

Lessard-Sams Outdoor Heritage Council

Agenda Item # 7

DATE: June 23, 2015
SUBJECT: Amending LSOHC Operating Procedures
PRESENTER: Mark Johnson, LSOHC

Background:

The Council's Operating Procedures are amended to reflect the following:

- 1) Clarification on the election process to make it parallel with the Open Meeting Law (page 2);
- 2) Deletion of the Conservation Partners Legacy Liaison position (page 5).

Suggested Motion:

Move to approve the changes as presented by staff. (See strike-out in pertinent sections)

Suggested Procedure:

Place the motion before the Council for discussion. Council votes on procedure amendment as needed.

Operating Procedures of the Lessard-Sams Outdoor Heritage Council (“COUNCIL”)

Adopted: December 17, 2008

Revisions: May 26, 2010, March 18, 2011, June 21, 2011, August 1, 2012, June 17, 2014, **June 23, 2015**

Section I. “COUNCIL” Established

A. Powers

The COUNCIL is in the legislative branch of government. The COUNCIL exercises the authorities and powers designated in Minnesota Statutes, section 97A.056 (Exhibit 2). The COUNCIL also exercises powers granted through periodic state laws usually relating to appropriations and the associated programs or issues.

B. Membership and Organization

Membership and terms are defined in Minnesota Statutes, section 97A.056, subd. 2 (a).

A vacancy on the COUNCIL may be filled by the appointing authority for the remainder of the unexpired term. (Minnesota Statutes, section 97A.056, subd. 2 (f)).

Compensation and removal of public members are as provided in Minnesota Statutes, section 15.0575. (Minnesota Statutes, section 97A.056, subd. 2 (f)).

C. Duties

1. Recommendations: The COUNCIL shall recommend an annual legislative bill for appropriations from the outdoor heritage fund established pursuant to Article XI, Section 15, of the Minnesota Constitution and Minnesota Statutes, section 97A.056, subd. 1:

Minnesota Statutes, section 97A.056, Subd. 1. Outdoor heritage fund. An outdoor heritage fund, under article XI, section 15, of the Minnesota Constitution, is established as an account in the state treasury. All money earned by the outdoor heritage fund must be credited to the fund. At least 99 percent of the money appropriated from the fund must be expended to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife.

In so doing, the COUNCIL shall consider:

... the outcomes of, including, but not limited to, the Minnesota Conservation and Preservation Plan, that directly relate to the restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, and that prevent forest fragmentation, encourage forest consolidation, and expand restored native prairie. (Minnesota Statutes, section 97A.056, subd. 3(a))

The council is directed to establish a conservation partners program, to encourage local conservation efforts, open to local, regional, state, and national organizations. (Minnesota Statutes, section 97A.056, subd. 3(b))

Approval of the recommended legislative bill requires an affirmative vote of nine members of the COUNCIL. (Minnesota Statutes, section 97A.056, subd. 3(b))

- 2. Periodic Organization:** Officers, Make up of Executive committee, Election of officers (how often), Nominations for officers and executive committee.

Membership Structure:

An executive committee structure will be made up of the following officers with members serving 2-year terms.

- Chair (1)
- Vice Chair (1)
- Secretary (1)
- Treasurer (1)
- Legislative Member (1)

Election of Officers:

- i. Nominations for executive committee position - by written sign-up by member or nomination by another member. Executive committee positions shall be nominated and elected in the following order: chair (1); vice chair (1); secretary (1); treasurer (1); legislative member (1).
- ii. Officer's terms are through the first Monday in January of the odd numbered year or until the date of the next election. Elections are to be held in January of the odd numbered year. The chair, vice chair, secretary, and treasurer serve until a successor has been elected.
- iii. Distribution of officers among appointing authorities:
 - 1. The chair will be elected from among the appointees of all appointing authorities (Governor, House and Senate).
 - 2. The vice chair will be elected from among the remaining appointees not appointed by the appointing authority of the chair.
 - 3. The secretary will be elected from among the remaining appointees not appointed by the appointing authorities of the chair and the vice chair.
 - 4. The treasurer will be elected from among all appointees
 - 5. The legislative member will be from either House or the Senate. If prior elections of officers yield an odd number of legislators as officers, then the legislative member's legislative affiliation will balance representation of the legislative bodies.
- iv. Nomination and election of officers will be by the entire COUNCIL membership.
- v. A majority vote of the members present for each position is required.
- vi. Elections will be by written ballot and must indicate the name of the voting member on the ballot.
- vii. Proxy: Members may vote by proxy for election of Executive Committee members only. If a member wishes to vote by proxy he/she shall provide his/her proxy to the COUNCIL staff and indicate the member he/she wishes to have the signed proxy given to.
- viii. In order to allow the use of the proxy vote, participating members of the Council must be in the meeting room, not on the phone.
- viii-ix. If a member is participating via phone, the elections will take place via a roll call vote and proxies will not be allowed.
- viii-x. Vacancies in council offices will be filled by election within 45 days of receipt by the Council of written notification of vacancy.

D. Operations

1. Duties:

- a. The COUNCIL shall recommend appropriations for expenditures from the outdoor heritage fund.

- b. Additional duties prescribed in law.

2. Reportability:

- a. In addition, and in pursuit of D. 1, above, the COUNCIL reviews and acts upon information provided from the following sources: chair, executive committee, COUNCIL members, subcommittees, staff, Legislature, state, federal and local agencies, citizens and private sector.
- b. The recommendations, findings, and observations of the COUNCIL are forwarded to the appropriate agencies or entities under the signature of the chair or executive director. This includes approving proposed amendments to project accomplishment plans.

3. Quorum requirements

The quorum requirement for the COUNCIL is half of the qualified members plus one. (Minnesota Statutes, section 97A.056, subd. 5 (a)) A majority of the qualified members of any council committee constitutes a quorum. Minnesota Statutes, section 645.09

4. Conflicts of Interest Prohibitions and Procedures

Governing conflict of interest:

The COUNCIL is bound by Minnesota Statutes, section 97A.056, subd. 4, "Conflict of Interest" as follows:

- a. A COUNCIL member may not be an advocate for or against a COUNCIL action or vote on any action that may be a conflict of interest. A conflict of interest includes direct or indirect personal financial benefit from a request for funding or funded project. A conflict of interest must be disclosed as soon as it is discovered. The COUNCIL shall follow the policies and requirements related to conflicts of interest developed by the Minnesota Department of Administration Office of Grants Management under Minnesota Statutes, section 16B.98. (See Procedures Regarding Conflict of Interest below)
- b. For the purposes of this section, a "conflict of interest" exists when a person has an organizational conflict of interest or direct financial interests and those interests present the appearance that it will be difficult for the person to impartially fulfill the person's duty. An "organizational conflict of interest" exists when a person has an affiliation with an organization that is subject to COUNCIL activities, which presents the appearance of a conflict between organizational interests and COUNCIL member duties. An "organizational conflict of interest" does not exist if the person's only affiliation with an organization is being a member of the organization.

In addition to the above a COUNCIL member may not serve as a project manager for a request for funding pending before the COUNCIL.

Conflict of Interest to be Managed Through Procedures:

Members of the COUNCIL have been appointed because of their legislative duties, interest, expertise, or knowledge of the science, policy, or practice of restoring, protecting, and enhancing wetlands, prairies, forests and habitat for fish, game and wildlife. Therefore, certain affiliations may constitute a conflict of interest that must be managed by the COUNCIL, including:

- receipt of personal financial benefit from a proposing organization or request for funding being reviewed.
- serving as an employee or governing board member of a proposing organization whose request for funding is being reviewed.

- having a family relationship with someone requesting funds or a staff or board member of a requesting organization.

Procedures regarding conflict of interest:

A conflict of interest must be identified before or during the initial request for funding review process. The member must complete the Lessard-Sams Outdoor Heritage Council Conflict of Interest Disclosure Form and file it in the COUNCIL office. If a conflict of interest is recognized during the course of a meeting the member must declare the conflict at the first opportunity. Declaring a conflict of interest means that a member may not advocate for or against the request for funding, or vote on the request for funding. In addition, existing law and institutional policies on conflict of interest cover the COUNCIL members and staff and other legislative staff.

5. Rules of Order

The COUNCIL will use Mason’s Manual of Legislative Procedure as the rules of order for the COUNCIL.

6. Open Meetings and Transparency

The COUNCIL will conduct open meetings as described in Minnesota Statutes, section 97A.056, subd. 5, summarized as follows:

- a. Meetings of the COUNCIL and other groups the COUNCIL may establish are subject to Minnesota Statutes, chapter 13D “Open Meeting Law,” including provision of public copies of members’ materials.
- b. Meetings shall be recorded. Meeting records shall be made available to the public in text or other accessible formats.
- c. Meeting schedules, agendas, and materials shall be made available to the public in advance on-line and via Listserv. The COUNCIL shall establish a Listserv and a web site for the purpose of communicating with the public.
- d. The COUNCIL may make use of video-conferencing to facilitate participation by its members and by those asked to present information to the COUNCIL.

7. Audits

Every two years, the COUNCIL will conduct financial and program audits of the expenditure of appropriations from the Outdoor Heritage Fund and the uses to which they are put to ensure consistency with the Constitutional mission of the Fund, consistent with M.S. 97A.056, Subd. 6:

The legislative auditor shall audit the outdoor heritage fund expenditures, including administrative and staffing expenditures, every two years to ensure that the money is spent to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife.

8. Land Acquisition Restrictions – Council Process

1. Duties of Land Holders

Holders of an interest in real property must submit a written application to alter land at least 60 days prior to a proposed change occurring. The application will describe the land being altered, the parties involved and any replacement plans.

2. Council Process

- a. **Minor conversions or conveyances.** The executive director of the L-SOHC is granted the discretion to approve applications for minor conversions or conveyances and report minor approvals to the council and the proposed replacement plans. The chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund must be notified 15 business days before issuing such approval.
 - b. **Condemnations.** The executive director will notify council members and the chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund upon learning of condemnation of Outdoor Heritage Fund property. In the case of condemnation, the condemnation process will proceed without council consideration. Following the completion of the condemnation proceedings, the condemned party will notify the council of the settlement terms and replacement plans. The council may a) accept the replacement plans; or b) instruct the condemned party to deposit the state's share of the proceeds of condemnation in the Outdoor Heritage Fund.
 - c. **All Other Conversions or Alterations.** In the case of major conversions or conveyances, the executive director will forward the application to the council for review and approval and notify the chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund that the council will consider of the alteration and any replacement plans at the next meeting of the council 15 business days from the date of notification.
3. **Replacement Plans and Recordation.** The council must consider and approve the alteration or conveyance and any replacement as a whole. The replacement plan must include an appraisal of the land to be altered or conveyed and if appropriate, an appraisal of the land to be replaced for the altered or conveyed land. The replacement plan must meet the following criteria: (1) the interest is at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and (2) the interest is in a reasonably equivalent location and has a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat. The applicant must complete the replacement plan and makes notice of funding restriction to the appropriate local government office or repay the Outdoor Heritage Fund within one calendar year of decision.
 4. **Non-Approval.** If the action is not approved, LSOHC will provide applicant an explanation for decision, including, incomplete information, inappropriate exchange, lack of timely notification, and/or improper land use alteration.

Section II. Duties of COUNCIL Officers

A. Chair:

1. Presides at Council and Executive Committee meetings
2. Serves as primary spokesperson for the Council
3. Provides direction to staff
- ~~4. Appoints a council member to serve as liaison to the administrator of the Conservation Partners Legacy Grant Program (CPL).~~
 - ~~a. The liaison meets on a regular basis with CPL staff and provides the council's perspective on the program.~~
 - ~~a. The liaison provides council with periodic updates on substantive issues regarding CPL program.~~
 - ~~a. The liaison arranges CPL testimony before the council, as appropriate.~~
 - ~~a. The liaison invites other council members to evaluate CPL program, as needed.~~
 - ~~a. The liaison position is concurrent with the Chair's term of office.~~

10.4. Travel Procedures:

The Lessard-Sams Outdoor Heritage Council supports its members' and staffs' need to acquire additional information regarding habitat issues outside of official council meetings. The Council has developed policies in this regard.

In response to a written request from a Council member, the Council's Chair and the designated legislative member may authorize travel. Requests must contain the date, location, time, estimated expense, purpose and the benefit accruing from travel. Allowable travel includes:

- a. Attendance and fees for meetings, conferences, or workshops on topics directly related to prairies, wetlands, forests, and other habitats for fish, game, and wildlife habitat conservation
- b. Participation at an event that marks the acquisition, restoration, and/enhancement of projects funded with Outdoor Heritage Funds.
- c. Non-LSOHC sponsored tours of habitat sites.
- d. Tour a prospective project site to gain information helpful in the evaluation of a request for funding.

All events to which Council members attend must be, at a minimum, open to a wide variety of legislative branch members and staff who are responsible for Environment and Outdoor Heritage Fund recommendations and appropriations.

Members and staff attending non-LSOHC sponsored events must comply with MS [10A.071](#) CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED. Guidance on how to comply is available in the Advisory Opinions issued by the Minnesota Campaign Finance and Public Disclosure Board at <http://www.cfbreport.state.mn.us/advisory/aoSelect.php?MainList=Gift+Ban>

All travel requests, must complete the authorization process 14 days prior to travel date. The member traveling, or a representative of multiple members, will submit a written summary of the learning experience to be shared with council members along with their expense report.

Out-of-State travel requires the concurrence of LCC policies.

Expense reports are to be submitted after authorized travel and will be reimbursed as follows:

- a. Legislative members follow the per diem guidelines of their respective bodies;
- b. Citizen members receive per diem as provided in Minnesota Statutes 15.0575, subd. 3 and expenses as outlined in the most recent approved Commissioner's Plan, Ch. 15 Expense Reimbursement ;
- c. Council -staff will be reimbursed as outlined in the most recent approved Commissioner's Plan, Ch. 15, Expense Reimbursement .

B. Vice Chair

- 1 Performs duties of chair in absence of chair.
- 2 Member of Executive Committee

C. Secretary

- 1 Performs the duties of the vice chair in absence of vice chair
- 2 Member of the Executive Committee

D. Treasurer

- 1 Performs the duties of the secretary in absence of secretary
- 2 Member of the Executive Committee
- 3 Prepares reports on the balance and projected revenue in the Outdoor Heritage Fund in conjunction with staff
- 4 Tracks the operating budget and reports to the council on the expense throughout the year.
- 5 Works with staff to develop annual operating budgets.

E. Legislative Member

- 1 Performs the duties of the secretary in absence of secretary
- 2 Authorizes legislator travel
- 3 Provides primary communications link with the other legislative bodies
- 4 Member of the Executive Committee

F. Minutes

Any COUNCIL member, except the chair, may move approval of the minutes. The chair of the meeting at which minutes were approved will sign the minutes.

Section III. Committees

A. Executive Committee

The Executive Committee:

1. Reviews and acts upon matters brought forth by the chair and Executive Committee members, discussion material provided by executive director.
2. Recommends action to full COUNCIL
3. Reviews and recommends COUNCIL Administrative Budget to the Council.
4. Approves accomplishment plans and periodic payment authorization for conduct of COUNCIL recommended projects and programs. And reports such approvals to the council.
5. Gives policy and program direction to COUNCIL operations.
6. Oversees audits and compliance
7. Recommends statutory changes to the COUNCIL.

B. Personnel Committee

Annually reviews performance of the Executive Director and recommends candidates for the position.

C. Other Committees of the Lessard Council

The Chair may appoint other committees.

Section IV. Staff

A. Executive Director

1. The executive director serves at the pleasure of the Council. The Council selects and recommends the individual who will serve as the COUNCIL’s Executive Director to the Legislative Coordinating Commission.
2. Duties of the executive director are to:

- a. Hire, fire, organize, supervise, and otherwise administer the regular staff, within the budget and staffing limit authorized by the COUNCIL.
- b. Hire temporary staff and interns outside the limits above, subject to budget availability.
- c. Administer all COUNCIL affairs.
- d. Interacts with the Minnesota Legislature and legislative staff.
- e. Bring to attention of Chair and or COUNCIL, matters relevant to COUNCIL programs.
- f. Administer the COUNCIL budget. Reviews for approval all non-member expenses.
- g. Make corrections consistent with an approved accomplishment plan.
- h. Review current COUNCIL programs.
- i. Develop new programs at the direction of the chair.
- j. Maintain communications with the legislature, private sector, non-governmental, federal, state and local government agencies.
- k. Make preparations required for all COUNCIL meetings.
- l. Provide staff needed by COUNCIL and COUNCIL subcommittees.
- m. Serve as exclusive liaison between consultants and Chair, COUNCIL and committees thereof.
- n. Approve accomplishment plans changes, which will help achieve the intended effect of any appropriation. Significant accomplishment plans amendments judged by relative size of the proposed amendment or by the significance of the impact on the intended effect of the program, must be reported to COUNCIL for information.
- o. Manage auditors responsible for auditing the uses of the Fund.
- p. Assign responsibility and delegates authority to other staff as appropriate.
- q. Direct preparation of annual reports on COUNCIL activities and accomplishments.

Attached Exhibits

Exhibit 1	Minnesota Constitution, Article XI, Section 15
Exhibit 2	Minnesota Statutes 2009, 97A.056
Exhibit 3	Expense Reimbursement (excerpt from Commissioner's Plan) Chapter 15
Exhibit 4	Minnesota Statutes 15.0575 – Administrative Boards and Agencies Compensation
Exhibit 5	Minnesota Statutes, Chapter 13D , Open Meeting Law
Exhibit 6	Minnesota Statutes 3.055 and Minnesota Statutes 13D.06 Enforcement of Open Meeting Law
Exhibit 7	MN Department of Administration, Office of Grants Management Operating Procedures, Policy 08-01
Exhibit 8	Minnesota Statute 10A.071 Certain Gifts by Lobbyists and Principals Prohibited

Exhibit 1

Minnesota Constitution, Article XI, Sec. 15. Beginning July 1, 2009, until June 30, 2034, the sales and use tax rate shall be increased by three-eighths of one percent on sales and uses taxable under the general state sales and use tax law. Receipts from the increase, plus penalties and interest and reduced by any refunds, are dedicated, for the benefit of Minnesotans, to the following funds: 33 percent of the receipts shall be deposited in the outdoor heritage fund and may be spent only to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife; 33 percent of the receipts shall be deposited in the clean water fund and may be spent only to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation, and at least five percent of the clean water fund must be spent only to protect drinking water sources; 14.25 percent of the receipts shall be deposited in the parks and trails fund and may be spent only to support parks and trails of regional or statewide significance; and 19.75 percent shall be deposited in the arts and cultural heritage fund and may be spent only for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage. An outdoor heritage fund; a parks and trails fund; a clean water fund and a sustainable drinking water account; and an arts and cultural heritage fund are created in the state treasury. The money dedicated under this section shall be appropriated by law. The dedicated money under this section must supplement traditional sources of funding for these purposes and may not be used as a substitute. Land acquired by fee with money deposited in the outdoor heritage fund under this section must be open to the public taking of fish and game during the open season unless otherwise provided by law. If the base of the sales and use tax is changed, the sales and use tax rate in this section may be proportionally adjusted by law to within one-thousandth of one percent in order to provide as close to the same amount of revenue as practicable for each fund as existed before the change to the sales and use tax. [Adopted, November 4, 2008]

Exhibit 2

Minnesota Statutes 2009

97A.056 OUTDOOR HERITAGE FUND; LESSARD-SAMS OUTDOOR HERITAGE COUNCIL. Subdivision 1. Outdoor heritage fund.

An outdoor heritage fund, under article XI, section 15, of the Minnesota Constitution, is established as an account in the state treasury. All money earned by the outdoor heritage fund must be credited to the fund. At least 99 percent of the money appropriated from the fund must be expended to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife.

Subd. 2. Lessard-Sams Outdoor Heritage Council.

(a) The Lessard-Sams Outdoor Heritage Council of 12 members is created in the legislative branch, consisting of:

(1) two public members appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration;

(2) two public members appointed by the speaker of the house;

(3) four public members appointed by the governor;

(4) two members of the senate appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration; and

(5) two members of the house of representatives appointed by the speaker of the house.

(b) Members appointed under paragraph (a) must not be registered lobbyists. In making appointments, the governor, senate Subcommittee on Committees of the Committee on Rules and Administration, and the speaker of the house shall consider geographic balance, gender, age, ethnicity, and varying interests including hunting and fishing. The governor's appointments to the council are subject to the advice and consent of the senate.

(c) Public members appointed under paragraph (a) shall have practical experience or expertise or demonstrated knowledge in the science, policy, or practice of restoring, protecting, and enhancing wetlands, prairies, forests, and habitat for fish, game, and wildlife.

(d) Legislative members appointed under paragraph (a) shall include the chairs of the legislative committees with jurisdiction over environment and natural resources finance or their designee, one member from the minority party of the senate, and one member from the minority party of the house of representatives.

(e) Members serve four-year terms and shall be initially appointed according to the following schedule of terms:

(1) two public members appointed by the governor for a term ending the first Monday in January 2011;

(2) one public member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2011;

(3) one public member appointed by the speaker of the house for a term ending the first Monday in January 2011;

(4) two public members appointed by the governor for a term ending the first Monday in January 2013;

(5) one public member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2013;

(6) one public member appointed by the speaker of the house for a term ending the first Monday in January 2013; and

(7) two members of the senate appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2013, and two members of the house of representatives appointed by the speaker of the house for a term ending the first Monday in January 2013.

(f) Compensation and removal of public members are as provided in section [15.0575](#). A vacancy on the council may be filled by the appointing authority for the remainder of the unexpired term.

(g) The first meeting of the council shall be convened by the chair of the Legislative Coordinating Commission no later than December 1, 2008. Members shall elect a chair, vice-chair, secretary, and other officers as determined by the council. The chair may convene meetings as necessary to conduct the duties prescribed by this section.

(h) Upon coordination with and approval by the Legislative Coordinating Commission, the council may appoint nonpartisan staff and contract with consultants as necessary to carry out the functions of the council. Up to one percent of the money appropriated from the fund may be used to pay for administrative expenses of the council and for compensation and expense reimbursement of council members.

Subd. 3. Council recommendations.

(a) The council shall make recommendations to the legislature on appropriations of money from the outdoor heritage fund that are consistent with the Constitution and state law and that will achieve the outcomes of existing natural resource plans, including, but not limited to, the Minnesota Statewide Conservation and Preservation Plan, that directly relate to the restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, and that prevent forest fragmentation, encourage forest consolidation, and expand restored native prairie. The council shall submit its initial recommendations to the legislature no later than April 1, 2009. Subsequent recommendations shall be submitted no later than January 15 each year. The council shall present its recommendations to the senate and house of representatives committees with jurisdiction over the environment and natural resources budget by February 15 in odd-numbered years, and within the first four weeks of the legislative session in even-numbered years. The council's budget recommendations to the legislature shall be separate from the Department of Natural Resource's budget recommendations.

(b) To encourage and support local conservation efforts, the council shall establish a conservation partners program. Local, regional, state, or national organizations may apply for matching grants for restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, prevention of forest fragmentation, encouragement of forest consolidation, and expansion of restored native prairie.

(c) The council may work with the Clean Water Council to identify projects that are consistent with both the purpose of the outdoor heritage fund and the purpose of the clean water fund.

(d) The council may make recommendations to the Legislative-Citizen Commission on Minnesota Resources on scientific research that will assist in restoring, protecting, and enhancing wetlands, prairies, forests, and habitat for fish, game, and wildlife, preventing forest fragmentation, encouraging forest consolidation, and expanding restored native prairie.

(e) Recommendations of the council, including approval of recommendations for the outdoor heritage fund, require an affirmative vote of at least nine members of the council.

(f) The council may work with the Clean Water Council, the Legislative-Citizen Commission on Minnesota Resources, the Board of Water and Soil Resources, soil and water conservation districts, and experts from Minnesota State Colleges and Universities and the University of Minnesota in developing the council's recommendations.

(g) The council shall develop and implement a process that ensures that citizens and potential recipients of funds are included throughout the process, including the development and finalization of the council's recommendations. The process must include a fair, equitable, and thorough process for reviewing requests for funding and a clear and easily understood process for ranking projects.

(h) The council shall use the regions of the state based upon the ecological regions and subregions developed by the Department of Natural Resources and establish objectives for each region and subregion to achieve the purposes of the fund outlined in the state constitution.

(i) The council shall develop and submit to the Legislative Coordinating Commission plans for the first ten years of funding, and a framework for 25 years of funding, consistent with statutory and constitutional requirements. The council may use existing plans from other legislative, state, and federal sources, as applicable.

Subd. 4. Conflict of interest.

(a) A council member may not be an advocate for or against a council action or vote on any action that may be a conflict of interest. A conflict of interest must be disclosed as soon as it is discovered. The council shall follow the policies and requirements related to conflicts of interest developed by the Office of Grants Management under section [16B.98](#).

(b) For the purposes of this section, a "conflict of interest" exists when a person has an organizational conflict of interest or direct financial interests and those interests present the appearance that it will be difficult for the person to impartially fulfill the person's duty. An "organizational conflict of interest" exists when a person has an affiliation with an organization that is subject to council activities, which presents the appearance of a conflict between organizational interests and council member duties. An "organizational conflict of interest" does not exist if the person's only affiliation with an organization is being a member of the organization.

Subd. 5. Open meetings.

(a) Meetings of the council and other groups the council may establish are subject to chapter 13D. Except where prohibited by law, the council shall establish additional processes to broaden public involvement in all aspects of its deliberations, including recording meetings, video conferencing, and publishing minutes. For the purposes of this subdivision, a meeting occurs when a quorum is present and the members receive information or take action on any matter relating to the duties of the council. The quorum requirement for the council shall be seven members.

(b) For legislative members of the council, enforcement of this subdivision is governed by section [3.055, subdivision 2](#). For nonlegislative members of the council, enforcement of this subdivision is governed by section [13D.06, subdivisions 1](#) and 2.

Subd. 6. Audit.

The legislative auditor shall audit the outdoor heritage fund expenditures, including administrative and staffing expenditures, every two years to ensure that the money is spent to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife.

Subd. 7. Legislative oversight.

The senate and house of representatives chairs of the committees with jurisdiction over the environment and natural resources budget shall convene a joint hearing to review the activities and evaluate the effectiveness of the council and to receive reports on the council from the legislative auditor no later than June 30, 2014.

History:

[2008 c 368 art 2 s 14](#); [2009 c 172 art 1 s 3-6,8](#)

NOTE: This section as added by Laws 2008, chapter 368, article 2, section 14, is effective November 15, 2008, only if the constitutional amendment in Laws 2008, chapter 151, is adopted by the voters. Laws 2008, chapter 368, article 2, section 14, the effective date.

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Exhibit 3

15 Expense Reimbursement

General. The Appointing Authority may authorize payment of travel and other expenses and reimbursement of special expenses for employees and interns in accord with the provisions of this Chapter, Chapter 8, and Administrative Procedure 4.4 for the effective conduct of the State's business. Such authorization must be granted prior to incurring the actual expenses.

Privately-Owned Vehicles and Aircraft. An employee shall be reimbursed for the use of privately-owned vehicles and aircraft under the situations and at the rates specified below. In all cases, mileage must be on the most direct route according to Department of Transportation records.

Situation	Rate Per Mile
• Use of personal automobile when a State-owned vehicle is not available.	Federal IRS mileage reimbursement rate
• Use of personal automobile when a State-owned vehicle is available and declined by the employee	Federal IRS mileage reimbursement rate less \$0.07
• Use of personal van or van-type vehicle specially equipped with a ramp, lift, or other level-changing device designed to provide wheelchair access	Federal IRS mileage reimbursement rate plus \$0.09
• Use of personal aircraft provided that the employee demonstrates adequate liability coverage under the requirements of M.S. 360.59, subd. 10, and the Appointing Authority has granted approval for the use of the aircraft	Federal IRS mileage reimbursement rate

In addition to mileage, actual parking fees and toll charges shall be reimbursed. At the sole discretion of the Appointing Authority, employees who normally are not required to travel on state business may be reimbursed for parking at their work location on an incidental basis when they are required to use their personal or a state vehicle for state business and no free parking is provided.

Employees shall not receive mileage reimbursement for commuting between a permanent work location and their home. For each position, the Appointing Authority may designate no more than two permanent work locations, which must be within 35 miles of each other. For purposes of expense reimbursement for trips to temporary work locations, the Appointing Authority shall designate one of the two permanent work locations as the primary location. The Appointing Authority must provide advance written notice of the two locations and the primary location to anyone being appointed to such a position.

When an employee does not report to the permanent work location during the day or makes business calls before or after reporting to the permanent work location, the allowable mileage is: (1) the lesser of the mileage from the employee's residence to the first stop or from his/her permanent work location to the first stop, (2) all mileage between points visited on State business during the day, and (3) the lesser of the mileage from the last stop to the employee's residence or from the last stop to his/her permanent work location.

Employees accepting mobility assignments, as defined in Administrative Procedure 1.1, are not eligible for mileage reimbursement for the trip between their home and the mobility assignment.

Other Travel Expenses. Upon approval of the Appointing Authority, employees in travel status

may be reimbursed for expenses described below in the amounts actually incurred not to exceed any maximum amounts specified below.

Where anticipated expenses total at least \$50.00, the Appointing Authority shall advance the employee the amount of the anticipated expenses upon the employee's request made a reasonable period of time prior to the travel date. If the amount advanced exceeds the actual expenses, the employee shall return the excess within two weeks of return from travel. The Appointing Authority may issue the employee a State-owned credit card in lieu of a travel advance.

Reimbursable expenses may include, but are not limited to, the following:

- Commercial transportation (air, taxi, rental car, etc.) provided that no air transportation shall be by first class unless authorized by an Appointing Authority; and that reimbursement for travel which includes more than one destination visited for State purposes and non-State purposes shall be in an amount equal to the cost of the air fare only to those destinations visited for State purposes.

- Meals including tax and a reasonable gratuity. Employees shall be reimbursed for meals under the following conditions:

1. **Breakfast.** Breakfast reimbursements may be claimed if the employee leaves home before 6:00 a.m. or is away from home overnight.

2. **Lunch.** Lunch reimbursements may be claimed if the employee is in travel status more than 35 miles away from his/her normal office or is away from home overnight.

3. **Dinner.** Dinner reimbursements may be claimed if the employee cannot return home until after 7:00 p.m. or is away from home overnight.

4. **Reimbursement Amount.** Except for the metropolitan areas listed below, the maximum reimbursement for meals including tax and gratuity shall be:

Breakfast \$ 7.00
Lunch 9.00
Dinner 15.00

For the following metropolitan areas and any location outside the 48 contiguous United States, the maximum reimbursement shall be:

Breakfast \$ 8.00
Lunch 10.00
Dinner 17.00

The metropolitan areas are:

Atlanta	Detroit	New York City
Baltimore	Hartford	Philadelphia
Boston	Houston	Portland, Oregon
Chicago	Kansas City	St. Louis
Cleveland	Los Angeles	San Diego
Dallas	Miami	San Francisco
Denver	New Orleans	Seattle
		Washington, D.C.

See Appendix H for details related to the boundaries of the above-mentioned metropolitan areas. The higher meal reimbursement rates also include any location

outside the 48 contiguous United States.

Employees who are in travel status for two or more consecutive meals shall be reimbursed for the actual costs of the meals including tax and a reasonable gratuity, up to the combined maximum amount for the reimbursable meals.

- Hotel and motel accommodations provided that employees exercise good judgment in incurring lodging costs and that charges are reasonable and consistent with the facilities available.
- All work-related long distance telephone calls provided that the employee does not have a State telephone credit card or is unable to bill the call to the office telephone number.
- Actual personal telephone call charges. The maximum reimbursement for each trip shall be the result of multiplying the number of nights away from home up to \$3.00.
- Reasonable costs of dry cleaning and laundry services, not to exceed \$16.00, each week after the first week an employee is in continued travel status.
- Reasonable costs and gratuities for baggage handling.
- Parking fees and toll charges.

Receipts. The Appointing Authority may require receipts for any reimbursement requested by an employee under the provisions of this or any other chapter in this Plan.

Uniforms. If an Appointing Authority requires an employee to wear a uniform, the Appointing Authority shall supply the initial uniform and the employee shall be responsible for the maintenance of the uniform.

Exhibit 4

M.S. 15.0575 ADMINISTRATIVE BOARDS AND AGENCIES.

Subd. 3. Compensation.

(a) Members of the boards may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section [43A.18, subd. 2](#). Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subd.s of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subd.. However, a state or political subd. employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subd.s of the state may receive the expenses provided for in this subd. unless the expenses are reimbursed by another source. Members who are state employees or employees of political subd.s of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) Each board must adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subd..

Subd. 4. Removal; vacancies.

A member may be removed by the appointing authority at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the appointing authority of a member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the appointing authority shall appoint, subject to the advice and consent of the senate if the member is appointed by the governor, a person to fill the vacancy for the remainder of the unexpired term.

Exhibit 5

2008 Minnesota Statutes Chapter 13D. Open Meeting Law

13D.01 MEETINGS MUST BE OPEN TO THE PUBLIC; EXCEPTIONS.

Subd. 1. In executive branch, local government.

All meetings, including executive sessions, must be open to the public

(a) of a state

(1) agency,

(2) board,

(3) commission, or

(4) department,

when required or permitted by law to transact public business in a meeting;

(b) of the governing body of a

(1) school district however organized,

(2) unorganized territory,

(3) county,

(4) statutory or home rule charter city,

(5) town, or

(6) other public body;

(c) of any

(1) committee,

(2) subcommittee,

(3) board,

(4) department, or

(5) commission,

of a public body; and

(d) of the governing body or a committee of:

(1) a statewide public pension plan defined in section [356A.01, subd. 24](#); or

(2) a local public pension plan governed by section [69.77](#), sections [69.771](#) to [69.775](#), or chapter 354A, 422A, or 423B.

Subd. 2. Exceptions.

This chapter does not apply

(1) to meetings of the commissioner of corrections;

(2) to a state agency, board, or commission when it is exercising quasi-judicial functions involving disciplinary proceedings; or

(3) as otherwise expressly provided by statute.

Subd. 3. Subject of and grounds for closed meeting.

Before closing a meeting, a public body shall state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.

Subd. 4. Votes to be kept in journal.

(a) The votes of the members of the state agency, board, commission, or department; or of the governing body, committee, subcommittee, board, department, or commission on an action taken in a meeting required by this section to be open to the public must be recorded in a journal kept for that purpose.

(b) The vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute.

Subd. 5. Public access to journal.

The journal must be open to the public during all normal business hours where records of the public body are kept.

Subd. 6. Public copy of members' materials.

(a) In any meeting which under subd.s 1, 2, 4, and 5, and section [13D.02](#) must be open to the public, at least one copy of any printed materials relating to the agenda items of the meeting prepared or distributed by or at the direction of the governing body or its employees and:

- (1) distributed at the meeting to all members of the governing body;
- (2) distributed before the meeting to all members; or
- (3) available in the meeting room to all members;

shall be available in the meeting room for inspection by the public while the governing body considers their subject matter.

(b) This subd. does not apply to materials classified by law as other than public as defined in chapter 13, or to materials relating to the agenda items of a closed meeting held in accordance with the procedures in section [13D.03](#) or other law permitting the closing of meetings.

13D.02 MEETINGS CONDUCTED BY INTERACTIVE TV; CONDITIONS.

Subd. 1. Conditions.

A meeting governed by section [13D.01, subd.s 1, 2, 4, and 5](#), and this section may be conducted by interactive television so long as:

- (1) all members of the body participating in the meeting, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented at any location at which at least one member is present;
- (2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of members of the body;
- (3) at least one member of the body is physically present at the regular meeting location; and
- (4) each location at which a member of the body is present is open and accessible to the public.

Subd. 2. Members are present for quorum, participation.

Each member of a body participating in a meeting by electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 3. Monitoring from remote site; costs.

If interactive television is used to conduct a meeting, to the extent practical, a public body shall allow a person to monitor the meeting electronically from a remote location. The body may require the person making such a connection to pay for documented marginal costs that the public body incurs as a result of the additional connection.

Subd. 4. Notice of regular and all member sites.

If interactive television is used to conduct a regular, special, or emergency meeting, the public body shall provide notice of the regular meeting location and notice of any site where a member of the public body will be participating in the meeting by interactive television. The timing and method of providing notice must be as described in section [13D.04](#).

13D.021 MEETINGS BY TELEPHONE OR OTHER ELECTRONIC MEANS; CONDITIONS.

Subd. 1. Conditions.

A meeting governed by this section and section [13D.01, subd.s 1, 2, 4, and 5](#), may be conducted by telephone or other electronic means so long as the following conditions are met:

- (1) the presiding officer, chief legal counsel, or chief administrative officer for the affected governing body determines that an in-person meeting or a meeting conducted under section [13D.02](#) is not practical or prudent because of a health pandemic or an emergency declared under chapter 12;
- (2) all members of the body participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

- (3) members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration;
- (4) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the health pandemic or emergency declaration; and
- (5) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Subd. 2. Members are present for quorum, participation.

Each member of the body participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 3. Monitoring from remote site; costs.

If telephone or another electronic means is used to conduct a meeting, to the extent practical, the body shall allow a person to monitor the meeting electronically from a remote location. The body may require the person making a connection to pay for the documented additional cost that the body incurs as a result of the additional connection.

Subd. 4. Notice of regular and all member sites.

If telephone or another electronic means is used to conduct a regular, special, or emergency meeting, the public body shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of subd. 3. The timing and method of providing notice is governed by section [13D.04](#) of the Open Meeting Law.

13D.03 CLOSED MEETINGS FOR LABOR NEGOTIATIONS STRATEGY.

Subd. 1. Procedure.

- (a) Section [13D.01](#), [subd.s 1, 2, 4, 5](#), and section [13D.02](#) do not apply to a meeting held pursuant to the procedure in this section.
- (b) The governing body of a public employer may by a majority vote in a public meeting decide to hold a closed meeting to consider strategy for labor negotiations, including negotiation strategies or developments or discussion and review of labor negotiation proposals, conducted pursuant to sections [179A.01](#) to [179A.25](#).
- (c) The time of commencement and place of the closed meeting shall be announced at the public meeting.
- (d) A written roll of members and all other persons present at the closed meeting shall be made available to the public after the closed meeting.

Subd. 2. Meeting must be recorded.

- (a) The proceedings of a closed meeting to discuss negotiation strategies shall be tape-recorded at the expense of the governing body.
- (b) The recording shall be preserved for two years after the contract is signed and shall be made available to the public after all labor contracts are signed by the governing body for the current budget period.

Subd. 3. If violation claimed.

- (a) If an action is brought claiming that public business other than discussions of labor negotiation strategies or developments or discussion and review of labor negotiation proposals was transacted at a closed meeting held pursuant to this section during the time when the tape is not available to the public, the court shall review the recording of the meeting in camera.
- (b) If the court finds that this section was not violated, the action shall be dismissed and the recording shall be sealed and preserved in the records of the court until otherwise made available to the public pursuant to this section.
- (c) If the court finds that this section was violated, the recording may be introduced at trial in its entirety subject to any protective orders as requested by either party and deemed appropriate by the court.

13D.04 NOTICE OF MEETINGS.

Subd. 1. Regular meetings.

A schedule of the regular meetings of a public body shall be kept on file at its primary offices. If a public body decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is provided in this section for a special meeting.

Subd. 2.Special meetings.

- (a) For a special meeting, except an emergency meeting or a special meeting for which a notice requirement is otherwise expressly established by statute, the public body shall post written notice of the date, time, place, and purpose of the meeting on the principal bulletin board of the public body, or if the public body has no principal bulletin board, on the door of its usual meeting room.
- (b) The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings with the public body. This notice shall be posted and mailed or delivered at least three days before the date of the meeting.
- (c) As an alternative to mailing or otherwise delivering notice to persons who have filed a written request for notice of special meetings, the public body may publish the notice once, at least three days before the meeting, in the official newspaper of the public body or, if there is none, in a qualified newspaper of general circulation within the area of the public body's authority.
- (d) A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects, in which case the public body is required to send notice to that person only concerning special meetings involving those subjects.
- (e) A public body may establish an expiration date for requests for notices of special meetings pursuant to this subd. and require refiling of the request once each year.
- (f) Not more than 60 days before the expiration date of a request for notice, the public body shall send notice of the refiling requirement to each person who filed during the preceding year.

Subd. 3.Emergency meetings.

- (a) For an emergency meeting, the public body shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number.
- (b) Notice of the emergency meeting shall be given by telephone or by any other method used to notify the members of the public body.
- (c) Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the members.
- (d) Notice shall include the subject of the meeting. Posted or published notice of an emergency meeting is not required.
- (e) An "emergency" meeting is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body.
- (f) If matters not directly related to the emergency are discussed or acted upon at an emergency meeting, the minutes of the meeting shall include a specific description of the matters.
- (g) The notice requirement of this subd. supersedes any other statutory notice requirement for a special meeting that is an emergency meeting.

Subd. 4.Recessed or continued meetings.

- (a) If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary.
- (b) For purposes of this subd., the term "meeting" includes a public hearing conducted pursuant to chapter 429 or any other law or charter provision requiring a public hearing by a public body.

Subd. 5.Closed meetings.

The notice requirements of this section apply to closed meetings.

Subd. 6.State agencies.

For a meeting of an agency, board, commission, or department of the state:

- (1) the notice requirements of this section apply only if a statute governing meetings of the agency, board, or commission does not contain specific reference to the method of providing notice; and
- (2) all provisions of this section relating to publication are satisfied by publication in the State Register.

Subd. 7. Actual notice.

If a person receives actual notice of a meeting of a public body at least 24 hours before the meeting, all notice requirements of this section are satisfied with respect to that person, regardless of the method of receipt of notice.

13D.05 MEETINGS HAVING DATA CLASSIFIED AS NOT PUBLIC.

Subd. 1. General principles.

(a) Except as provided in this chapter, meetings may not be closed to discuss data that are not public data.

(b) Data that are not public data may be discussed at a meeting subject to this chapter without liability or penalty, if the disclosure relates to a matter within the scope of the public body's authority and is reasonably necessary to conduct the business or agenda item before the public body.

(c) Data discussed at an open meeting retain the data's original classification; however, a record of the meeting, regardless of form, shall be public.

(d) All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.

Subd. 2. When meeting must be closed.

(a) Any portion of a meeting must be closed if expressly required by other law or if the following types of data are discussed:

(1) data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;

(2) active investigative data as defined in section [13.82, subd. 7](#), or internal affairs data relating to allegations of law enforcement personnel misconduct collected or created by a state agency, statewide system, or political subd.;

(3) educational data, health data, medical data, welfare data, or mental health data that are not public data under section [13.32](#), [13.3805, subd. 1](#), [13.384](#), or [13.46, subd. 2](#) or 7; or

(4) an individual's medical records governed by sections [144.291](#) to 144.298.

(b) A public body shall close one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority. If the members conclude that discipline of any nature may be warranted as a result of those specific charges or allegations, further meetings or hearings relating to those specific charges or allegations held after that conclusion is reached must be open. A meeting must also be open at the request of the individual who is the subject of the meeting.

Subd. 3. What meetings may be closed.

(a) A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting.

(b) Meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege.

(c) A public body may close a meeting:

(1) to determine the asking price for real or personal property to be sold by the government entity;

(2) to review confidential or nonpublic appraisal data under section [13.44, subd. 3](#); and

(3) to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting under this paragraph, the public body must identify on the record the particular real or personal property that is the subject of the closed meeting. The proceedings of a meeting closed under this paragraph must be tape recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The real or personal property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other than discussions allowed under this paragraph was transacted at a closed meeting held under this paragraph during the time when the tape is not available to the public, section [13D.03, subd. 3](#), applies.

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or the governing body's internal procedures, and the purchase price or sale price is public data.

(d) Meetings may be closed to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure and facilities, if disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses. Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting. Before closing a meeting under this paragraph, the public body, in describing the subject to be discussed, must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape recorded at the expense of the governing body, and the recording must be preserved for at least four years.

13D.06 CIVIL FINES; FORFEITURE OF OFFICE; OTHER REMEDIES.

Subd. 1. Personal liability for \$300 fine.

Any person who intentionally violates this chapter shall be subject to personal liability in the form of a civil penalty in an amount not to exceed \$300 for a single occurrence, which may not be paid by the public body.

Subd. 2. Who may bring action; where.

An action to enforce the penalty in subd. 1 may be brought by any person in any court of competent jurisdiction where the administrative office of the governing body is located.

Subd. 3. Forfeit office if three violations.

(a) If a person has been found to have intentionally violated this chapter in three or more actions brought under this chapter involving the same governing body, such person shall forfeit any further right to serve on such governing body or in any other capacity with such public body for a period of time equal to the term of office such person was then serving.

(b) The court determining the merits of any action in connection with any alleged third violation shall receive competent, relevant evidence in connection therewith and, upon finding as to the occurrence of a separate third violation, unrelated to the previous violations, issue its order declaring the position vacant and notify the appointing authority or clerk of the governing body.

(c) As soon as practicable thereafter the appointing authority or the governing body shall fill the position as in the case of any other vacancy.

Subd. 4. Costs; attorney fees; requirements; limits.

(a) In addition to other remedies, the court may award reasonable costs, disbursements, and reasonable attorney fees of up to \$13,000 to any party in an action under this chapter.

(b) The court may award costs and attorney fees to a defendant only if the court finds that the action under this chapter was frivolous and without merit.

(c) A public body may pay any costs, disbursements, or attorney fees incurred by or awarded against any of its members in an action under this chapter.

(d) No monetary penalties or attorney fees may be awarded against a member of a public body unless the court finds that there was an intent to violate this chapter.

(e) The court shall award reasonable attorney fees to a prevailing plaintiff who has brought an action under this section if the public body that is the defendant in the action was also the subject of a prior written opinion issued under section [13.072](#), and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not act in conformity with the opinion. The court shall give deference to the opinion in a proceeding brought under this section.

13D.07 CITATION.

This chapter may be cited as the "Minnesota Open Meeting Law."

Exhibit 6

Enforcement Statutes re: Open Meeting Law Minnesota Statutes 3.055 and 13D.06

M.S. 3.055 OPEN MEETINGS. Subd. 2.Enforcement.

The house of representatives and the senate shall adopt rules to implement this section. Remedies provided by rules of the house of representatives and senate are exclusive. No court or administrative agency has jurisdiction to enforce, enjoin, penalize, award damages, or otherwise act upon a violation or alleged violation of this section, to invalidate any provision of law because of a violation of this section, or to otherwise interpret this section.

13D.06 CIVIL FINES; FORFEITURE OF OFFICE; OTHER REMEDIES. Subd. 1. Personal liability for \$300 fine.

Any person who intentionally violates this chapter shall be subject to personal liability in the form of a civil penalty in an amount not to exceed \$300 for a single occurrence, which may not be paid by the public body.

Subd. 2. Who may bring action; where.

An action to enforce the penalty in subd. 1 may be brought by any person in any court of competent jurisdiction where the administrative office of the governing body is located.

Exhibit 7

Minnesota Department of Administration Office of Grants Management

Operating Policy and Procedure

Issue Date: 7/15/08

Policy Number: 08-01

Conflict of Interest Policy for State Grant-Making

Statutory References

This policy assumes adherence to the Code of Ethics for Employees in the Executive Branch (Minn. Stat. 43A.38), as well as to the following statutes:

Minn. Stat. 10A.07-Conflicts of Interest

Minn. Stat. 15.43-Acceptance of Advantage by State Employee; Penalty

Minn. Stat. 471.87-Public Officers, Interest in Contract; Penalty

Minn. Stat. 16B.97- Grants Management

Minn. Stat. 16B.98-Grants Management Process

Policy

Minnesota Statutes 16B.97 subd. 4(a)(1) provides that the Commissioner of Administration shall “create general grants management policies and procedures that are applicable to all executive agencies.”

Minnesota state agencies must work to deliberately avoid both actual and perceived conflicts of interest related to grant-making at both the individual and organizational levels. When a conflict of interest concerning state grant-making exists, transparency shall be the guiding principle in addressing it. Every state employee and grant reviewer shall be responsible for identifying where an actual or perceived conflict of interest exists and for informing appropriate parties. State agencies and employees must take affirmative actions to avoid, minimize or otherwise mitigate the impacts of actual or perceived conflicts of interest.

Scope of Coverage

This policy applies to grant-making at all executive branch agencies, boards, committees, councils, authorities and task forces.

The policy applies to any state employees, appointees and grant reviewers who may be involved with any part of the grant-making process. This includes but is not limited to: developing requests for proposals, evaluating grant proposals, awarding a grant, drafting and entering into a grant agreement, evaluating grantee performance under a grant agreement, as well as authorizing payment under a grant agreement.

This policy also applies to organizations that are current state grantees or grant applicants.

Conflicts of interest may be actual or perceived. An actual conflict of interest occurs when a decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict. A perceived conflict of interest is any situation in which a reasonable third party would conclude that conflicting duties or loyalties exist.

This policy supersedes other state agency policies that concern conflicts of interest relating to outgoing grants except when the existing state agency policy is stricter.

Grant programs that seek an exception to this policy must complete a Grants Policy Exception Request and submit it to the Office of Grants Management for the approval of the Commissioner of Administration.

Definitions

Grant:

A grant is the transfer of cash or something of value to a recipient to support a public purpose authorized by law.

Conflict of Interest:

A conflict of interest, actual or perceived, occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper or illegal act results from it.

Individual Conflict of Interest:

A conflict of interest that may benefit the individual employee or grant reviewer is any situation in which a state employee or grant reviewer's judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to a friend, relative, acquaintance or business or organization with which they are involved.

An individual conflict of interest occurs when any of the following conditions is present:

- (a) A state employee or a grant reviewer uses his/her status or position to obtain special advantage, benefit, or access to the grantee or grant applicant's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.
- (b) A state employee or a grant reviewer receives or accepts money or anything else of value from a state grantee or grant applicant or has equity or a financial interest in or partial or whole ownership of an applicant organization.
- (c) A state employee or a grant reviewer is an employee or board member of a grant applicant or grantee or is an immediate family member of an owner, employee or board member of the grantee or grant applicant.

Instances in which the state employee or grant reviewer works in a volunteer capacity for a grant applicant or grantee organization should be evaluated on a case by case basis. Volunteer status has the potential to but does not necessarily create a conflict of interest, depending on the nature of the relationship between the two parties.

Procedures to Avoid Individual Conflicts of Interest:

1. All state employees and grant reviewers involved in the review of grant applications must sign a conflict of interest disclosure form for each grant review in which they participate. On the conflict of interest disclosure form, each reviewer must identify any grant applicant with which they have an actual or perceived conflict of interest, although they do not need to provide the reason for the conflict.
2. Additionally, a state agency, employee, or grant reviewer must act immediately upon any suggestion, inquiry, or intimation that a conflict of interest exists at any other point in the grants process. Upon identification, such matters are referred to the employee or grant reviewer's immediate supervisor. If the conflict involves the employee or grant reviewer's immediate supervisor, the employee or grant reviewer should instead contact the agency's ethics officer or a manager, director, assistant commissioner or agency head.
3. If it is determined that an actual or perceived conflict of interest exists, as defined by this policy or relevant law, it is important that appropriate steps must be taken to avoid the conflict. These steps may include:

- reassigning the duties associated with that particular grant or grantee to another employee or grant reviewer
- requiring the state employee or grant reviewer to remove themselves from the discussion or decision that is affected by the conflict

At a minimum, all internal parties who are involved with the situation must be made aware of the actual or perceived conflict, even if it is not serious enough to remove or reassign the employee or grant reviewer.

4. The conflict and its resolution should be noted in any meeting minutes, documents or records that the state agency keeps as a regular part of its grants process.

Organizational Conflict of Interest:

A conflict of interest can also occur with an organization that is a grant applicant or grantee of a state agency.

Organizational conflicts of interest occur when:

- a grantee is unable or potentially unable to render impartial assistance or advice to the State due to competing duties or loyalties
- a grantee's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties
- a grantee or potential grantee has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

Particular attention should be paid to any proposed grant agreement requirements that provide for the rendering of planning, consultation, evaluation, or similar activities that may inform decisions on future grant awards.

Procedures to Avoid Organizational Conflicts of Interest:

1. Conflicts of interest should be prevented as early in the grants process as possible. This includes writing requests for proposal in a manner that avoids conflicts and creates a level playing field for all grant applicants.
2. If an organizational conflict of interest is suspected, disclosed or discovered agency staff must immediately notify the agency's ethics officer or a supervisor, manager, director, assistant commissioner or commissioner.
3. In cases where an organizational conflict of interest is suspected, disclosed or discovered, the grantee or grant applicant organization should be notified by the state agency regarding the actual or potential conflict and allowed a reasonable opportunity to respond. Based on a review of the response and other relevant facts, one of the following actions may be pursued:
 - The potential grantee is disqualified from eligibility for the grant award

- A current grantee's grant agreement is terminated
- The grantee is disqualified from subsequent state grant awards if it is determined that it improperly failed to disclose a known organizational conflict of interest or misrepresented information regarding such a conflict
- The responsibility for the grant or grant program is reassigned to a different state employee
- Actions should be taken to mitigate or neutralize perceived or actual organizational conflicts of interest. This may include: revising the grantee's duties so that the conflict is mitigated; allowing the grantee to propose the exclusion of task areas that create a conflict, if appropriate; asking the grantee to submit an organizational conflict of interest avoidance or mitigation plan; or making all information available to all grantees and/or potential grantees in order

Exhibit 8

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MINNESOTA STATUTES 2014

10A.071

10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness ~~of indebtedness~~~~of indebtedness~~, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a ~~metropolitan governmental~~~~metropolitan governmental~~ unit.

Subd. 2. **Prohibition.** A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 10A.01, subdivision 11;

(2) services to assist an official in the performance of official duties, including but not limited ~~to providing~~~~to providing~~ advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque with a resale value of \$5 or less;

(5) a trinket or memento costing \$5 or less;

(6) informational material with a resale value of \$5 or less; or

(7) food or a beverage given at a reception, meal, or meeting if:

(i) the reception, meal, or meeting is held away from the recipient's place of work by an ~~organization before~~~~organization before~~ whom the recipient appears to make a speech or answer questions as part of a program; or

(ii) the recipient is a member or employee of the legislature and an invitation to attend the ~~reception, meal~~~~reception, meal~~, or meeting was provided to all members of the legislature at least five days prior to the date of the event.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not ~~officials, and~~~~officials, and~~ an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given ~~on behalf~~~~on behalf~~ of someone who is not a member of that family.

History: *1994 c 377 s 5; 1999 c 220 s 50; 2005 c 156 art 6 s 4; 2008 c 295 s 3; 2010 c 327 s 7,8; 2013 c 138 art 1 s 18; art 2 s 3*

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