

SENATE  
STATE OF MINNESOTA  
EIGHTY-NINTH SESSION

S.F. No. 1531

(SENATE AUTHORS: HOFFMAN)

DATE	D-PG	OFFICIAL STATUS
03/09/2015	611	Introduction and first reading Referred to State and Local Government

A bill for an act

relating to state government; regulating agency rulemaking; amending Minnesota Statutes 2014, sections 3.842, subdivision 4a; 14.05, subdivisions 1, 6, by adding subdivisions; 14.07, subdivision 4; 14.08; 14.101, subdivision 1; 14.116; 14.125; 14.126, subdivision 2; 14.128, subdivision 3; 14.131; 14.14, subdivisions 1a, 2a; 14.16, subdivision 3; 14.22; 14.23; 14.25; 14.26; 14.365; 14.388, subdivision 1; 14.389; 14.51; 115.44, subdivision 7; 116.07, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2014, sections 14.05, subdivision 5; 14.3895.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2014, section 3.842, subdivision 4a, is amended to read:

Subd. 4a. **Objections to rules.** (a) For purposes of this subdivision, "committee" means the house of representatives policy committee or senate policy committee with primary jurisdiction over state governmental operations. The commission or a committee may object to a rule as provided in this subdivision. If the commission or a committee objects to all or some portion of a rule because the commission or committee considers it to be beyond the procedural or substantive authority delegated to the agency, including a proposed rule submitted under section 14.15, subdivision 4, or 14.26, subdivision 3, ~~paragraph (e) 6~~, the commission or committee may file that objection in the Office of the Secretary of State. The filed objection must contain a concise statement of the commission's or committee's reasons for its action. An objection to a proposed rule submitted by the commission or a committee under section 14.15, subdivision 4, or 14.26, subdivision 3, ~~paragraph (e) 6~~, may not be filed before the rule is adopted.

(b) The secretary of state shall affix to each objection a certification of the date and time of its filing and as soon after the objection is filed as practicable shall transmit a certified copy of it to the agency issuing the rule in question and to the revisor of statutes.

2.1 The secretary of state shall also maintain a permanent register open to public inspection of  
2.2 all objections by the commission or committee.

2.3 (c) The commission or committee shall publish and index an objection filed under  
2.4 this section in the next issue of the State Register. The revisor of statutes shall indicate  
2.5 the existence of the objection adjacent to the rule in question when that rule is published  
2.6 in Minnesota Rules.

2.7 (d) Within 14 days after the filing of an objection by the commission or committee to  
2.8 a rule, the issuing agency shall respond in writing to the objecting entity. After receipt of  
2.9 the response, the commission or committee may withdraw or modify its objection.

2.10 (e) After the filing of an objection by the commission or committee that is not  
2.11 subsequently withdrawn, the burden is upon the agency in any proceeding for judicial  
2.12 review or for enforcement of the rule to establish that the whole or portion of the rule  
2.13 objected to is valid.

2.14 (f) The failure of the commission or a committee to object to a rule is not an implied  
2.15 legislative authorization of its validity.

2.16 (g) In accordance with sections 14.44 and 14.45, the commission or a committee  
2.17 may petition for a declaratory judgment to determine the validity of a rule objected to  
2.18 by the commission or committee. The action must be started within two years after an  
2.19 objection is filed in the Office of the Secretary of State.

2.20 (h) The commission or a committee may intervene in litigation arising from agency  
2.21 action. For purposes of this paragraph, agency action means the whole or part of a rule, or  
2.22 the failure to issue a rule.

2.23 Sec. 2. Minnesota Statutes 2014, section 14.05, subdivision 1, is amended to read:

2.24 Subdivision 1. **Authority to adopt original rules restricted.** Each agency shall  
2.25 adopt, amend, suspend, or repeal its rules in accordance with the procedures specified in  
2.26 sections 14.001 to 14.69, and only pursuant to authority delegated by law and in full  
2.27 compliance with its duties and obligations. If a law authorizing rules is repealed, the rules  
2.28 adopted pursuant to that law are automatically repealed on the effective date of the law's  
2.29 repeal unless there is another law authorizing the rules. Except as provided in ~~section~~  
2.30 sections 14.06, 14.388, and 14.389, sections 14.001 to 14.69 shall not be authority for an  
2.31 agency to adopt, amend, suspend, or repeal rules.

2.32 Sec. 3. Minnesota Statutes 2014, section 14.05, is amended by adding a subdivision to  
2.33 read:

3.1            Subd. 5a. **Review and repeal of rules.** By December 1 of each odd-numbered year,  
3.2 beginning December 1, 2017, an agency must submit to the governor, the Legislative  
3.3 Coordinating Commission, the policy and funding committees and divisions with  
3.4 jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of  
3.5 rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or  
3.6 rules. The list must also include an explanation of why the rule or portion of the rule  
3.7 is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The  
3.8 agency must either report a timetable for repeal of the rule or portion of the rule, or must  
3.9 develop a bill for submission to the appropriate policy committee to repeal the obsolete,  
3.10 unnecessary, or duplicative rule. A report submitted under this subdivision must be signed  
3.11 by the person in the agency who is responsible for identifying and initiating repeal of  
3.12 obsolete rules. The report also must identify the status of any rules identified in the prior  
3.13 report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete,  
3.14 unnecessary, or duplicative, an agency's report must state that conclusion.

3.15            Sec. 4. Minnesota Statutes 2014, section 14.05, subdivision 6, is amended to read:

3.16            **Subd. 6. Veto of adopted rules.** The governor may veto all or a severable portion  
3.17 of a rule of an agency as defined in section 14.02, subdivisions 2 and 4, by submitting  
3.18 notice of the veto to the State Register within 14 days of receiving a copy of the rule  
3.19 from the secretary of state under section 14.16, subdivision 3, 14.26, subdivision 3 ~~7~~, or  
3.20 14.386<sub>2</sub>, or the agency under section 14.389, subdivision 3, ~~or section 14.3895~~. The veto is  
3.21 effective when the veto notice is submitted to the State Register. This authority applies  
3.22 only to the extent that the agency itself would have authority, through rulemaking, to  
3.23 take such action. If the governor vetoes a rule or portion of a rule under this section, the  
3.24 governor shall notify the chairs of the legislative committees having jurisdiction over the  
3.25 agency whose rule was vetoed.

3.26            Sec. 5. Minnesota Statutes 2014, section 14.05, is amended by adding a subdivision to  
3.27 read:

3.28            **Subd. 7. Electronic notices permitted.** (a) If sections 14.05 to 14.389 require an  
3.29 agency to provide notice or documents to the public, the legislature, or other state agency,  
3.30 the agency may send the notice or document, or a link to the notice or document, using  
3.31 any reliable method of electronic transmission.

3.32            (b) The agency must also send a paper copy of the notice or document if requested to  
3.33 do so by a member of the public, legislature, or other state agency.

4.1 (c) An agency may file rule-related documents with the Office of Administrative  
4.2 Hearings by electronic transmission in the manner approved by that office and the Office  
4.3 of the Revisor of Statutes by electronic transmission in the manner approved by that office.

4.4 Sec. 6. Minnesota Statutes 2014, section 14.07, subdivision 4, is amended to read:

4.5 Subd. 4. **Incorporations by reference.** (a) An agency may incorporate by reference  
4.6 into its rules the text from Minnesota Statutes, Minnesota Rules, United States Statutes at  
4.7 Large, United States Code, Laws of Minnesota, Code of Federal Regulations, the Federal  
4.8 Register, and other publications and documents which are determined by the revisor of  
4.9 statutes, to be conveniently available to the public. If the rule incorporates by reference  
4.10 other publications and documents, the rule must contain a statement of incorporation.  
4.11 The statement of incorporation by reference must include the words "incorporated by  
4.12 reference"; must identify by title, author, publisher, and, if applicable, date of publication  
4.13 of the standard or material to be incorporated; must state whether the material is subject  
4.14 to frequent change; and must contain a statement of availability. When presented with a  
4.15 rule for certification pursuant to subdivision 2 and this subdivision, the revisor of statutes  
4.16 should indicate in the certification that the rule incorporates by reference text from other  
4.17 publications or documents. If the revisor certifies that the form of a rule is approved, that  
4.18 approval constitutes the revisor's finding that the publication or other document other than  
4.19 one listed by name in this subdivision, and which is incorporated by reference into the  
4.20 rules, is conveniently available to the public.

4.21 (b) For the purposes of paragraph (a), "conveniently available to the public" means  
4.22 available on the Internet without charge, or available for loan or inspection and copying to  
4.23 a person living anywhere in Minnesota through a statewide interlibrary loan system or in a  
4.24 public library without charge except for reasonable copying fees and mailing costs.

4.25 Sec. 7. Minnesota Statutes 2014, section 14.08, is amended to read:

4.26 **14.08 APPROVAL OF RULE AND RULE FORM; COSTS.**

4.27 (a) One copy of a rule adopted under section 14.26 must be submitted by the agency  
4.28 to the chief administrative law judge. The chief administrative law judge shall request  
4.29 from the revisor certified copies of the rule when it is submitted by the agency under  
4.30 section 14.26. Within five days after the request for certification of the rule is received by  
4.31 the revisor, excluding weekends and holidays, the revisor shall either return the rule with  
4.32 a certificate of approval of the form of the rule to the chief administrative law judge or  
4.33 notify the chief administrative law judge and the agency that the form of the rule will not  
4.34 be approved.

5.1 If the chief administrative law judge disapproves a rule, the agency may modify it  
5.2 and the agency shall submit one copy of the modified rule, approved as to form by the  
5.3 revisor, to the chief administrative law judge.

5.4 (b) One copy of a rule adopted after a public hearing must be submitted by the  
5.5 agency to the chief administrative law judge. The chief administrative law judge shall  
5.6 request from the revisor certified copies of the rule when it is submitted by the agency.  
5.7 Within five working days after receipt of the request, the revisor shall either return the  
5.8 rule with a certificate of approval to the chief administrative law judge or notify the chief  
5.9 administrative law judge and the agency that the form of the rule will not be approved.

5.10 (c) If the revisor refuses to approve the form of the rule, the revisor's notice must  
5.11 revise the rule so it is in the correct form.

5.12 (d) After the agency has notified the chief administrative law judge that it has  
5.13 adopted the rule, the chief administrative law judge shall promptly file four paper copies  
5.14 or an electronic copy of the adopted rule in the Office of the Secretary of State. The  
5.15 secretary of state shall forward one copy of each rule filed to the agency, to the revisor  
5.16 of statutes, and to the governor.

5.17 ~~(d)~~ (e) The chief administrative law judge shall assess an agency for the actual cost  
5.18 of processing rules under this section. Each agency shall include in its budget money to  
5.19 pay the assessments. Receipts from the assessment must be deposited in the administrative  
5.20 hearings account established in section 14.54.

5.21 Sec. 8. Minnesota Statutes 2014, section 14.101, subdivision 1, is amended to read:

5.22 Subdivision 1. **Required notice.** In addition to seeking information by other  
5.23 methods designed to reach persons or ~~classes~~ categories of persons who might be affected  
5.24 by the proposal, an agency, at least 60 days before publication of a notice of intent to adopt  
5.25 or a notice of hearing, shall solicit comments from the public on the subject matter of a  
5.26 possible rulemaking proposal under active consideration within the agency by causing  
5.27 notice to be published in the State Register. The notice must include a description of the  
5.28 subject matter of the proposal and the types of groups and individuals likely to be affected,  
5.29 and must indicate where, when, and how persons may comment on the proposal and  
5.30 whether and how drafts of any proposal may be obtained from the agency.

5.31 This notice must be published within 60 days of the effective date of any new or  
5.32 amendatory law requiring rules to be adopted, amended, or repealed.

5.33 An agency intending to adopt an expedited rule under section 14.389 is exempt from  
5.34 the requirements of this section.

6.1 Sec. 9. **[14.105] RULE NOTIFICATION.**

6.2 Subdivision 1. **Rule notification list.** (a) Each agency shall maintain a list of all  
 6.3 persons who have registered with the agency for the purpose of receiving notice of rule  
 6.4 proceedings. A person may register to receive notice of rule proceedings by submitting  
 6.5 to the agency:

6.6 (1) the person's electronic mail address; or

6.7 (2) the person's name and United States mail address, along with a request to receive  
 6.8 copies of the notices by mail.

6.9 (b) The agency shall post information on its Web site describing the registration  
 6.10 process.

6.11 (c) The agency may inquire as to whether those persons on the list in paragraph (a)  
 6.12 wish to remain on the list and may remove persons for whom there is a negative reply or  
 6.13 no reply within 60 days.

6.14 Subd. 2. **Additional notice.** (a) Each agency shall make reasonable efforts to notify  
 6.15 persons or categories of persons who may be significantly affected by the rule being  
 6.16 proposed by giving notice of its rule proceedings in newsletters, newspapers, or other  
 6.17 publications, or through other means of communication.

6.18 (b) For each rulemaking, the agency shall develop an additional notice plan  
 6.19 describing its efforts to provide additional notification to persons or categories of persons  
 6.20 who may be affected by the proposed rule or must explain why these efforts were not  
 6.21 made. The additional notice plan must be submitted to the administrative law judge with  
 6.22 the other submissions required by section 14.14, subdivision 2a, or 14.26. The agency  
 6.23 also may seek prior approval of the additional notice plan under the rules of the Office of  
 6.24 Administrative Hearings.

6.25 Sec. 10. Minnesota Statutes 2014, section 14.116, is amended to read:

6.26 **14.116 NOTICE TO LEGISLATURE.**

6.27 (a) By January 15 each year, each agency must submit its current rulemaking docket  
 6.28 maintained under section 14.366, ~~and the official rulemaking record required under section~~  
 6.29 ~~14.365 for any rule adopted during the preceding calendar year,~~ to the chairs and ranking  
 6.30 minority members of the legislative policy and budget committees with jurisdiction over  
 6.31 the subject matter of the proposed rule.

6.32 (b) When an agency ~~mails~~ sends a notice of intent to adopt rules hearing under  
 6.33 section 14.14 ~~or~~, a notice of intent to adopt rules under section 14.22, or a notice under  
 6.34 section 14.389, subdivision 2, the agency must send a copy of the same notice ~~and a copy~~  
 6.35 ~~of the statement of need and reasonableness~~ to the chairs and ranking minority party

7.1 members of the legislative policy and budget committees with jurisdiction over the subject  
7.2 matter of the proposed rules and to the Legislative Coordinating Commission.

7.3 ~~(e) In addition, if the mailing of the notice is within two years of the effective date~~  
7.4 ~~of the law granting the agency authority to adopt the proposed rules, the agency shall~~  
7.5 ~~make reasonable efforts to send a copy of the notice and the statement to all sitting~~  
7.6 ~~legislators who were chief house of representatives and senate authors of the bill granting~~  
7.7 ~~the rulemaking authority. If the bill was amended to include this rulemaking authority,~~  
7.8 ~~the agency shall make reasonable efforts to send the notice and the statement to the chief~~  
7.9 ~~house of representatives and senate authors of the amendment granting rulemaking~~  
7.10 ~~authority, rather than to the chief authors of the bill.~~

7.11 Sec. 11. Minnesota Statutes 2014, section 14.125, is amended to read:

7.12 **14.125 TIME LIMIT ON AUTHORITY TO ADOPT, AMEND, OR REPEAL**  
7.13 **RULES.**

7.14 An agency shall publish a ~~notice of intent to adopt rules or a notice of hearing~~  
7.15 under section 14.14 or a notice of intent to adopt rules under section 14.22, or a notice  
7.16 under section 14.389, subdivision 2, within 18 months of the effective date of the law  
7.17 authorizing or requiring rules to be adopted, amended, or repealed. If the notice is not  
7.18 published within the time limit imposed by this section, the ~~authority for the rules expires.~~  
7.19 ~~The agency shall not use other law in existence at the time of the expiration of rulemaking~~  
7.20 ~~authority under this section as authority to adopt, amend, or repeal these rules~~ agency shall  
7.21 report to the Legislative Coordinating Commission, other appropriate committees of the  
7.22 legislature, and the governor its failure to publish a notice and the reasons for that failure.

7.23 ~~An agency that publishes a notice of intent to adopt rules or a notice of hearing~~  
7.24 ~~within the time limit specified in this section may subsequently amend or repeal the rules~~  
7.25 ~~without additional legislative authorization.~~

7.26 Sec. 12. Minnesota Statutes 2014, section 14.126, subdivision 2, is amended to read:

7.27 Subd. 2. **Vote.** A committee vote under this section must be by a majority of  
7.28 the committee. The vote may occur any time after the publication of the rulemaking  
7.29 notice under section 14.14, subdivision 1a, 14.22, or 14.389, subdivision 2, ~~or 14.3895,~~  
7.30 ~~subdivision 3,~~ and before notice of adoption is published in the State Register under  
7.31 section 14.18, 14.27, or 14.389, subdivision 3, ~~or 14.3895, subdivision 3.~~ A committee  
7.32 voting under this section shall notify the agency, the revisor of statutes, and the chief  
7.33 administrative law judge of the vote as soon as possible. The committee shall publish  
7.34 notice of the vote in the State Register as soon as possible.

8.1 Sec. 13. Minnesota Statutes 2014, section 14.128, subdivision 3, is amended to read:

8.2 Subd. 3. **Exceptions.** Subdivision 2 does not apply:

8.3 (1) to a rule adopted under section 14.388, or 14.389, ~~or 14.3895~~, or under another  
8.4 law specifying that the rulemaking procedures of this chapter do not apply;

8.5 (2) if the agency has been directed by law to adopt the rule or to commence the  
8.6 rulemaking process;

8.7 (3) if the administrative law judge approves an agency's determination that the rule  
8.8 has been proposed pursuant to a specific federal statutory or regulatory mandate that  
8.9 requires the rule to take effect before the date specified in subdivision 1; or

8.10 (4) if the governor waives application of subdivision 2.

8.11 Sec. 14. Minnesota Statutes 2014, section 14.131, is amended to read:

8.12 **14.131 STATEMENT OF NEED AND REASONABLENESS.**

8.13 By the date of the section 14.14, subdivision 1a, notice, the agency must  
8.14 prepare, review, and make available for public review a statement of the need for and  
8.15 reasonableness of the rule. The statement of need and reasonableness must be prepared  
8.16 under rules adopted by the chief administrative law judge and must include a citation to  
8.17 the most specific statutory authority for the rule and the following to the extent the agency,  
8.18 through reasonable effort, can ascertain this information:

8.19 ~~(1) a description of the classes of persons who probably will be affected by the~~  
8.20 ~~proposed rule, including classes that will bear the costs of the proposed rule and classes~~  
8.21 ~~that will benefit from the proposed rule;~~

8.22 ~~(2) the probable costs to the agency and to any other agency of the implementation~~  
8.23 ~~and enforcement of the proposed rule and any anticipated effect on state revenues;~~

8.24 ~~(3) a determination of whether there are less costly methods or less intrusive~~  
8.25 ~~methods for achieving the purpose of the proposed rule;~~

8.26 ~~(4) a description of any alternative methods for achieving the purpose of the~~  
8.27 ~~proposed rule that were seriously considered by the agency and the reasons why they~~  
8.28 ~~were rejected in favor of the proposed rule;~~

8.29 ~~(5) the probable costs of complying with the proposed rule, including the portion~~  
8.30 ~~of the total costs that will be borne by identifiable categories of affected parties, such as~~  
8.31 ~~separate classes of governmental units, businesses, or individuals;~~

8.32 ~~(6) the probable costs or consequences of not adopting the proposed rule, including~~  
8.33 ~~those costs or consequences borne by identifiable categories of affected parties, such as~~  
8.34 ~~separate classes of government units, businesses, or individuals;~~



9.1 (1) a description of the persons or classifications of persons who will probably  
 9.2 be affected by the proposed rule;

9.3 (2) the probable costs of the rule to affected persons and the agency, including  
 9.4 those costs or consequences borne by identifiable categories of affected parties, such as  
 9.5 separate classes of government units, businesses, or individuals, and the probable benefits  
 9.6 of adopting the rule;

9.7 ~~(7)~~ (3) an assessment of any differences between the proposed rule and existing  
 9.8 federal regulations and a specific analysis of the need for and reasonableness of each  
 9.9 difference; and

9.10 ~~(8)~~ (4) an assessment of the cumulative effect of the rule with other federal and state  
 9.11 regulations related to the specific purpose of the rule.

9.12 ~~The statement must describe how the agency, in developing the rules, considered~~  
 9.13 ~~and implemented the legislative policy supporting performance-based regulatory systems~~  
 9.14 ~~set forth in section 14.002.~~

9.15 For purposes of clause ~~(8)~~ (4), "cumulative effect" means the impact that results  
 9.16 from incremental impact of the proposed rule in addition to other rules, regardless of what  
 9.17 state or federal agency has adopted the other rules. Cumulative effects can result from  
 9.18 individually minor but collectively significant rules adopted over a period of time.

9.19 ~~The statement must also describe the agency's efforts to provide additional~~  
 9.20 ~~notification under section 14.14, subdivision 1a, to persons or classes of persons who may~~  
 9.21 ~~be affected by the proposed rule or must explain why these efforts were not made.~~

9.22 The agency must consult with the commissioner of management and budget to  
 9.23 help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local  
 9.24 government. The agency must send a copy of the statement of need and reasonableness  
 9.25 to the Legislative Reference Library no later than when the notice of hearing is ~~mailed~~  
 9.26 ~~under section 14.14, subdivision 1a~~ sent.

9.27 Sec. 15. Minnesota Statutes 2014, section 14.14, subdivision 1a, is amended to read:

9.28 Subd. 1a. **Notice of rule hearing.** (a) ~~Each agency shall maintain a list of all persons~~  
 9.29 ~~who have registered with the agency for the purpose of receiving notice of rule proceedings.~~  
 9.30 ~~Persons may register to receive notice of rule proceedings by submitting to the agency:~~

9.31 ~~(1) their electronic mail address; or~~

9.32 ~~(2) their name and United States mail address.~~

9.33 ~~The agency may inquire as to whether those persons on the list wish to remain on it and~~  
 9.34 ~~may remove persons for whom there is a negative reply or no reply within 60 days. The~~  
 9.35 ~~agency shall, at least 30 days before the date set for the hearing, give notice of its intention~~

10.1 to ~~adopt~~ hold a hearing on the proposed rules by United States mail or electronic mail to  
 10.2 all persons ~~on its list~~ who have registered with the agency under section 14.105, and by  
 10.3 publication in the State Register.

10.4 ~~The mailed notice must include either a copy of the proposed rule or an easily~~  
 10.5 ~~readable and understandable description of its nature and effect and an announcement that~~  
 10.6 ~~a free copy of the proposed rule is available on request from the agency. In addition, each~~  
 10.7 ~~agency shall make reasonable efforts to notify persons or classes of persons who may~~  
 10.8 ~~be significantly affected by the rule being proposed by giving notice of its intention in~~  
 10.9 ~~newsletters, newspapers, or other publications, or through other means of communication.~~  
 10.10 The notice in the State Register must include the proposed rule or an amended rule in  
 10.11 the form required by the revisor under section 14.07, together with an easily readable  
 10.12 and understandable summary of the overall nature and effect of the proposed rule, a  
 10.13 citation to the most specific statutory authority for the proposed rule, a statement of the  
 10.14 place, date, and time of the public hearing, a statement that a free copy of the proposed  
 10.15 rule and the statement of need and reasonableness may be requested from the agency, a  
 10.16 statement that persons may register with the agency for the purpose of receiving notice of  
 10.17 rule proceedings ~~and notice that the agency intends to adopt a rule~~ and other information  
 10.18 required by law or rule. When an entire rule is proposed to be repealed, the agency need  
 10.19 only publish that fact, along with an easily readable and understandable summary of the  
 10.20 overall nature of the rules proposed for repeal, and a citation to the rule to be repealed.

10.21 The mailed notice of hearing must be the same as the notice published in the State  
 10.22 Register, except that the mailed notice may omit the text of the proposed rule if it includes  
 10.23 an announcement of where a copy of the proposed rule may be obtained.

10.24 (b) The chief administrative law judge may authorize an agency to omit from the  
 10.25 notice of rule hearing the text of any proposed rule, the publication of which would be  
 10.26 unduly cumbersome, expensive, or otherwise inexpedient if:

10.27 (1) knowledge of the rule is likely to be important to only a small class of persons;

10.28 (2) the notice of rule hearing states that a free copy of the entire rule is available  
 10.29 upon request to the agency; and

10.30 (3) the notice of rule hearing states in detail the specific subject matter of the omitted  
 10.31 rule, cites the statutory authority for the proposed rule, and details the proposed rule's  
 10.32 purpose and motivation.

10.33 Sec. 16. Minnesota Statutes 2014, section 14.14, subdivision 2a, is amended to read:

10.34 Subd. 2a. **Hearing procedure.** When a hearing is held on a proposed rule, it shall  
 10.35 be conducted by an administrative law judge assigned by the chief administrative law

11.1 judge. The administrative law judge shall ensure that all persons involved in the rule  
 11.2 hearing are treated fairly and impartially. The agency shall submit into the record the  
 11.3 jurisdictional documents, including the statement of need and reasonableness, comments  
 11.4 and hearing requests received, and any written exhibits in support of the proposed rule.  
 11.5 The agency may also present additional oral evidence. Interested persons may present  
 11.6 written and oral evidence. The administrative law judge shall allow questioning of agency  
 11.7 representatives or witnesses, or of interested persons making oral statements, in order to  
 11.8 explain the purpose or intended operation of a proposed rule, or a suggested modification,  
 11.9 or for other purposes if material to the evaluation or formulation of the proposed rule. The  
 11.10 administrative law judge may limit repetitive or immaterial oral statements and questioning.

11.11 Sec. 17. Minnesota Statutes 2014, section 14.16, subdivision 3, is amended to read:

11.12 Subd. 3. **Filing.** After the agency has ~~adopted~~ provided the chief administrative law  
 11.13 judge with a signed order adopting the rule, the agency chief administrative law judge  
 11.14 shall promptly file three four paper copies or an electronic copy of it the adopted rule in  
 11.15 the Office of the Secretary of State. The secretary of state shall forward one copy of each  
 11.16 rule filed to the agency, to the revisor of statutes<sub>2</sub> and to the governor.

11.17 Sec. 18. Minnesota Statutes 2014, section 14.22, is amended to read:

11.18 **14.22 NOTICE OF PROPOSED ADOPTION OF RULES.**

11.19 Subdivision 1. **Contents.** (a) ~~Unless an agency proceeds directly to a public hearing~~  
 11.20 ~~on a proposed rule and gives the notice prescribed in section 14.14, subdivision 1a, the~~  
 11.21 ~~agency shall give notice of its intention to adopt a rule without public hearing. The agency~~  
 11.22 shall give the notice required by this section, unless the agency gives notice of a hearing  
 11.23 under section 14.14 or a notice under section 14.389, subdivision 2. The agency shall give  
 11.24 notice must be given of its intention to adopt a rule by publication in the State Register and  
 11.25 by United States mail or electronic mail to persons who have registered their names with  
 11.26 the agency under section 14.14, subdivision 1a 14.105. The mailed notice must include  
 11.27 either a copy of the proposed rule or an easily readable and understandable description  
 11.28 of its nature and effect and an announcement that a free copy of the proposed rule is  
 11.29 available on request from the agency. In addition, each agency shall make reasonable  
 11.30 efforts to notify persons or classes of persons who may be significantly affected by the  
 11.31 rule by giving notice of its intention in newsletters, newspapers, or other publications, or  
 11.32 through other means of communication. The notice in the State Register must include  
 11.33 the proposed rule or the amended rule in the form required by the revisor under section  
 11.34 14.07<sub>2</sub>; an easily readable and understandable summary of the overall nature and effect

12.1 of the proposed rule; a citation to the most specific statutory authority for the proposed  
 12.2 rule; a statement that a free copy of the statement of need and reasonableness may be  
 12.3 requested from the agency; a statement that persons may register with the agency ~~for the~~  
 12.4 ~~purpose of receiving~~ to receive notice of rule proceedings ~~and notice that a rule has been~~  
 12.5 ~~submitted to the chief administrative law judge;~~ and other information required by law or  
 12.6 rule. When an entire rule is proposed to be repealed, the notice need only state that fact,  
 12.7 along with an easily readable and understandable summary of the overall nature of the  
 12.8 ~~rules~~ rule proposed for repeal, and a citation to the rule to be repealed. The notice must  
 12.9 include a statement advising the public:

12.10 (1) that the public has at least 30 days in which to submit comment in support of or  
 12.11 in opposition to the proposed rule and that comment is encouraged;

12.12 (2) that each comment should identify the ~~portion~~ part and subpart, if any, of the  
 12.13 proposed rule addressed, the reason for the comment, and any change proposed;

12.14 (3) that the requester is encouraged to propose any change desired;

12.15 ~~(3)~~ (4) that if 25 or more persons submit a written request for a public hearing  
 12.16 within the ~~30-day~~ comment period, a public hearing will be held and the agency will use  
 12.17 the process under section 14.14;

12.18 ~~(4)~~ (5) of the manner in which persons must request a public hearing on the proposed  
 12.19 rule, including the requirements contained in section 14.25 relating to a written request  
 12.20 for a public hearing; and

12.21 ~~(5) of the requirements contained in section 14.25 relating to a written request for a~~  
 12.22 ~~public hearing, and that the requester is encouraged to propose any change desired;~~

12.23 (6) that the agency may modify the proposed rule ~~may be modified~~ if the  
 12.24 modifications are supported by the data and views submitted; ~~and.~~

12.25 ~~(7) that if a hearing is not required, notice of the date of submission of the proposed~~  
 12.26 ~~rule to the chief administrative law judge for review will be mailed to any person~~  
 12.27 ~~requesting to receive the notice.~~

12.28 In connection with the statements required in clauses (1) and ~~(3)~~ (4), the notice  
 12.29 must also include the date on which the ~~30-day~~ comment period ends. The mailed notice  
 12.30 of intent to adopt a rule must be the same as the notice published in the State Register,  
 12.31 except that the mailed notice may omit the text of the proposed rule if it includes an  
 12.32 announcement of where a copy of the proposed rule may be obtained.

12.33 (b) The chief administrative law judge may authorize an agency to omit from the  
 12.34 notice of intent to adopt the text of any proposed rule, the publication of which would be  
 12.35 unduly cumbersome, expensive, or otherwise inexpedient if:

12.36 (1) knowledge of the rule is likely to be important to only a small class of persons;

13.1 (2) the notice of intent to adopt states that a free copy of the entire rule is available  
 13.2 upon request to the agency; and

13.3 (3) the notice of intent to adopt states in detail the specific subject matter of the  
 13.4 omitted rule, cites the statutory authority for the proposed rule, and details the proposed  
 13.5 rule's purpose and motivation.

13.6 Subd. 2. **Dual notices.** The agency may, at the same time notice is given under  
 13.7 subdivision 1, give notice of a public hearing and of its intention to proceed under sections  
 13.8 14.14 to 14.20, if one is required under section 14.25. The notice must include a statement  
 13.9 advising the public of its intention to cancel the public hearing if 25 or more persons do  
 13.10 not request one. If a hearing is required, there must be at least ten calendar days between  
 13.11 the last day for requesting a hearing and the day of the hearing.

13.12 Sec. 19. Minnesota Statutes 2014, section 14.23, is amended to read:

13.13 **14.23 STATEMENT OF NEED AND REASONABLENESS.**

13.14 By the date of the section 14.22 notice, the agency shall prepare a statement of need  
 13.15 and reasonableness, which must be available to the public. The statement of need and  
 13.16 reasonableness must include the analysis information required in section 14.131. ~~The~~  
 13.17 ~~statement must also describe the agency's efforts to provide additional notification under~~  
 13.18 ~~section 14.22 to persons or classes of persons who may be affected by the proposed rules~~  
 13.19 ~~or must explain why these efforts were not made. For at least 30 days following the~~  
 13.20 ~~notice, the agency shall afford the public an opportunity to request a public hearing and~~  
 13.21 ~~to submit data and views on the proposed rule in writing.~~

13.22 The agency shall send a copy of the statement of need and reasonableness to the  
 13.23 Legislative Reference Library no later than when the notice of intent to adopt is mailed sent.

13.24 Sec. 20. Minnesota Statutes 2014, section 14.25, is amended to read:

13.25 **14.25 PUBLIC HEARING.**

13.26 Subdivision 1. **Requests for hearing.** If, during the ~~30-day~~ period allowed for  
 13.27 comment under section 14.22, 25 or more persons submit to the agency a written request  
 13.28 for a public hearing of the proposed rule, the agency shall proceed under the provisions of  
 13.29 sections 14.14 to 14.20. The written request must include: (1) the name and address of  
 13.30 the person requesting the public hearing; and (2) the ~~portion or portions~~ part or subpart,  
 13.31 if any, of the rule to which the person objects ~~or a statement that the person opposes the~~  
 13.32 ~~entire rule. If not previously published under section 14.22, subdivision 2, a notice of the~~  
 13.33 ~~public hearing must be published in the State Register and mailed to those persons who~~  
 13.34 ~~submitted a written request for the public hearing. Unless the agency has modified the~~

14.1 ~~proposed rule, the notice need not include the text of the proposed rule but only a citation~~  
 14.2 ~~to the State Register pages where the text appears; and (3) the reasons for the objection to~~  
 14.3 ~~each portion of the rule identified.~~

14.4 A written request for a public hearing that does not comply with the requirements of  
 14.5 this section is invalid and may not be counted by the agency for purposes of determining  
 14.6 whether a public hearing must be held. A written request for a public hearing is not  
 14.7 invalid due to failure of the request to correctly identify the portion of the rule to which  
 14.8 the person objects if the agency reasonably can determine which portion of the rule is  
 14.9 the basis for the objection.

14.10 Subd. 2. **Withdrawal of hearing requests.** If a request for a public hearing has  
 14.11 been withdrawn so as to reduce the number of requests below 25, the agency must give  
 14.12 written notice of that fact to all persons who have requested the public hearing. No public  
 14.13 hearing may be canceled by an agency within three working days of the hearing. The  
 14.14 notice must explain why the request is being withdrawn, and must include a description of  
 14.15 any action the agency has taken or will take that affected or may have affected the decision  
 14.16 to withdraw the requests. The notice must also invite persons to submit written comments  
 14.17 within five working days to the agency relating to the withdrawal. The notice and any  
 14.18 written comments received by the agency is part of the rulemaking record submitted to the  
 14.19 administrative law judge under section 14.14 or 14.26. The administrative law judge shall  
 14.20 review the notice and any comments received and determine whether the withdrawal is  
 14.21 consistent with section 14.001, clauses (2), (4), and (5).

14.22 This subdivision applies only to a withdrawal of a hearing request that affects  
 14.23 whether a public hearing must be held and only if the agency has taken any action to  
 14.24 obtain the withdrawal of the hearing request.

14.25 Sec. 21. Minnesota Statutes 2014, section 14.26, is amended to read:

14.26 **14.26 ADOPTION OF PROPOSED RULE; SUBMISSION TO**  
 14.27 **ADMINISTRATIVE LAW JUDGE.**

14.28 Subdivision 1. **Submission.** If no hearing is required, the agency shall submit to an  
 14.29 administrative law judge assigned by the chief administrative law judge the proposed rule  
 14.30 and notice as published, the rule as adopted, any written comments received by the agency,  
 14.31 and a statement of need and reasonableness for the rule. The agency shall give notice to  
 14.32 all persons who requested to be informed that these materials have been submitted to the  
 14.33 administrative law judge. This notice must be given on the same day that the record is  
 14.34 submitted. If the proposed rule has been modified, the notice must state that fact, and must  
 14.35 also state that a free copy of the proposed rule, as modified, is available upon request from

15.1 the agency. The rule and these materials must be submitted to the administrative law judge  
 15.2 within 180 days of the day that the comment period for the rule is over or the rule is  
 15.3 automatically withdrawn. The agency may not adopt the withdrawn rules without again  
 15.4 following the procedures of sections 14.05 to 14.28, with the exception of section 14.101,  
 15.5 if the noncompliance is approved by the chief administrative law judge. The agency  
 15.6 shall report its failure to adopt the rules and the reasons for that failure to the Legislative  
 15.7 Coordinating Commission, other appropriate legislative committees, and the governor.

15.8 ~~Subd. 2. **Resubmission.** Even if the 180-day period expires while the administrative~~  
 15.9 ~~law judge reviews the rule, if the administrative law judge rejects the rule, the agency may~~  
 15.10 ~~resubmit it after taking corrective action. The resubmission must occur within 30 days of~~  
 15.11 ~~when the agency receives written notice of the disapproval. If the rule is again disapproved,~~  
 15.12 ~~the rule is withdrawn. An agency may resubmit at any time before the expiration of the~~  
 15.13 ~~180-day period. If the agency withholds some of the proposed rule, it may not adopt the~~  
 15.14 ~~withheld portion without again following the procedures of sections 14.14 to 14.28.~~

15.15 Subd. 3. **Review.** ~~(a)~~ Within 14 days of receiving a submission under subdivision 1,  
 15.16 the administrative law judge shall approve or disapprove the rule as to its legality and its  
 15.17 form to the extent that the form relates to legality, including the issues of whether the rule  
 15.18 if modified is substantially different, as determined under section 14.05, subdivision 2,  
 15.19 from the rule as originally proposed, whether the agency has the authority to adopt the rule,  
 15.20 and whether the record demonstrates a rational basis for the need for and reasonableness  
 15.21 of the proposed rule. ~~If the rule is approved, the administrative law judge shall promptly~~  
 15.22 ~~file four copies of it in the Office of the Secretary of State. The secretary of state shall~~  
 15.23 ~~forward one copy of each rule to the revisor of statutes, one to the agency, and one to the~~  
 15.24 ~~governor.~~ If the rule is disapproved, the administrative law judge shall state in writing the  
 15.25 reasons for the disapproval and make recommendations to overcome the defects.

15.26 Subd. 4. **Harmless error.** The administrative law judge shall disregard any error or  
 15.27 defect in the proceeding due to the agency's failure to satisfy any procedural requirements  
 15.28 imposed by law or rule if the administrative law judge finds:

15.29 (1) that the failure did not deprive any person or entity of an opportunity to  
 15.30 participate meaningfully in the rulemaking process; or

15.31 (2) that the agency has taken corrective action to cure the error or defect so that the  
 15.32 failure did not deprive any person or entity of an opportunity to participate meaningfully  
 15.33 in the rulemaking process.

15.34 Subd. 5. **Correction of defects.** ~~(b)~~ (a) The written disapproval must be submitted  
 15.35 to the chief administrative law judge for approval. If the chief administrative law judge  
 15.36 approves of the findings of the administrative law judge, the chief administrative law

16.1 judge shall send the statement of the reasons for disapproval of the rule to the agency,  
16.2 the Legislative Coordinating Commission, the house of representatives and senate policy  
16.3 committees with primary jurisdiction over state governmental operations, and the revisor  
16.4 of statutes and advise the agency and the revisor of statutes of actions that will correct the  
16.5 defects. The rule may not be filed in the Office of the Secretary of State, nor be published,  
16.6 until the chief administrative law judge determines that the defects have been corrected  
16.7 or, if applicable, that the agency has satisfied the rule requirements for the adoption of a  
16.8 substantially different rule.

16.9 (b) The agency may resubmit the disapproved rule under paragraph (a) to the chief  
16.10 administrative law judge after correcting the defects. If the 180-day period expires while  
16.11 the chief administrative law judge is reviewing the rule, the agency may resubmit the rule  
16.12 within 30 days of the date the agency received written notice of disapproval. In all other  
16.13 cases, the agency may resubmit the rule at any time before the expiration of the 180-day  
16.14 period in subdivision 1. If the resubmitted rule is disapproved by the chief administrative  
16.15 law judge, the rule is withdrawn. If the agency does not resubmit a portion of the rule, it  
16.16 may not adopt that portion of the rule without again following the procedures of sections  
16.17 14.14 to 14.28.

16.18 Subd. 6. **Need or reasonableness not established.** (e) If the chief administrative law  
16.19 judge determines that the need for or reasonableness of the rule has not been established,  
16.20 and if the agency does not elect to follow the suggested actions of the chief administrative  
16.21 law judge to correct that defect, then the agency shall submit the proposed rule to the  
16.22 Legislative Coordinating Commission and to the house of representatives and senate policy  
16.23 committees with primary jurisdiction over state governmental operations for advice and  
16.24 comment. The agency may not adopt the rule until it has received and considered the advice  
16.25 of the commission and committees. However, the agency need not wait for advice for more  
16.26 than 60 days after the commission and committees have received the agency's submission.

16.27 ~~(d) The administrative law judge shall disregard any error or defect in the proceeding~~  
16.28 ~~due to the agency's failure to satisfy any procedural requirements imposed by law or~~  
16.29 ~~rule if the administrative law judge finds:~~

16.30 ~~(1) that the failure did not deprive any person or entity of an opportunity to~~  
16.31 ~~participate meaningfully in the rulemaking process; or~~

16.32 ~~(2) that the agency has taken corrective action to cure the error or defect so that the~~  
16.33 ~~failure did not deprive any person or entity of an opportunity to participate meaningfully~~  
16.34 ~~in the rulemaking process.~~

16.35 Subd. 7. **Filing.** If the rule is approved, the chief administrative law judge shall  
16.36 promptly file four paper copies or an electronic copy of the rule in the Office of the



17.1 Secretary of State. The secretary of state shall forward one copy of the rule to the revisor  
 17.2 of statutes, one copy to the agency, and one copy to the governor.

17.3 Subd. ~~4~~ 8. Costs. The Office of Administrative Hearings shall assess an agency  
 17.4 for the actual cost of processing rules under this section. Each agency shall include in its  
 17.5 budget money to pay the assessment. Receipts from the assessment must be deposited in  
 17.6 the administrative hearings account created in section 14.54.

17.7 Sec. 22. Minnesota Statutes 2014, section 14.365, is amended to read:

17.8 **14.365 OFFICIAL RULEMAKING RECORD.**

17.9 (a) The agency shall maintain the official rulemaking record for every rule adopted  
 17.10 under sections 14.05 to 14.389. The record must be available for public inspection. The  
 17.11 record required by this section constitutes the official and exclusive agency rulemaking  
 17.12 record with respect to agency action on or judicial review of the rule. The record must  
 17.13 contain:

17.14 (1) copies of all publications in the State Register pertaining to the rule;

17.15 ~~(2) all written petitions, and all requests, submissions, or comments received by the~~  
 17.16 ~~agency or the administrative law judge after publication of the notice of intent to adopt or~~  
 17.17 ~~the notice of hearing in the State Register pertaining to the rule;~~

17.18 ~~(3)~~ (2) the statement of need and reasonableness for the rule;

17.19 ~~(4) the official transcript of the hearing if one was held, or the tape recording of the~~  
 17.20 ~~hearing if a transcript was not prepared;~~

17.21 ~~(5)~~ (3) the report of the administrative law judge, if any;

17.22 ~~(6)~~ (4) the rule in the form last submitted to the administrative law judge under  
 17.23 sections 14.14 to 14.20 or first submitted to the administrative law judge under sections  
 17.24 14.22 to 14.28;

17.25 ~~(7)~~ (5) the administrative law judge's written statement of required modifications and  
 17.26 of approval or disapproval by the chief administrative law judge, if any;

17.27 ~~(8) any documents required by applicable rules of the Office of Administrative~~  
 17.28 ~~Hearings;~~

17.29 ~~(9)~~ (6) the agency's order adopting the rule;

17.30 ~~(10)~~ (7) the revisor's certificate approving the form of the rule; ~~and~~

17.31 ~~(11)~~ (8) a copy of the adopted rule as filed with the secretary of state;

17.32 (9) all written petitions and all requests, submissions, or comments pertaining to the  
 17.33 rule received by the agency or the administrative law judge after publication of the notice  
 17.34 of intent to adopt or the notice of hearing in the State Register;

18.1 (10) the official transcript of the hearing, if one was held, or the recording of the  
 18.2 hearing if a transcript was not prepared; and

18.3 (11) any other document required by applicable rules of the Office of Administrative  
 18.4 Hearings.

18.5 (b) The agency shall permanently maintain the documents described in paragraph  
 18.6 (a), clauses (1) to (7). The agency shall maintain for at least seven years the documents  
 18.7 described in paragraph (a), clauses (8) to (10). The agency may fulfill this duty by  
 18.8 providing the documents to the revisor of statutes in the form and manner required by the  
 18.9 revisor. The official rulemaking record must be available for public inspection. The  
 18.10 official rulemaking record constitutes the official and exclusive agency rulemaking record  
 18.11 with respect to agency action on or judicial review of the rule.

18.12 Sec. 23. Minnesota Statutes 2014, section 14.388, subdivision 1, is amended to read:

18.13 Subdivision 1. **Requirements.** If an agency for good cause finds that the rulemaking  
 18.14 provisions of this chapter are unnecessary, impracticable, or contrary to the public interest  
 18.15 when adopting, amending, or repealing a rule to:

18.16 (1) address a serious and immediate threat to the public health, safety, or welfare;

18.17 (2) comply with a court order or a requirement in federal law in a manner that does  
 18.18 not allow for compliance with sections 14.14 to 14.28;

18.19 (3) incorporate specific changes set forth in applicable statutes when no interpretation  
 18.20 of law is required; or

18.21 (4) make changes that do not alter the sense, meaning, or effect of a rule,

18.22 the agency may adopt, amend, or repeal the rule after satisfying the requirements of  
 18.23 subdivision 2 and section 14.386, paragraph (a), clauses (1) to (4). The agency shall  
 18.24 incorporate its findings and a brief statement of its supporting reasons in its order adopting,  
 18.25 amending, or repealing the rule.

18.26 After considering the agency's statement and any comments received, the Office  
 18.27 of Administrative Hearings shall determine whether the agency has provided adequate  
 18.28 justification for its use of this section.

18.29 Rules adopted, amended, or repealed under ~~clauses~~ clause (1) ~~and (2)~~ are effective  
 18.30 for a period of two years from the date of publication of the rule in the State Register.

18.31 Rules adopted, amended, or repealed under clause (2), (3), or (4) are effective upon  
 18.32 publication in the State Register.

18.33 Sec. 24. Minnesota Statutes 2014, section 14.389, is amended to read:

18.34 **14.389 EXPEDITED PROCESS.**

19.1 Subdivision 1. **Application.** (a) This section applies when a law requiring or  
19.2 authorizing rules to be adopted states that this section must or may be used to adopt the  
19.3 rules. When a law refers to this section, the process in this section is the only process an  
19.4 agency must follow for its rules to:

19.5 (1) a law requiring or authorizing rules to be adopted states that this section must or  
19.6 may be used to adopt the rules;

19.7 (2) an agency is adopting or incorporating by reference a specific code or standard  
19.8 referenced in a law requiring or authorizing rules to be adopted under this chapter;

19.9 (3) an agency is adopting or modifying a rule to conform with a change in federal  
19.10 statute or regulation that is binding on the state;

19.11 (4) an agency is adopting or modifying a rule to conform with a change in state  
19.12 statute; or

19.13 (5) an agency is repealing rules that are obsolete, unnecessary, or duplicative of other  
19.14 state or federal statutes or rules.

19.15 (b) An agency may also use this process to adopt rules it determines are  
19.16 noncontroversial if there is other law authorizing the rules.

19.17 (c) When this section applies, the process in this section is the only process an  
19.18 agency must follow for its rules to have the force and effect of law. Sections 14.19 and  
19.19 14.366 apply to rules adopted under this section.

19.20 Subd. 2. **Notice and comment.** (a) The agency must publish notice of the proposed  
19.21 rule in the State Register and must mail the notice by United States mail or electronic mail  
19.22 to persons who have registered with the agency to receive mailed notices.

19.23 (b) The mailed notice must include either a copy of the proposed rule or a description  
19.24 of the nature and effect of the proposed rule and a statement that a free copy is available  
19.25 from the agency upon request.

19.26 (c) The notice in the State Register must include the proposed rule or the amended  
19.27 rule in the form required by the revisor under section 14.07, an easily readable and  
19.28 understandable summary of the overall nature and effect of the proposed rule, and a  
19.29 citation to the most specific statutory authority for the rule, including authority for the rule  
19.30 to be adopted under the process in this section.

19.31 (d) The agency must allow 30 days after publication in the State Register for  
19.32 comment on the rule.

19.33 (e) For rules adopted under the authority granted in subdivision 1, paragraph (a),  
19.34 clauses (2) to (5), or paragraph (b), the agency must prepare and make available for public  
19.35 review a description of the overall purpose, nature, and effect of the proposed rules,  
19.36 including a description of the persons or categories of persons who are likely to be

20.1 affected by the proposed rulemaking. The description may be part of the notice or may  
20.2 be a separate document. The notice must also include a statement advising the public of  
20.3 the manner in which persons may, during the public comment period, request a public  
20.4 hearing on the proposed rule and of the requirements contained in section 14.25 relating  
20.5 to a written request for a public hearing. If 25 or more people submit a written request  
20.6 for a public hearing, the agency may adopt the rule only after complying with all the  
20.7 requirements of this chapter for rules adopted after a public hearing, except for section  
20.8 14.101 and the requests for a public hearing are subject to the provisions of section 14.25,  
20.9 subdivisions 1 and 2.

20.10       Subd. 3. **Adoption.** The agency may modify a proposed rule if the modifications  
20.11 do not result in a substantially different rule, as defined in section 14.05, subdivision 2,  
20.12 paragraphs (b) and (c). If the final rule is identical to the rule originally published in the  
20.13 State Register, the agency must publish a notice of adoption in the State Register. If the  
20.14 final rule is different from the rule originally published in the State Register, the agency  
20.15 must publish a copy of the changes in the State Register. The agency must also file a copy  
20.16 of the rule with the governor. The rule is effective upon publication in the State Register.

20.17       Subd. 4. **Legal review.** Before publication of the final rule in the State Register,  
20.18 the agency must submit the rule and its order adopting, amending, or repealing the rule  
20.19 to an administrative law judge in the Office of Administrative Hearings. The agency's  
20.20 order must include the agency's findings and a brief statement summarizing its reasons for  
20.21 using this expedited process. The administrative law judge shall make a determination  
20.22 that the agency's submission establishes the need for and reasonableness of the proposed  
20.23 rules and fulfills any relevant substantive or procedural requirements imposed on the  
20.24 agency by law or rule. This shall not be construed to mean that the agency must submit a  
20.25 statement of need and reasonableness as required in section 14.131. The administrative  
20.26 law judge shall within 14 days approve or disapprove the rule as to its legality and its form  
20.27 to the extent the form relates to legality.

20.28       Subd. 5. **Option.** A law authorizing or requiring rules to be adopted under this  
20.29 section may refer specifically to this subdivision. If the law contains a specific reference to  
20.30 this subdivision, as opposed to a general reference to this section:

20.31       (1) the notice required in subdivision 2, paragraph (a), must include a statement that  
20.32 a public hearing will be held if 100 or more people request a hearing. The request must be  
20.33 in the manner specified in section 14.25; and

20.34       (2) if 100 or more people submit a written request for a public hearing, the agency  
20.35 may adopt the rule only after complying with all of the requirements of chapter 14 for  
20.36 rules adopted after a public hearing, except for section 14.101.

21.1 Subd. 6. **Additional notice plan.** An agency proposing expedited rules under  
 21.2 subdivision 1 must give notice by methods designed to reach persons or categories of  
 21.3 persons who might be affected by the proposal by the date of publication of the notice  
 21.4 required by subdivision 2 in the State Register. The agency must submit to the Office of  
 21.5 Administrative Hearings, along with the documents required in subdivision 4, a description  
 21.6 of its efforts to provide additional notification to these persons or an explanation of why  
 21.7 these efforts were not made. The agency may submit its additional notice plan to the  
 21.8 Office of Administrative Hearings and receive approval of the plan before publication.  
 21.9 The request for prior approval, if submitted, must include a description of the proposed  
 21.10 additional notice plan; a description or a draft of the proposed rules; and an explanation  
 21.11 of why the agency believes that its additional notice plan provides sufficient notice. The  
 21.12 administrative law judge must approve or disapprove the plan submitted for prior approval  
 21.13 within five working days after the office receives it.

21.14 Sec. 25. Minnesota Statutes 2014, section 14.51, is amended to read:

21.15 **14.51 PROCEDURAL RULES.**

21.16 The chief administrative law judge shall adopt rules to govern: (1) the procedural  
 21.17 conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal  
 21.18 hearings, contested case hearings, and workers' compensation hearings, and to govern the  
 21.19 conduct of voluntary mediation sessions for rulemaking and contested cases other than  
 21.20 those within the jurisdiction of the Bureau of Mediation Services; and (2) the review of  
 21.21 rules adopted without a public hearing. The chief administrative law judge may adopt  
 21.22 rules to govern the procedural conduct of other hearings conducted by the Office of  
 21.23 Administrative Hearings. The procedural rules shall be binding upon all agencies and  
 21.24 shall supersede any other agency procedural rules with which they may be in conflict. The  
 21.25 procedural rules shall include in addition to normal procedural matters provisions relating  
 21.26 to the procedure to be followed when the proposed final rule of an agency is substantially  
 21.27 different, as determined under section 14.05, subdivision 2, from that which was proposed.  
 21.28 The procedural rules shall establish a procedure whereby the proposed final rule of an  
 21.29 agency shall be reviewed by the chief administrative law judge on the issue of whether the  
 21.30 proposed final rule of the agency is substantially different than that which was proposed  
 21.31 or failure of the agency to meet the requirements of chapter 14. The rules must also  
 21.32 provide: (1) an expedited procedure, consistent with section 14.001, clauses (1) to (5),  
 21.33 for the adoption of substantially different rules by agencies; and (2) a procedure to allow  
 21.34 an agency to receive prior binding approval of its plan regarding the additional notice  
 21.35 contemplated under sections 14.101, 14.131, 14.14, 14.22, ~~and 14.23~~, and 14.389. Upon

22.1 the chief administrative law judge's own initiative or upon written request of an interested  
 22.2 party, the chief administrative law judge may issue a subpoena for the attendance of a  
 22.3 witness or the production of books, papers, records or other documents as are material to  
 22.4 any matter being heard by the Office of Administrative Hearings. The subpoenas shall be  
 22.5 enforceable through the district court in the district in which the subpoena is issued.

22.6 Sec. 26. Minnesota Statutes 2014, section 115.44, subdivision 7, is amended to read:

22.7 Subd. 7. **Rule notices.** ~~For rules authorized under this section, the notices required~~  
 22.8 ~~to be mailed under sections 14.14, subdivision 1a, and 14.22 must also be mailed~~ When a  
 22.9 rulemaking conducted under this section will change the use classification of a particular  
 22.10 water, the agency must provide notice to the governing body of each municipality  
 22.11 bordering the affected water or through which the waters for which standards are sought  
 22.12 to be adopted flow affected water flows.

22.13 Sec. 27. Minnesota Statutes 2014, section 116.07, subdivision 2, is amended to read:

22.14 Subd. 2. **Adoption of standards.** (a) The Pollution Control Agency shall improve  
 22.15 air quality by promoting, in the most practicable way possible, the use of energy sources  
 22.16 and waste disposal methods which produce or emit the least air contaminants consistent  
 22.17 with the agency's overall goal of reducing all forms of pollution. The agency shall also  
 22.18 adopt standards of air quality, including maximum allowable standards of emission of air  
 22.19 contaminants from motor vehicles, recognizing that due to variable factors, no single  
 22.20 standard of purity of air is applicable to all areas of the state. In adopting standards the  
 22.21 Pollution Control Agency shall give due recognition to the fact that the quantity or  
 22.22 characteristics of air contaminants or the duration of their presence in the atmosphere,  
 22.23 which may cause air pollution in one area of the state, may cause less or not cause any air  
 22.24 pollution in another area of the state, and it shall take into consideration in this connection  
 22.25 such factors, including others which it may deem proper, as existing physical conditions,  
 22.26 zoning classifications, topography, prevailing wind directions and velocities, and the fact  
 22.27 that a standard of air quality which may be proper as to an essentially residential area of  
 22.28 the state, may not be proper as to a highly developed industrial area of the state. Such  
 22.29 standards of air quality shall be premised upon scientific knowledge of causes as well as  
 22.30 effects based on technically substantiated criteria and commonly accepted practices. No  
 22.31 local government unit shall set standards of air quality which are more stringent than  
 22.32 those set by the Pollution Control Agency.

22.33 (b) The Pollution Control Agency shall promote solid waste disposal control  
 22.34 by encouraging the updating of collection systems, elimination of open dumps, and

23.1 improvements in incinerator practices. The agency shall also adopt standards for the  
23.2 control of the collection, transportation, storage, processing, and disposal of solid waste  
23.3 and sewage sludge for the prevention and abatement of water, air, and land pollution,  
23.4 recognizing that due to variable factors, no single standard of control is applicable to  
23.5 all areas of the state. In adopting standards, the Pollution Control Agency shall give  
23.6 due recognition to the fact that elements of control which may be reasonable and proper  
23.7 in densely populated areas of the state may be unreasonable and improper in sparsely  
23.8 populated or remote areas of the state, and it shall take into consideration in this connection  
23.9 such factors, including others which it may deem proper, as existing physical conditions,  
23.10 topography, soils and geology, climate, transportation, and land use. Such standards of  
23.11 control shall be premised on technical criteria and commonly accepted practices.

23.12 (c) The Pollution Control Agency shall also adopt standards describing the  
23.13 maximum levels of noise in terms of sound pressure level which may occur in the outdoor  
23.14 atmosphere, recognizing that due to variable factors no single standard of sound pressure  
23.15 is applicable to all areas of the state. Such standards shall give due consideration to such  
23.16 factors as the intensity of noises, the types of noises, the frequency with which noises recur,  
23.17 the time period for which noises continue, the times of day during which noises occur, and  
23.18 such other factors as could affect the extent to which noises may be injurious to human  
23.19 health or welfare, animal or plant life, or property, or could interfere unreasonably with the  
23.20 enjoyment of life or property. In adopting standards, the Pollution Control Agency shall  
23.21 give due recognition to the fact that the quantity or characteristics of noise or the duration  
23.22 of its presence in the outdoor atmosphere, which may cause noise pollution in one area  
23.23 of the state, may cause less or not cause any noise pollution in another area of the state,  
23.24 and it shall take into consideration in this connection such factors, including others which  
23.25 it may deem proper, as existing physical conditions, zoning classifications, topography,  
23.26 meteorological conditions and the fact that a standard which may be proper in an essentially  
23.27 residential area of the state, may not be proper as to a highly developed industrial area of  
23.28 the state. Such noise standards shall be premised upon scientific knowledge as well as  
23.29 effects based on technically substantiated criteria and commonly accepted practices. No  
23.30 local governing unit shall set standards describing the maximum levels of sound pressure  
23.31 which are more stringent than those set by the Pollution Control Agency.

23.32 (d) The Pollution Control Agency shall adopt standards for the identification of  
23.33 hazardous waste and for the management, identification, labeling, classification, storage,  
23.34 collection, transportation, processing, and disposal of hazardous waste, recognizing  
23.35 that due to variable factors, a single standard of hazardous waste control may not be  
23.36 applicable to all areas of the state. In adopting standards, the Pollution Control Agency

24.1 shall recognize that elements of control which may be reasonable and proper in densely  
 24.2 populated areas of the state may be unreasonable and improper in sparsely populated  
 24.3 or remote areas of the state. The agency shall consider existing physical conditions,  
 24.4 topography, soils, and geology, climate, transportation and land use. Standards of  
 24.5 hazardous waste control shall be premised on technical knowledge, and commonly  
 24.6 accepted practices. Hazardous waste generator licenses may be issued for a term not to  
 24.7 exceed five years. No local government unit shall set standards of hazardous waste control  
 24.8 which are in conflict or inconsistent with those set by the Pollution Control Agency.

24.9 (e) A person who generates less than 100 kilograms of hazardous waste per month is  
 24.10 exempt from the following agency hazardous waste rules:

24.11 (1) rules relating to transportation, manifesting, storage, and labeling for photographic  
 24.12 fixer and x-ray negative wastes that are hazardous solely because of silver content; and

24.13 (2) any rule requiring the generator to send to the agency or commissioner a copy  
 24.14 of each manifest for the transportation of hazardous waste for off-site treatment, storage,  
 24.15 or disposal, except that counties within the metropolitan area may require generators to  
 24.16 provide manifests.

24.17 Nothing in this paragraph exempts the generator from the agency's rules relating to on-site  
 24.18 accumulation or outdoor storage. A political subdivision or other local unit of government  
 24.19 may not adopt management requirements that are more restrictive than this paragraph.

24.20 (f) In any rulemaking proceeding under chapter 14 to adopt standards for air quality,  
 24.21 solid waste, or hazardous waste under this chapter, or standards for water quality under  
 24.22 chapter 115, the statement of need and reasonableness must ~~include:~~

24.23 ~~(1) an assessment of any differences between the proposed rule and:~~

24.24 ~~(i) existing federal standards adopted under the Clean Air Act, United States Code,~~  
 24.25 ~~title 42, section 7412(b)(2); the Clean Water Act, United States Code, title 33, sections~~  
 24.26 ~~1312(a) and 1313(c)(4); and the Resource Conservation and Recovery Act, United States~~  
 24.27 ~~Code, title 42, section 6921(b)(1);~~

24.28 ~~(ii) similar standards in states bordering Minnesota; and~~

24.29 ~~(iii) similar standards in states within the Environmental Protection Agency Region~~  
 24.30 ~~5; and~~

24.31 ~~(2) a specific analysis of the need and reasonableness of each difference~~ assess and  
 24.32 provide a specific analysis of the need and reasonableness of each difference between the  
 24.33 proposed rule and existing or proposed federal standards and similar standards in relevant  
 24.34 states bordering Minnesota or within Environmental Protection Agency Region 5.

24.35 Sec. 28. **REPEALER.**



25.1 Minnesota Statutes 2014, sections 14.05, subdivision 5; and 14.3895, are repealed.

25.2 Sec. 29. **EFFECTIVE DATE; APPLICATION.**

25.3 This act is effective August 1, 2015, and applies to rules for which a notice  
25.4 of hearing under Minnesota Statutes, section 14.14; a notice of intent to adopt under  
25.5 Minnesota Statutes, section 14.22; or a dual notice under Minnesota Statutes, section  
25.6 14.225, is published in the State Register on or after that date.

#### **14.05 GENERAL AUTHORITY.**

Subd. 5. **Review and repeal of rules.** By December 1 of each year, an agency must submit to the governor, the Legislative Coordinating Commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year's report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's December 1 report must state that conclusion.

#### **14.3895 PROCESS FOR REPEALING OBSOLETE RULES.**

Subdivision 1. **Application.** An agency may use this section to repeal rules identified in the agency's annual obsolete rules report under section 14.05, subdivision 5, unless a law specifically requires another process or unless 25 requests are received under subdivision 4. Sections 14.19, 14.20, 14.365, and 14.366 apply to rules repealed under this section.

Subd. 2. **Notice plan; prior approval.** The agency shall draft a notice plan under which the agency will make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule repeal by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. Before publishing the notice in the State Register and implementing the notice plan, the agency shall obtain prior approval of the notice plan by the chief administrative law judge.

Subd. 3. **Notice and comment.** The agency shall publish notice of the proposed rule repeal in the State Register. The agency shall also mail the notice by United States mail or electronic mail to persons who have registered with the agency to receive mailed notices and to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule repeal. The agency shall also give notice according to the notice plan approved under subdivision 2. The mailed notice must include either a copy of the rule proposed for repeal or a description of the nature and effect of the proposed rule repeal and a statement that a free copy is available from the agency upon request. The notice must include a statement that, if 25 or more people submit a written request, the agency will have to meet the requirements of sections 14.131 to 14.20 for rules adopted after a hearing or the requirements of sections 14.22 to 14.28 for rules adopted without a hearing, including the preparation of a statement of need and reasonableness and the opportunity for a hearing. The agency shall allow 60 days after publication in the State Register for comment on the proposed rule repeal.

Subd. 4. **Requests.** If 25 or more people submit a written request, the agency may repeal the rule only after complying with sections 14.131 to 14.20 or the requirements of sections 14.22 to 14.28. The requests must be in the manner specified in section 14.25.

Subd. 5. **Adoption.** If the final repeal is identical to the action originally published in the State Register, the agency shall publish a notice of repealers in the State Register. If the final action is different from the action originally published in the State Register, the agency shall publish a copy of the changes in the State Register. The agency shall also file a copy of the repealed rule with the governor. The repeal is effective after it has been subjected to all requirements described in this section or sections 14.131 to 14.20 or 14.22 to 14.28 and five working days after the notice of repeal is published in the State Register unless a later date is required by law or specified in the rule repeal proposal.

Subd. 6. **Legal review.** Before publication of the final rule in the State Register, the agency shall submit the rule to the chief administrative law judge in the Office of Administrative Hearings. The chief administrative law judge shall within 14 days approve or disapprove the rule as to its legality and its form to the extent the form relates to legality.