

STATE OF MINNESOTA

SEVENTY-FOURTH SESSION - 1985

THIRTY-NINTH DAY

SAINT PAUL, MINNESOTA, TUESDAY, APRIL 16, 1985

The House of Representatives convened at 2:00 p.m. and was called to order by David M. Jennings, Speaker of the House.

Prayer was offered by Reverend Howard C. Gravrock, House Chaplain.

The roll was called and the following members were present:

Anderson, G.	Erickson	Kvam	Pappas	Skoglund
Backlund	Fjoslien	Lieder	Pauly	Solberg
Battaglia	Forsythe	Long	Peterson	Sparby
Beard	Frederick	Marsh	Piepho	Stanis
Becklin	Frederickson	McDonald	Piper	Staten
Begich	Frerichs	McEachern	Poppenhagen	Sviggum
Bennett	Greenfield	McLaughlin	Price	Thiede
Bishop	Gruenes	McPherson	Quinn	Thorson
Blatz	Gutknecht	Metzen	Quist	Tjornhom
Boerboom	Halberg	Miller	Redalen	Tomlinson
Boo	Hartle	Minne	Rees	Tompkins
Brandl	Haukoos	Munger	Rest	Uphus
Brinkman	Heap	Murphy	Richter	Valan
Brown	Himle	Nelson, D.	Riveness	Valento
Burger	Jacobs	Nelson, K.	Rodosovich	Vanasek
Carlson, D.	Jaros	Neuenschwander	Rose	Vellenga
Carlson, J.	Jennings, L.	Norton	Sarna	Voss
Carlson, L.	Johnson	O'Connor	Schafer	Waltman
Clark	Kahn	Ogren	Scheid	Welle
Clausnitzer	Kalis	Olsen, S.	Schoenfeld	Wenzel
Cohen	Kelly	Olson, E.	Schreiber	Wynia
Dempsey	Kiffmeyer	Omann	Seaberg	Zaffke
DenOuden	Knickerbocker	Onnen	Segal	Spk. Jennings, D.
Dimler	Knuth	Osthoff	Shaver	
Dyke	Kostohryz	Otis	Sherman	
Elioff	Krueger	Ozment	Simoneau	

A quorum was present.

Anderson, R.; Ellingson; Hartinger; Levi; McKasy; Rice and Tunheim were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Erickson moved that further reading of the Journal be

dispensed with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF CHIEF CLERK

Pursuant to Rules of the House, printed copies of H. F. Nos. 208, 886, 368, 552, 593, 655, 723, 818, 1076, 1113, 1417, 1437, 1382, 449, 450, 1443, 418 and 558 and S. F. Nos. 693, 882, 623, 709, 682, 930, 82, 152, 485, 568, 302, 647, 750, 916, 441, 557, 827, 1088, 609, 783, 1073, 1183, 126, 281, 563, 566, 468, 675, 676, 798, 70, 597, 381, 219, 359, 805, 186, 285, 521, 1117, 1307, 1334, 127, 330, 728, 437 and 143 have been placed in the members' files.

S. F. No. 609 and H. F. No. 543, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Halberg moved that S. F. No. 609 be substituted for H. F. No. 543 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 557 and H. F. No. 545, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Poppenhagen moved that S. F. No. 557 be substituted for H. F. No. 545 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1088 and H. F. No. 1057, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Greenfield moved that S. F. No. 1088 be substituted for H. F. No. 1057 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 566 and H. F. No. 891, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Rees moved that S. F. No. 566 be substituted for H. F. No. 891 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 798 and H. F. No. 918, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Jaros moved that S. F. No. 798 be substituted for H. F. No. 918 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 709 and H. F. No. 1075, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

McKasy moved that S. F. No. 709 be substituted for H. F. No. 1075 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 437 and H. F. No. 552, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Halberg moved that S. F. No. 437 be substituted for H. F. No. 552 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 281 and H. F. No. 514, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Ogren moved that the rules be so far suspended that S. F. No. 281 be substituted for H. F. No. 514 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 563 and H. F. No. 476, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Heap moved that the rules be so far suspended that S. F. No. 563 be substituted for H. F. No. 476 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 783 and H. F. No. 967, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Olson, E., moved that the rules be so far suspended that S. F. No. 783 be substituted for H. F. No. 967 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 521 and H. F. No. 484, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Sherman moved that the rules be so far suspended that S. F. No. 521 be substituted for H. F. No. 484 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 693 and H. F. No. 636, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Bishop moved that the rules be so far suspended that S. F. No. 693 be substituted for H. F. No. 636 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 219 and H. F. No. 409, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Peterson moved that the rules be so far suspended that S. F. No. 219 be substituted for H. F. No. 409 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 70 and H. F. No. 145, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Dimler moved that the rules be so far suspended that S. F. No. 70 be substituted for H. F. No. 145 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 82 and H. F. No. 285, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Beard moved that the rules be so far suspended that S. F. No. 82 be substituted for H. F. No. 285 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 647 and H. F. No. 619, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Erickson moved that the rules be so far suspended that S. F. No. 647 be substituted for H. F. No. 619 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 676 and H. F. No. 677, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Uphus moved that the rules be so far suspended that S. F. No. 676 be substituted for H. F. No. 677 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 381 and H. F. No. 655, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Greenfield moved that the rules be so far suspended that S. F. No. 381 be substituted for H. F. No. 655 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 276 and H. F. No. 1443, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Onnen moved that the rules be so far suspended that S. F. No. 276 be substituted for H. F. No. 1443 and that the House File be indefinitely postponed. The motion prevailed.

REPORTS OF STANDING COMMITTEES

Blatz from the Committee on Crime and Family Law to which was referred:

H. F. No. 456, A bill for an act relating to waters; providing for revocation of a watercraft license when the watercraft is used by an operator who is arrested for operating the watercraft while under the influence of alcohol or who refuses chemical test-

ing; requiring the court to restrain a person from operating watercraft when that person is convicted of operating watercraft while under the influence of alcohol; prescribing penalties; amending Minnesota Statutes 1984, section 361.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 361.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 361.02, subdivision 9, is amended to read:

Subd. 9. "Underway or in use" means any watercraft in operation or use (WHEN NOT) *unless it is securely fastened to a dock or other permanent mooring. As used in section 361.12 and section 2, "underway and in use" means any motorboat in operation or use unless it is securely fastened to a dock or other permanent mooring, anchored, or drifting with the motor turned off.*

Sec. 2. Minnesota Statutes 1984, section 361.12, is amended to read:

361.12 [ALCOHOL, DRUGS, PHYSICAL OR MENTAL DISABILITY.]

Subdivision 1. [ACTS PROHIBITED.] (a) No person shall operate or be in (ACTUAL) physical control of any (WATERCRAFT) *motorboat while underway or in use on the waters of this state while under the influence of:*

(1) alcohol, as provided in section 169.121, subdivision 1 (OR), *clauses (a), (d), and (e);*

(2) a controlled substance, as defined in section 152.01, subdivision 4; *or*

(3) *a combination of any two or more of the elements named in clauses (1) and (2).*

(b) No owner or other person having charge or control of any (WATERCRAFT) *motorboat shall (KNOWINGLY) authorize or permit any person (WHO) he knows or has reason to believe is under the influence of alcohol (,) or a controlled substance, as provided under paragraph (a), to operate (SUCH WATERCRAFT) the motorboat while underway or in use on the waters of this state.*

(SUBD. 2.) (c) No owner or other person having charge or control of any (WATERCRAFT) *motorboat shall knowingly*

authorize or permit any person, who by reason of any physical or mental disability is incapable of operating (SUCH WATERCRAFT) the motorboat, to operate (SUCH WATERCRAFT) the motorboat while underway or in use on the waters of this state.

Subd. 2. [ARREST.] Conservation officers of the department of natural resources, sheriffs, sheriffs' deputies, and other peace officers may arrest a person for a violation under subdivision 1 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Subd. 3. [PRELIMINARY SCREENING TEST.] When an officer authorized under subdivision 2 to make arrests has reason to believe from the manner in which a person is operating, controlling, or acting upon departure from a motorboat, or has operated or been in control of a motorboat, that the operator may be violating or has violated subdivision 1, paragraph (a), the officer may require the operator to provide a breath sample for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of the preliminary screening test shall be used for the purpose of deciding whether any arrest should be made under this section and whether to require the chemical tests authorized in section 3, but may not be used in any court action except to prove that a test was properly required of an operator pursuant to section 3. Following the preliminary screening test, additional tests may be required of the operator as provided under section 3. Any operator who refuses a breath sample is subject to the provisions of section 3 unless, in compliance with that section, the operator submits to a blood, breath, or urine test to determine the presence of alcohol or a controlled substance.

Subd. 4. [EVIDENCE.] (a) Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for operating or being in physical control of a motorboat in violation of subdivision 1, paragraph (a), the court may admit evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine as shown by an analysis of those items.

(b) For the purposes of this subdivision:

(1) evidence that there was at the time an alcohol concentration of 0.05 or less is prima facie evidence that the person was not under the influence of alcohol;

(2) evidence that there was at the time an alcohol concentration of more than 0.05 and less than 0.10 is relevant evidence in indicating whether or not the person was under the influence of alcohol.

(c) Evidence of the refusal to take a preliminary screening test required under subdivision 3 or a chemical test required under section 3 is admissible into evidence in a prosecution under this section.

(d) If proven by a preponderance of the evidence, it is an affirmative defense to a violation of subdivision 1, paragraph (a), that the defendant consumed a sufficient quantity of alcohol after the time of actual operating or physical control of a motorboat and before the administration of a chemical test to cause the defendant's alcohol concentration to exceed 0.10; except that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

(e) This subdivision does not limit the introduction of any other competent evidence bearing upon the question whether or not the person was under the influence of alcohol or a controlled substance, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample. A sample is adequate if the instrument analyzes the sample and does not indicate the sample is deficient.

Subd. 5. [PENALTIES.] (a) A person who violates any prohibition contained in subdivision 1 is guilty of a misdemeanor; except that a person who violates any prohibition contained in subdivision 1 within five years of a prior conviction under that subdivision or section 3, subdivision 2, or within ten years of two or more prior convictions under that subdivision or section 3, subdivision 2, is guilty of a gross misdemeanor.

(b) A person who operates a motorboat on the waters of this state during the period the person is prohibited from operating any motorboat or after the person's watercraft operator's permit has been revoked, as provided under subdivision 6, is guilty of a misdemeanor.

Subd. 6. [OPERATING PRIVILEGES SUSPENDED; REVOKED.] (a) Upon conviction, and in addition to any penalty imposed under subdivision 5, the person is prohibited from operating any motorboat on the waters of this state for a period of 90 days between May 1 and October 31, extending over two consecutive years if necessary.

(b) A person 13 years of age or older but less than 18 years of age who violates any prohibition contained in subdivision 1 shall have his watercraft operator's permit revoked by the commissioner as required by section 361.22, subdivision 2, in addition to any other penalty imposed by the court.

Subd. 7. [DUTIES OF COMMISSIONER.] The court shall promptly forward copies of all convictions and penalties imposed under subdivision 5 and section 3, subdivision 2, to the commissioner. The commissioner shall notify the convicted person of the period during which the person is prohibited from operating a motorboat as provided under subdivision 6 or section 3, subdivision 2. The commissioner shall also periodically circulate to appropriate law enforcement agencies a list of all persons who are prohibited from operating any motorboat or have had their watercraft operator's permit revoked pursuant to subdivision 6 or section 3, subdivision 2.

Subd. 8. [IMMUNITY FROM LIABILITY.] The state or political subdivision which is the employer of an officer authorized under subdivision 2 to make an arrest for violations of subdivision 1 is immune from any liability, civil or criminal, for the care or custody of the motorboat being operated by or in the physical control of the person arrested if the officer acts in good faith and exercises due care.

Sec. 3. [361.121] [MANDATORY TESTING.]

Subdivision 1. [CHEMICAL TESTING.] A person who operates or is in physical control of a motorboat underway or in use on the waters of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 2, subdivision 2. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was operating or in physical control of a motorboat in violation of section 2, subdivision 1, paragraph (a), and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violating section 2, subdivision 1, paragraph (a);

(2) the person has been involved in a motorboat accident resulting in property damage, personal injury, or death;

(3) the person has refused to take the preliminary screening test provided for in section 2, subdivision 3; or

(4) the screening test was administered and recorded an alcohol concentration of 0.10 or more.

Subd. 2. [PENALTIES.] (a) A person who refuses to take a test required under subdivision 1 is guilty of a misdemeanor; except that, a person who refuses to take a test within five years of a prior conviction under subdivision 1 or section 2, subdivision 1, paragraph (a), or within ten years of two or more

convictions under subdivision 1 or section 2, subdivision 1, paragraph (a), is guilty of a gross misdemeanor.

(b) In addition to any penalties imposed under this subdivision, the person is prohibited from operating any motorboat on the waters of this state for a period of one year.

(c) A person who operates a motorboat on the waters of this state during the period the person is prohibited from operating any motorboat, as provided under paragraph (b), is guilty of a misdemeanor.

Subd. 3. [RIGHTS AND OBLIGATIONS.] *At the time a test is requested, the person must be informed:*

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

(2) that it is a misdemeanor or gross misdemeanor, as provided under subdivision 2, to refuse to take the test and, in addition to other penalties which a court may impose, the person is prohibited from operating any motorboat, as provided under subdivision 2, for refusing to take the test;

(3) that if testing is refused it will not affect the person's motor vehicle driver's license;

(4) that if the test is taken and the results indicate that the person is under the influence of alcohol or a controlled substance, the person will be subject to criminal penalties and in addition to any other penalties the court may impose, the person's operating privileges will be suspended as provided under section 2, subdivision 6, paragraph (a);

(5) that, after submitting to testing, the person has the right to have additional tests made by a person of his own choosing; and

(6) that, if he refused to take a test, the refusal will be offered into evidence against him at trial.

Subd. 4. [REQUIREMENT OF URINE TEST.] *Notwithstanding subdivision 1, if there are reasonable and probable grounds to believe there is impairment by a controlled substance which is not subject to testing by a blood or breath test, a urine test may be required even after a blood or breath test has been administered.*

Subd. 5. [BREATH TEST USING AN INFRARED BREATH-TESTING INSTRUMENT.] *In the case of a breath test administered using an infrared breath-testing instrument,*

the test shall consist of analyses in the following sequence: one adequate breath sample analysis, one calibration standard analysis, and a second, adequate breath sample analysis. In the case of a test administered using an infrared breath-testing instrument, a sample is adequate if the instrument analyzes the sample and does not indicate the sample is deficient. For purposes of this section, when a test is administered using an infrared breath-testing instrument, failure of a person to provide two separate adequate breath samples in the proper sequence constitutes a refusal to take the test.

Subd. 6. [CONSENT OF PERSON INCAPABLE OF REFUSAL NOT WITHDRAWN.] *A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subdivision 1 and the test may be given.*

Subd. 7. [MANNER OF MAKING TEST; ADDITIONAL TESTS.] *Only a physician, medical technician, physician's trained mobile intensive care paramedic, registered nurse, medical technologist or laboratory assistant acting at the request of a peace officer authorized to make arrests under section 2, subdivision 2, may withdraw blood for the purpose of determining the presence of alcohol or controlled substance. This limitation does not apply to the taking of a breath or urine sample. The person tested has the right to have a person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer. The physician, medical technician, physician's trained mobile intensive care paramedic, medical technologist, laboratory assistant or registered nurse drawing blood at the request of a peace officer for the purpose of determining alcohol concentration shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test shall be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety.*

Sec. 4. [EFFECTIVE DATE.]

This act is effective May 1, 1985."

Delete the title and insert:

"A bill for an act relating to motorboat safety; strengthening prohibitions and penalties regarding operation of motorboats

while under the influence of alcohol or a controlled substance; providing a penalty; amending Minnesota Statutes 1984, sections 361.02, subdivision 9; and 361.12; proposing coding for new law in Minnesota Statutes, chapter 361."

With the recommendation that when so amended the bill pass.

The report was adopted.

Blatz from the Committee on Crime and Family Law to which was referred:

H. F. No. 782, A bill for an act relating to human services; providing for participation by Indian tribes in the placement of their children; proposing coding for new law in Minnesota Statutes, chapter 257.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [257.35] [CITATION.]

Sections 1 to 8 may be cited as the "Minnesota Indian family preservation act."

Sec. 2. [257.351] [DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in sections 1 to 8, the following terms have the meanings given them.

Subd. 2. [ADMINISTRATIVE REVIEW.] "Administrative review" means review under Minnesota Statutes, section 257.071.

Subd. 3. [CHILD PLACEMENT PROCEEDING.] "Child placement proceeding" includes a judicial proceeding which could result in the following:

(a) "Adoptive placement" means the permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption.

(b) "Involuntary foster care placement" means an action removing an Indian child from his or her parents or Indian custodian for temporary placement in a foster home, institution, or the home of a guardian. The parent or Indian custodian cannot have the child returned upon demand, but parental rights have not been terminated.

(c) *"Preadoptive placement" means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, before or instead of adoptive placement.*

(d) *"Termination of parental rights" means an action resulting in the termination of the parent-child relationship under Minnesota Statutes, section 260.221.*

The terms include placements based upon juvenile status offenses, but do not include a placement based upon an act which if committed by an adult would be deemed a crime, or upon an award of custody in a divorce proceeding to one of the parents.

Subd. 4. [DEMAND.] *"Demand" means a written and notarized statement signed by a parent or Indian custodian of a child which requests the return of the child who has been voluntarily placed in foster care.*

Subd. 5. [INDIAN.] *"Indian" means a person who is a member of an Indian tribe or an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.*

Subd. 6. [INDIAN CHILD.] *"Indian child" means an unmarried person who is under age 18 and is:*

- (1) *a member of an Indian tribe; or*
- (2) *eligible for membership in an Indian tribe.*

Subd. 7. [INDIAN CHILD'S TRIBE.] *"Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian child's tribe is the tribe with which the Indian child has the most significant contacts. If that tribe does not express an interest in the outcome of the actions taken under sections 1 to 8 with respect to the child, any other tribe in which the child is eligible for membership that expresses an interest in the outcome may act as the Indian child's tribe.*

Subd. 8. [INDIAN CUSTODIAN.] *"Indian custodian" means an Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of the child.*

Subd. 9. [INDIAN TRIBE.] *"Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to In-*

dians by the secretary because of their status as Indians, including any band under the Alaska Native Claims Settlement Act, United States Code, title 43, section 1602, and exercising tribal governmental powers.

Subd. 10. [LOCAL SOCIAL SERVICE AGENCY.] "Local social service agency" means the local agency under the authority of the county welfare or human services board or county board of commissioners which is responsible for human services.

Subd. 11. [PARENT.] "Parent" means the biological parent of an Indian child, or any Indian person who has lawfully adopted an Indian child, including a person who has adopted a child by tribal law or custom. It does not include an unmarried father whose paternity has not been acknowledged or established.

Subd. 12. [PRIVATE CHILD PLACING AGENCY.] "Private child placing agency" means a private organization, association, or corporation providing assistance to children and parents in their own homes and placing children in foster care or for adoption.

Subd. 13. [RESERVATION.] "Reservation" means Indian country as defined in United States Code, title 18, section 1151 and any lands which are either held by the United States in trust for the benefit of an Indian tribe or individual, or held by an Indian tribe or individual subject to a restriction by the United States against alienation.

Subd. 14. [SECRETARY.] "Secretary" means the secretary of the United States department of the interior.

Subd. 15. [TRIBAL COURT.] "Tribal court" means a court with jurisdiction over child custody proceedings which is either a court of Indian offenses, or a court established and operated under the code or custom of an Indian tribe, or the administrative body of a tribe which is vested with authority over child custody proceedings.

Subd. 16. [TRIBAL SOCIAL SERVICE AGENCY.] "Tribal social service agency" means the unit under authority of the governing body of the Indian tribe which is responsible for human services.

Subd. 17. [VOLUNTARY FOSTER CARE PLACEMENT.] "Voluntary foster care placement" means a decision in which there has been participation by a local social service agency or private child placing agency resulting in the temporary placement of an Indian child away from the home of his or her parents or Indian custodian in a foster home, institution, or the home of a guardian, and the parent or Indian custodian may have the child returned upon demand.

Sec. 3. [257.352] [AGENCY NOTICE TO TRIBES.]

The local social service agency or private licensed child placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe. When either agency determines that an Indian child is in a dependent or other condition that could lead to an out-of-home placement and requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send notice of the condition and of the initial steps taken to remedy it to the Indian child's tribal social service agency within seven days of the determination. At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. The agency shall require execution of an agreement with the tribal social service agency that the tribal social service agency will maintain confidential or private data according to statutory provisions applicable to the data. Any agency seeking placement of an Indian child shall make reasonable efforts to identify and locate extended family members.

Sec. 4. [257.353] [VOLUNTARY FOSTER CARE PLACEMENT.]

Subdivision 1. [NOTICE.] When an Indian child is voluntarily placed in foster care, the local social service agency involved in the decision to place the child shall give notice of the placement to the child's parents, tribal social service agency, and the Indian custodian within seven days of placement, excluding weekends and holidays.

If a private licensed child placing agency makes a temporary voluntary foster care placement pending a decision on adoption by a parent, notice of the placement shall be given to the child's parents, tribal social service agency, and the Indian custodian upon the filing of a petition for termination of parental rights or three months following the temporary placement, whichever occurs first.

Subd. 2. [NOTICE OF ADMINISTRATIVE REVIEW.] In an administrative review of a voluntary foster care placement, the tribal social service agency of the child, the Indian custodian, and the parents of the child shall have notice and a right of participation in the review.

Subd. 3. [RETURN OF CHILD IN VOLUNTARY PLACEMENT.] Upon demand by the parent or Indian custodian of an Indian child, the local social service agency or private licensed child placing agency shall return the child in voluntary foster care placement to the parent or Indian custodian within 24 hours of the receipt of the demand. If the request for return does not satisfy the requirement of section 2, subdivision 4, the local so-

cial service agency or private child placing agency shall immediately inform the parent or Indian custodian of the Indian child of the requirement.

Sec. 5. [257.354] [CHILD PLACEMENT PROCEEDINGS.]

Subdivision 1. [INDIAN TRIBE JURISDICTION.] An Indian tribe with a tribal court has exclusive jurisdiction over a child placement proceeding involving an Indian child who resides within the reservation of such tribe at the commencement of the proceedings. When an Indian child is in the legal custody of a person or agency pursuant to an order of a tribal court, the Indian tribe retains exclusive jurisdiction, notwithstanding the residence or domicile of the child.

Subd. 2. [COURT DETERMINATION OF TRIBAL AFFILIATION OF CHILD.] In any child placement proceeding, the court shall establish whether an Indian child is involved and the identity of the Indian child's tribe.

Subd. 3. [TRANSFER OF PROCEEDINGS.] In a proceeding for the termination of parental rights or involuntary foster care placement of an Indian child not within the jurisdiction of subdivision 1, the court shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe. The transfer shall be subject to declination by the tribal court of such tribe.

Subd. 4. [EFFECT OF TRIBAL COURT PLACEMENT ORDERS.] To the extent that any child subject to sections 1 to 8 is otherwise eligible for social services, orders of a tribal court concerning placement of such child shall have the same force and effect as orders of a court of this state. In any case where the tribal court orders placement through a local social service agency, the court shall provide to the local agency notice and an opportunity to be heard regarding the placement. Financial responsibility for the placement shall be determined by the local social service agency and shall be subject to review by the commissioner in accordance with sections 14.01 to 14.69.

Sec. 6. [257.355] [PLACEMENT RECORDS.]

The commissioner of human services shall publish annually an inventory of all Indian children in residential facilities. The inventory shall include, by county and statewide, information on legal status, living arrangement, age, sex, tribe in which the child is a member or eligible for membership, accumulated length of time in foster care, and other demographic information deemed appropriate concerning all Indian children in residential facilities. The report must also state the extent to which authorized child placing agencies comply with the order of preference described in United States Code, title 25, section 1901, et seq.

Sec. 7. [257.356] [RECORDS; INFORMATION AVAILABILITY.]

Subdivision 1. [COURT DECREE INFORMATION.] A state court entering a final decree or order in an Indian child adoptive placement shall provide the department of human services and the child's tribal social service agency with a copy of the decree or order together with such other information to show:

- (1) the name and tribal affiliation of the child;*
- (2) the names and addresses of the biological parents;*
- (3) the names and addresses of the adoptive parents; and*
- (4) the identity of any agency having files or information relating to the adoptive placement.*

If the court records contain an affidavit of the biological or adoptive parent or parents requesting anonymity, the court shall delete the name and address of the biological or adoptive parents from the information sent to the child's tribal social service agency.

Subd. 2. [DISCLOSURE OF RECORDS.] Upon the request of an adopted Indian person over the age of 18, the adoptive or foster parents of an Indian person, or an Indian tribal social service agency, the department of human services shall disclose to the Indian person's tribe information necessary for membership of an Indian person in the tribe in which the person may be eligible for membership or for determining any rights or benefits associated with that membership. When the documents relating to the person contain an affidavit from the biological or adoptive parent or parents requesting anonymity, the department must use the procedures described in United States Code, title 25, section 1951, paragraph (b).

Sec. 8. [257.357] [RULE CHANGE.]

The commissioner of human services shall amend Minnesota Rules, parts 9545.0210 and 9545.0790, to provide that an agency that places Indian children shall cooperate with the Indian child's tribe in securing placement that is consistent with the child's racial or ethnic heritage, as indicated by the policy statements in Minnesota Statutes, sections 259.255, and 259.28, subdivision 2. The amendment is not subject to the rulemaking provisions of chapter 14, but the commissioner must comply with section 14.38, subdivision 7, in adopting the amendment."

With the recommendation that when so amended the bill pass.

The report was adopted.

Rose from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 849, A bill for an act relating to water pollution control; establishing a state financial assistance program for the abatement of combined sewer overflow; reauthorizing the state independent grants program; imposing a sales tax on water and sewer services; appropriating money; amending Minnesota Statutes 1984, sections 116.16, subdivision 1, and by adding a subdivision; 116.18, subdivisions 1 and 3a; 297A.01, subdivision 3; 297A.44, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116; repealing Minnesota Statutes 1984, section 116.18, subdivision 2.

Reported the same back with the following amendments:

Page 2, lines 10 to 22, delete section 2

Page 5, lines 34 to 36, restore the stricken language

Page 6, line 1, restore the stricken language

Page 6, line 25 to page 9, line 6, delete sections 6 and 7

Renumber the sections in sequence

Correct the internal references

Amend the title as follows:

Page 1, line 5, delete everything after the semicolon

Page 1, line 6, delete everything before "appropriating"

Page 1, line 8, delete ", and by adding a subdivision"

Page 1, line 9, delete everything after the first semicolon

Page 1, line 10, delete everything before "proposing"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred:

H. F. No. 1338, A bill for an act relating to the state university board; authorizing it to sell and maintain computers and

related products; amending Minnesota Statutes 1984, section 136.24.

Reported the same back with the following amendments:

Page 1, line 16, delete "(a) In order to" and insert "*The state university board may purchase for resale to authorized retail vendors computers and related products for its staff and students to advance their instructional and research abilities. The board shall contract with a private vendor for sale, service, maintenance, and support for computers and related products sold by the board.*"

Page 1, delete lines 17 to 24

Page 1, after line 24, insert:

"Sec. 2. [136.622] [COMPUTER SALES AND MAINTENANCE.]

The state board for community colleges may purchase for resale to authorized retail vendors computers and related products for its staff and students to advance their instructional and research abilities. The board shall contract with a private vendor for sale, service, maintenance, and support for computers and related products sold by the board.

Sec. 3. Minnesota Statutes 1984, section 136C.04, is amended by adding a subdivision to read:

Subd. 18. [COMPUTER SALES AND MAINTENANCE.] *The state board of vocational technical education may purchase for resale to authorized retail vendors computers and related products for its staff and students to advance their instructional and research abilities. The board shall contract with a private vendor for sale, service, maintenance, and support for computers and related products sold by the board.*

Page 2, line 1, delete "Section 1 is" and insert "Sections 1, 2, and 3 are"

ReNUMBER the section in sequence

Delete the title and insert:

"A bill for an act relating to education; authorizing the sale of computers and related products by the state university board, state board for community colleges, and state board of vocational technical education; requiring contracts with private vendors for sale, service, maintenance, and support; amending Minnesota

Statutes 1984, sections 136.24; and 136C.04, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 136."

With the recommendation that when so amended the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 456, 782 and 1338 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 609, 557, 1088, 566, 798, 709, 437, 281, 563, 783, 521, 693, 219, 70, 82, 647, 676, 381 and 276 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Dimler introduced:

H. F. No. 1596, A bill for an act relating to taxation; sales tax; providing for elimination of double taxation in sale and leaseback transactions; appropriating money; amending Minnesota Statutes 1984, sections 297A.01, subdivision 4; and 297A.15, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Taxes.

Piepho introduced:

H. F. No. 1597, A bill for an act relating to the city of Mankato; permitting the establishment of a port authority.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Onnen, Clausnitzer, Boo, Brandl and Greenfield introduced:

H. F. No. 1598, A bill for an act relating to taxation; exempting from income taxation certain income used to purchase long-term care insurance; amending Minnesota Statutes 1984, sections 290.01, subdivision 20b; and 290.08, subdivision 26.

The bill was read for the first time and referred to the Committee on Taxes.

Fjoslien, Munger, Thorson and Valento introduced:

H. F. No. 1599, A bill for an act relating to state monuments; authorizing development of a plan for a memorial to Native Americans; amending Minnesota Statutes 1984, section 138.585, by adding a subdivision.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Shaver; Blatz; Tjornhom; Carlson, J., and Scheid introduced:

H. F. No. 1600, A bill for an act relating to taxation; income; allowing insurance companies to use income as determined under the updated Internal Revenue Code in determining taxable net income under this chapter; amending Minnesota Statutes 1984, section 290.35.

The bill was read for the first time and referred to the Committee on Taxes.

Wynia, Greenfield, Piper, Segal and Staten introduced:

H. F. No. 1601, A resolution memorializing the President and Congress of the United States to amend the Social Security Act to reverse overly-restrictive administrative interpretation of that act.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Wynia; Skoglund; Brandl; Carlson, L., and Murphy introduced:

H. F. No. 1602, A bill for an act relating to human services; transferring the child care sliding fee program to the department of economic security; expanding the child care sliding fee program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256; and repealing Minnesota Statutes 1984, sections 245.84, subdivision 2; and 245.87.

The bill was read for the first time and referred to the Committee on Health and Human Services.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 85, A bill for an act relating to the town of Santiago; authorizing the establishment of a detached banking facility.

H. F. No. 796, A bill for an act relating to Ramsey county; exempting county highways from seasonal load restrictions unless posted by the county authority; proposing coding for new law in Minnesota Statutes, chapter 383A.

H. F. No. 991, A bill for an act relating to local government; regulating certain municipal dissolutions and annexations; amending Minnesota Statutes 1984, sections 412.091; 414.033, by adding subdivisions; and 414.061, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 470, A bill for an act relating to education; authorizing the establishment of joint vocational technical districts; providing for a governing board; authorizing post-secondary and adult vocational programs, secondary educational programs, and secondary services; providing for separate bargaining units, limitations on reinstatements, and certain other labor issues; transferring all school district real and personal property to the joint district; authorizing the joint district to levy for certain purposes; providing for intention of state funding of construction; providing for bonded indebtedness, fund transfers, and debt service; amending Minnesota Statutes 1984, sections 136C.02, subdivisions 6 and 8, and by adding a subdivision; 136C.41, by adding a subdivision; and 136C.44; proposing coding for new law in Minnesota Statutes, chapter 136D.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Erickson moved that the House concur in the Senate amendments to H. F. No. 470 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 470, A bill for an act relating to education; authorizing the establishment of joint vocational technical districts; providing for a governing board; authorizing post-secondary and adult vocational programs, secondary educational programs, and secondary services; providing for separate bargaining units and certain other labor issues; transferring all school district real and personal property to the joint district; authorizing the joint district to levy for certain purposes; providing for state funding of construction; providing for bonded indebtedness, fund transfers, and debt service; amending Minnesota Statutes 1984, sections 136C.02, subdivisions 6 and 8, and by adding a subdivision; 136C.41, by adding a subdivision; 136C.44; and 275.125, subdivisions 1 and 14a; proposing coding for new law as Minnesota Statutes, chapter 136E.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 118 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Erickson	Lieder	Piepho	Solberg
Backlund	Fjoslien	Long	Piper	Sparby
Battaglia	Forsythe	Marsh	Poppenhagen	Stanius
Beard	Frederick	McDonald	Price	Staten
Becklin	Frederickson	McEachern	Quinn	Svigum
Begich	Frerichs	McLaughlin	Quist	Thiede
Bennett	Greenfield	McPherson	Redalen	Thorson
Blatz	Gruenes	Metzen	Rees	Tjornhom
Boerboom	Gutknecht	Miller	Rest	Tomlinson
Boo	Halberg	Murphy	Richter	Tompkins
Brandl	Hartle	Nelson, D.	Riveness	Uphus
Brinkman	Haukoos	Nelson, K.	Rodosovich	Valan
Brown	Himle	Neuenschwander	Rose	Valento
Burger	Jacobs	Norton	Sarna	Vanasek
Carlson, D.	Jennings, L.	Ogren	Schafer	Vellenga
Carlson, J.	Johnson	Olsen, S.	Scheid	Voss
Carlson, L.	Kahn	Olson, E.	Schoenfeld	Waltman
Clausnitzer	Kelly	Omann	Schreiber	Welle
Cohen	Kiffmeyer	Onnen	Seaberg	Wenzel
Dempsey	Knickerbocker	Otis	Segal	Wynia
DenOuden	Knuth	Ozment	Shaver	Zaffke
Dimler	Kostohryz	Pappas	Sherman	Spk. Jennings, D.
Dyke	Krueger	Pauly	Simoneau	
Elioff	Kvam	Peterson	Skoglund	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 448.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 569.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 1045.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 221 and 384.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 448, A bill for an act relating to crimes; providing penalty for assault of firefighters or emergency medical services personnel; amending Minnesota Statutes 1984, section 609.2231.

The bill was read for the first time and referred to the Committee on Crime and Family Law.

S. F. No. 569, A bill for an act relating to natural resources; granting conservation officers the authority of peace officers under certain circumstances; specifying areas of jurisdiction; amending Minnesota Statutes 1984, sections 84.028, subdivision 3; and 97.50, subdivision 1, and by adding a subdivision.

The bill was read for the first time and referred to the Committee on Crime and Family Law.

S. F. No. 1045, A bill for an act relating to commerce; providing for the determination of certain usurious contracts; proposing coding for new law in Minnesota Statutes, chapter 334.

The bill was read for the first time and referred to the Committee on Commerce and Economic Development.

S. F. No. 221, A bill for an act relating to agriculture; providing for the prevention of economic waste in the marketing of certain agricultural crops produced in Minnesota by establishing minimum prices; providing for supply management and orderly marketing, administration, and enforcement; imposing a penalty; proposing coding for new law in Minnesota Statutes, chapter 17.

The bill was read for the first time and referred to the Committee on Agriculture.

S. F. No. 384, A bill for an act relating to state lands; conveying lands to the federal government for Voyageurs National Park; appropriating money; amending Minnesota Statutes 1984, section 84B.03, subdivision 4.

The bill was read for the first time and referred to the Committee on Appropriations.

CONSENT CALENDAR

Halberg moved that the bills on the Consent Calendar for today be continued one day. The motion prevailed.

CALENDAR

Halberg moved that the bills on the Calendar for today be continued one day. The motion prevailed.

GENERAL ORDERS

Halberg moved that the bills on General Orders for today be continued one day. The motion prevailed.

MOTIONS AND RESOLUTIONS

Fjoslien moved that the name of Krueger be added as an author on H. F. No. 1506. The motion prevailed.

Valan moved that the name of Pappas be added as an author on H. F. No. 1555. The motion prevailed.

Boerboom moved that the name of Tjornhom be added as an author on H. F. No. 1582. The motion prevailed.

Segal moved that the name of Clark be added as an author on H. F. No. 1585. The motion prevailed.

Onnen moved that the name of Clark be added as an author on H. F. No. 1591. The motion prevailed.

Frerichs moved that the name of Bennett be added as an author on H. F. No. 1595. The motion prevailed.

ADJOURNMENT

Halberg moved that when the House adjourns today it adjourn until 2:00 p.m., Thursday, April 18, 1985. The motion prevailed.

Halberg moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:00 p.m., Thursday, April 18, 1985.

EDWARD A. BURDICK, Chief Clerk, House of Representatives