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S.F. No. 888 - State Government, Veterans, and Military Affairs Appropriations Bill - as Amended by the A-4 Amendment

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Article 1 – Appropriation

Article 1 appropriates money for state operations as detailed on the spreadsheet.

Article 2 – State Government Operations

Section 1 [Staff] permits the Legislative Coordinating Commission (LCC) to appoint staff to provide research assistance to the Legislative Commission on Data Practices, if funding is available. This provision is from Senator Limmer’s bill, S.F. No. 1923.

Section 2 [Senate Building Appropriations] establishes standing appropriations for payments required by the lease-purchase agreement between the Department of Administration and the Department of Management and Budget and for operations and maintenance costs associated with the Senate Building. This section is effective for fiscal year 2016 and later.

Subdivision 1 [Debt service] appropriates annually to the senate from the general fund the amount necessary to pay the principal and interest required under the lease-purchase agreement between the department of administration and the department of management and budget for the Senate Building.

Subdivision 2 [Operations and maintenance] appropriates specified amounts

beginning in fiscal year 2016 to the senate to pay for operations and maintenance costs associated with the Senate building. Authorizes the senate to contract for operations and maintenance with an entity other than the commissioner of administration in certain circumstances. Requires the commissioner of administration to report annually to the legislature on the use and planned use of the appropriations for operations and maintenance for the Senate Building.

Section 3 [Prepay Software, Subscriptions, United States Documents] authorizes the commissioner of administration to allow an agency to make advance deposits for information technology hosting services.

Section 4 [Accommodation Reimbursement] establishes a program for reimbursing a state agency for the expenses the agency incurs in making a “reasonable accommodation” for an employee, or applicant for employment, who has a qualifying disability, as required by law. The section establishes a dedicated fund for this purpose and appropriates money to the fund.

Subdivision 1 [Definitions] defines “reasonable accommodation” by cross-reference to current human rights law. Reasonable accommodation means steps to accommodate the known physical or mental limitations of a qualified disabled person, including making facilities readily accessible to and usable by disabled persons and job restructuring, modifying work schedules, reassignment, or modifying equipment or devices, and providing aides. This section defines “state agency” as an agency in the executive branch of state government, but does not include constitutional officers.

Subdivision 2 [Reimbursement for making reasonable accommodation] requires the Commissioner of Administration to reimburse state agencies for expenses incurred in making reasonable accommodations for agency employees and applicants to the extent that funds are available in the accommodation account for this purpose.

Subdivision 3 [Accommodation account established] establishes an accommodation account in the special revenue fund.

Subdivision 4 [Administration costs] permits the Commissioner of Administration to use up to 15 percent of money appropriated to the accommodation account to be used for administering this program.

Subdivision 5 [Notification] requires the Commissioner of Administration to periodically notify agencies of the availability of funds under this program.

Subdivision 6 [Report] requires the Commissioner of Administration to report to the legislature annually on the use of the accommodation account, including specified topics.

This section is effective July 1, 2015. Reimbursement is available for expenses incurred after June 30, 2015. This section is from Senator Metzen’s bill, S.F. No. 898.

Section 5 [Grant Agreements] makes the contract administration in Minnesota Statutes, section 16B.97, inapplicable to general obligation grants. Most of the provisions in section 16B.97 are duplicative of requirements for general obligation grants in chapter 16C. This section is from Senator Stumpf’s bill, S.F. No. 1676.

Section 6 [Limitation] makes the contract administration section 16B.98 inapplicable to general obligation grants and capital project grants to political subdivisions. Most of the provisions in section 16B.98 are duplicative of requirements for these grants in chapter 16C. This section is from Senator Stumpf's bill, S.F. No.1676.

Section 7 [Encumbrance Exception] eliminates a requirement that the commissioner of management and budget give prior authorization for a grant recipient of general obligation bond proceeds to incur eligible expenses. This section is from Sen. Stumpf's bill, SF 1676.

Section 8 [Guaranteed Energy-Savings Program] makes changes to the Guaranteed Energy-Savings Program that permits the Commissioner of Administration to enter into an agreement for the installation of utility cost-savings measures that are backed by guarantee of the vendor, as follows:

- replaces the term “lease purchase agreement” with “project financing;”
- expands the types of project financing that may be used to pay for a guaranteed energy savings project, including a mix of leasing and bonding;
- eliminates the specification that utility cost-savings measures become the sole property of the state after final obligated payment;
- changes the calculation that sets the threshold that determines whether the commissioner is authorized to enter into an agreement for the utility cost-savings measures;
- replaces the commissioner's authority to enter into a lease purchase agreement to implement utility cost-savings measures with authority to enter into project financing for the same purpose; and
- eliminates a restriction that the implementation costs of the utility cost-savings measures cannot exceed the amount to be saved in utility and operation and maintenance costs over the term of a lease purchase agreement.

This section is from Senator Stumpf's bill, S.F. No.1676.

Section 9 [Small Business] specifies that the definition of “small business” will be as defined in federal rules, instead of as set by rule by the commissioner of administration. This definition of “small business” applies to the procurement and construction contracting laws for the state, including MnDOT, the University of Minnesota, and the Metropolitan Council. This section is from the Governor's recommendations, S.F. No. 888.

Section 10 [State-Funded Projects] requires certain organizations administering certain contracts to promote the use of targeted group businesses and take steps to remove barriers to equitable participation. Targeted group businesses include those owned by women, people with a substantial physical disability, minorities and veterans.

This requirement applies to contracts for state-funded capital improvement projects in excess of \$100,000 issued by organizations not subject to certain small business requirements, including municipalities. This section is from the Governor's recommendations, S.F. No. 888.

Section 11 [Eligibility; Rules] provides an alternative process, under a federal certification

program, for minority-or woman-owned small business to be certified to receive certain preferred treatment as a targeted business under current state law. Under current law, a business must obtain such certification through a process under the commissioner of administration. In addition, this section permits the commissioner of administration to use an expedited rulemaking process to implement several procurement preference programs, already in statute. This section is from the Governor’s recommendations, S.F. No. 888.

Sections 12, 13, 15 to 31, 33, 34, 60 (b), 62, and 63 are from Senator Johnson’s bill, S.F. No. 737, the Board of Cosmetologist Examiners’ proposal.

Section 12 [Policy] adds “infection control” and the use of “implements” to the list of things the legislature finds to require special skills and education that warrant licensing by the Board of Cosmetology Examiners.

Section 13 [Manager] modifies the definition of “manager.”

Sections 14, 32, and 60 (a) enable mobile salons. These sections are from Senator Rest’s bill, S.F. No. 839.

Current statute precludes practicing cosmetology except in a licensed salon (with a couple narrow exceptions). (Minnesota Statutes, section 155A.29, subdivision 1.) The Board of Cosmetologist Examiners is tasked with establishing the conditions and process to get a salon license. (Minnesota Statutes, section 155A.29, subdivision 2.) The board’s current rules for obtaining a salon license include requirements that can only be met by a fixed location. Therefore, under current law, it is not legal to practice cosmetology in a mobile salon, even though there is no statute that expressly precludes mobile salons. These sections will make mobile salons legal by requiring the board to establish rules that allow a mobile facility to be a licensed salon.

Section 14 [Mobile salon] defines “mobile salon.”

Sections 15 to 19 add definitions for “advanced practice esthetician,” “designated licensed salon manager,” “school manager,” “designated school manager,” and “practitioner.”

Section 20 [Hiring and Assignment of Employees] eliminates a requirement for the board to train staff in customer service skills. Authorizes the board to hire qualified personnel to conduct complaint investigations.

Section 21 [Schedule] adds categories of license fees and changes fee amounts set in statute.

Section 22 [Board Must Approve or Deny Application; Timeline] modifies the existing timeline for issuing a license in two ways: 1) makes a conforming change to accommodate expedited military licenses (established in law passed in 2014); and 2) permits the board to take additional time, beyond 15 days, to review a license application if certain conditions (specified in the following section) are met.

Section 23 [Additional Review for Certain Licenses] provides a timeline for additional review of a license application that contains discrepancies, or is made by an applicant who is the subject of a complaint investigation or has pending disciplinary actions before the board.

Section 24 [Temporary Military License or Expedited License] requires the board to take action within five business days for an application that meets requirements for an expedited license or a temporary military license. The board must issue or deny the license or notify the applicant if their application will require additional review because it meets certain conditions.

Section 25 [Additional Review for Certain Temporary Military License or Expedited License] permits the board additional time to review an application for an expedited license or temporary military license if the application contains discrepancies, or if the applicant is the subject of a complaint investigation or pending disciplinary action.

Section 26 [Licensing] adds “advanced practice esthetician” to the list of practices that require license.

Section 27 [Qualifications] permits the board's rules for licensing to require demonstrated knowledge of procedures necessary to protect the safety of the practitioner and consumer.

Section 28 [Temporary Military License] is a technical change. The fee for a temporary military license is unchanged in amount, but is moved to the complete list of fees in another section.

Section 29 [Continuing Education Requirements] adds a requirement for licensees to complete a four-hour continuing education course on specified technical or business management topics. This is in addition to four hours of continuing education credits already required on health, sanitation, and safety. Precludes marketing or sales of products during a continuing education class. Requires continuing education providers to be authorized annually, instead of every three years. This section permits a licensed school of cosmetology, a professional association, or a licensed salon that is authorized by the board to offer continuing education. This section clarifies materials a continuing education provider must submit to the board to obtain authorization.

Section 30 [Licensing] specifies that a person must not offer cosmetology services for pay unless licensed and the services are provided in a licensed salon or as otherwise specified in statute. Requires that salons be licensed in one or more specified disciplines.

Section 31 [Requirements] adds a clarifying label for the workers’ compensation section. Eliminates a sentence that had no verb, so its meaning was unclear.

Section 32 [Requirements for mobile salon] requires mobile salons to maintain a permanent business address and notify the board of locations and schedule or operation of a mobile salon.

Section 33 [Conditions Precedent to Issuance] requires a licensed cosmetology school to employ a designated licensed school manager who maintains a cosmetology salon manager license.

Section 34 [Discrimination Prohibited] changes the nondiscrimination requirements for cosmetology schools by referencing the Minnesota Human Rights Act. The effect of this change is to add the following classes on which the school may not discriminate against students: religion, marital status, disability, age, and status with respect to public assistance. The change removes “citizenship” from the list of impermissible bases for discriminating against students.

Section 35 [Expiration] extends the Mississippi River Parkway Commission until June 30, 2020. This section is from Senator Senjem's bill, S.F. No. 1984, that was amended into S.F. No. 888 in the State and Local Government Committee.

Section 36 [Costs Assessed] is a housekeeping provision to reflect a 2009 change to the way that the Office of Administrative Hearings is paid (from the general fund, rather than the general account of the state elections campaign fund) for considering complaints relating to a statewide ballot question or an election for a statewide or legislative office. This section is from Senator Carlson's bill, S.F. No. 1450.

Section 37 [Plan Development; Criteria] modifies the existing "Mighty Ducks" program for renovation of ice centers. This section makes three changes: (1) specifies that the cap for the amount of a grant for an air quality project is \$200,000; (2) sets a cap of \$50,000 for a grant to replace R-22 as the refrigerant in an indirect cooling system; and (3) sets a cap of \$400,000 for a grant to replace R-22 as the refrigerant in a direct cooling system. This section is from Senator Metzen's bill, S.F. No. 2002, as amended in division.

Sections 38 to 43 and 55 are from Senator Franzen's bill, S.F. No. 1476, a proposal from the Secretary of State.

Section 38 amends the filing fee for federal tax liens and other federal liens to eliminate the \$15 fee for each additional name beyond two debtors.

Section 39 amends filing requirements for a foreign corporation whose certificate of authority to do business is revoked or cancelled. Instead of filing an application for reinstatement, a foreign corporation could reinstate its authority by filing an annual renewal and the required fee. If information in the original application has changed, an amended certificate must be filed.

Sections 40 to 42 amend filing requirements applicable to public benefit corporations

Section 40 requires a public benefit corporation to file a report before April 1, rather than no later than 90 days after conclusion of each calendar year.

Section 41 amends the effect of a failure to file an annual benefit report, consistent with the date changes in **section 40**.

Section 42 amends the effect of revocation and reinstatement by a public benefit corporation to add a reference to termination of status. The public benefit corporation must amend its articles to reflect a name change that complies with the general business corporation law and does not include the public benefit corporation designation.

Section 43 provides that the duration of a corporation that has public benefit status terminated or revoked and fails to file the change of name automatically expires 30 days after termination or revocation.

Sections 44 to 54 are from Senator Rest's bill, S.F. No. 802, a proposal from the Board of Accountancy. These sections eliminate the use of the undefined term "financial statements" in certain instances, instead using the defined term "attest;" modifies the definitions of "attest," "peer review," and "report;" permit the board to adopt rules for attesting; raise the maximum

fine the board may impose; permit an out-of-state firm to perform certain activities; preclude use of certain language on attest service without a license; and make several changes of a housekeeping nature.

Section 44 [Attest] modifies the definition of “attest” to align with model language in the Uniform Accountancy Act developed by the American Institute of CPAs and the National Association of State Boards of Accountancy.

Section 45 [Peer Review] modifies the definition of “peer review” to include CPA firms and individuals.

Section 46 [Principal Place of Business] eliminates superfluous words in the definition of “principal place of business.”

Section 47 [Report] modifies the definition of "report" to align the language for changes made to section 1.

Section 48 [State] adds the Commonwealth of the Northern Mariana Islands to the list of U.S. territories.

Section 49 [Officers; Proceedings] is a technical correction.

Section 50 [Rules] authorizes the Board of Accountancy to adopt rules that reflect recognized standards for attesting.

Section 51 [General] permits an out-of-state firm to perform an examination, review, or agreed-upon procedures engagement, performed according to industry standard to include reference to clause (5) added in section 1.

Section 52 [Qualifications] eliminates the use of the undefined phrase “financial statements” and aligns the language with changes in section 1.

Section 53 [Violation; Penalties; Costs of Proceeding] raises the maximum fine, from \$2,000 to \$5,000, that the Board of Accountancy is authorized to impose for a violation of law.

Section 54 [Unlawful Acts] precludes people not licensed by the Board of Accountancy from using certain language on an attest service and aligns language with changes made in section 1.

Section 55 modifies procedures governing inquiries regarding farm product liens and financing statements maintained by the secretary of state. A reference to oral inquiries is changed to online inquiries, which may be submitted at any time. The secretary of state must make a prompt response to the inquiry. References to filing office are changed to the secretary of state, consistent with the definition under current law.

Section 56 [Office of MN.IT Services] amends a 2013 law by making a housekeeping change to reflect the name change to MN.IT Services and extending the deadline for MN.IT to repay cash flow assistance to the state, from June 30, 2015 to the end of the fiscal year 2015 closing period.

Section 57 [Parking Ramp; Required User Financing] changes the treatment of parking fees for the legislative parking garage, transferring fees to the general fund instead of to the debt service account. This section is from the Governor’s recommendations, S.F. No. 888.

Section 58 [Capitol Room Numbers] requires the Commissioner of Administration to maintain the current and recent room numbers for rooms in the Capitol with roughly the same footprint as before renovation.

Section 59 [In-Lieu of Rent Evaluation] requires the Commissioner of Administration to report to the legislature by January 15, 2017, with an evaluation and recommendation regarding the in-lieu of rent appropriation for space costs for the legislature, veterans organizations, vending operators, ceremonial space, and statutorily free space in the Capitol building and in other buildings on the Capitol grounds under the custodial control of the Commissioner of Administration.

Section 60 [Rulemaking Authority]

Paragraph (a) requires the Board of Cosmetologist Examiners to adopt rules governing mobile salons. Requires the rules to include penalties for a failure of a mobile salon to follow municipal law governing time and place of operations.

Paragraph (b) authorizes the Board of Cosmetology Examiners to adopt rules governing an advanced practice esthetician license. This section is effective January 1, 2016, through January 1, 2019.

Section 61 [State Agency Technology Projects] requires an agency that buys information technology services or support with an appropriation in this bill to contract with MN.IT to provide those services.

Section 62 [Revisor’s Instruction] requires the Revisor of Statutes to change the word “sanitation” to “infection control” and “lapsed” to “expired” in the cosmetology chapter of statutes.

Section 63 [Repealer] repeals a definition for “licensed practice” in the cosmetology chapter that was not used in statute.

Article 3 – Military and Veterans Affairs

Sections 1 and 4 establish a grant program for the state to reimburse local units of government for salary and benefits paid to public safety employees who are members of the National Guard, a state militia, or any reserve component of the military or navy, who take leave to fulfill their duties to the National Guard or reserve component. These sections are from Senator Pappas’ bill, S.F. No. 1176.

Section 1 [Reimbursement Grants] adds to the list of the adjutant general powers, the administration of the reimbursement grant program established in section 4 of the bill and making payments under the program.

Section 2 [Uses; Veterans] expands the permitted uses of money in the Support Our Troops

account so that grants may be given to certain nonprofits and foundations. This section was in the Governor's recommendations, S.F. No. 888.

Section 3 [Annual Report] makes the Commissioner of Veterans Affairs subject to the same reporting requirement as the Commissioner of Military Affairs about the use of grants made from the Support Our Troops account.

Section 4 [State Reimbursement for Costs of Authorized Leave] requires the adjutant general to make grants to local units of government to reimburse them for salary and benefits paid to public safety employees on authorized leave. Sets a deadline of March 15 each year for a local government to apply for reimbursement and sets July 15 each year as the deadline for the adjutant general to make payment of the grants. Requires the adjutant general to prescribe the form and supporting information that a local government must supply as part of the application for state reimbursement. If the amount appropriated to the fund is insufficient to pay all requested grants, the adjutant general will reduce each grant proportionally. This grant program is available for costs incurred in calendar year 2016 and after.

Section 5 [Temporary Emergency Relief] makes payment on death of any MN National Guard service member (not just in cases of hardship, as required under current law) to the member's family or estate and sets the amount of the payment the same as the death gratuity paid for those service members with federal active service status. This provision was recommended by the Governor in his supplemental budget recommendations.

Section 6 [Reclassification Bonus Program] permits the adjutant general to establish a bonus program to provide incentives for MN National Guard members to complete certain training. Specifies criteria for eligibility and permits the adjutant general to determine additional criteria that must be specified in regulation. Permits the adjutant general to recoup a prorated amount of the bonus if the member fails to complete a term of reenlistment or an obligated term of commissioned service for which a bonus was paid. This provision was recommended by the Governor in his supplemental budget recommendations.

Section 7 [Disposal of Property and Expiration of Board of Governors] permits the trustees responsible for the disposal of property and assets from Big Island Veterans Camp to remove a trustee on a majority vote with consent of the Commissioner of Veterans Affairs. Provides for filling vacancies in the trusteeship. This section is from Senator Saxhaug's bill, S.F. No. 427.

Section 8 [Cost of Care] requires the Commissioner of Veterans Affairs to establish in rules a method to calculate a maintenance charge for domiciliary residents. The maintenance charge establishes a personal needs allowance based on the resident's monthly income. This section sets the minimum personal needs allowance for the period June 30, 2016, to June 30, 2017, at \$122 per month and at \$130 for the following year. After that, the allowance is adjusted annually by one-half of the percentage change of the Consumer Price Index on the first day of each calendar year. This section is in Senator Sieben's bill, S.F. No. 131.

Section 9 [Arrearages] specifies that when a resident enters into an agreement for a payment schedule to address overdue maintenance charges, the agreement must not reduce the resident's personal needs allowance below the minimum amounts specified in section 8. This section is in Senator Sieben's bill, S.F. No. 131.

Section 10 [Repealer] repeals statutes that provided for creation and duties of a Board of

Governors of Big Island Veterans Camp. This section is from Senator Saxhaug's bill, S.F. No. 427.

Article 4 – Pari-Mutuel Horse Racing

On July 8, 2014, the Office of the Legislative Auditor (OLA) issued a report (“Minnesota Racing Commission: Oversight of Purse Contributions at Running Aces Harness Park”) that detailed the results of an investigation into whether Running Aces had been paying the proper amount towards purses. The issue stemmed from conflicting interpretations of Minnesota Statutes 2013, section 240.13, subdivision 5, paragraph (a), clause (1). The OLA report recommended an amendment to the statute to clarify that purse contributions must be calculated on the handle, and to address the lack of a definition in statute of “the time period of live races.”

In May of 2013, Running Aces and the Horsemen's Association negotiated an agreement that Running Aces would pay 8.4 percent on the handle toward purses going forward and otherwise purported to resolve the dispute. The OLA's report concluded that the parties did not have the authority to simply resolve the dispute by agreement; rather, the commission should control the negotiations and make the final determination on the amount of payment required.

This article makes changes to statute to clarify the provisions at issue in the Running Aces purse contribution dispute, and makes other changes as described below. All sections in this article are from Senator Pappas' bill, S.F. No. 1663.

Section 1 [Racing Season] deletes the restrictions on the first day and total length of the racing season for pari-mutuel wagering.

Section 2 [Takeout] defines “takeout” as the money withheld by statute or rule from each pari-mutuel pool.

Section 3 [Handle] defines “handle” as the aggregate of all pari-mutuel pools, excluding refundable wagers or cancellations.

Section 4 [Mixed Meet] defines “mixed meet” as a racing day or series of days on which racing of more than one breed occurs.

Section 5 [Banked] defines “banked” as a game of chance in which the house participates, takes on all players, collects from all losers, pays all winners, and can itself win.

Section 6 [Steward] defines “steward” to include judge, chief steward, and presiding judge, stewards, and judges of the commission or a class B licensee, but excluding other racing officials like paddock or placement judges.

Section 7 [Appointment of Director] eliminates a requirement that the director of the Minnesota Racing Commission have experience in the administration and regulation of pari-mutuel racing. This section replaces that requirement with one that the director be “qualified by experience and training to possess the skills necessary” to discharge the duties of the director.

Section 8 [Commission Powers and Duties] clarifies that the commission has the power to issue subpoenas to compel attendance of witnesses. Permits the commission to compel submission of any evidence it deems necessary to carry out its duties.

Section 9 [Application] changes certain conditions for obtaining a class C racing license to engage in certain occupations related to horse racing. This section requires an applicant to submit an affidavit that the applicant has not been found, in Minnesota or another jurisdiction, to have violated a law, rule, or order related to horse racing, pari-mutuel betting, or any other form of gambling. In certain respects, this is broader and in other respects it is narrower than current law. Current law requires disclosure of a violation, whether or not there's been a finding of a violation. Current law does not require disclosure of violations in other jurisdictions. Current law does not require disclosure of violations related to pari-mutuel betting or other forms of gambling.

Section 10 [License Issuance and Renewal] permits certain classifications of class C licenses to be issued for a period of more than one year, and less than three years. This section is effective July 1, 2015.

Section 11 [Revocation and Suspension] adds grounds for the commission to revoke a class C license. Permits appealing a revocation of a class C license to the commission. Extends from 20 days to 30 days after summary suspension of a class C license the time for holding a contested case hearing; extends from 20 days to 30 days from the close of the hearing record the deadline for the administrative law judge to issue a report.

Section 12 [License Fees] eliminates a cap on the amount of an annual class C license.

Section 13 [Purses] specifies that a contract to pay additional money for purses beyond certain specified amounts, must be in writing and filed with the racing commission. This section sets a rate of 8.4 percent of handle (aggregate of all pari-mutuel pools) as a minimum purse amount for live races at a class A facility. This section also modifies the purse contribution structure for simulcast racing, in the following ways:

- eliminates a distinction between the purse amount paid from simulcast wagers for races during the racing season and outside of racing season, since the concept of a racing season is effectively eliminated in section 1;
- sets the contribution toward payment of purses at least 37 percent of takeout remaining after payment to the breeders fund and out-of-state racetrack on any day a class A facility is licensed;
- eliminates a tiered purse contribution based on annual wagers on simulcast races;
- eliminates a deduction of an amount agreed to by the licensee and the horsepersons' association; and
- eliminates a separate requirement that 8.4 percent of wagering on simulcast racing in the offseason be paid for purses in live races.

Requires the licensee to pay 5.5 percent of the takeout from wagers on simulcast races occurring outside of the state to the commission for the Minnesota breeders fund.

Eliminates a provision that required that money set aside for purses from wagering on simulcasts during the racing season be used for purses for live races during the same racing season, and money set aside from wagers on simulcasts outside the racing season be used for purses for live races during the next racing season.

Section 14 [Simulcasting] permits simulcasting to be conducted on a commingled pool basis or, with approval of the commission, on a separate pool basis.

Section 15 [Card Club Revenue] permits more than the percent that is specified in statute to be contributed toward purses from card club revenue. Permits the licensee and the horseperson's organization to negotiate percentages that exceed those specified in this section of statute, if the agreement is in writing and filed with the commission.

Section 16 [Taxes imposed] changes the base for a one percent tax that the licensee pays to the Minnesota breeders fund. Under current law, the tax is calculated on the total amount bet on each racing day; this section bases the tax, instead, on the handle for live races conducted at the class A facility.

Section 17 [Disposition of Proceeds; Account] requires that money contributed to the breeder's fund from all simulcasting – not just full racing card simulcasts – be distributed to specified incentives for the horse breeding industry in Minnesota.

Section 18 [Powers and Duties] increases the maximum fine, from \$2,000 to \$5,000, that the commission can authorize a steward to impose on licensees for violation of law.

Section 19 [Fines] permits the commission to recover attorney fees and costs associated with a contested case that the commission wins, from fines imposed by the commission. Under current law, all fines are deposited in the general fund. This section changes the threshold of a fine, from \$2,000 to \$5,000, that constitutes a contested case. This section is effective July 1, 2016.

Section 20 [Rulemaking Authority] authorizes the commission to promulgate rules governing wireless communication between the premises of a licensed racetrack and any place outside the premises.

Section 21 [Exceptions] exempts licensing and background investigations under the Racing Commission from the state's criminal offender rehabilitation chapter. The effect of this is that the Racing Commission does not have to issue a license to a person who has met the criteria for proving rehabilitation after certain criminal violations.

Section 22 [Revisors' Instruction] directs the revisor to put the definitions in alphabetical order and correct cross-references throughout the statutes.

Section 23 [Repealer] repeals unnecessary definitions for "average daily handle" and "full racing card."

Article 5 - Revenue

This article modifies the tax compliance statutes for contraband cigarettes and tobacco

products. All sections in this article are from Senator Dziezic’s bill, S.F. No. 1192, as amended in division.

Section 1 [Notice of Revocation; Hearings] removes retailers purchasing cigarettes from an unlicensed seller from a list of violations for which the Commissioner of Revenue must give notice of intention to revoke a person’s permit to collect sales taxes.

Section 2 [Publication of Revoked Cigarette Licenses] establishes a new process for the Commissioner of Revenue to provide notice that the commissioner will revoke a license to sell cigarettes or tobacco products at retail. The commissioner must mail a written notice to a license holder that the commissioner may, 30 or more days later, publish a list of people who have had their retail licenses to sell cigarettes or tobacco products revoked. The commissioner is permitted to publish the name of responsible persons of a license holder, if the license holder is a business. The list may be published by any medium or method and must contain specified information. The commissioner must remove the name of the license holder from the list five years from the date of the license revocation or when the license holder receives a license clearance.

Section 3 [Retailer] is a conforming change to the definition of “retailer.”

Section 4 [License Fees; Cigarettes] raises the fee from \$300 to \$500 to apply for a license to distribute cigarettes. Raises the fee from \$24 to \$100 to apply for a license as a cigarette subjobber. These fee increases are effective December 31, 2015.

Section 5 [License Fees; Tobacco Products] raises the fee from \$75 to \$500 to apply for a tobacco products distributor’s license. Raises the fee from \$20 to \$100 to apply for a tobacco products subjobber’s license. These fee increases are effective December 31, 2015.

Section 6 [Powers of Commissioner] permits the Commissioner of Revenue to refuse to issue or renew a distributor or subjobber license after the licensee or applicant has committed certain violations.

Section 7 [Retailer and Subjobber to Preserve Purchase Invoices] changes the time that a retailer and subjobber must preserve a legible copy of sales invoices for cigarettes or tobacco products. Under current law, a retailer and subjobber must preserve invoices for one year from the invoice date; this section requires a retailer and subjobber to preserve an invoice for a period of one year or as long as the cigarette or tobacco product listed on the invoice is available for sale or in their possession, whichever is longer. This section is effective for sales and purchases by subjobbers and retailers made on or after August 1, 2015.

Section 8 [Revocation of Cigarette and Tobacco Retailer License] establishes a process for the Department of Revenue to regulate the issuance by local governments of licenses to sell cigarettes and tobacco.

Subdivision 1 [Cigarette and tobacco retail revocation] precludes a licensing authority (town, county, city, or state agricultural society) from issuing a license to sell cigarettes or tobacco if the Commissioner of Revenue has notified the licensing authority that a license holder has been in possession of contraband cigarettes or tobacco products at the location covered by the license. Requires a licensing authority to notify a license holder that their license is revoked as a result of sale of contraband products, with information

about obtaining a license clearance. Requires the licensing authority to revoke a license within 30 days after receiving notice from the Commissioner of Revenue about the sale of contraband cigarettes or tobacco products, unless the Commissioner of Revenue has cleared the license. Defines terms for this section.

Subdivision 2 [New license after revocation] precludes an applicant from applying for a license or seeking reinstatement of a revoked license to sell cigarettes or tobacco products unless the applicant presents a license clearance to the licensing authority. Precludes a licensing authority from issuing a new license to an applicant with a responsible person who has had a license revoked or to an applicant that has had a license revoked, unless the applicant presents a license clearance to the authority.

Permits the Commissioner of Revenue to issue a license clearance if an applicant and all responsible persons of the applicant take specified actions, including paying sales taxes and depositing security or a surety bond of ten times the amount of tax on the contraband cigarettes or tobacco products.

Requires the commissioner to pay interest on the security deposit and refund the deposit after two years unless the applicant has unpaid tax liabilities. Permits the commissioner to apply the security deposit to the unpaid tax liabilities and to tax on contraband cigarettes or tobacco products owned or offered for sale by the applicant after license clearance.

Permits the commissioner to refund the security deposit before the end of two years if the license holder no longer holds a license issued by a licensing authority in the state.

Permits the commissioner to notify a licensing authority to revoke a license if the license was issued without an applicant submitting a license clearance. Requires the commissioner to send notice of intent to require license revocation to the license holder and to the responsible person of the license holder.

Permits the commissioner to refuse to issue a license clearance for two years after the applicant's most recent license revocation if the applicant had two or more revocations in a five-year period due to contraband cigarette or tobacco products possession or sales.

Subdivision 3 [Notice and hearing] provides a process for notice and contested case hearing before the commissioner requires a licensing authority to revoke a license. Specifies that a hearing under this subdivision is in lieu of any other hearing or proceeding provided by law.

Section 9 [Penalty for Retailers Who Fail to Comply] sets fines for a retailer who fails to produce invoices from a licensed seller within one hour of a request by the commissioner, or who offers for sale or holds inventory of cigarettes or tobacco products without a license. The fines escalate for multiple violations within a 36-month period: \$1,000 for a first violation, \$2,000 for a second violation, and \$5,000 for third and subsequent violations. Sets fines for a retailer that offers for sale or holds inventory of cigarettes or tobacco products untaxed cigarettes or tobacco projects, equal to the greater of \$2,000 or 150 percent of the tax due.

Section 10 [Penalties for Willful Failure to File or Pay] makes it a felony to willfully attempt to evade or defeat a tax by failing to file a required report or other document, or to collect or

remit taxes under Minnesota Statutes, chapter 297F, relating to cigarettes, tobacco products, and premium cigars.

Section 11 [Aggregation and Consolidation of Venue] permits the aggregating of the number of unstamped cigarettes or value of untaxed tobacco products in charging a defendant with an offense. Permits prosecution in any county in which an offense is committed, when an individual commits offenses in more than one county.

Section 12 [Contraband Defined] clarifies the definition of cigarette or tobacco products that are contraband because of a failure of a retailer or subjobber to produce an invoice from a licensed seller within one hour of a request from the commissioner. Expands the definition of contraband to include cigarette and tobacco products offered for sale or held as inventory by a retailer operating without a license, regardless of whether tax has been paid.

Section 13 [Notice to Commissioner] adds information that a licensing authority must provide to the Commissioner of Revenue after issuing or renewing a license for the retail sale of tobacco, tobacco-related devices, and electronic delivery devices.

Section 14 [Appropriations] appropriates \$1,421,000 in fiscal year 2016, and \$1,036,000 in each of fiscal years 2017, 2018, and 2019 (and thereafter added to the base) from the general fund to the Commissioner of Revenue to carry out the provisions of this act.

Section 15 [Repealer] repeals permission for the Commissioner of Revenue to revoke a sales and use tax permit of a retailer who purchased a specified amount of cigarettes or tobacco products from an unlicensed seller or if the retailer purchased for resale cigarettes without the proper stamp.