A bill for an act

relating to gambling; authorizing the State Lottery to offer games involving sports wagering and sports wagering pools; authorizing sports bookmaking under licenses issued by the director of the State Lottery; imposing a tax on licensed sports bookmaking; amending Minnesota Statutes 2008, sections 349A.01, by adding a subdivision; 349A.02, subdivision 3; 349A.04; 349A.06, subdivisions 1, 5, 6, 7, 8, 11; 349A.08; 349A.09; 349A.10, subdivision 4; 349A.11, subdivision 1; 349A.12; 349A.13; 609.75, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 349A.

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

Section 1. Minnesota Statutes 2008, section 349A.01, is amended by adding a subdivision to read:

Subd. 14. **Sports games.** "Sports games" are wagering pools and sports wagering systems in which winning chances or wagers are determined by the outcome of professional sports events.

Sec. 2. Minnesota Statutes 2008, section 349A.02, subdivision 3, is amended to read:

Subd. 3. **Powers and duties.** In operating the lottery the director shall exercise the following powers and duties:

(1) adopt rules and game procedures, including game procedures for sports games;

(2) issue lottery retailer contracts and rule on appeals of decisions relating to those contracts;

(3) enter into lottery procurement contracts for the provision of goods and services to the lottery;

(4) employ personnel as are required to operate the lottery;

(5) enter into written agreements with one or more government-authorized lotteries, or with an organization created and controlled by those lotteries, for the operation, marketing, and promotion of a joint lottery;

(6) adopt and publish advertising and promotional materials consistent with section 349A.09; and

(7) take all necessary steps to ensure the integrity of, and public confidence in, the State Lottery.

Sec. 3. Minnesota Statutes 2008, section 349A.04, is amended to read:

349A.04 LOTTERY GAME PROCEDURES.

The director may adopt game procedures governing the following elements of the lottery:

(1) lottery games, including sports games;

(2) ticket prices;

(3) number and size of prizes;

(4) methods of selecting winning tickets and determining winners of sports games; and

(5) frequency and method of drawings.

The adoption of lottery game procedures is not subject to chapter 14.

Sec. 4. Minnesota Statutes 2008, section 349A.06, subdivision 1, is amended to read:

Subdivision 1. **Contracts.** The director shall sell tickets for the lottery through lottery retailers with whom the director contracts. Contracts under this section are not subject to the provisions of sections 16C.03, 16C.05, 16C.06, 16C.08, 16C.09, and 16C.10, and are valid for a period of one year. The director may permit a retailer to sell tickets and participate in the conduct of sports games at more than one business location under a contract entered into under this section.

Sec. 5. Minnesota Statutes 2008, section 349A.06, subdivision 5, is amended to read:

Subd. 5. **Restrictions on lottery retailers.** (a) A lottery retailer may sell lottery tickets and participate in the conduct of sports games only on the premises described in the contract.

(b) A lottery retailer must prominently display a certificate issued by the director on the premises where lottery tickets will be sold and sports games conducted.

(c) A lottery retailer must keep a complete set of books of account, correspondence, and all other records necessary to show fully the retailer's lottery transactions, and make

them available for inspection by employees of the lottery at all times during business hours. The director may require a lottery retailer to furnish information as the director deems necessary to carry out the purposes of this chapter, and may require an audit to be made of the books of account and records. The director may select an auditor to perform the audit and may require the retailer to pay the cost of the audit. The auditor has the same right of access to the books of account, correspondence, and other records as is given to employees of the lottery.

(d) A contract issued under this section may not be transferred or assigned.

(e) The director shall require that lottery tickets may be sold by retailers only for cash.

(f) A lottery retailer must prominently post at the point of sale of lottery tickets and location where sports games are conducted, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98.

Sec. 6. Minnesota Statutes 2008, section 349A.06, subdivision 6, is amended to read:

Subd. 6. **Retention by retailers.** The director may by rule provide for:

(1) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets and from sports games in order to pay prizes to holders of winning tickets and make payments on winning wagers; and

(2) amounts which a lottery retailer may retain from gross receipts ~~from the sale of lottery tickets~~ as a commission.

Sec. 7. Minnesota Statutes 2008, section 349A.06, subdivision 7, is amended to read:

Subd. 7. **Retailer rental payments.** If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and the computation of retail sales is not explicitly defined to include the sale of lottery tickets and wagering in sports games, the compensation retained by the sales agent for the sale of lottery tickets and from participation in sports games shall be considered the amount of the retail sale for purposes of computing the rental payments.

Sec. 8. Minnesota Statutes 2008, section 349A.06, subdivision 8, is amended to read:

Subd. 8. **Proceeds of sales.** All proceeds from the sale of lottery tickets and from the participation in sports games received by a lottery retailer constitute a trust fund until paid to the director. The lottery retailer is personally liable for all proceeds.

Sec. 9. Minnesota Statutes 2008, section 349A.06, subdivision 11, is amended to read:

Subd. 11. **Cancellation, suspension, and refusal to renew contracts or locations.** (a) The director shall cancel the contract of any lottery retailer or prohibit a lottery retailer from selling lottery tickets or participating in the conduct of sports games at a business location who:

(1) has been convicted of a felony or gross misdemeanor;

(2) has committed fraud, misrepresentation, or deceit;

(3) has provided false or misleading information to the lottery; or

(4) has acted in a manner prejudicial to public confidence in the integrity of the lottery.

(b) The director may cancel, suspend, or refuse to renew the contract of any lottery retailer or prohibit a lottery retailer from selling lottery tickets or participating in the conduct of sports games at a business location who:

(1) changes business location;

(2) fails to account for lottery tickets received ~~or~~, the proceeds from tickets sold, or the proceeds from sports games;

(3) fails to remit funds to the director in accordance with the director's rules;

(4) violates a law or a rule or order of the director;

(5) fails to comply with any of the terms in the lottery retailer's contract;

(6) fails to file a bond, securities, or a letter of credit as required under subdivision 3;

(7) in the opinion of the director fails to maintain a sufficient sales volume to justify continuation as a lottery retailer; or

(8) has violated section 340A.503, subdivision 2, clause (1), two or more times within a two-year period.

(c) The director may also cancel, suspend, or refuse to renew a lottery retailer's contract or prohibit a lottery retailer from selling lottery tickets or participating in the conduct of sports games at a business location if there is a material change in any of the factors considered by the director under subdivision 2.

(d) A contract cancellation, suspension, refusal to renew, or prohibiting a lottery retailer from selling lottery tickets or participating in the conduct of sports games at a business location under this subdivision is a contested case under sections 14.57 to 14.69 and is in addition to any criminal penalties provided for a violation of law or rule.

(e) The director may temporarily suspend a contract or temporarily prohibit a lottery retailer from selling lottery tickets at a business location without notice for any of the reasons specified in this subdivision provided that a hearing is conducted within seven days after a request for a hearing is made by a lottery retailer. Within 20 days after receiving the

administrative law judge's report, the director shall issue an order vacating the temporary suspension or prohibition or making any other appropriate order. If no hearing is requested within 30 days of the temporary suspension or prohibition taking effect, the suspension or prohibition becomes permanent unless the director vacates or modifies the order.

Sec. 10. Minnesota Statutes 2008, section 349A.08, is amended to read:

349A.08 LOTTERY PRIZES.

Subdivision 1. **Agreement by players.** A person who buys a lottery ticket or participates in a sports game agrees to be bound by the rules applicable to the particular lottery game for which the ticket is purchased or to the sports game entered. The player acknowledges that the determination of whether a ticket or wager is a valid winning ticket or wager is subject to the rules of the director, claims procedures established by the director for that game, and any confidential or public validation tests established by the director for that game.

Subd. 2. **Prizes not assignable.** A prize or sports game payout on a winning wager in the state lottery is not assignable except as provided in subdivision 3 and except that:

(1) if a prize winner dies before the prize or payout is paid, the director shall pay the prize or payout to the prize winner's estate; and

(2) the director may pay a prize or payout to a person other than the winner of that prize or payout under an appropriate court order.

Subd. 3. **Prizes won by persons under age 18.** The following provisions govern the payment of a lottery prize and sports game payout to a person under age 18:

(1) if the prize or payout is less than $5,000, the director may give a draft, payable to the order of the person under age 18, to the person's parents, custodial parent if one parent has custody, guardian, or other adult member of the person's family; and

(2) if the prize or payout is $5,000 or more, the director shall deposit the prize with the district court and section 540.08 applies to the investment and distribution of the money.

Subd. 4. **Discharge of liability.** The payment of a prize or sports game payout by the director discharges the director and the state of all liability for the prize.

Subd. 5. **Payment; unclaimed prizes.** A prize in the state lottery and payout from a sports game must be claimed by the winner within one year of (1) the date of the drawing at which the prize was awarded or the last day sales were authorized for a game where a prize was determined in a manner other than by means of a drawing, or (2) the date on which the sports game was entered, whichever applies. If a valid claim is not made for a prize or payout payable directly by the lottery by the end of this period, the prize

money or payout is considered unclaimed and the winner of the prize or payout shall have no further claim to the prize. A prize or payout won by a person who purchased the winning ticket or entered the sports game in violation of section 349A.12, subdivision 1, or won by a person ineligible to be awarded a prize or payout under subdivision 7 must be treated as an unclaimed prize or payout under this section. The director must transfer all unclaimed prize and payout money at the end of each fiscal year from the lottery cash flow account to the general fund.

Subd. 6. **Installment payments.** If the director decides to pay all or part of a prize or sports game payout in the form of installments over a period of years, the director shall provide for the payment of all installments by:

(1) entering into a contract with a financially responsible person or firm or by purchasing an annuity to provide for the payment of the installments; or

(2) establishing and maintaining as a separate and independent fund outside the state treasury a reserve account with sufficient funds for the payment of the installments as they become due.

Subd. 7. **Payments prohibited.** (a) No prize or sports game payout may be paid to the director or an employee of the lottery, or a member of their families residing in the same household of the member, director, or employee. No prize or payout may be paid to an officer or employee of a vendor which at the time the game or drawing was being conducted was involved with providing goods or services to the lottery under a lottery procurement contract.

(b) No prize may be paid for a stolen, altered, or fraudulent ticket.

Subd. 8. **Withholding of delinquent state taxes or other debts.** The director shall report the name, address, and Social Security number of each winner of a lottery prize or sports game payout of $600 or more to the Department of Revenue to determine whether the person who has won the prize is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5. If the person is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5, the director shall withhold the delinquent amount from the person's prize for remittance to the Department of Revenue for payment of the delinquent taxes or distribution to a claimant agency in accordance with chapter 270A. Section 270A.10 applies to the priority of claims.

Subd. 9. **Privacy.** (a) The phone number and street address of a winner of a lottery prize or sports game payout is private data on individuals under chapter 13.

(b) Data on an individual, including name, physical and electronic address, and telephone number, that are given to the lottery for direct marketing purposes are private

data on individuals as defined in section 13.02. For purposes of this subdivision, "direct marketing" means marketing conducted by the lottery directly with the consumer.

Sec. 11. Minnesota Statutes 2008, section 349A.09, is amended to read:

349A.09 LOTTERY ADVERTISING.

Subdivision 1. **Odds; required information.** The director shall include on each brochure, pamphlet, booklet, or other similar material the director publishes to promote or explain any lottery game or sports game, a prominent and clear statement of the approximate odds of winning each prize offered in that lottery game or sports game. Each lottery retailer must post prominently at or near the point of ticket sale or point of entry into a sports game a notice or notices printed and provided by the director of the approximate odds of winning each prize in each game for which the lottery retailer sells tickets and each sports game which the retailer conducts on behalf of the director.

Subd. 2. **Content of advertising.** (a) Advertising and promotional materials for the lottery, including advertising and promotional materials for sports games, adopted or published by the director must be consistent with the dignity of the state and may only:

(1) present information on how lottery games or sports games are played, prizes or payouts offered, where and how tickets may be purchased or sports games entered, when lottery game drawings are held, and odds on the games advertised;

(2) identify state programs supported by lottery net revenues;

(3) present the lottery or sports game as a form of entertainment; or

(4) state the winning numbers or identity of winners of lottery prizes or sports game payouts.

(b) The director may not adopt or publish any advertising for the lottery which:

(1) presents directly or indirectly any lottery game or sports game as a potential means of relieving any person's financial difficulties;

(2) is specifically targeted with the intent to exploit a person, a specific group or economic class of people, or a religious holiday by use of a religious theme or symbol;

(3) presents the purchase of a lottery ticket or participation in a sports game as a financial investment or a way to achieve financial security;

(4) uses the name or picture of a current elected state official to promote a lottery or sports game;

(5) exhorts the public to bet by directly or indirectly misrepresenting a person's chance of winning a prize or a payout; or

(6) denigrates a person who does not buy a lottery ticket or participate in a sports game, or unduly praises a person who does buy a ticket or participates in a sports game.

Subd. 3. **Prizes; required information.** The director must include, in any publication or print advertising which refers to a prize or payout which is or may be paid in installments, a statement to the effect that the prize or payout will be or may be paid in installments.

Sec. 12. Minnesota Statutes 2008, section 349A.10, subdivision 4, is amended to read:

Subd. 4. **Deposit of receipts.** (a) The director may require lottery retailers to:

(1) deposit in a separate account to the credit of the lottery fund, in banks designated by the director, all money received by the lottery retailer from the sale of lottery tickets and participation in sports games, less money retained as the lottery retailer's commission and for payment of prizes and payouts;

(2) file with the director reports of the lottery retailer's receipts and transactions in ticket sales and sports game wagers in a form that the director prescribes; and

(3) allow money deposited by the lottery retailer from the sale of lottery tickets and participation in sports games to be transferred to the lottery through electronic fund transfer.

(b) The director may make arrangements for any person, including a financial institution, to perform functions, activities, or services in connection with the receipt and distribution of lottery revenues.

(c) A lottery retailer who fails to pay any money due to the director within the time prescribed by the director shall pay interest on the amount owed at the rate determined by rule.

Sec. 13. Minnesota Statutes 2008, section 349A.11, subdivision 1, is amended to read:

Subdivision 1. **Lottery ticket; retailer.** The director, an employee of the lottery, a member of the immediate family of the director or employee residing in the same household may not:

(1) purchase a lottery ticket or participate in a sports game; or

(2) have any personal pecuniary interest in any vendor holding a lottery procurement contract, or in any lottery retailer; or

(3) receive any gift, gratuity, or other thing of value, excluding food or beverage, from any lottery vendor or lottery retailer, or person applying to be a retailer or vendor, in excess of $100 in any calendar year.

Sec. 14. Minnesota Statutes 2008, section 349A.12, is amended to read:

349A.12 PROHIBITED ACTS.

Subdivision 1. **Purchase by minors.** A person under the age of 18 years may not buy or redeem for a prize a ticket in the state lottery, or participate in a sports game.

Subd. 2. **Sale to minors.** A lottery retailer may not sell and a lottery retailer or other person may not (1) furnish or redeem for a prize a ticket in the state lottery to any person under the age of 18 years, (2) allow a person under the age of 18 years to participate in a sports game, or (3) make a sports game payout to a person under the age of 18 years. It is an affirmative defense to a charge under this subdivision for the lottery retailer or other person to prove by a preponderance of the evidence that the lottery retailer or other person reasonably and in good faith relied upon representation of proof of age described in section 340A.503, subdivision 6, in making the sale or furnishing or redeeming the ticket, or allowing participation in or making a payout for a sports game.

Subd. 3. **Prohibited sales.** (a) A person other than a lottery retailer may not sell a ticket in the state lottery or participate in the conduct of a sports game.

(b) A lottery retailer may not sell a ticket for a price other than the price set by the director.

Subd. 4. **Lottery retailers and vendors.** A person who is a lottery retailer, or is applying to be a lottery retailer, a person applying for a contract with the director, or a person under contract with the director to supply goods or services to lottery may not pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food or beverage, having an aggregate value of over $100 in any calendar year to the director, employee of the lottery, or to a member of the immediate family residing in the same household as that person.

Subd. 5. **Exceptions.** Nothing in this chapter prohibits giving a state lottery ticket or a wager in a sports game as a gift, provided that a state lottery ticket or sports game wager may not be given to a person under the age of 18.

Subd. 6. **Violations.** A violation of subdivision 1 or 2 or a rule adopted by the director is a misdemeanor. A violation of subdivision 3 or 4 is a gross misdemeanor.

Sec. 15. Minnesota Statutes 2008, section 349A.13, is amended to read:

349A.13 RESTRICTIONS.

Nothing in this chapter:

(1) authorizes the director to conduct a lottery game or contest, excluding sports games, the winner or winners of which are determined by the result of a sporting event other than a horse race conducted under chapter 240;

(2) authorizes the director to install or operate a lottery device operated by coin or currency which when operated determines the winner of a game; and

(3) authorizes the director to sell pull-tabs as defined under section 349.12, subdivision 32.

Sec. 16. **[349A.19] SPORTS BOOKMAKING LICENSE.**

Subdivision 1. **License.** Notwithstanding sections 609.755 and 609.76, a person may engage in sports bookmaking if the person holds a license from the director under this section. A license under this section authorizes the licensee to accept wagers on professional sports events.

Subd. 2. **License application.** An application for a license under this section must be made to the director on a form the director prescribes. The application must be accompanied by an affidavit of qualification that the applicant has not (1) been convicted within the previous five years of a felony or gross misdemeanor, a crime involving fraud or misrepresentation, or a gambling-related offense, or (2) been determined to have violated a rule of the director, the racing commission, or the gambling control board, or a gambling-related regulatory body in another state.

Subd. 3. **Investigation.** The director shall investigate each applicant for a license under this section to the extent the director deems necessary, and may request the assistance of and may reimburse the division of alcohol and gambling enforcement in investigating applicants. The director may require by rule that an applicant be fingerprinted or furnish the applicant's fingerprints. The director may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the division of alcohol and gambling enforcement for its share of the cost of the investigation. The director has access to all criminal history data compiled by the division of alcohol and gambling enforcement on licensees and applicants under this section. The director may cooperate with national and international organizations and agencies in conducting investigations.

Subd. 4. **Issuance.** If the director determines that an applicant is not disqualified under subdivision 3 and that licensing the applicant is consistent with the public health, welfare, and safety, the director shall issue a license to an applicant or renew a license already issued. Licenses issued under this subdivision are valid for one year from the date of issuance.

Subd. 5. **Revocation; refusal to renew.** (a) The director may revoke or refuse to renew a license under this section for (1) conduct, including a violation of a law or rule, that the director determines adversely affects the integrity of sports bookmaking, and (2) intentionally making a false statement in a license application. The director may suspend a license for a period of time the director determines for a violation of law or rule.

(b) A license revocation or suspension under this subdivision for more than 90 days is a contested case under sections 14.57 to 14.69 of the Administrative Procedure Act and is in addition to criminal penalties imposed for a violation of law or rule. The director may summarily suspend a license for more than 90 days prior to a contested case hearing where it is necessary to ensure the integrity of sports bookmaking. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge's report must be issued within 20 days from the close of the hearing record. In all cases involving summary suspension the director must issue its final decision within 30 days from receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61.

Subd. 6. **License fee.** The director shall set the fee for a license under this section in an amount necessary to defray all expenses of the director in issuing and enforcing the terms of the license.

Subd. 7. **Bond.** The director may require that a licensee under this section post a bond, securities, or an irrevocable letter of credit, in an amount as the director deems necessary, to protect the integrity of sports bookmaking and the interests of persons making wagers with the licensee. If securities are deposited or an irrevocable letter of credit filed, the securities or letter of credit must be of a type or in the form provided under section 349A.07, subdivision 5, paragraphs (b) and (c).

Subd. 8. **Nonapplicability.** Sections 541.20, 541.21, 609.755, 609.76, and 609.762 do not apply to activities licensed under this section.

Sec. 17. **[349A.20] LICENSED SPORTS BOOKMAKING TAX.**

Subdivision 1. **Imposition of tax.** An excise tax is imposed on the gross revenues of persons licensed under section 349A.19. The rate of the tax is:

(1) For a person with gross revenues of $50,000 or less in the month being reported, three percent of gross revenues.

(2) For a person with gross revenues of more than $50,000 but less than $134,000 in the month being reported, four percent of gross revenues.

(3) For a person with gross revenues of $134,000 or more in the month being reported, 6.25 percent of gross revenues.

Subd. 2. **Gross revenues defined.** For purposes of this section, "gross revenues" means the total value of all wagers accepted by a person licensed under section 349A.19, less amounts paid out by those persons as payouts on winning wagers. In determining the value or amount of any wager for purposes of this section, all charges incident to the placing of the wager must be included.

Subd. 3. **Tax returns.** A person licensed under section 349A.19 must file monthly tax returns with the commissioner of revenue, in the form required by the commissioner, of all bookmaking activity, and shall include information on all bets recorded, accepted, forwarded, and placed. The returns must be filed on or before the 20th day of the month following the month in which the bets reported were recorded, accepted, forwarded, or placed. The tax imposed by this section is due and payable at the time when the returns are filed.

Subd. 4. **Deposit of revenue.** Net proceeds from the tax imposed under this section must be deposited in the general fund.

Sec. 18. Minnesota Statutes 2008, section 609.75, subdivision 7, is amended to read:

Subd. 7. **Sports bookmaking.** Sports bookmaking is the activity of intentionally receiving, recording or forwarding within any 30-day period more than five bets, or offers to bet, that total more than $2,500 on any one or more sporting events. For purposes of this chapter and chapter 297E, "sports bookmaking" does not include activities licensed under section 349A.19.

Sec. 19. **REPORT.**

The director of the State Lottery shall report to the legislature by January 1, 2012, on the present status and future prospects of legal and illegal sports bookmaking in Minnesota, and recommended changes in this act.

Sec. 20. **EFFECTIVE DATE.**

Sections 1 to 19 are effective July 1, 2010.