumbing experience is applicable in preparing for the journeyman's examination. If two years after completing the training the individual has not taken the examination, the four years of experience shall be forfeited.

The commissioner may allow an extension of the two-year period for taking the exam for cases of hardship or other appropriate circumstances.

Subd. 3. **Registration, rules, applications, renewals, and fees.** An unlicensed individual may register by completing and submitting to the commissioner a registration form provided by the commissioner. A completed registration form must state the date the individual began training, the individual's age, schooling, previous experience, and employer, and other information required by the commissioner. The board may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals. Each applicant for initial registration as a ~~plumber's apprentice~~ registered unlicensed individual shall pay the department an application fee of \$25. Applications for initial registration may be submitted at any time. Registration must be renewed

annually and shall be for the period from July 1 of each year to June 30 of the following year. Applications for renewal registration must be received by the commissioner by June 30 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$25. An application for renewal registration received on or after July 1 in any year but no more than three months after expiration of the previously issued registration must pay the past due renewal fee plus a late fee of \$25. No applications for renewal registration will be accepted more than three months after expiration of the previously issued registration."

Page 15, lines 20 and 22, delete the second "or" and delete "trust" and after "funds" insert ", or failure of performance"

Page 16, delete sections 30 and 31 and insert:

"Sec. 35. Minnesota Statutes 2008, section 326B.89, subdivision 13, is amended to read:

Subd. 13. **Condominiums or townhouses.** (a) For purposes of this section, the owner or the lessee of a condominium or townhouse is considered an owner or a lessee of residential property terms "owner" and "lessee" of residential real estate include the following, regardless of the number of residential units per building:

(1) an owner or lessee of an apartment as defined in and governed by chapter 515;

(2) an owner or lessee of a unit in a common interest community created under or governed by chapter 515B;

(3) an owner or lessee of a unit in a planned community or cooperative created prior to June 1, 1994, that has not elected to be governed by chapter 515B;

(4) an association or master association, as defined in chapter 515B, that owns or leases the common elements of a common interest community; and

(5) a homeowners association that owns or leases the common elements in a planned community or cooperative created prior to June 1, 1994, that has not elected to be governed by chapter 515B.

(b) For purposes of this subdivision, "common elements" means common areas and facilities as defined in chapter 515 and common elements as defined in chapter 515B."

Page 17, after line 17, insert:

"Sec. 38. Minnesota Statutes 2008, section 326B.921, subdivision 3, is amended to read:

Subd. 3. **Registration requirement.** All unlicensed individuals, other than pipefitter apprentices, must be registered under subdivision 4. No licensed high pressure piping business shall employ an unlicensed individual to assist in the practical construction and installation of high pressure piping and appurtenances unless the unlicensed individual is registered with the department. A pipefitter apprentice or registered unlicensed individual employed by a high pressure piping business may assist in the practical construction and installation of high pressure piping and appurtenances only while under direct supervision of a licensed contracting high pressure pipefitter or licensed journeyman high pressure pipefitter employed by the same high pressure piping business. The licensed contracting high pressure pipefitter or licensed journeyman high pressure pipefitter shall supervise no more than two pipefitter apprentices or registered unlicensed individuals. The licensed contracting high pressure pipefitter or journeyman high pressure pipefitter

is responsible for ensuring that all high pressure piping work performed by the pipefitter apprentice or registered unlicensed individual complies with Minnesota Statutes and Minnesota Rules.

~~The board shall make recommendations by October 1, 2008, to the chairs of the standing committees of the senate and house of representatives having jurisdiction over high pressure piping regulation on the ratio of licensed contracting high pressure pipefitters or licensed journeyman high pressure pipefitters to pipefitter apprentices or registered unlicensed individuals for purposes of supervision.~~

Sec. 39. Laws 2010, chapter 183, section 8, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective August 1, ~~2009~~ 2010, except that the requirement under subdivision 2 that a master or journeyman plumber must be certified by the Minnesota Plumbing Board and the fee in subdivision 4 are not effective until 180 days after the board adopts rules."

Page 17, after line 23, insert:

"Sec. 41. **EFFECTIVE DATE.**

Sections 2 to 7 are effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, delete "imposing criminal penalties;"

Amend the title numbers accordingly

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

## **SECOND READING OF SENATE BILLS**

S.F. Nos. 1605, 2555, 2752, 834, 1818, 2226 and 2844 were read the second time.

## **MEMBERS EXCUSED**

Senators Bakk and Ortman were excused from the Session of today. Senator Doll was excused from the Session of today from 11:00 to 11:35 a.m.

## **ADJOURNMENT**

Senator Pogemiller moved that the Senate do now adjourn until 11:00 a.m., Thursday, March 11, 2010. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)

