

FIFTY-EIGHTH DAY

St. Paul, Minnesota, Thursday, May 18, 2017

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

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Pastor Mike Smith.

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

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

Abeler	Dziedzic	Ingebrigtsen	Lourey	Senjem
Anderson, B.	Eaton	Isaacson	Marty	Simonson
Anderson, P.	Eichorn	Jasinski	Mathews	Sparks
Bakk	Eken	Jensen	Miller	Tomassoni
Benson	Fischbach	Johnson	Nelson	Torres Ray
Carlson	Franzen	Kent	Newman	Utke
Chamberlain	Frentz	Kiffmeyer	Newton	Weber
Champion	Gazelka	Klein	Osmek	Westrom
Clausen	Goggin	Koran	Pappas	Wiger
Cohen	Hall	Laine	Pratt	Wiklund
Cwodzinski	Hawj	Lang	Relph	
Dahms	Hayden	Latz	Rest	
Dibble	Hoffman	Limmer	Rosen	
Draheim	Housley	Little	Ruud	

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 communications were received.

May 17, 2017

The Honorable Michelle L. Fischbach
President of the Senate

Dear Madam President:

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, Chapter 56, S.F. No. 482; Chapter 57, S.F. No. 527; Chapter 58, S.F. No. 1353; Chapter 59, S.F. No. 1844; and Chapter 68, S.F. No. 1457.

Sincerely,
Mark Dayton, Governor

May 18, 2017

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2017 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2017	Date Filed 2017
482		56	3:48 p.m. May 17	May 17
527		57	3:49 p.m. May 17	May 17
1353		58	3:50 p.m. May 17	May 17
1844		59	3:50 p.m. May 17	May 17
	1702	60	3:51 p.m. May 17	May 17

Sincerely,
Steve Simon
Secretary of State

May 18, 2017

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

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S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2017	Date Filed 2017
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58TH DAY]

THURSDAY, MAY 18, 2017

5389

	2174	61	3:44 p.m. May 17	May 17
1457		68	3:52 p.m. May 17	May 17
	326	69	3:54 p.m. May 17	May 17
	745	70	3:55 p.m. May 17	May 17

Sincerely,
Steve Simon
Secretary of State

May 18, 2017

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

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S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2017	Date Filed 2017
	3	76	10:17 a.m. May 18	May 18

Sincerely,
Steve Simon
Secretary of State

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1456: A bill for an act relating to economic development; temporarily modifying the restrictions on use of Minnesota investment fund local government loan repayment funds.

There has been appointed as such committee on the part of the House:

Garofalo, Newberger, O'Neill, Hoppe and Mahoney.

Senate File No. 1456 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 17, 2017

Madam President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 943: A bill for an act relating to higher education; appropriating money for an education debt relief grant; requiring a report.

There has been appointed as such committee on the part of the House:

Nornes, Christensen, Whelan, Daniels and Omar.

Senate File No. 943 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 17, 2017

Madam President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 844: A bill for an act relating to environment; providing for certain demolition debris landfill permitting.

There has been appointed as such committee on the part of the House:

Fabian, Uglem, Heintzeman, Swedzinski and Ecklund.

Senate File No. 844 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 17, 2017

Madam President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 799: A bill for an act relating to state government; modifying provisions for certain interagency agreements and intra-agency transfers; amending Minnesota Statutes 2016, sections 62V.05, subdivision 12; 144.05, subdivision 6; 256.01, subdivision 41.

There has been appointed as such committee on the part of the House:

Dean, M.; Schomacker; Albright; Kiel and Schultz.

Senate File No. 799 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 17, 2017

Madam President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1227.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 17, 2017

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1227: A bill for an act relating to taxation; making policy changes to corporate franchise taxes, property taxes, local government aids, sales and use taxes, special taxes, paid preparers, and other taxes and tax provisions; amending Minnesota Statutes 2016, sections 84.82, subdivision 10; 84.922, subdivision 11; 86B.401, subdivision 12; 270.074, subdivision 1; 270B.14, by adding subdivisions; 270C.445, subdivisions 2, 3, 5a, 6, 6a, 6b, 6c, 7, 8, by adding a subdivision; 270C.446, subdivisions 2, 3, 4, 5; 270C.447, subdivisions 1, 2, 3, by adding a subdivision; 272.025, subdivision 1; 272.0295, by adding a subdivision; 272.115, subdivisions 1, as amended, 2, 3; 273.124, subdivisions 13, 13d; 274.014, subdivision 3; 274.135, subdivision 3; 289A.50, subdivision 2a; 289A.60, subdivisions 13, 28; 296A.01, subdivision 7; 297B.07; 297I.30, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 297A; repealing Minnesota Statutes 2016, sections 270.074, subdivision 2; 270C.445, subdivision 1; 270C.447, subdivision 4; Minnesota Rules, part 8125.1300, subpart 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1218, now on General Orders.

REPORTS OF COMMITTEES

Senator Gazelka moved that the Committee Report at the Desk be now adopted. The motion prevailed.

Senator Gazelka from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,

S.F. No. 2375: A bill for an act relating to public safety; requiring a warrant to obtain blood or urine samples; providing for license revocation; establishing guidelines for license revocation

hearings; amending Minnesota Statutes 2016, sections 169A.03, subdivision 21; 169A.20, subdivision 2; 169A.51, subdivisions 2, 4; proposing coding for new law in Minnesota Statutes, chapter 171; repealing Minnesota Statutes 2016, section 169A.51, subdivision 3.

Reports the same back with the recommendation that Joint Rule 2.03 be suspended for all further proceedings on S.F. No. 2375 and that the report from the Committee on Judiciary and Public Safety Finance and Policy, shown in the Journal for May 15, 2017, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. No. 2375 was read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senator Dibble introduced--

S.F. No. 2400: A bill for an act relating to capital investment; establishing a program to make grants to local governments to build skate parks; appropriating money for skate park grants; authorizing the sale and issuance of state bonds; amending Minnesota Statutes 2016, section 240A.01, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 240A.

Referred to the Committee on Capital Investment.

Senators Carlson, Ingebrigtsen, Ruud, Little, and Klein introduced--

S.F. No. 2401: A bill for an act relating to capital investment; appropriating money for the closed landfill cleanup program; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senators Abeler, Hayden, Housley, and Champion introduced--

S.F. No. 2402: A bill for an act relating to health care; modifying health plan contracting requirements; amending Minnesota Statutes 2016, sections 62Q.733, subdivision 3; 62Q.735, subdivisions 2, 5.

Referred to the Committee on Commerce and Consumer Protection Finance and Policy.

Senators Pratt and Franzen introduced--

S.F. No. 2403: A bill for an act relating to insurance; authorizing affinity group discounts in certain auto or homeowner's insurance policies; proposing coding for new law in Minnesota Statutes, chapter 72A.

Referred to the Committee on Commerce and Consumer Protection Finance and Policy.

Senators Rest, Dibble, Limmer, Hoffman, and Ingebrigtsen introduced--

S.F. No. 2404: A bill for an act relating to public safety; making it a crime to make certain false representations about training service animals; imposing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

Referred to the Committee on Judiciary and Public Safety Finance and Policy.

Senators Dibble, Lourey, and Osmek introduced--

S.F. No. 2405: A bill for an act relating to transportation; allowing motorcycles to split lanes under certain circumstances; appropriating money; amending Minnesota Statutes 2016, section 169.974, subdivision 5.

Referred to the Committee on Transportation Finance and Policy.

Senators Wiklund and Lourey introduced--

S.F. No. 2406: A bill for an act relating to health; modifying provisions of the Minnesota Health Records Act; amending Minnesota Statutes 2016, sections 72A.501, subdivision 4; 72A.502, subdivision 6; 144.291, subdivision 2; 144.293, subdivisions 2, 3, 5, 8; 144.295, subdivision 1.

Referred to the Committee on Health and Human Services Finance and Policy.

Senators Dibble, Cwodzinski, Franzen, Laine, and Kent introduced--

S.F. No. 2407: A bill for an act relating to state government; establishing a Council on LGBTQI Minnesotans; proposing coding for new law in Minnesota Statutes, chapter 15.

Referred to the Committee on State Government Finance and Policy and Elections.

Senators Abeler, Hoffman, and Newton introduced--

S.F. No. 2408: A bill for an act relating to capital investment; appropriating money for a community center in Andover; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senators Schoen, Rest, Hoffman, Dzedzic, and Simonson introduced--

S.F. No. 2409: A resolution calling on Congress to appoint a special prosecutor to investigate Russian interference in the 2016 United States presidential election and the extent to which members of the current executive branch were aware of such interference.

Referred to the Committee on Judiciary and Public Safety Finance and Policy.

MOTIONS AND RESOLUTIONS**Senator Schoen introduced --**

Senate Resolution No. 115: A Senate resolution proclaiming Minnesota a Purple Heart State.

Referred to the Committee on Rules and Administration.

Senators Abeler, Mathews, Hall, Hoffman, and Eken introduced --

Senate Resolution No. 116: A Senate resolution expressing the sense of the Minnesota Senate urging the government of Turkey to uphold and safeguard religious and human rights.

Referred to the Committee on Rules and Administration.

RECESS

Senator Gazelka moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

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

APPOINTMENTS

Senator Gazelka from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 1443: Senators Utke, Dahms, and Sparks.

H.F. No. 1717: Senators Weber, Goggin, and Tomassoni.

H.F. No. 1545: Senators Westrom, Weber, Goggin, Lang, and Eken.

Senator Gazelka moved that the foregoing appointments be approved. The motion prevailed.

SPECIAL ORDERS

Pursuant to Rule 26, Senator Gazelka, Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

H.F. Nos. 859, 179, 947, S.F. No. 1672 and H.F. No. 1186.

SPECIAL ORDER

H.F. No. 859: A bill for an act relating to transportation; providing for conveyance of unused or divided lands owned or controlled by the Department of Transportation; removing and modifying highways on the trunk highway system; authorizing conveyance of certain state-owned lands in Koochiching County; amending Minnesota Statutes 2016, sections 161.115, subdivision 190; 161.44, subdivisions 5, 6a, by adding a subdivision; repealing Minnesota Statutes 2016, section 161.115, subdivision 32.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson, P.	Eken	Isaacson	Lourey	Ruud
Benson	Fischbach	Jasinski	Marty	Simonson
Carlson	Franzen	Jensen	Mathews	Sparks
Champion	Frentz	Johnson	Miller	Tomassoni
Clausen	Gazelka	Kent	Nelson	Torres Ray
Cwodzinski	Goggin	Kiffmeyer	Newman	Utke
Dahms	Hall	Klein	Newton	Weber
Dibble	Hawj	Koran	Osmek	Westrom
Draheim	Hayden	Laine	Pratt	Wiger
Dziedzic	Hoffman	Lang	Relph	Wiklund
Eaton	Housley	Limmer	Rest	
Eichorn	Ingebrigtsen	Little	Rosen	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 179: A bill for an act relating to public safety; amending ignition interlock performance standards; prohibiting use of devices enabled with location tracking capabilities; amending rulemaking authority; amending Minnesota Statutes 2016, section 171.306, subdivisions 1, 2, 3, 8.

Senator Limmer moved that the amendment made to H.F. No. 179 by the Committee on Rules and Administration in the report adopted May 17, 2017, pursuant to Rule 45, be stricken. The motion prevailed. So the amendment was stricken.

Senator Limmer moved to amend H.F. No. 179 as follows:

Page 3, after line 21, insert:

"Sec. 5. Minnesota Statutes 2016, section 241.065, subdivision 2, is amended to read:

Subd. 2. **Establishment; access to data.** (a) The Department of Corrections shall administer and maintain a computerized data system for the purpose of assisting criminal justice agencies in conducting official duties and in monitoring and enforcing the conditions of conditional release imposed on criminal offenders by a sentencing court or the commissioner of corrections.

(b) The adult data and juvenile data, as defined in section 260B.171, in the statewide supervision system are private data on individuals, as defined in section 13.02, subdivision 12, but. Subject to paragraph (c), the data are accessible to:

- (1) criminal justice agencies as defined in section 13.02, subdivision 3a, to;
- (2) the Minnesota sex offender program as provided in section 246B.04, subdivision 3, to;
- (3) public defenders as provided in section 611.272, to;
- (4) all trial courts and appellate courts; and to
- (5) criminal justice agencies in other states in the conduct of their official duties.

(c) Case planning data in the statewide supervision system are private data on individuals, as defined in section 13.02, subdivision 12. Case planning data are accessible to state prison facility staff, correction staff in community corrections act counties and county probation counties, and Department of Corrections field services staff for purposes of monitoring and enforcing conditions of conditional release. A finalized case plan may be provided to community service providers for the purposes described under paragraph (a).

(d) Adult data in the statewide supervision system are accessible to the secretary of state for the purposes described in section 201.157."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Limmer moved to amend H.F. No. 179 as follows:

Page 1, after line 6, insert:

"ARTICLE 1

CRIMINAL JUSTICE-RELATED DATA PRACTICES"

Page 3, after line 21, insert:

"ARTICLE 2**DWI LAW CHANGES**

Section 1. Minnesota Statutes 2016, section 169A.03, subdivision 21, is amended to read:

Subd. 21. **Prior impaired driving-related loss of license.** (a) "Prior impaired driving-related loss of license" includes a driver's license suspension, revocation, cancellation, denial, or disqualification under:

(1) section 169A.31 (alcohol-related school bus or Head Start bus driving); 169A.50 to 169A.53 (implied consent law); 169A.54 (impaired driving convictions and adjudications; administrative penalties); 171.04 (persons not eligible for drivers' licenses); 171.14 (cancellation); 171.16 (court may recommend suspension); 171.165 (commercial driver's license, disqualification); 171.17 (revocation); 171.177 (revocation; pursuant to search warrant); or 171.18 (suspension); because of an alcohol-related incident;

(2) Minnesota Statutes 2012, section 609.21 (criminal vehicular homicide and injury, substance-related offenses), subdivision 1, clauses (2) to (6);

(3) Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance); 169.1211 (alcohol-related driving by commercial vehicle drivers); or 169.123 (chemical tests for intoxication);

(4) Minnesota Statutes 2006, section 609.21 (criminal vehicular homicide and injury, substance-related offenses), subdivision 1, clauses (2) to (6); subdivision 2, clauses (2) to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision 3, clauses (2) to (6); or subdivision 4, clauses (2) to (6);

(5) section 609.2112, subdivision 1, clauses (2) to (6); 609.2113, subdivision 1, clauses (2) to (6), subdivision 2, clauses (2) to (6), or subdivision 3, clauses (2) to (6); or 609.2114, subdivision 1, clauses (2) to (6), or subdivision 2, clauses (2) to (6); or

(6) an ordinance from this state, or a statute or ordinance from another state, in conformity with any provision listed in clause (1), (2), (3), (4), or (5).

(b) "Prior impaired driving-related loss of license" also includes the revocation of snowmobile or all-terrain vehicle operating privileges under section 84.911 (chemical testing), or motorboat operating privileges under section 86B.335 (testing for alcohol and controlled substances), for violations that occurred on or after August 1, 1994; the revocation of snowmobile or all-terrain vehicle operating privileges under section 84.91 (operation of snowmobiles and all-terrain vehicles by persons under the influence of alcohol or controlled substances); or the revocation of motorboat operating privileges under section 86B.331 (operation while using alcohol or drugs or with a physical or mental disability).

(c) "Prior impaired driving-related loss of license" does not include any license action stemming solely from a violation of section 169A.33 (underage drinking and driving), 171.09 (conditions of a restricted license), or 340A.503 (persons under the age of 21, illegal acts).

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 2. Minnesota Statutes 2016, section 169A.20, subdivision 2, is amended to read:

Subd. 2. **Refusal to submit to chemical test crime.** It is a crime for any person to refuse to submit to a chemical test:

(1) of the person's ~~blood, breath, or urine~~ under section 169A.51 (chemical tests for intoxication), or 169A.52 (test refusal or failure; revocation of license); or

(2) of the person's blood or urine as required by a search warrant under sections 626.04 to 626.18, and 171.177.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 3. Minnesota Statutes 2016, section 169A.51, subdivision 2, is amended to read:

Subd. 2. ~~Implied consent~~ **Breath test advisory.** ~~(a) Subject to paragraph (b),~~ At the time a breath test is requested, the person must be informed:

(1) that Minnesota law requires the person to take a test:

(i) to determine if the person is under the influence of alcohol, ~~controlled substances, or hazardous substances; and~~

(ii) ~~to determine the presence of a controlled substance listed in Schedule I or II or metabolite, other than marijuana or tetrahydrocannabinols; and~~

~~(iii) if the motor vehicle was a commercial motor vehicle, to determine the presence of alcohol;~~

(2) that refusal to ~~take~~ submit to a breath test is a crime; and

~~(3) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that a test will be taken with or without the person's consent; and~~

~~(4) that the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.~~

~~(b) A peace officer who is not pursuing an implied consent revocation is not required to give the advisory described in paragraph (a) to a person whom the officer has probable cause to believe has violated section 609.2112, subdivision 1, clause (2), (3), (4), (5), or (6); 609.2113, subdivision 1, clause (2), (3), (4), (5), or (6); or 609.2114, subdivision 1, clause (2), (3), (4), (5), or (6); or Minnesota Statutes 2012, 609.21, subdivision 1, clause (2), (3), (4), (5), or (6) (criminal vehicular operation DWI-related provisions).~~

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 4. Minnesota Statutes 2016, section 169A.51, subdivision 3, is amended to read:

Subd. 3. ~~Type of test~~ **Blood or urine tests; search warrant required.** ~~The peace officer who requires a test pursuant to this section may direct whether the test is of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered~~ (a) Notwithstanding any contrary provisions in sections 169A.51 to 169A.53, a blood or urine test may be conducted only pursuant to a search warrant under sections 626.04 to 626.18, or a judicially recognized exception to the search warrant requirement. In addition, blood and urine tests may be conducted only as provided in sections 169A.51 to 169A.53 and 171.177.

(b) When, under the provisions of section 169A.20, 169A.51, or 171.177, a search warrant is required for a blood or urine test, that requirement is met if a judicially recognized exception to the warrant requirement is applicable.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 5. Minnesota Statutes 2016, section 169A.51, subdivision 4, is amended to read:

Subd. 4. **Requirement of urine or blood test.** ~~Notwithstanding subdivision 3,~~ A blood or urine test may be required pursuant to a search warrant under sections 626.04 to 626.18 even after a breath test has been administered if there is probable cause to believe that:

(1) there is impairment by a controlled substance or a hazardous substance that is not subject to testing by a breath test; ~~or~~

(2) a controlled substance listed in Schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body; ~~or~~

(3) the person is unconscious or incapacitated to the point that the peace officer providing a breath test advisory, administering a breath test, or serving the search warrant has a good-faith belief that the person is mentally or physically unable to comprehend the breath test advisory or otherwise voluntarily submit to chemical tests.

Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered and action may be taken against a person who refuses to take a urine test only if a blood test was offered. This limitation does not apply to an unconscious person under the circumstances described in clause (3).

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 6. Minnesota Statutes 2016, section 169A.53, subdivision 2, is amended to read:

Subd. 2. **Petition for judicial review.** (a) Within ~~30~~ 60 days following receipt of a notice and order of revocation or disqualification pursuant to section 169A.52 (revocation of license for test failure or refusal), a person may petition the court for review. The petition must be filed with the district court administrator in the county where the alleged offense occurred, together with proof of

service of a copy on the commissioner, and accompanied by the standard filing fee for civil actions. Responsive pleading is not required of the commissioner, and court fees must not be charged for the appearance of the commissioner in the matter.

(b) The petition must:

(1) be captioned in the full name of the person making the petition as petitioner and the commissioner as respondent;

(2) include the petitioner's date of birth, driver's license number, and date of the offense; and

(3) state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial.

(c) The filing of the petition does not stay the revocation, disqualification, or denial. The reviewing court may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper.

(d) Judicial reviews must be conducted according to the Rules of Civil Procedure, except that prehearing discovery is mandatory and is limited to:

(1) the notice of revocation;

(2) the test record or, in the case of blood or urine tests, the certificate of analysis;

(3) the peace officer's certificate and any accompanying documentation submitted by the arresting officer to the commissioner; and

(4) disclosure of potential witnesses, including experts, and the basis of their testimony.

Other types of discovery are available only upon order of the court.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 7. Minnesota Statutes 2016, section 169A.53, subdivision 3, is amended to read:

Subd. 3. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held.

(b) The scope of the hearing is limited to the issues in clauses (1) to ~~(11)~~ (12):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

(5) If the screening test was administered, did the test indicate an alcohol concentration of 0.08 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in Schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(11) Did the person prove the defense of necessity?

(12) Did the person prove the defense of controlled substance use in accordance with a prescription?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's

driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Appellate Procedure.

(g) The civil hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

(h) It is an affirmative defense for the petitioner to prove a necessity.

(i) It is an affirmative defense to the presence of a Schedule I or II controlled substance that the person used the controlled substance according to the terms of a prescription issued for the person according to sections 152.11 and 152.12, unless the court finds by a preponderance of the evidence that the use of the controlled substance impaired the person's ability to operate a motor vehicle.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 8. Minnesota Statutes 2016, section 169A.54, subdivision 6, is amended to read:

Subd. 6. **Applicability of implied consent revocation.** (a) Any person whose license has been revoked pursuant to section 169A.52 (license revocation for test failure or refusal) or section 171.177 (revocation; pursuant to a search warrant), as the result of the same incident, and who does not have a qualified prior impaired driving incident, is subject to the mandatory revocation provisions of subdivision 1, clause (1) or (2), in lieu of the mandatory revocation provisions of section 169A.52 or 171.177.

(b) Paragraph (a) does not apply to:

(1) a person whose license has been revoked under subdivision 2 (driving while impaired by person under age 21); or

(2) a person whose driver's license has been revoked for, or who is charged with (i) an alcohol concentration of twice the legal limit or more as measured at the time or within two hours of the time of the offense; or (ii) a violation of section 169A.20 (driving while impaired) with an aggravating factor described in section 169A.03, subdivision 3, clause (3).

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 9. Minnesota Statutes 2016, section 169A.60, subdivision 10, is amended to read:

Subd. 10. **Petition for judicial review.** (a) Within ~~30~~ 60 days following receipt of a notice and order of impoundment under this section, a person may petition the court for review. The petition must include proof of service of a copy of the petition on the commissioner. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation, as well as the name of the violator and the law enforcement agency that issued the plate impoundment order. The petition must state with specificity the grounds upon which the petitioner

seeks rescission of the order for impoundment. The petition may be combined with any petition filed under section 169A.53 (administrative and judicial review of license revocation).

(b) Except as otherwise provided in this section, the judicial review and hearing are governed by section 169A.53 and must take place at the same time as any judicial review of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The reviewing court may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. The court shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner. The court shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (judicial review of license revocation), the scope of a hearing under this subdivision is limited to:

(1) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred; and

(2) for all other cases, whether the peace officer had probable cause to believe the violator committed the plate impoundment violation.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 10. [171.177] REVOCATION; PURSUANT TO SEARCH WARRANT.

Subdivision 1. Search warrant-required testing advisory. At the time a blood or urine test is directed pursuant to a search warrant under sections 626.04 to 626.18, the person must be informed that refusal to submit to a blood or urine test is a crime.

Subd. 2. Type of test. The peace officer who directs a test pursuant to a search warrant shall direct a blood or urine test as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer may direct whether the test is of blood or urine. If the person to whom the test is directed objects to the test, the officer shall offer the person an alternative test of either blood or urine. Action may be taken against a person who refuses to take a blood test only if a urine test was offered and action may be taken against a person who refuses to take a urine test only if a blood test was offered.

Subd. 3. License revocation pursuant to search warrant. After executing a search warrant under sections 626.04 to 626.18 for the collection of a blood or urine sample based upon probable cause of a violation of section 169A.20, the peace officer acting under sections 626.13 to 626.17 shall certify to the commissioner of public safety:

- (1) when a person refuses to comply with the execution of the search warrant; or
- (2) if a person submits to the test and the test results indicate:
 - (i) an alcohol concentration of 0.08 or more;
 - (ii) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation; or
 - (iii) the presence of a controlled substance listed in Schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols.

Subd. 4. **Test refusal; license revocation.** (a) Upon certification under subdivision 3 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 comply with the execution of the search warrant under sections 626.04 to 626.18, the commissioner shall revoke the person's license or permit to drive or nonresident operating privilege. 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 not less than 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 not less than 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) When a person who had been driving, operating, or in physical control of a commercial motor vehicle refuses to comply with the search warrant and permit testing, 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.

Subd. 5. **Test failure; license revocation.** (a) Upon certification under subdivision 3, pursuant to a search warrant under sections 626.04 to 626.18, 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, 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 twice the legal limit or more, not less than one year;

(2) if the person is under the age of 21 years, for a period of not less than 180 days or, if the test results indicate an alcohol concentration of twice the legal limit or more, not less than 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 one year or, if the test results indicate an alcohol concentration of twice the legal limit or more, 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) 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 (driving while impaired), 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).

Subd. 6. **Unlicensed drivers; license issuance denial.** If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit after the date of the alleged violation for the same period as provided in this section for revocation, subject to review as provided in subdivisions 10 and 11.

Subd. 7. **Notice of revocation or disqualification; review.** A revocation under this section, or a disqualification under section 171.165 (commercial driver's license disqualification), becomes effective at the time the commissioner or a peace officer acting on behalf of the commissioner notifies the person of the intention to revoke, disqualify, or both, and of revocation or disqualification. The notice must advise the person of the right to obtain administrative and judicial review as provided in subdivisions 10 and 11. If mailed, the notice and order of revocation or disqualification is deemed received three days after mailing to the last known address of the person.

Subd. 8. **Test refusal; driving privilege lost.** (a) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test pursuant to a search warrant under sections 626.04 to 626.18 shall serve immediate notice of intention to revoke and of revocation on

a person who refuses to permit a test or on a person who submits to a test, the results of which indicate an alcohol concentration of 0.08 or more.

(b) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle pursuant to a search warrant under sections 626.04 to 626.18 shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test or on a person who submits to a test, the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall:

(1) invalidate the person's driver's license or permit card by clipping the upper corner of the card in such a way that no identifying information including the photo is destroyed, and immediately return the card to the person;

(2) issue the person a temporary license effective for only seven days; and

(3) send the notification of this action to the commissioner along with the certificate required by subdivision 5 or 6.

Subd. 9. **Notice of action to other states.** When a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied, the commissioner shall give information of the action taken in writing to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which the person has a license.

Subd. 10. **Administrative review.** (a) At any time during a period of revocation imposed under this section, or a period of disqualification imposed under section 171.165 (commercial driver's license disqualification), a person may request in writing a review of the order of revocation or disqualification by the commissioner, unless the person is entitled to review under section 171.166 (review of disqualification). Upon receiving a request, the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request, the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69.

(b) The availability of administrative review for an order of revocation or disqualification has no effect upon the availability of judicial review under this section.

(c) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's impoundment order under section 169A.60, subdivision 9.

Subd. 11. **Petition for judicial review.** (a) Within 60 days following receipt of a notice and order of revocation pursuant to this section, a person may petition the court for review. The petition must be filed with the district court administrator in the county where the alleged offense occurred, together with proof of service of a copy on the commissioner, and accompanied by the standard filing fee for civil actions. Responsive pleading is not required of the commissioner, and court fees must not be charged for the appearance of the commissioner in the matter.

(b) The petition must:

(1) be captioned in the full name of the person making the petition as petitioner and the commissioner as respondent;

(2) include the petitioner's date of birth and driver's license number, and the date of the offense;
and

(3) state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial.

(c) The filing of the petition does not stay the revocation, disqualification, or denial. The reviewing court may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing the petition upon terms the court deems proper.

(d) Judicial reviews must be conducted according to the Rules of Civil Procedure, except that prehearing discovery is mandatory and is limited to:

(1) the notice of revocation;

(2) the certificate of analysis of the blood or urine test;

(3) the peace officer's certificate and any accompanying documentation submitted by the arresting officer to the commissioner; and

(4) disclosure of potential witnesses, including experts, and the basis of their testimony.

Other types of discovery are available only upon order of the court.

Subd. 12. Judicial hearing; issues, order, appeal. (a) A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held.

(b) The scope of the hearing is limited to the issues in clauses (1) to (13):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did a licensed peace officer apply for a search warrant in accordance with the requirements set forth in sections 626.04 to 626.18?

(5) Did a neutral magistrate review the application for a search warrant and determine there was probable cause to believe that the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(6) Was the search warrant and the process by which it was obtained valid?

(7) At the time of directing the person to take the test, did the peace officer inform the person that refusing the test was a crime as required by subdivision 1?

(8) Did the person refuse to permit the test?

(9) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in Schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols?

(10) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(11) Was the testing method used valid and reliable and were the test results accurately evaluated?

(12) Did the person prove the defense of necessity?

(13) Did the person prove the defense of controlled substance use in accordance with a prescription?

(c) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(d) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(e) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Appellate Procedure.

(f) The civil hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

(g) It is an affirmative defense for the petitioner to prove a necessity.

(h) It is an affirmative defense to the presence of a Schedule I or II controlled substance that the person used the controlled substance according to the terms of a prescription issued for the person according to sections 152.11 and 152.12, unless the court finds by a preponderance of the evidence that the use of the controlled substance impaired the person's ability to operate a motor vehicle.

Subd. 13. **Test refusal; no test given.** (a) If a person refuses to permit a blood or urine test as required by a search warrant and the provisions of this section, then a test must not be given. However, the applicable provisions of this section, section 169A.52, subdivision 1, and other law apply.

(b) Notwithstanding paragraph (a), if a peace officer has probable cause to believe that a person has violated section 609.2112, 609.2113, 609.2114, or Minnesota Statutes 2012, section 609.21 (criminal vehicular homicide or injury), a test may be required and obtained despite the person's refusal. A refusal to submit to a test does not constitute a violation of section 609.50 (obstructing legal process), unless the refusal was accompanied by force or violence or the threat of force or violence.

Subd. 14. **Definitions.** The definitions in section 169A.03 apply to this section.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

ARTICLE 3

DWI-RELATED CONFORMING CHANGES

Section 1. Minnesota Statutes 2016, section 97B.066, subdivision 1, is amended to read:

Subdivision 1. **Mandatory chemical testing.** (a) A person who takes wild animals with a bow or firearm in this state or on a boundary water of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 97B.065, subdivision 2.

(b) Taking or submitting to ~~the~~ a test of the person's breath is mandatory when requested by an officer who has probable cause to believe the person was hunting in violation of section 97B.065, subdivision 1, paragraph (a) or (c), and one of the following conditions exists:

(1) the person has been lawfully placed under arrest for violating section 97B.065, subdivision 1, paragraph (a) or (c);

(2) the person has been involved while hunting in an accident resulting in property damage, personal injury, or death;

(3) the person has refused to take the preliminary screening test provided for in section 97B.065, subdivision 3; or

(4) the screening test was administered and indicated an alcohol concentration of 0.08 or more.

(c) Taking or submitting to a test of the person's blood or urine is mandatory when requested by a peace officer under the conditions described in paragraph (b) if the officer is acting pursuant to a search warrant under sections 626.04 to 626.18.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 2. Minnesota Statutes 2016, section 97B.066, is amended by adding a subdivision to read:

Subd. 1a. **Blood or urine test; search warrant required.** Notwithstanding any contrary provision in this section, a blood or urine test may be conducted only pursuant to a search warrant under sections 626.04 to 626.18, or a judicially recognized exception to the search warrant requirement. When, under the provisions of this section, a search warrant is required for a blood or urine test, that requirement is met if a judicially recognized exception to the search warrant is applicable.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 3. Minnesota Statutes 2016, section 97B.066, subdivision 2, is amended to read:

Subd. 2. **Penalties; refusal; revocation of hunting privilege.** (a) If a person refuses to take a test required under subdivision 1, none must be given but the officer authorized to make arrests under section 97B.065, subdivision 2, shall report the refusal to the commissioner of natural resources and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the incident occurred that gave rise to the test demand and refusal.

On certification by the officer that probable cause existed to believe the person had been hunting while under the influence of alcohol or a controlled substance, that in the case of a blood or urine test the officer was acting pursuant to a search warrant, and that the person refused to submit to testing, the commissioner shall impose a civil penalty of \$500 and shall prohibit the person from hunting for one year.

On behalf of the commissioner, an officer requiring a test or directing the administration of a test shall serve on a person who refused to permit a test immediate notice of intention to prohibit the person from hunting, and to impose the civil penalty set forth in this subdivision. If the officer fails to serve a notice of intent to suspend hunting privileges, the commissioner may notify the person by certified mail to the address on the license of the person. The notice must advise the person of the right to obtain administrative and judicial review as provided in this section. The prohibition imposed by the commissioner takes effect ten days after receipt of the notice. The civil penalty is imposed 30 days after receipt of the notice or upon return of the certified mail to the commissioner, and must be paid within 30 days of imposition.

(b) A person who hunts during the period the person is prohibited from hunting as provided under paragraph (a) is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 4. Minnesota Statutes 2016, section 97B.066, subdivision 3, is amended to read:

Subd. 3. **Rights and obligations.** At the time a test is requested, the person must be informed that:

(1) Minnesota law requires a person to take a test to determine if the person is under the influence of alcohol or a controlled substance;

(2) if the person refuses to take the test, the person is subject to a civil penalty of \$500 and is prohibited for a one-year period from hunting, as provided under subdivision 2; and

(3) that, in the case of a breath test, the person has the right to consult with an attorney, but that this right is limited to the extent it cannot unreasonably delay administration of the test or the person will be deemed to have refused the test.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 5. Minnesota Statutes 2016, section 97B.066, subdivision 4, is amended to read:

Subd. 4. **Requirement of urine Type of test.** ~~Notwithstanding subdivision 1,~~ (a) A peace officer who directs a test pursuant to this section may direct a breath test.

(b) A peace officer, acting pursuant to a search warrant, may direct a blood or urine test as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer may direct whether the test is of blood or urine. If the person to whom the test is directed objects to the test, the officer shall offer the person an alternative test of either blood or urine.

(c) If there is probable cause to believe there is impairment by a controlled substance that is not subject to testing by a breath test, a blood or urine test may be required pursuant to a search warrant even after a breath test has been administered.

(d) Action under this section may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 6. Minnesota Statutes 2016, section 97B.066, subdivision 8, is amended to read:

Subd. 8. **Judicial review.** (a) Within ~~30~~ 60 days following receipt of a notice and order imposing sanctions under this section, a person may petition the court for review. The petition must be filed with the district court administrator in the county where the incident occurred giving rise to the test demand and refusal, together with proof of service of a copy on the commissioner and the prosecuting authority for misdemeanor offenses for the jurisdiction in which the incident occurred. A responsive pleading is not required of the commissioner of natural resources, and court fees may not be charged for the appearance of the representative of the commissioner in the matter.

(b) The petition must be captioned in the name of the person making the petition as petitioner and the commissioner as respondent. The petition must state specifically the grounds upon which the petitioner seeks rescission of the order imposing sanctions.

(c) The filing of the petition does not stay the revocation or prohibition against hunting. However, the filing of a petition stays imposition of the civil penalty. The judicial review shall be conducted according to the Rules of Civil Procedure.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 7. Minnesota Statutes 2016, section 97B.066, subdivision 9, is amended to read:

Subd. 9. **Hearing.** (a) A hearing under this section must be before a district court judge in the county where the incident occurred which gave rise to the test demand and refusal. The hearing must be to the court and may be conducted at the same time as hearings upon pretrial motions in the criminal prosecution under section 97B.065. The hearing must be recorded. The commissioner must be represented by the prosecuting authority for misdemeanor offenses for the jurisdiction in which the incident occurred which gave rise to the test demand and refusal.

(b) The hearing must be held at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review. The reviewing court may order a temporary stay of the balance of the prohibition or revocation if the hearing has not been conducted within 60 days after filing of the petition, upon the application of the petitioner and upon terms the court deems proper.

(c) The scope of the hearing must be limited to the issues of:

(1) whether the officer had probable cause to believe that the person violated section 97B.065;

(2) whether one of the conditions in subdivision 1 existed;

(3) if the test involved blood or urine, whether a licensed peace officer applied for a search warrant in accordance with the requirements set forth in sections 626.04 to 626.18, and, if so, whether a neutral magistrate reviewed the application for the search warrant and determined there was probable cause to believe that the person violated section 97B.065, and whether the warrant and the process by which it was obtained was valid;

(4) whether the person was informed as prescribed in subdivision 3; and

~~(4)~~ (5) whether the person refused to submit to testing.

(d) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(e) The court shall order that the prohibition or revocation be either sustained or rescinded and shall either sustain or rescind the civil penalty. The court shall forward a copy of the order to the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 8. Minnesota Statutes 2016, section 360.0753, subdivision 2, is amended to read:

Subd. 2. **Implied consent; conditions; election of test.** (a) Any person who operates or attempts to operate an aircraft in or over this state or over any boundary water of this state consents, subject to the provisions of this section and section 360.0752, to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence or amount of alcohol, controlled substances, or hazardous substances. The test shall be administered at the direction of a peace officer.

~~The (b)~~ A test of the person's breath may be required ~~of a person~~ when an officer has probable cause to believe the person was operating or attempting to operate an aircraft in violation of section 360.0752 and one of the following conditions exists:

- (1) the person has been lawfully placed under arrest for violation of section 360.0752;
- (2) the person has been involved in an aircraft accident or collision resulting in property damage, personal injury, or death;
- (3) the person has refused to take the screening test provided for by section 360.0752;
- (4) the screening test was administered and recorded an alcohol concentration of 0.04 or more or the presence of a controlled substance listed in Schedule I or II other than marijuana or tetrahydrocannabinols; or
- (5) the officer had probable cause to believe that the person was operating or attempting to operate an aircraft with any amount of alcohol present in the person's body.

(c) A test of the person's blood or urine may be required by an officer under the conditions described in paragraph (b) if the officer is acting pursuant to a search warrant under sections 626.04 to 626.18.

~~(b)~~ (d) At the time a test is requested, the person shall be informed:

- (1) that Minnesota law requires the person to take a test to determine the presence or amount of alcohol or a controlled substance listed in Schedule I or II other than marijuana or tetrahydrocannabinols, or to determine if the person is under the influence of alcohol, controlled substances, or hazardous substances;
- (2) that whether a test is taken or refused, the person may be subject to criminal prosecution for an alcohol, controlled substance, or hazardous substance-related offense relating to the operation of an aircraft;
- (3) that if testing is refused, the person may be subject to criminal prosecution because the person refused testing and the person will be disqualified from operating an aircraft for a minimum period of one year;

(4) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that pursuant to a search warrant a test will be taken with or without the person's consent; and

(5) that, in the case of a breath test, the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.

~~(e) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered, and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.~~

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 9. Minnesota Statutes 2016, section 360.0753, is amended by adding a subdivision to read:

Subd. 2a. **Blood or urine test; search warrant required.** Notwithstanding any contrary provision in this section, a blood or urine test may be conducted only pursuant to a search warrant under sections 626.04 to 626.18, or a judicially recognized exception to the search warrant requirement. When, under the provisions of this section, a search warrant is required for a blood or urine test, that requirement is met if a judicially recognized exception to the search warrant is applicable.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 10. Minnesota Statutes 2016, section 360.0753, subdivision 3, is amended to read:

Subd. 3. ~~Requirement of urine or blood~~ **Type of test.** ~~Notwithstanding subdivision 2,~~ (a) A peace officer who directs a test pursuant to this section may direct a breath test.

(b) A peace officer, acting pursuant to a search warrant, may direct a blood or urine test as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer may direct whether the test is of blood or urine. If the person to whom the test is directed objects to the test, the officer shall offer the person an alternative test of either blood or urine.

(c) A blood or urine test may be required pursuant to a search warrant even after a breath test has been administered if there is probable cause to believe that: (1) there is impairment by a controlled substance or hazardous substance that is not subject to testing by a breath test; or (2) a controlled substance listed in Schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body. ~~Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered, and action may be taken against a person who refuses to take a urine test only if a blood test was offered.~~

(d) Action under this section may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 11. Minnesota Statutes 2016, section 360.0753, subdivision 7, is amended to read:

Subd. 7. **Refusal to permit test; cease and desist order.** If a person under arrest refuses to permit chemical testing, none shall be given, but the commissioner of transportation, upon the receipt of a certificate of the peace officer that the officer had reasonable and probable grounds to believe the arrested person had been operating or attempting to operate an aircraft in violation of section 360.0752, that in the case of a blood or urine test the officer was acting pursuant to a search warrant, and that the person had refused to permit the test, shall issue a cease and desist order prohibiting the operation of an aircraft for a period of one year. However, if a peace officer has probable cause to believe that the person has violated section 609.2112, 609.2113, or 609.2114, a test may be required and obtained despite the person's refusal. When a test is obtained pursuant to this section after the person refused to submit to testing, the commissioner of transportation shall issue a cease and desist order under this section based on the person's refusal. However, if the test is of the person's blood or urine, the test must have been taken pursuant to a search warrant in order for a cease and desist order to be issued.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 12. Minnesota Statutes 2016, section 360.0753, subdivision 9, is amended to read:

Subd. 9. **Hearing.** The hearing shall be before a district court in the county where the arrest occurred, unless there is agreement that the hearing may be held in some other county. The hearing shall be recorded and proceed as in a criminal matter, without the right of trial by jury, and its scope shall cover the issues of whether the peace officer had reasonable and probable grounds to believe the person was operating or attempting to operate an aircraft in violation of section 360.0752; whether the person was lawfully placed under arrest; if the test involved blood or urine, whether a licensed peace officer applied for a search warrant in accordance with the requirements set forth in sections 626.04 to 626.18, and, if so, whether a neutral magistrate reviewed the application for the search warrant and determined there was probable cause to believe that the person violated section 360.0752, and whether the warrant and the process by which it was obtained was valid; whether the person refused to permit the test, and if the person refused whether the person had reasonable grounds for refusing to permit the test; and whether at the time of request for the test the peace officer informed the person that the right to fly will be denied if the person refused to permit the test and of the right to have additional tests made by someone of the person's own choosing. The court shall order either that the denial be rescinded or sustained and refer the order to the commissioner of transportation for further action.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 13. Minnesota Statutes 2016, section 624.7143, subdivision 1, is amended to read:

Subdivision 1. **Mandatory chemical testing.** (a) A person who carries a pistol in a public place on or about the person's clothes or person is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the

presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 624.7142.

(b) Taking or submitting to ~~the~~ a test of the person's breath is mandatory when requested by an officer who has probable cause to believe the person was carrying a pistol in violation of section 624.7142, and one of the following conditions exists:

- (1) the person has been lawfully placed under arrest for violating section 624.7142;
- (2) the person has been involved while carrying a firearm in a firearms-related accident resulting in property damage, personal injury, or death;
- (3) the person has refused to take the preliminary screening test provided for in section 624.7142; or
- (4) the screening test was administered and indicated an alcohol concentration of 0.04 or more.

(c) Taking or submitting to a test of the person's blood or urine is mandatory when requested by a peace officer under the conditions described in paragraph (b) if the officer is acting pursuant to a search warrant under sections 626.04 to 626.18.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 14. Minnesota Statutes 2016, section 624.7143, is amended by adding a subdivision to read:

Subd. 1a. **Blood or urine test; search warrant required.** Notwithstanding any contrary provision in this section, a blood or urine test may be conducted only pursuant to a search warrant under sections 626.04 to 626.18, or a judicially recognized exception to the search warrant requirement. When, under the provisions of this section, a search warrant is required for a blood or urine test, that requirement is met if a judicially recognized exception to the search warrant is applicable.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 15. Minnesota Statutes 2016, section 624.7143, subdivision 2, is amended to read:

Subd. 2. Penalties; refusal; revocation. (a) If a person refuses to take a test required under subdivision 1, none must be given but the officer shall report the refusal to the sheriff and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the incident occurred that gave rise to the test demand and refusal. On certification by the officer that probable cause existed to believe the person had been carrying a pistol on or about the person's clothes or person in a public place while under the influence of alcohol or a controlled substance, that in the case of a blood or urine test the officer was acting pursuant to a search warrant, and that the person refused to submit to testing, a court may impose a civil penalty of \$500 and may revoke the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise for a period of one year from the date of the refusal.

The person shall be accorded notice and an opportunity to be heard prior to imposition of the civil penalty or the revocation.

(b) Revocations under this subdivision must be reported in the same manner as in section 624.714, subdivision 12a.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 16. Minnesota Statutes 2016, section 624.7143, subdivision 3, is amended to read:

Subd. 3. **Rights and obligations.** At the time a test is requested, the person must be informed that:

(1) Minnesota law requires a person to take a test to determine if the person is under the influence of alcohol or a controlled substance;

(2) if the person refuses to take the test, the person is subject to a civil penalty of \$500 and is prohibited for a period of one year from carrying a pistol in a public place on or about the person's clothes or person, as provided under subdivision 2; and

(3) that, in the case of a breath test, the person has the right to consult with an attorney, but that this right is limited to the extent it cannot unreasonably delay administration of the test or the person will be deemed to have refused the test.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 17. Minnesota Statutes 2016, section 624.7143, subdivision 4, is amended to read:

Subd. 4. ~~**Requirement of blood or urine**~~ **Type of test.** ~~Notwithstanding subdivision 1, (a) A peace officer who directs a test pursuant to this section may direct a breath test.~~

(b) A peace officer, acting pursuant to a search warrant, may direct a blood or urine test as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer may direct whether the test is of blood or urine. If the person to whom the test is directed objects to the test, the officer shall offer the person an alternative test of either blood or urine.

(c) If there is probable cause to believe there is impairment by a controlled substance that is not subject to testing by a breath test, a blood or urine test may be required pursuant to a search warrant even after a breath test has been administered.

(d) Action under this section may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to acts committed on or after that date.

Sec. 18. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall add cross-references to Minnesota Statutes, section 171.177, in Minnesota Statutes sections that contain cross-references to driver's license revocations under Minnesota Statutes, section 169A.52, as necessary. The revisor may make technical and other necessary changes to language and sentence structure to preserve the meaning of the text of the statute.

EFFECTIVE DATE. This section is effective July 1, 2017."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 179 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage 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:

Abeler	Eaton	Ingebrigtsen	Little	Ruud
Anderson, B.	Eichorn	Isaacson	Lourey	Simonson
Anderson, P.	Eken	Jasinski	Marty	Sparks
Benson	Fischbach	Jensen	Mathews	Tomassoni
Carlson	Franzen	Johnson	Miller	Torres Ray
Chamberlain	Frentz	Kent	Nelson	Utke
Champion	Gazelka	Kiffmeyer	Newman	Weber
Clausen	Goggin	Klein	Newton	Westrom
Cwodzinski	Hall	Koran	Osmek	Wiger
Dahms	Hawj	Laine	Pratt	Wiklund
Dibble	Hayden	Lang	Relph	
Draheim	Hoffman	Latz	Rest	
Dziedzic	Housley	Limmer	Rosen	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1542, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1542 is herewith transmitted to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 18, 2017

CONFERENCE COMMITTEE REPORT ON H. F. No. 1542

A bill for an act relating to human rights; amending notice provisions for actions involving architectural barriers; amending Minnesota Statutes 2016, section 363A.331, subdivisions 2, 5.

May 17, 2017

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

We, the undersigned conferees for H. F. No. 1542 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 1542 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2016, section 363A.28, subdivision 3, is amended to read:

Subd. 3. **For filing claim; filing options.** (a) A claim of an unfair discriminatory practice must be brought as a civil action pursuant to section 363A.33, subdivision 1, filed in a charge with a local commission pursuant to section 363A.07, subdivision 3, or filed in a charge with the commissioner within one year after the occurrence of the practice.

(b) The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless one year plus a period of time equal to the suspension period has passed.

(c) The running of the one-year limitation period is suspended during the applicable time period provided for in the notice under section 363A.331, subdivision 2, during which a civil action may not be brought.

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

Sec. 2. Minnesota Statutes 2016, section 363A.331, subdivision 2, is amended to read:

Subd. 2. **Notice of architectural barrier.** (a) ~~A notice sent before filing a civil action with the court by an attorney representing a person who alleges that a business establishment or place of~~

public accommodation has violated an accessibility requirement under law. Before bringing a civil action under section 363A.33, a person who is an attorney or is represented by an attorney and who alleges that a business establishment or place of public accommodation has violated accessibility requirements under law must provide a notice of architectural barrier consistent with subdivision 3. The notice of architectural barrier must be dated and must:

(1) cite the law alleged to be violated;

(2) identify each architectural barrier that is the subject of an alleged violation and specify its location on the premises;

(3) provide a reasonable time for a response, which may not be less than ~~30~~ 60 days; and

(4) comply with subdivision 3.

(b) A notice described in paragraph (a) must not include a request or demand for money or an offer or agreement to accept money, but may offer to engage in settlement negotiations before litigation. ~~If a notice is sent, a civil action may not be filed before expiration of the period to respond provided in the notice.~~

(c) A civil action may not be brought before expiration of the period to respond provided in the notice under paragraph (a), clause (3). Subject to paragraph (d), a civil action may be brought after the response time provided in the notice.

(d) If, within the response time provided under paragraph (a), clause (3), the business establishment or place of public accommodation indicates in writing an intent to remove the barrier but can demonstrate that weather prevents a timely removal, a civil action may not be brought before 30 days after the date of the response time in the notice, provided the business establishment or place of public accommodation specifies in writing the steps that will be taken to remove the barrier and the date by which the barrier will be removed.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to civil actions for violations of accessibility requirements under law brought on or after that date.

Sec. 3. Minnesota Statutes 2016, section 363A.331, is amended by adding a subdivision to read:

Subd. 2a. **Representation by attorney after action brought.** If a person who is not represented by an attorney retains an attorney within 60 days after a civil action under section 363A.33 is brought, the attorney must provide a dated notice to the defendant that includes the items required under subdivision 2, paragraph (a), clauses (1) and (2), and the accessibility audit portion of the form under subdivision 3. The notice must include additional time for the defendant to serve an answer to the complaint or amend a previous answer to the complaint, which must be at least 60 days after the date of the notice or service of the complaint, whichever is later. If the civil action has not been filed with the court, the action must not be filed until expiration of the time provided for in the notice. The time period for serving an answer to the complaint under rule 12 of the Rules of Civil Procedure and proceedings under the complaint are stayed for the period of time specified in the notice.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to civil actions for violations of accessibility requirements under law brought on or after that date.

Sec. 4. Minnesota Statutes 2016, section 363A.331, subdivision 5, is amended to read:

Subd. 5. **Exemptions.** (a) Subdivisions 2 and 3 do not apply to:

(1) a person who is not an attorney and is not represented by an attorney; ~~or~~

(2) attorneys representing the state or a political subdivision of the state; or

~~(b) This section does not bar a person from bringing an action if the person:~~

~~(1) a person who is challenging a finding contained in an audit prepared by a certified professional;~~

~~(2) has a claim for damages resulting from an injury; or~~

~~(3) has filed charges pursuant to section 363A.28.~~

(b) This section does not affect the right of a person to file a charge with the commissioner or the right of a person who has filed a charge to bring a civil action authorized under section 363A.33, subdivision 1.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to civil actions for violations of accessibility requirements under law brought on or after that date."

Delete the title and insert:

"A bill for an act relating to human rights; changing provisions for actions involving architectural barriers; amending Minnesota Statutes 2016, sections 363A.28, subdivision 3; 363A.331, subdivisions 2, 5, by adding a subdivision."

We request the adoption of this report and repassage of the bill.

House Conferees: Dennis Smith, Chris Swedzinski, Peter Fischer

Senate Conferees: Jerry Relph, Rich Draheim, Nick A. Frentz

Senator Relph moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1542 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1542 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 7, as follows:

Those who voted in the affirmative were:

Abeler
Anderson, B.

Anderson, P.
Benson

Carlson
Chamberlain

Champion
Cwodzinski

Dahms
Dibble

Draheim	Hall	Kent	Marty	Rosen
Dziedzic	Hawj	Kiffmeyer	Mathews	Ruud
Eichorn	Hayden	Klein	Miller	Sparks
Eken	Housley	Koran	Nelson	Torres Ray
Fischbach	Ingebrigtsen	Laine	Newman	Utke
Franzen	Isaacson	Lang	Osmek	Weber
Frentz	Jasinski	Limmer	Pratt	Westrom
Gazelka	Jensen	Little	Relph	Wiger
Goggin	Johnson	Lourey	Rest	Wiklund

Those who voted in the negative were:

Clausen	Hoffman	Newton	Tomassoni
Eaton	Latz	Simonson	

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

MOTIONS AND RESOLUTIONS - CONTINUED

SPECIAL ORDER

H.F. No. 947: A bill for an act relating to education finance; clarifying the calculation of general education aid; amending Minnesota Statutes 2016, section 126C.13, subdivision 4.

Senator Nelson moved to amend H.F. No. 947 as follows:

Page 1, line 18, strike "according to" and insert "under"

The motion prevailed. So the amendment was adopted.

H.F. No. 947 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage 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:

Abeler	Eaton	Ingebrigtsen	Little	Ruud
Anderson, B.	Eichorn	Isaacson	Lourey	Simonson
Anderson, P.	Eken	Jasinski	Marty	Sparks
Benson	Fischbach	Jensen	Mathews	Tomassoni
Carlson	Franzen	Johnson	Miller	Torres Ray
Chamberlain	Frentz	Kent	Nelson	Utke
Champion	Gazelka	Kiffmeyer	Newman	Weber
Clausen	Goggin	Klein	Newton	Westrom
Cwodzinski	Hall	Koran	Osmek	Wiger
Dahms	Hawj	Laine	Pratt	Wiklund
Dibble	Hayden	Lang	Relph	
Draheim	Hoffman	Latz	Rest	
Dziedzic	Housley	Limmer	Rosen	

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

SPECIAL ORDER

S.F. No. 1672: A bill for an act relating to energy; delaying the effective date of a law that provides that certain wind easements, options, and leases do not expire after seven years if the project does not begin commercial operation; amending Laws 2008, chapter 296, article 1, section 25, as amended.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

Abeler	Eaton	Ingebrigtsen	Little	Ruud
Anderson, B.	Eichorn	Isaacson	Lourey	Simonson
Anderson, P.	Eken	Jasinski	Marty	Sparks
Benson	Fischbach	Jensen	Mathews	Tomassoni
Carlson	Franzen	Johnson	Miller	Torres Ray
Chamberlain	Frentz	Kent	Nelson	Utke
Champion	Gazelka	Kiffmeyer	Newman	Weber
Clausen	Goggin	Klein	Newton	Westrom
Cwodzinski	Hall	Koran	Osmek	Wiger
Dahms	Hawj	Laine	Pratt	Wiklund
Dibble	Hayden	Lang	Relph	
Draheim	Hoffman	Latz	Rest	
Dziedzic	Housley	Limmer	Rosen	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 1186: A bill for an act relating to human services; modifying provisions related to mental health services; modifying the definition of mental health practitioner; modifying certified peer specialist certification requirements; amending Minnesota Statutes 2016, sections 245.462, subdivision 17; 245.4871, subdivision 26; 245.8261, subdivision 4; 256B.0615, subdivision 5; 256B.0616, subdivision 5; 256B.0943, subdivisions 1, 9, 13.

Senator Hayden moved that the amendment made to H.F. No. 1186 by the Committee on Rules and Administration in the report adopted May 9, 2017, pursuant to Rule 45, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 1186 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Abeler	Benson	Clausen	Dibble	Eichorn
Anderson, B.	Carlson	Cohen	Draheim	Eken
Anderson, P.	Chamberlain	Cwodzinski	Dziedzic	Fischbach
Bakk	Champion	Dahms	Eaton	Franzen

Frentz	Isaacson	Latz	Newton	Tomassoni
Gazelka	Jasinski	Limmer	Osmek	Torres Ray
Goggin	Jensen	Little	Pratt	Utke
Hall	Kent	Lourey	Relph	Weber
Hawj	Kiffmeyer	Marty	Rest	Westrom
Hayden	Klein	Mathews	Rosen	Wiger
Hoffman	Koran	Miller	Ruud	Wiklund
Housley	Laine	Nelson	Simonson	
Ingebrigtsen	Lang	Newman	Sparks	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Madam 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. 550: A bill for an act relating to natural resources; appropriating money from environment and natural resources trust fund; modifying requirements for receipt of fund money; amending Minnesota Statutes 2016, sections 116P.05, subdivision 2; 116P.17, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 477A.

Senate File No. 550 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 18, 2017

Senator Westrom moved that the Senate do not concur in the amendments by the House to S.F. No. 550, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 399:

H.F. No. 399: A bill for an act relating to public employment; clarifying limits on severance pay to highly compensated public employees; amending Minnesota Statutes 2016, section 43A.17, subdivision 11.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Anderson, S.; O'Driscoll; Fenton; Nash and Dettmer have been appointed as such committee on the part of the House.

House File No. 399 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 18, 2017

Senator Kiffmeyer moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 399, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 470:

H.F. No. 470: A bill for an act relating to public safety; creating the crime of tampering with a public safety motor vehicle; establishing criminal penalties; amending Minnesota Statutes 2016, section 609.595, subdivisions 1, 2, by adding a subdivision.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Cornish; Johnson, B.; Zerwas; Scott and Hilstrom have been appointed as such committee on the part of the House.

House File No. 470 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 18, 2017

Senator Limmer moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 470, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1725:

H.F. No. 1725: A bill for an act relating to motor vehicles; amending certain weight limitations for vehicles transporting milk; amending Minnesota Statutes 2016, section 169.871, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 169.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Drazkowski, Miller and Pelowski have been appointed as such committee on the part of the House.

House File No. 1725 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 18, 2017

Senator Goggin moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1725, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1226:

H.F. No. 1226: A bill for an act relating to taxation; making policy, technical, and clarifying changes to income, corporate, estate, special, sales, property, and miscellaneous taxes and tax provisions; amending Minnesota Statutes 2016, sections 13.51, subdivision 2; 69.021, subdivision 5; 270.071, subdivisions 2, 7, 8, by adding a subdivision; 270.072, subdivisions 2, 3, by adding a subdivision; 270.12, by adding a subdivision; 270.82, subdivision 1; 270A.03, subdivision 5; 270B.14, subdivision 1; 270C.30; 270C.33, subdivisions 5, 8; 270C.34, subdivision 2; 270C.35, subdivision 3, by adding a subdivision; 270C.38, subdivision 1; 270C.445, by adding a subdivision; 270C.446, subdivision 5; 270C.72, subdivision 4; 270C.89, subdivision 1; 271.06, subdivisions 2, 7; 272.02, subdivisions 9, 10; 272.0211, subdivision 1; 272.025, subdivision 1; 272.029, subdivisions 2, 4, by adding a subdivision; 272.0295, subdivision 4; 272.115, subdivision 2; 273.061, subdivision 7; 273.08; 273.121, by adding a subdivision; 273.124, subdivision 13; 273.13, subdivision 22; 273.33, subdivisions 1, 2; 273.371; 273.372, subdivisions 2, 4, by adding subdivisions; 274.01, subdivision 1; 274.13, subdivision 1; 274.135, subdivision 3; 275.065, subdivision 1; 275.62, subdivision 2; 278.01, subdivision 1; 282.01, subdivisions 1a, 1d; 287.2205; 289A.08, subdivisions 11, 16, by adding a subdivision; 289A.09, subdivisions 1, 2; 289A.11, subdivision 1; 289A.12, subdivision 14; 289A.18, subdivision 1, by adding a subdivision; 289A.20, subdivision 2; 289A.31, subdivision 1; 289A.35; 289A.37, subdivision 2; 289A.38, subdivision 6; 289A.50, subdivision 7; 289A.60, subdivision 28, by adding a subdivision; 289A.63, by adding a subdivision; 290.0672, subdivision 1; 290.068, subdivision 2; 290.0922, subdivision 2; 290.17, subdivision 2; 290.31, subdivision 1; 290A.19; 290C.03; 291.016, subdivisions 2, 3; 291.03, subdivisions 9, 11; 295.54, subdivision 2; 295.55, subdivision 6; 296A.01, subdivisions 33, 42, by adding a subdivision; 296A.02, by adding a subdivision; 296A.07, subdivision 1; 296A.22, subdivision 9; 296A.26; 297A.82, subdivisions 4, 4a; 297D.02; 297E.02, subdivisions 3, 7; 297E.04, subdivision 1; 297E.05, subdivision 4; 297E.06, subdivision 1; 297F.09, subdivision 1; 297F.23; 297G.09, subdivision 1; 297G.22; 297H.06, subdivision 2; 297I.05, subdivision 2; 297I.10, subdivisions 1, 3; 297I.30, by adding a subdivision; 297I.60, subdivision 2; 298.01, subdivision 4c; 469.319, subdivision 5; 477A.013, by adding a

subdivision; 477A.19, by adding subdivisions; 559.202, subdivision 2; 609.5316, subdivision 3; Laws 2014, chapter 308, article 9, section 94; Laws 2016, chapter 187, section 5; proposing coding for new law in Minnesota Statutes, chapters 273; 289A; 290B; 290C; 293; repealing Minnesota Statutes 2016, sections 281.22; 290C.02, subdivisions 5, 9; 290C.06; Minnesota Rules, parts 8092.1400; 8092.2000; 8100.0700.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Davids, McDonald, Hertaus, Drazkowski and Marquart have been appointed as such committee on the part of the House.

House File No. 1226 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 18, 2017

Senator Chamberlain moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1226, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Senator Gazelka moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Gazelka from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 399: Senators Kiffmeyer; Anderson, B.; Koran; Hall; and Laine.

H.F. No. 470: Senators Limmer; Relph; Johnson; Anderson, B.; and Latz

H.F. No. 1226: Senators Chamberlain, Dahms, Miller, Senjem, and Rest.

H.F. No. 1725: Senators Goggin, Utke, and Sparks.

S.F. No. 550: Senators Westrom, Ingebrigtsen, and Dziedzic.

Senator Gazelka moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Gazelka, Chair of the Committee on Rules and Administration, designated H.F. No. 1538 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1538: A bill for an act relating to real property; amending the Minnesota Common Interest Ownership Act to provide for construction defect claims; amending Minnesota Statutes 2016, sections 515B.1-103; 515B.3-102; 515B.3-107; 515B.3-111; 515B.4-1021; 515B.4-113; 515B.4-116.

Senator Dziejdzic moved to amend H.F. No. 1538, as amended pursuant to Rule 45, adopted by the Senate May 4, 2017, as follows:

(The text of the amended House File is identical to S.F. No. 1455.)

Page 3, line 13, delete "article 2 of this chapter" and insert "section 515B.2-124"

Page 10, delete lines 10 to 19 and insert:

"(2) obtain the approval of owners of units to which a majority of the total votes in the association are allocated. Votes allocated to units owned by the declarant, an affiliate of the declarant, or a mortgagee who obtained ownership of the unit through a foreclosure sale are excluded. The association may obtain the required approval by a vote at an annual or special meeting of the members or, if authorized by the statute under which the association is created and taken in compliance with that statute, by a vote of the members taken by electronic means or mailed ballots. If the association holds a meeting and voting by electronic means or mailed ballots is authorized by that statute, the association shall also provide for voting by those methods. Section 515B.3-110(c) applies to votes taken by electronic means or mailed ballots, except that the votes must be used in combination with the vote taken at a meeting and are not in lieu of holding a meeting, if a meeting is held, and are considered for purposes of determining whether a quorum was present. Proxies may not be used for a vote taken under this paragraph unless the unit owner executes the proxy after receipt of the notice required under subsection (d)(1) and the proxy expressly references this notice."

Page 10, line 25, delete "75" and insert "90"

Page 12, line 13, before the semicolon, insert ". The initial maintenance plan prepared by the declarant must be based on the best available information listing all building elements to which the plan will apply and the generally accepted standards of maintenance on which the plan is based. The initial plan must be dated and signed by the declarant and be fully funded by the initial budget provided by the declarant"

Page 18, line 21, after "party" insert "under Rules of Civil Procedure, rule 114.02(7)"

Page 18, line 22, after "mediator" insert "from the roster maintained by the Minnesota Supreme Court"

Page 19, line 9, delete "construction defect claims commenced" and insert "common interest communities created"

The motion prevailed. So the amendment was adopted.

Senator Champion moved to amend the Dzedzic amendment to H.F. No. 1538, adopted by the Senate May 18, 2017, as follows:

Page 1, delete lines 5 to 19 and insert:

"Page 10, line 3, delete the colon

Page 10, line 4, delete "(1)"

Page 10, line 9, delete "; and" and insert a period

Page 10, delete lines 10 to 19

Page 10, line 22, delete "subsections (d)(1) and (d)(2)" and insert "subsection (d)"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 6 and nays 57, as follows:

Those who voted in the affirmative were:

Champion	Hawj	Newton
Dibble	Isaacson	Wiger

Those who voted in the negative were:

Abeler	Dzedzic	Jasinski	Lourey	Senjem
Anderson, B.	Eaton	Jensen	Marty	Simonson
Anderson, P.	Eichorn	Johnson	Mathews	Sparks
Bakk	Fischbach	Kent	Miller	Tomassoni
Benson	Franzen	Kiffmeyer	Nelson	Torres Ray
Carlson	Frentz	Klein	Newman	Utke
Chamberlain	Gazelka	Koran	Osmek	Weber
Clausen	Goggin	Laine	Pappas	Westrom
Cohen	Hall	Lang	Relph	Wiklund
Cwodzinski	Hoffman	Latz	Rest	
Dahms	Housley	Limmer	Rosen	
Draheim	Ingebrigtsen	Little	Ruud	

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

Senator Champion moved to amend H.F. No. 1538, as amended pursuant to Rule 45, adopted by the Senate May 4, 2017, as follows:

(The text of the amended House File is identical to S.F. No. 1455.)

Page 18, line 17, after the period, insert "Section 515B.3-102 does not prevent a unit owner from bringing a construction defect claim or prevent an association from intervening in a claim brought by a unit owner, regardless of whether the claim has been approved under section 515B.3-102, subsection (d)."

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

H.F. No. 1538 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 61 and nays 3, as follows:

Those who voted in the affirmative were:

Abeler	Eaton	Jensen	Mathews	Simonson
Anderson, B.	Eichorn	Johnson	Miller	Sparks
Anderson, P.	Eken	Kent	Nelson	Tomassoni
Bakk	Fischbach	Kiffmeyer	Newman	Torres Ray
Benson	Franzen	Klein	Newton	Utke
Carlson	Frentz	Koran	Osmek	Weber
Chamberlain	Gazelka	Laine	Pappas	Westrom
Clausen	Goggin	Lang	Pratt	Wiger
Cohen	Hall	Latz	Relph	Wiklund
Cwodzinski	Hoffman	Limmer	Rest	
Dahms	Housley	Little	Rosen	
Draheim	Isaacson	Lourey	Ruud	
Dziedzic	Jasinski	Marty	Senjem	

Those who voted in the negative were:

Champion	Dibble	Hawj
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So the bill, as amended, was passed and its title was agreed to.

MEMBERS EXCUSED

Senator Schoen was excused from the Session of today. Senators Abeler; Anderson, B.; Chamberlain; and Latz were excused from the Session of today from 3:40 to 3:45 p.m. Senators Bakk and Cohen were excused from the Session of today from 3:40 to 4:35 p.m. Senators Pappas and Senjem were excused from the Session of today from 3:40 to 5:15 p.m. Senator Johnson was excused from the Session of today from 4:35 to 4:50 p.m. Senator Pratt was excused from the Session of today from 4:45 to 5:45 p.m. Senator Hayden was excused from the Session of today at 4:45 p.m.

ADJOURNMENT

Senator Gazelka moved that the Senate do now adjourn until 12:00 noon, Friday, May 19, 2017. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate