

## STATE OF MINNESOTA

## SEVENTY-SIXTH SESSION—1989

## FIFTY-FOURTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, MAY 17, 1989

The House of Representatives convened at 12:00 noon and was called to order by Robert E. Vanasek, Speaker of the House.

Prayer was offered by the Reverend John Mauritzen of the Norwegian Lutheran Church, Minneapolis, Minnesota.

The roll was called and the following members were present:

Abrams	Frerichs	Lasley	Orenstein	Segal
Anderson, G.	Girard	Lieder	Osthoff	Simoneau
Anderson, R.	Greenfield	Limmer	Ostrom	Skoglund
Battaglia	Gruenes	Long	Otis	Solberg
Bauerly	Gutknecht	Lynch	Ozment	Sparby
Beard	Hartle	Macklin	Pappas	Stanisus
Begich	Hasskamp	Marsh	Pauly	Steenasma
Bennett	Haukoos	McDonald	Pellow	Sviggum
Bertram	Heap	McEachern	Pelowski	Swenson
Bishop	Henry	McGuire	Peterson	Tjornhom
Blatz	Hugoson	McLaughlin	Poppenhagen	Tompkins
Boo	Jacobs	McPherson	Price	Trimble
Brown	Janezich	Milbert	Pugh	Tunheim
Burger	Jaros	Miller	Quinn	Uphus
Carlson, D.	Jefferson	Morrison	Redalen	Valento
Carlson, L.	Jennings	Munger	Reding	Vellenga
Carruthers	Johnson, A.	Murphy	Rest	Wagenius
Clark	Johnson, R.	Nelson, C.	Rice	Waltman
Conway	Johnson, V.	Nelson, K.	Richter	Weaver
Cooper	Kahn	Neuenschwander	Rodosovich	Welle
Dauner	Kalis	O'Connor	Rukavina	Wenzel
Dawkins	Kelly	Ogren	Runbeck	Williams
Dempsey	Kelso	Olsen, S.	Sarna	Winter
Dille	Kinkel	Olson, E.	Schafer	Wynia
Dorn	Knickerbocker	Olson, K.	Scheid	Spk. Vanasek
Forsythe	Kostohryz	Omman	Schreiber	
Frederick	Krueger	Onnen	Seaberg	

A quorum was present.

Himle was excused until 2:15 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Frerichs 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. 622, 1396, 534, 601, 773, 777, 782, 810, 1194, 1443, 1532, 878 and 1418 have been placed in the members' files.

S. F. No. 536 and H. F. No. 622, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

Milbert moved that the rules be so far suspended that S. F. No. 536 be substituted for H. F. No. 622 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 262 and H. F. No. 534, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

Munger moved that the rules be so far suspended that S. F. No. 262 be substituted for H. F. No. 534 and that the House File be indefinitely postponed. The motion prevailed.

#### SECOND READING OF SENATE BILLS

S. F. Nos. 536 and 262 were read for the second time.

#### SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, Munger moved that the rule therein be suspended and an urgency be declared so that S. F. No. 262 be given its third reading and be placed upon its final passage. The motion prevailed.

Munger moved that the Rules of the House be so far suspended that S. F. No. 262 be given its third reading and be placed upon its final passage. The motion prevailed.

Wynia moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

**SECOND READING OF SENATE BILLS, Continued**

Munger moved to amend S. F. No. 262, as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**PROTECTION OF GROUNDWATER**

Section 1. [115D.01] [GOAL; PREVENTION OF GROUNDWATER DEGRADATION.]

It is the goal of the state that groundwater be maintained in its natural condition, free from any degradation caused by human activities. It is recognized that for some human activities this nondegradation goal cannot be practicably achieved. However, where prevention is practicable, it is intended that it be achieved. Where it is not currently practicable, the development of methods and technology that will make prevention practicable is encouraged. The prevention and cleanup of groundwater pollution is crucial to the public health and welfare and the environment of the state because:

(1) Minnesota's high quality groundwater is a precious natural resource upon which Minnesotans depend for many uses, including drinking water and agricultural and industrial uses;

(2) this resource is currently being threatened by pollution from a variety of land and water uses, including domestic, agricultural, and industrial uses;

(3) groundwater of the state is contained in a series of related and often interconnected aquifers, and pollutants entering the groundwater may spread both horizontally and vertically and may enter and impair surface waters;

(4) once groundwater becomes polluted, it is extremely difficult and at times impossible to return it to its natural state;

(5) consumption of polluted groundwater can result in significant health impacts, even at relatively low concentrations; and

(6) groundwater must be protected for consumption and other uses by future generations.

Sec. 2. [115D.02] [DEFINITIONS.]

Subdivision 1. [APPLICABLE DEFINITIONS.] The definitions provided in this section apply to terms used in sections 1 to 7, unless the context requires otherwise. The definitions provided in section 115.01 apply to terms used in sections 1 to 7, unless a different definition is provided in this section or the context requires otherwise.

Subd. 2. [BEST MANAGEMENT PRACTICES.] "Best management practices" means those practices that are most capable of preventing, reducing, minimizing, or eliminating the pollution of the waters of the state, and are most practicable, considering availability, economic factors, effectiveness, environmental impacts, ability to be implemented, and technical feasibility. Best management practices apply to, but are not limited to, schedules of activities, operation procedures, practices, techniques, maintenance procedures, application and use of chemicals, drainage from raw material storage, treatment requirements, and other activities that may cause or contribute to water pollution.

Subd. 3. [PERSON.] "Person" means a human being; a municipality or other governmental or political subdivision; a public agency; a public or private corporation; a partnership, firm, association, or other organization; a receiver, trustee, assignee, agent, or other legal representative of any of the foregoing; or any other legal entity.

Subd. 4. [REGULATING AUTHORITY.] "Regulating authority" means a state agency, political subdivision, special purpose district, or other governmental unit with legal authority to adopt and enforce water resources protection requirements.

Subd. 5. [WATER RESOURCES PROTECTION REQUIREMENTS.] "Water resources protection requirements" means requirements intended to prevent, reduce, minimize, or eliminate pollution of the waters of the state that are enforceable under law, ordinance, permit, license, or order. Water resources protection requirements include: design criteria, guidance, or requirements; standards; operation and maintenance procedures; practices to

control releases, spills, leaks, and sludge and waste disposal; restrictions on use and practices; and treatment requirements.

Sec. 3. [115D.03] [STATE PROGRAMS.]

Subdivision 1. [PROGRAM REVIEW.] The environmental quality board shall identify those state agency programs that affect activities that may cause or contribute to groundwater pollution.

Subd. 2. [STATE AGENCIES.] (a) Each state agency that has a program identified pursuant to subdivision 1 shall identify and develop best management practices to ensure that the program is consistent with and is effective in achieving the goal of section 1 and is effective in meeting the limits established under section 5. For those activities which may cause or contribute to pollution of groundwater, but are not directly regulated by the state, best management practices shall be promoted through education, support programs, incentives, and other mechanisms.

(b) State agencies must concentrate efforts to identify and develop best management practices in sensitive areas with Karst and sand plain features as provided in section 7, subdivision 1.

Subd. 3. [DEPARTMENT OF AGRICULTURE.] The department of agriculture shall identify and develop best management practices for the distribution, storage, and use of pesticides and fertilizers, except as otherwise provided in law.

Subd. 4. [EDUCATION.] The Minnesota extension service shall develop and implement educational programs, in cooperation with state agencies and local units of government involved in comprehensive water planning, that promote the use of best management practices for the protection of groundwater.

Sec. 4. [115D.04] [DUTY TO PREVENT POLLUTION.]

Persons whose activity may cause or contribute to pollution of groundwater shall use all practicable means of preventing the pollution.

Sec. 5. [115D.05] [HEALTH AND POLLUTION LIMITS.]

Subdivision 1. [DEPARTMENT OF HEALTH.] (a) The department of health shall adopt rules specifying procedures and criteria for establishing and periodically revising a list of health risk limits for drinking water. The rules shall require the limits to be set at levels such that there is no significant long-term risk to human health from using that water, considering prudent margins of safety and complicating effects due to the presence of multiple pollutants or breakdown products. The rules shall provide for the establish-

ment of temporary emergency limits that are not subject to paragraph (b).

(b) After rules are adopted under paragraph (a), the department shall establish a list of health risk limits in accordance with the rules and the procedures provided in this paragraph. The establishment of the list is exempt from the requirements of chapter 14. The department shall reevaluate each limit at least every four years after it has been established. Before a list of health risk limits is established or revised, the department shall:

(1) publish in the State Register and disseminate through the Minnesota extension service and through soil and water conservation districts notice of its intent to establish or revise health risk limits for specific substances and shall solicit information on the health impacts of those substances;

(2) publish a proposed list of health risk limits in the State Register and disseminate through the Minnesota extension service and through soil and water conservation districts allowing 60 days for public comment; and

(3) publish the final list of health risk limits in the State Register and, at the same time, make available a summary of the public comments received and the department's responses to the comments.

(c) A limit established by the department under paragraph (b) may be challenged in the manner provided in sections 14.44 and 14.45, except that the court may declare a limit invalid only if it finds that the limit was not established in accordance with the rules adopted under paragraph (a) or the procedures provided in paragraph (b) or that the limit is arbitrary or capricious.

Subd. 2. [POLLUTION CONTROL AGENCY.] The pollution control agency may adopt rules establishing numerical groundwater pollution limits. The rules shall:

(1) use the department of health's health risk limits as the measure of health risk;

(2) provide for the establishment of more protective limits where groundwater interactions with surface water may otherwise result in impairment of surface water quality;

(3) not preclude regulating authorities from adopting requirements for facilities or practices to further minimize pollution consistent with section 1, where it is practicable; and

(4) provide standards for guiding the actions of regulating authorities under section 6.

Sec. 6. [115D.06] [ACTIONS BY REGULATING AUTHORITIES.]

Subdivision 1. [GROUNDWATER POLLUTION OCCURRENCE.]

(a) Where groundwater pollution is detected during ongoing monitoring programs, the responsible state agency shall take appropriate actions consistent with the goal of section 1 to confirm detection and may investigate possible sources, investigate the extent of groundwater pollution, and may conduct informational and educational efforts and other appropriate actions in the affected areas.

(b) A water resources protection requirement may not be enforced by a state agency before September 30, 1991 except as provided in section 7, subdivision 1 for sensitive areas with Karst or sand plain features.

Subd. 2. [GROUNDWATER POLLUTION IN EXCESS OF LIMITS.] If groundwater pollution exceeds or is likely to exceed limits established under section 5, the regulating authority shall take appropriate actions consistent with the goal of section 1 and the limits established under section 5.

Subd. 3. [APPROPRIATE ACTIONS.] For the purpose of this section and section 7, "appropriate actions" include actions to confirm detection and investigate possible sources, investigate the extent of groundwater pollution, conduct informational or educational efforts in the affected areas, require implementation of management practices, develop water resources protection requirements, require changes in monitoring, restrict or modify the activity or use in question, or require or provide groundwater remediation or containment. Nothing in this section shall be interpreted to confer any authority to adopt water resources protection requirements upon any state agency, political subdivision, special purpose district, or other local governmental unit beyond the authority conferred by other law.

Subd. 4. [NITROGEN COMPOUNDS IN GROUNDWATER.] The department of agriculture and the pollution control agency, in consultation with the board of water and soil resources and Minnesota agricultural experiment station, shall prepare a report on nitrate and related nitrogen compounds in groundwater. The report shall consider recommendations made by local government in comprehensive local water plans and the program review required in section 3, subdivision 2, use data developed by the Minnesota agricultural experiment station, and shall incorporate the findings of the fertilizer nitrogen task force identified in article 2, section 12. This report shall be submitted to the environmental quality board by July 1, 1991. The board shall provide recommendations to the legislature by November 15, 1991, based upon this report.

The report shall be based on existing information and shall examine areas in which improvements in the state and local response to this problem are feasible. The report shall address, but not be limited to, the following issues: the determination of trends in nitrogen pollution; causative factors; the development of recommended best management practices to reduce or minimize pollution; regulatory controls; the feasibility of proposed treatment and corrective or mitigative measures; and the economic impacts of proposed corrective measures.

Sec. 7. [115D.07] [PROTECTION OF SENSITIVE AREAS.]

Subdivision 1. [POLICY.] In order to achieve the goal of section 1 and comply with the limits established under section 5, a concentration of state and local efforts to protect groundwater in sensitive areas is required. Until the application of criteria for determination of sensitive areas pursuant to subdivisions 3 and 4 is complete, state agencies shall consider areas with Karst and sand plain features to be sensitive and must concentrate efforts to develop and implement best management practices, water resources protection requirements, and educational programs.

Subd. 2. [DEFINITION.] "Sensitive area" or "sensitive groundwater area" means a geographic area defined by natural features where the groundwater is at significant risk of contamination from activities conducted at or near the land surface.

Subd. 3. [CRITERIA FOR DETERMINATION OF SENSITIVE AREAS.] The environmental quality board shall, after consultation with representatives of local government, and members of agricultural and environmental groups adopt a list of specific criteria for identifying sensitive groundwater areas and establish procedures for applying the criteria in such areas, by September 30, 1991.

Subd. 4. [INCORPORATION OF CRITERIA.] State agencies must incorporate the criteria into appropriate programs according to the procedures established under subdivision 3.

Subd. 5. [ACTIONS BY REGULATING AUTHORITIES.] Upon adoption of a comprehensive local water plan as defined in article 7, a regulating authority must take into account the plan and any geological assessments referenced in the plan when taking appropriate actions in sensitive areas.

Subd. 6. [INFORMATION GATHERING.] The environmental quality board is responsible for coordinating state and state-funded local information gathering efforts pursuant to the identification of sensitive groundwater areas. Information shall be collected and automated in accordance with article 6.



## Sec. 8. [115D.08] [EFFECT ON OTHER LAW.]

Sections 1 to 7 do not limit any person's cause of action under chapter 116B; restrict the authority that a state agency or a local unit of government may have from any other law; or create new enforcement authority.

## ARTICLE 2

## FERTILIZER, SOIL AMENDMENT, AND PLANT AMENDMENT

## Section 1. [17.7121] [POWERS AND DUTIES OF COMMISSIONER.]

Subdivision 1. [ADMINISTRATION BY COMMISSIONER.] The commissioner shall administer, implement, and enforce this chapter and the department of agriculture is the lead state agency for the regulation of fertilizer, including, but not limited to, its storage, handling, distribution, use, and disposal.

Subd. 2. [DELEGATION OF DUTIES.] The commissioner's duties under this chapter may be delegated to designated employees or agents of the department of agriculture.

Subd. 3. [DELEGATION TO APPROVED AGENCIES.] The commissioner may, by written agreements, delegate specific inspection, enforcement, and other regulatory duties of this chapter to officials of approved agencies.

## Sec. 2. [17.7122] [POLICY; RULES.]

It is the policy of this state to seek to achieve and maintain uniformity with national standards and with other states, insofar as possible, of regulation and control of the manufacture, distribution, and sale of fertilizer in this state.

Sec. 3. Minnesota Statutes 1988, section 17.713, is amended to read:

## 17.713 [DEFINITIONS.]

Subdivision 1. [GENERALLY.] When used in sections 17.711 to 17.729 the terms defined in this section have the meanings given them.

Subd. 1a. [APPROVED AGENCY.] "Approved agency" means a state agency other than the department of agriculture or an agency of a county, home rule charter or statutory city, town, or other

political subdivision that has signed a joint powers agreement under section 471.59 with the commissioner.

Subd. 1b. [BEST MANAGEMENT PRACTICES.] "Best management practices" has the meaning given to it in article 1, section 2, subdivision 1.

Subd. 1c. [WATER RESOURCES PROTECTION REQUIREMENTS.] "Water resources protection requirements" has the meaning given to it in article 1, section 2, subdivision 5.

Subd. 2. [BRAND.] "Brand" means a term, design, or trademark used in connection with one or several grades of ~~commercial~~ fertilizers or with soil and plant amendment materials.

Subd. 3. [BULK FERTILIZER.] "~~Bulk fertilizer~~" means any ~~commercial fertilizer material distributed in a nonpackaged form.~~

Subd. 3a. [CHEMIGATION.] "Chemigation" means a process of applying fertilizers to land or crops including, but not limited to, agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water during the irrigation process.

Subd. 4. [COMMERCIAL FERTILIZER.] "~~Commercial fertilizer~~" includes those sold which are both ~~mixed fertilizer or fertilizer materials.~~

Subd. 4a. [COMMISSIONER.] "Commissioner" means the commissioner of agriculture or a designee.

Subd. 4b. [COMPOST.] "Compost" is a material derived primarily or entirely from biological decomposition of vegetative organic matter or animal manure to which no inorganic fertilizers have been added other than to promote decomposition.

Subd. 4c. [CORRECTIVE ACTION.] "Correction action" means an action taken to minimize, eliminate, or clean up an incident.

Subd. 4d. [CUSTOM APPLY.] "Custom apply" means to apply a fertilizer, soil amendment, or plant amendment product for hire.

Subd. 4e. [DEFICIENCY.] "Deficiency" means that amount of nutrient found by analysis less than that guaranteed which may result from a lack of nutrient ingredients or from lack of uniformity.

Subd. 5. [DISTRIBUTOR.] "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends ~~commercial~~ fertilizer, or who offers for sale, sells, barter, or otherwise supplies ~~commercial~~ fertilizer or soil and plant amendments in this state.

Subd. 5a. [ENVIRONMENT.] "Environment" means surface water, groundwater, air, land, plants, humans, and animals and their interrelationships.

Subd. 5b. [FERTILIZER.] "Fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, and other products exempted by rule by the commissioner.

Subd. 6. [FERTILIZER MATERIAL.] "Fertilizer material" means any substance containing nitrogen, phosphorus, potassium or any recognized plant food nutrient, or any compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

Subd. 6a. [FIXED LOCATION.] "Fixed location" means all stationary fertilizer facility operations, owned and or operated by a person, located in the same plant location or locality.

Subd. 7. [GRADE.] "Grade" means the percentage of total nitrogen (N), available phosphorus (P) or phosphoric acid (P2O5), and soluble potassium (K) or soluble potash (K2O) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis; provided, however, that fertilizer materials, bone meals, manures, and similar raw materials may be guaranteed in fractional units, and specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash.

Subd. 8. [GUARANTEED ANALYSIS.] "Guaranteed analysis": (1) Until the commissioner prescribes the alternative form of "guaranteed analysis" in accordance with the provisions of paragraph 2 of this subdivision, the term "guaranteed analysis" shall mean the percentage of plant nutrient content, if claimed, in the following order form:

(a) Total nitrogen	..... percent
Available phosphoric acid	..... percent
Soluble potash	..... percent
<u>Total Nitrogen (N)</u>	..... percent
<u>Available Phosphoric Acid (P2O5)</u>	..... percent
<u>Soluble Potash (K2O)</u>	..... percent

(b) (a) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphate materials, the

total phosphoric acid or degree of fineness, or both, may also be guaranteed.

(e) (b) Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be permitted or required by rule of the commissioner. The guarantees for such other nutrients shall be expressed in the elemental form. The sources of such other elements, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the commissioner and with the advice of the director of the agricultural experiment station. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analyses in accord with the methods and rules prescribed by the commissioner.

(d) (c) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton, when required by rule.

(2) When the commissioner finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, the commissioner may require thereafter that the "guaranteed analysis" shall be in the following form:

Total <del>nitrogen</del> Nitrogen (N)	..... percent
Available <del>phosphorus</del> Phosphorus (P)	..... percent
Soluble <del>potassium</del> Potassium (K)	..... percent

The effective date of said rule shall be not less than one year following the issuance thereof, and provided, further, that for a period of two years following the effective date of said rule the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. After the effective date of a rule issued under the provisions of this section, requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.

(3) "Guaranteed analysis" of a soil amendment or plant amendment shall mean an accurate statement of composition including the percentages of each ingredient. If the product is a microbiological product, the number of viable microorganisms per milliliter for a liquid or the number of viable microorganisms per gram for a dry product must also be listed.

Subd. 9. [GUARANTOR.] "Guarantor" means the person who is

guaranteeing the material to be as stated in the guaranteed analysis statement.

Subd. 9a. [HAZARDOUS WASTE.] "Hazardous waste" means a substance identified or listed as hazardous waste in the rules adopted under section 116.07, subdivision 4.

Subd. 9b. [INCIDENT.] "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, leak, spill, emission, discharge, escape, disposal, or other event that releases or immediately threatens to release a fertilizer, soil amendment, or plant amendment accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. Incident does not include a release resulting from the normal use of a product or practice in accordance with law.

Subd. 9c. [INVESTIGATIONAL ALLOWANCE.] "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.

Subd. 9a. 9d. [LABEL.] "Label" means the display of all written, printed or graphic matter upon the immediate container or the statement accompanying a commercial fertilizer, soil amendment or plant amendment.

Subd. 9b. 9e. [LABELING.] "Labeling" means all written, printed or graphic matter upon or accompanying any commercial fertilizer, soil amendment or plant amendment or advertisements, brochures, posters, television, radio or other announcements used in promoting their sale.

Subd. 9c. 9f. [MANIPULATED MANURES.] "Manipulated manures" means substances composed primarily of excreta, plant remains, or mixtures or substances means fertilizers that are manufactured, blended, mixed, or animal or vegetable manures which have been treated in any manner, including mechanical drying, grinding, pelleting and other means, or by adding other chemicals or substances.

Subd. 10. [MIXED FERTILIZER.] "Mixed fertilizer" means any combination or mixture of fertilizer material designed for use or claimed to have value in promoting plant growth, with or without inert materials.

Subd. 11. [MOBILE MECHANICAL UNIT.] "Mobile mechanical unit" means any portable machine or apparatus used to blend, mix, or manufacture fertilizer materials fertilizers.

Subd. 12. [OFFICIAL SAMPLE.] "Official sample" means any sample of commercial fertilizer, soil amendment or plant amend-

ment taken by the commissioner according to methods prescribed by sections 17.711 to 17.729.

Subd. 13. [ORGANIC.] "Organic" when applied to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition whose water insoluble nitrogen content is at least 60 percent of the total nitrogen guaranteed.

Subd. 13a. [OWNER OF REAL PROPERTY.] "Owner of real property" means a person who is in possession of, has the right of control, or controls the use of real property, including without limitation a person who may be a fee owner, lessee, renter, tenant, lessor, contract for deed vendee, licensor, licensee, or occupant.

Subd. 14. [PERCENT; PERCENTAGE.] "Percent" or "percentage" means the percentage by weight.

Subd. 15. [PERSON.] "Person" includes individuals, partnerships, associations, firms, corporations, companies, and societies. means an individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization, the state, a state agency, or a political subdivision.

Subd. 15a. [PLANT AMENDMENT.] "Plant amendment" means any substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except ~~commercial~~ fertilizers, soil amendments, agricultural liming materials, ~~animal and vegetable manures~~, pesticides, and other materials which may be exempted by rule.

Subd. 15b. [PLANT FOOD.] "Plant food" means any one of the following plant nutrients or any additional plant nutrient which might be generally recognized as beneficial for plant growth: nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium and zinc.

Subd. 16. [REGISTRANT.] "Registrant" means the person who registers ~~commercial~~ fertilizer material, soil amendment or plant amendment under the provisions of sections 17.711 to 17.729.

Subd. 16a. [RESPONSIBLE PARTY.] "Responsible party" means a person who at the time of an incident has custody of, control of, or responsibility for a fertilizer, fertilizer container, or fertilizer rinse.

Subd. 16b. [RINSATE.] "Rinsate" means a dilute mixture of a

fertilizer or fertilizer with water, solvents, oils, commercial rinsing agents, or other substances.

Subd. 16c. [SAFEGUARD.] "Safeguard" means a facility, equipment, device, or system, or a combination of these, as required by rule, designed to prevent an incident.

Subd. 17. [SELL.] "Sell," when applied to commercial fertilizer, soil amendment, or plant amendment, includes:

- (1) The act of selling, transferring ownership;
- (2) The offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;
- (3) The possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;
- (4) The storing, carrying and handling in aid of traffic therein, whether done in person or through an agent, employee or others; and
- (5) Receiving, accepting, and holding of consignment for sale.

Subd. 17a. [SEWAGE SLUDGE.] "Sewage sludge" means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment. Sewage sludge is exempt from all requirements of this chapter except the soil amendment labeling requirements of section 17.716 unless the sewage sludge meets the plant food content criteria for a commercial fertilizer in which case the sewage sludge will be considered a commercial fertilizer. A copy of the sewage sludge analysis required by the rules of the pollution control agency adopted under section 116.07, subdivision 4, is sufficient to meet the labeling requirements of section 17.716.

Subd. 17b. [SITE.] "Site" includes land and water areas, air space, and plants, animals, structures, buildings, contrivances, and machinery, whether fixed or mobile, including anything used for transportation.

Subd. 18. [SMALL PACKAGE FERTILIZER.] "Small package fertilizer" means fertilizer material sold exclusively in packages of 25 pounds or less.

Subd. 19. [SOIL AMENDMENT.] "Soil amendment" means any aggregant or additive or any synthetic organic chemical substances, or chemically or physically modified natural substances, or natu-

rally occurring substance, or manufacturing by products, mixed or unmixed, which are represented as having a primary function of forming or stabilizing soil aggregants in soil to which it is to be applied and thereby improving the resistance of such soil to the slaking action of water, increasing its water and air permeability, improving the resistance of its surface to crusting, improving its ease of cultivation, or otherwise favorably modifying its structural or physical properties: a substance intended to improve the physical characteristics of the soil, except fertilizers, agricultural liming materials, pesticides, and other materials exempted by rules of the commissioner.

Subd. 20. [SPECIALTY FERTILIZER.] "Specialty fertilizer" means any commercial fertilizer labeled and distributed for, but not limited to, the following uses: commercial gardening, greenhouses, nurseries, sod farms, home gardens, house plants, lawns lawn fertilizer not custom applied, shrubs, golf courses, municipal parks, cemeteries, and research or experimental purposes.

Subd. 20a. [SUBSTANTIALLY ALTERING.] "Substantially altering" means modifying a facility by adding additional safeguards or storage containers, or changing existing storage containers, safeguards, appurtenances, or piping. This does not include routine maintenance of existing safeguards, storage containers, appurtenances, and piping or of existing mixing, blending, weighing, and handling equipment.

Subd. 21. [TON.] "Ton" means a net ton of 2,000 pounds avoirdupois.

Subd. 22. [UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT.] "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a fertilizer.

Subd. 23. [WILDLIFE.] "Wildlife" means living things that are not human, domesticated, or pests.

Sec. 4. Minnesota Statutes 1988, section 17.714, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION FEE; CERTAIN ITEMS.] Fertilizer brands and grades sold only as small package items or represented and labeled as specialty fertilizer; and soil and plant amendments sold with recommendations for commercial agricultural use, shall be registered and a fee paid pursuant to section 17.717. Fees paid for registration made in this manner shall be in lieu of any other license or tonnage fees. A person may not sell brands or grades of specialty fertilizer, soil amendments, or plant



amendments in this state unless they are registered with the commissioner.

Sec. 5. Minnesota Statutes 1988, section 17.714, subdivision 3, is amended to read:

Subd. 3. [COPY OF LABEL, LABELING MATERIAL.] Application for registration of a ~~small package fertilizer or a specialty fertilizer~~ or a soil or plant amendment shall be accompanied by:

(a) A label or label facsimile of each product for which registration is requested; and

(b) A copy of all labeling material used in this state for promotion and sale of each product being registered.

Sec. 6. Minnesota Statutes 1988, section 17.714, subdivision 6, is amended to read:

Subd. 6. [MAY NOT SELL WITHOUT REGISTRATION.] No distributor or manufacturer shall sell, offer for sale or distribute in this state any ~~small package fertilizer~~, specialty fertilizer, soil or plant amendment unless it has been registered with the department of agriculture. Registration of such materials is not a warranty by the department or the state.

Sec. 7. Minnesota Statutes 1988, section 17.714, is amended by adding a subdivision to read:

Subd. 7. [EXCEPTION.] Specialty fertilizers custom applied are exempt from the registration requirements of this section.

Sec. 8. [17.7145] [APPLICATION OF REQUIREMENTS TO SEWAGE SLUDGE AND COMPOST.]

Subdivision 1. [PROVISIONS APPLYING TO SEWAGE SLUDGE.] Sewage sludge given away is exempt from all requirements of this chapter except the labeling requirements of this chapter.

Subd. 2. [ANALYSIS MEETS LABELING REQUIREMENTS.] A copy of the sewage sludge analysis required by the rules of the pollution control agency adopted under section 116.07, subdivision 4, is sufficient to meet the labeling requirements.

Subd. 3. [PROVISIONS APPLYING TO COMPOST.] Compost given away is exempt from all requirements of this chapter.

Sec. 9. Minnesota Statutes 1988, section 17.715, subdivision 1, is amended to read:

Subdivision 1. [LICENSED PERSONS.] A person who manufactures, blends, mixes, or otherwise manipulates commercial fertilizer material and a person who stores or distributes bulk fertilizer for resale shall obtain may not sell, distribute, custom apply, or otherwise manipulate fertilizers without obtaining a license from the commissioner for from each fixed location where the person does business within the state where these operations are performed and one license for all fixed locations that are located outside of the state.

Sec. 10. Minnesota Statutes 1988, section 17.715, subdivision 2, is amended to read:

Subd. 2. One license for all fixed locations of a firm which are located outside of the state shall be obtained from the commissioner. A distributor may not manipulate fertilizer by means of a mobile mechanical unit without a license from the commissioner for each mobile mechanical unit.

Sec. 11. Minnesota Statutes 1988, section 17.715, subdivision 4, is amended to read:

Subd. 4. Each license is effective until January 1 next following the date of its issuance or approval. All licenses shall be for the period January 1 to December 31 and shall be renewed thereafter by the licensee on or before January 1 of each year. A license shall is not be transferable from one person to another, or from the ownership to whom issued to another ownership, or from one location to another location.

Sec. 12. Minnesota Statutes 1988, section 17.715, is amended by adding a subdivision to read:

Subd. 6. [UNLICENSED SALES.] No distributor or manufacturer may sell, offer for sale, or distribute a fertilizer in this state without a license under this chapter unless the person is exempt from the licensing requirements in this chapter.

Sec. 13. Minnesota Statutes 1988, section 17.715, is amended by adding a subdivision to read:

Subd. 7. [COPY OF LABEL AND LABELING MATERIAL.] Application for license must include:

(1) an invoice delivery ticket, label, or label facsimile for each product manufactured or made as required by section 17.716; and

(2) a copy of all labeling material used in this state for promotion of each product manufactured or made.

## Sec. 14. [17.7151] [APPLICATION REVIEW.]

Subdivision 1. [SUBSTANTIATION OF CLAIMS.] The commissioner may require a person applying for a license or registration to manufacture or distribute a product for use in Minnesota to submit authentic experimental evidence or university research data to substantiate the claims made for the product. As evidence to substantiate claims, the commissioner may rely on experimental data, evaluations, or advice furnished by experts at the University of Minnesota and may accept or reject additional sources of evidence in evaluating a fertilizer or soil or plant amendment. The experimental evidence must relate to conditions in Minnesota for which the product is intended. The commissioner may also require evidence of value when used as directed or recommended.

Subd. 2. [INSUFFICIENT EVIDENCE.] If the commissioner determines that the evidence submitted does not substantiate the product's usefulness in this state, the commissioner may require the applicant to submit samples, conduct tests, or submit additional information, including conditions affecting performance, in order to evaluate its performance and usefulness.

Subd. 3. [REFUSAL TO LICENSE OR REGISTER.] The commissioner may refuse to license a person or register a specialty fertilizer or soil or plant amendment:

- (1) if the application for license or registration is not complete;
- (2) if the commissioner determines that the fertilizer, soil amendment, plant amendment, or any other additives with substantially the same contents, will not or is not likely to produce the results or effects claimed when used as directed;
- (3) if the commissioner determines that the fertilizer, soil amendment, plant amendment, or any other additive with substantially the same contents, is not useful in this state; or
- (4) the facility is not safeguarded for bulk storage under section 17.7155 and as required by rule.

Subd. 4. [APPLICATION REVIEW AND REGISTRATION.] After reviewing the application accompanied by the application fee, the commissioner may issue a conditional license or registration to prevent unreasonable adverse effects on the environment or if the commissioner determines that the applicant needs the license or registration to accumulate information necessary to substantiate claims or to correct minor label violations. The commissioner may prescribe terms, conditions, and a limited period of time for the conditional license or registration. After a conditional license or registration is issued, the commissioner may revoke or modify the

license or registration if the commissioner finds that its terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

The commissioner may deny issuance of a conditional license or registration if the commissioner determines that issuance of a license or registration is not warranted or that the use to be made of the product under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

Subd. 5. [PROTECTION OF TRADE SECRETS.] (a) In submitting data required by this chapter, the applicant may:

(1) clearly mark any portions that in the applicant's opinion are trade secrets, or commercial, or financial information; and

(2) submit the marked material separately from other material.

(b) After consideration of the applicant's request submitted under paragraph (a), the commissioner shall not make any information public that in the commissioner's judgment contains or relates to trade secrets or to commercial or financial information obtained from an applicant. When necessary, information relating to formulas of products may be revealed to a state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the commissioner.

(c) If the commissioner proposes to release information that the applicant or registrant believes to be protected from disclosure under paragraph (b), the commissioner shall notify the applicant or registrant by certified mail. The commissioner shall not make the information available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.

#### Sec. 15. [17.7153] [FERTILIZER PRACTICES.]

The commissioner shall:

(1) establish best management practices and water resources protection requirements involving fertilizer use, distribution, storage, handling, and disposal;

(2) cooperate with other state agencies and local governments to protect public health and the environment from harmful exposure to fertilizer; and

(3) appoint a task force to study the effects and impact on water resources from nitrogen fertilizer use so that best management practices, a fertilizer management plan, and nitrogen fertilizer use regulations can be developed. The task force must include farmers, representatives from farm organizations, the fertilizer industry, University of Minnesota, environmental groups, representatives of local government involved with comprehensive local water planning, and other state agencies, including the Minnesota pollution control agency, the Minnesota department of health, the Minnesota department of natural resources, the Minnesota state planning agency, the board of animal health, and the board of water and soil resources.

The task force shall review existing research including pertinent research from the University of Minnesota and shall develop recommendations for a nitrogen fertilizer management plan for the prevention, evaluation, and mitigation of nonpoint source occurrences of nitrogen fertilizer in waters of the state. The nitrogen fertilizer management plan must include components promoting prevention and developing appropriate responses to the detection of nitrate and related nitrogen from fertilizer sources in ground or surface water.

The task force shall report its recommendations to the commissioner by May 1, 1990. The commissioner shall report to the environmental quality board by July 1, 1990, on the task force's recommendations. The recommendations of this task force shall be incorporated into an overall nitrate and related nitrogen plan prepared by the pollution control agency and the department of agriculture as set forth in article 1, section 6.

Sec. 16. [17.7154] [PROHIBITED FERTILIZER ACTIVITIES.]

Subdivision 1. [STORAGE, HANDLING, DISTRIBUTION, OR DISPOSAL.] A person may not store, handle, distribute, or dispose of a fertilizer, rinsate, fertilizer container, or fertilizer application equipment in a manner:

(1) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife;

(2) that will cause unreasonable adverse effects on the environment; or

(3) that will cause contamination of public or other waters of the state as defined in section 105.37, subdivisions 7 and 14, from backsiphoning or backflowing of fertilizers through water wells or from the direct flowage of fertilizers.

Subd. 2. [USE OF PUBLIC WATER SUPPLIES FOR FILLING

EQUIPMENT.] A person may not fill fertilizer application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the public water supply is equipped with a backflow prevention device that complies with Minnesota Rules, parts 4715.2000 to 4715.2280.

Subd. 3. [USE OF PUBLIC WATERS FOR FILLING EQUIPMENT.] A person may not fill fertilizer application equipment directly from public waters of the state, as defined in section 105.37, subdivision 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms. The person may not introduce fertilizers into the application equipment until after filling the equipment from the public waters.

Subd. 4. [CLEANING EQUIPMENT IN OR NEAR SURFACE WATER.] A person may not:

(1) clean fertilizer application equipment in surface waters of the state; or

(2) fill or clean fertilizer application equipment adjacent to surface waters, ditches, or wells where, because of the slope or other conditions, fertilizers or materials contaminated with fertilizers could enter or contaminate the surface waters, groundwater, or wells, as a result of overflow, leakage, or other causes.

Subd. 5. [FERTILIZER, RINSATE, AND CONTAINER DISPOSAL.] A person may only dispose of fertilizer, rinsate, and fertilizer containers in accordance with this chapter. The manner of disposal must not cause unreasonable adverse effects on the environment.

Sec. 17. Minnesota Statutes 1988, section 17.7155, is amended to read:

#### 17.7155 [APPROVAL OF FACILITY AND EQUIPMENT.]

Subdivision 1. [APPROVAL.] A person beginning construction of or substantially altering an existing facility or equipment used for the manufacture, blending, handling, or bulk storage of commercial fertilizers, soil or plant amendments shall must obtain the approval of a permit from the commissioner on forms provided by the commissioner before the person constructs or substantially alters:

(1) safeguards; or

(2) an existing facility used for the manufacture, blending, handling, or bulk storage of fertilizers, soil amendments, or plant amendments. The commissioner may not grant a permit for a site

without safeguards that are adequate to prevent the escape or movement of the fertilizers from the site.

**Subd. 2. [TRANSFER.]** The approval shall not be transferable from one person to another, or from the ownership to whom issued to another ownership, or from one location to another.

**Sec. 18. [17.7156] [CHEMIGATION.]**

**Subdivision 1. [PERMIT REQUIRED.]** (a) A person may not apply fertilizers through an irrigation system without a chemigation permit from the commissioner. A chemigation permit is required for one or more wells, or other irrigation water source, that is protected from fertilizer contamination by devices as required by rule. The commissioner may allow irrigation to be used to apply fertilizers on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

(b) A person must apply for a chemigation permit on forms prescribed by the commissioner.

**Subd. 2. [EQUIPMENT.]** A chemigation system must be fitted with effective antisiphon devices or check valves that prevent the backflow of fertilizers or fertilizer-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

(1) the irrigation system pump or water source discharge and the point of fertilizer injection; and

(2) the point of fertilizer injection and the fertilizer supply.

**Subd. 3. [APPLICATION FEE.]** A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50. A person who holds a valid pesticide chemigation permit as required by chapter 18B is exempt from the fee in this subdivision.

**Subd. 4. [RULES.]** The commissioner shall, by rule, develop specific requirements for implementation of a program to regulate application of fertilizers by irrigation.

**Sec. 19. Minnesota Statutes 1988, section 17.716, subdivision 1, is amended to read:**

**Subdivision 1. [LABEL CONTENTS.]** Any commercial fertilizer offered for sale or sold or distributed in this state in bags, or other containers, shall must have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information: (a) (1) the net weight; (b) (2) the brand and

grade. When, except that the grade is not required if no primary nutrients are claimed, and if the commercial fertilizer material is used solely for agricultural purposes, inclusion of the grade on the tag or label, shall be is optional providing if the guaranteed analysis statement is shown in the complete form as in section 17.713, subdivision 8; (e) (3) the guaranteed analysis; (d) (4) the name and address of the guarantor; (5) directions for use; and (6) a derivatives statement. Such This information, if not appearing on the face or display side of the container in a conspicuous form, shall must appear on the upper one third of the side of the container; or on the upper end of the container or shall must be printed on tags affixed conspicuously to the upper end of the container.

Sec. 20. Minnesota Statutes 1988, section 17.716, subdivision 2, is amended to read:

Subd. 2. [BLENDS AND MIXTURES.] Any distributor who blends or mixes fertilizer materials to a customer's order without a guaranteed analysis of the final mixture shall furnish each and every purchaser, in written or printed form, an invoice or delivery ticket showing the net weight and guaranteed analysis of each and every one of the materials used in the mixture, which shall. This document must accompany the delivery. Records of invoices or delivery tickets must be kept for five years after the delivery or application.

Sec. 21. Minnesota Statutes 1988, section 17.716, subdivision 4, is amended to read:

Subd. 4. The plant food content of a given lot must remain uniform and may not become segregated within the lot.

Sec. 22. Minnesota Statutes 1988, section 17.718, is amended to read:

#### 17.718 [TONNAGE REPORT.]

Subdivision 1. [SEMIANNUAL STATEMENT.] Each licensed distributor of ~~commercial~~ fertilizer and each registrant of a ~~commercial~~ specialty fertilizer, soil amendment, or plant amendment shall file with the commissioner on forms furnished by the commissioner, a semiannual statement for the periods ending December 31 and June 30 setting forth the number of net tons of each brand or grade of ~~commercial~~ fertilizer, soil amendment, or plant amendment distributed in this state during the reporting period. A report from a licensee who sells to an ultimate consumer must be accompanied by records or invoice copies indicating the name of the distributor who paid the inspection fee, the net tons received, and the grade or brand name of the products received. The report is due on or before the 30th 31st of the month following the close of each reporting period of each calendar year. The inspection fee at the rate stated in



section 17.717, subdivision 5 shall accompany the statement. For the tonnage report that is not filed or the payment of inspection fees that is not made within 30 31 days after the end of the reporting period, a penalty of ten percent of the amount due, with a minimum penalty of \$10, shall be assessed against the licensee or registrant, and the total amount of fees due, plus penalty, shall constitute a debt and may be recovered in a civil action against the licensee or registrant. The assessment of this penalty shall not prevent the department from taking other actions as provided in this chapter. The commissioner may by rule require additional reports for the purpose of gathering statistical data relating to fertilizer, soil amendments, and plant amendments distribution in the state.

Subd. 2. When more than one person is involved in the distribution of a commercial fertilizer, soil amendment, or plant amendment, the last person licensed distributor who imports, manufactures, or produces the fertilizer or who has the specialty fertilizer, soil amendment, or plant amendment registered and who distributes to a nonlicensed or nonregistrant dealer or consumer is responsible for the inspection fee on products produced or brought into this state after July 1, 1989. The distributor must separately list the inspection fee on the invoice to the licensee. The last licensee must retain the invoices showing proof of inspection fees paid for three years and must pay the inspection fee on products brought into this state before July 1, 1989, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer.

Subd. 3. Submission of each tonnage report shall is also be authority for the commissioner's permission to verify the records upon which such the statement of tonnage is based.

Sec. 23. Minnesota Statutes 1988, section 17.719, subdivision 1, is amended to read:

Subdivision 1. **[POWERS AND DUTIES OF COMMISSIONER ACCESS AND ENTRY.]** The commissioner shall sample, inspect, make analysis of, and test commercial fertilizers, soil amendments and plant amendments offered for sale, sold, or distributed within this state at a time and place and to an extent the commissioner may deem necessary to determine whether the commercial fertilizers, soil amendments and plant amendments are in compliance with the provisions of sections 17.711 to 17.729, and may obtain additional information as the commissioner deems advisable. The commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers, soil amendments and plant amendments subject to the provisions of sections 17.711 to 17.729 and rules adopted under section 17.725. (a) The commissioner, upon presentation of official department credentials, must be granted access at reasonable times without delay to sites:

(1) where a person manufactures, formulates, distributes, uses, disposes of, stores, or transports a fertilizer, soil amendment, or plant amendment; and

(2) which the commissioner reasonably believes are affected, or possibly affected, by the use of a fertilizer, soil amendment or plant amendment, or device in violation of a provision of this chapter.

(b) The commissioner may enter sites for:

(1) inspection of equipment for the manufacture, blending, distribution, disposal, or application of fertilizers, soil amendments or plant amendments, and the premises on which the equipment is stored;

(2) sampling of sites actually or reportedly exposed to fertilizers, soil amendments, or plant amendments;

(3) inspection of storage, handling, distribution, use, or disposal areas of fertilizer, soil amendments, or plant amendments containers;

(4) inspection or investigation of complaints of injury to the environment;

(5) sampling of fertilizers, soil amendments, or plant amendments;

(6) observation of the use and application of a fertilizer, soil amendments, or plant amendments;

(7) inspection of records related to the manufacture, distribution, storage, handling, use, or disposal of fertilizer, soil amendments, or plant amendments;

(8) investigating the source, nature, extent of an incident, and the extent of the adverse effects on the environment;

(9) an emergency inspection at any time when a suspected incident may threaten public health or the environment; and

(10) other purposes necessary to implement this chapter.

Sec. 24. Minnesota Statutes 1988, section 17.719, subdivision 2, is amended to read:

**Subd. 2. [OFFICIAL SAMPLE INSPECTION SAMPLES AND ANALYSES.]** An official fertilizer, soil amendment or plant amendment sample shall be one drawn from a lot or shipment of fertilizer, soil amendment or plant amendment sold or exposed for sale in this

state in the manner prescribed by the commissioner. In sampling a lot of commercial fertilizer, soil amendment or plant amendment registered under section 17.714, subdivision 1, a single package may constitute the official sample. (a) Before leaving the premises the commissioner shall provide the owner, operator, or agent in charge of an inspected site with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge.

(b) The methods of sampling and analysis shall be those adopted by the Association of Official Analytical Chemists. In cases not covered by such methods, or in cases where methods are available in which improved applicability has been demonstrated, the commissioner may adopt such appropriate methods from other sources.

In sampling a lot of fertilizer, soil amendment, or plant amendment registered under section 17.714, subdivision 1, a single package may constitute the official sample.

Sec. 25. Minnesota Statutes 1988, section 17.719, subdivision 3, is amended to read:

Subd. 3. [METHODS OF ANALYSIS OBTAINING EVIDENCE.] The methods of analysis shall be those adopted by the commissioner from published sources such as those of the association of official analytical chemists. In making inspections under this chapter, the commissioner shall have the power to administer oaths, certify as to official acts, issue subpoenas to and take and cause to be taken depositions of witnesses, and compel the attendance of witnesses and production of papers, books, documents, records, and testimony. If a person fails to comply with any subpoena lawfully issued, or a witness refuses to produce evidence or testify to any matter regarding which the person may be lawfully interrogated, the district court shall, upon application of the commissioner, compel obedience proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify in the court.

Sec. 26. Minnesota Statutes 1988, section 17.719, subdivision 4, is amended to read:

Subd. 4. [INSPECTION; SAMPLING; ANALYSIS REQUEST FOR INSPECTION.] The commissioner shall inspect facilities and equipment used for the manufacture, blending, handling, or storing of commercial fertilizers or soil and plant amendments. The commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to facilities and equipment used to manufacture, blend, handle, or store commercial fertilizers or soil and plant amendments subject to the provisions of sections 17.711 to 17.729 and rules adopted under

section 17.725. A person who believes that a violation of this chapter has occurred may request an inspection by giving notice to the commissioner of such violation. Any such notice shall be in writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the person. If, upon receipt of the notice, the commissioner reasonably believes that a violation occurred, the commissioner shall, as soon as is practicable, make a special inspection in accordance with the provisions of this section as soon as practicable to determine if a violation occurred. An inspection conducted because of a complaint may cover an entire site and shall not be limited to that portion of the site specified in the notice. If the commissioner determines that there are no reasonable grounds to believe that a violation occurred, the commissioner shall notify the person in writing of that determination.

Sec. 27. Minnesota Statutes 1988, section 17.719, is amended by adding a subdivision to read:

Subd. 5. [REFUSAL TO PERMIT ENTRY.] Upon the refusal or anticipated refusal, based on a refusal to permit entrance on a prior occasion, of an owner, operator, or agent in charge to permit entry as specified in this chapter, the commissioner may apply for an order in the district court in the county in which a site is located to compel a person with authority to permit the commissioner to enter and inspect the site.

Sec. 28. Minnesota Statutes 1988, section 17.719, is amended by adding a subdivision to read:

Subd. 6. [PAYMENT OF COSTS.] If an inspection or investigation reveals that a violation of this chapter has occurred, the commissioner may require the violator to pay the commissioner for the reasonable costs incurred by the commissioner in that inspection or investigation. The commissioner may enter an order for recovery of such costs.

Sec. 29. Minnesota Statutes 1988, section 17.72, is amended to read:

**17.72 [FERTILIZER, SOIL AMENDMENT OR PLANT AMENDMENT-PESTICIDE MIXTURE.]**

Each distributor who blends, mixes, or otherwise adds pesticides to commercial fertilizer materials fertilizers, soil amendments or plant amendments shall be licensed in accordance with section 17.715, and shall comply with the provisions of sections 18A.21 to 18A.45 article 3 and the federal insecticide, fungicide and rodenticide act (Public Law 92-516), as amended.

Sec. 30. Minnesota Statutes 1988, section 17.721, is amended by adding a subdivision to read:

Subd. 3. [PLANT FOOD DEFICIENCIES.] Paragraphs (a) to (d) cover plant food deficiencies.

(a) Analysis must show that a fertilizer is deficient (1) in one or more of its guaranteed primary plant nutrients beyond the investigational allowances and compensations as established by regulation, or (2) if the overall index value of the fertilizer is shown below the level established by rule.

(b) A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.

(c) For the purpose of determining the commercial index value to be applied, the commissioner shall determine at least annually the values per unit of nitrogen, available phosphoric acid, and soluble potash in fertilizers in this state.

(d) If any fertilizer in the possession of the consumer is found by the commissioner to be short in weight, the registrant or licensee of the fertilizer must within 30 days after official notice from the commissioner submit to the consumer a penalty payment of two times the value of the actual shortage.

Sec. 31. Minnesota Statutes 1988, section 17.722, is amended to read:

#### 17.722 [FALSE OR MISLEADING STATEMENTS.]

The commercial fertilizer, soil amendment or plant amendment is misbranded if it carries a false or misleading statement on the container, on the label attached to the container, or if false or misleading statements concerning the fertilizer, soil amendment or plant amendment are disseminated in any manner or by any means. It is unlawful to distribute a misbranded fertilizer, soil amendment or plant amendment.

Sec. 32. Minnesota Statutes 1988, section 17.723, is amended to read:

#### 17.723 [ADULTERATION.]

No person shall distribute an adulterated fertilizer, soil amendment or plant amendment product. A commercial fertilizer, soil amendment or plant amendment shall be deemed to be adulterated:

(a) If it contains any deleterious or harmful ingredient in sufficient

amount to render it injurious to plant life when applied in accordance with directions for use on the label; or (b) If its composition falls below or differs from that which it is purported to possess by its labeling; or (c) If it contains unwanted crop seed or weed seed.

Adulterated products that cannot be reconditioned must be disposed of according to ~~approved~~ methods approved by the commissioner.

Sec. 33. Minnesota Statutes 1988, section 17.725, subdivision 2, is amended to read:

Subd. 2. [LIMING MATERIALS.] The commissioner may adopt rules governing the labeling, registration, and distribution of liming materials sold for agricultural purposes, ~~including limestone (carbonates), sulfates, slags (silicates), burned lime (oxides), and hydrated lime (hydroxides).~~ Such products shall not be subject to any tonnage fees under section 17.717, subdivision 4. ~~No registration fee may be imposed on any distributor who sells liming materials only at retail to customers.~~

Sec. 34. Minnesota Statutes 1988, section 17.725, is amended by adding a subdivision to read:

Subd. 4. [NATIONAL CONFORMITY.] The commissioner may promulgate and amend rules for the efficient administration and enforcement of the Minnesota fertilizer, soil amendment and plant amendment law. The rules must conform with national standards, insofar as that is practicable and consistent with state law.

Sec. 35. Minnesota Statutes 1988, section 17.725, is amended by adding a subdivision to read:

Subd. 5. [HEARINGS.] Hearings authorized or required by law must be conducted by the commissioner or an officer, agent, or employee the commissioner designates.

Sec. 36. Minnesota Statutes 1988, section 17.725, is amended by adding a subdivision to read:

Subd. 6. [ADOPTION OF NATIONAL STANDARDS.] Applicable national standards contained in the 1989 official publication number 42, of the Association of American Plant Food Control Officials including the rules and regulations, statements of uniform interpretation and policy, and the official fertilizer terms and definitions, and not otherwise adopted by the commissioner, may be adopted as fertilizer rules of this state.

Sec. 37. Minnesota Statutes 1988, section 17.728, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION.] The commissioner may cancel the registration of any ~~commercial~~ specialty fertilizer, soil amendment or plant amendment or refuse to register any brand of ~~commercial~~ specialty fertilizer, soil amendment or plant amendment as herein provided, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of sections 17.711 to 17.729 or any rules adopted under section 17.725. No registration shall be revoked until the registrant has been given opportunity for a hearing by the commissioner.

Sec. 38. Minnesota Statutes 1988, section 17.728, is amended by adding a subdivision to read:

Subd. 6. [ENFORCEMENT REQUIRED.] (a) The commissioner shall enforce this chapter.

(b) Upon the request of the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws shall take action to the extent of their authority necessary or proper for the enforcement of this chapter or special orders, standards, stipulations, and agreements of the commissioner.

(c) The commissioner shall have authority by administrative order to assess penalties of up to \$700 for a violation of a provision of this chapter.

(d) In determining the size of a penalty, the commissioner shall consider the economic benefit gained by the person by allowing or committing the violation, the gravity of the violation in terms of actual or potential damage to the environment, and the violator's culpability, good faith, and history of violations.

(e) The administrative penalty may be assessed if the person subject to a corrective action order or remedial action order does not comply with the order in a reasonable time as provided in the order. The commissioner must state the amount of the administrative penalty in the corrective action order or remedial action order.

(f) Penalties assessed under this chapter shall be paid to the commissioner for deposit in the fertilizer regulatory account. If a violator fails to pay a penalty which is part of a final order within 30 days, the commissioner may commence a civil action for double the assessed penalty and attorney fees and costs. A penalty may be recovered in a civil action in the name of the department brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office.

Sec. 39. Minnesota Statutes 1988, section 17.728, is amended by adding a subdivision to read:

Subd. 7. [CRIMINAL ACTIONS.] For a criminal action, the county attorney from the county where a criminal violation occurred is responsible for prosecuting a criminal violation of this chapter. If the county attorney refuses to prosecute, the attorney general may prosecute.

Sec. 40. Minnesota Statutes 1988, section 17.728, is amended by adding a subdivision to read:

Subd. 8. [CIVIL ACTIONS.] Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and agreement by the attorney general.

Sec. 41. Minnesota Statutes 1988, section 17.728, is amended by adding a subdivision to read:

Subd. 9. [INJUNCTION.] The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of this chapter.

Sec. 42. [17.7281] [ADMINISTRATIVE ACTION.]

Subdivision 1. [ADMINISTRATIVE REMEDIES.] The commissioner may seek to remedy violations by a written warning, administrative meeting, cease and desist, stop-use, stop-sale removal, or other special order, seizure, stipulation, agreement, or administrative penalty if the commissioner determines that the remedy is in the public interest.

Subd. 2. [REVOCATION AND SUSPENSION.] The commissioner may, after written notice and hearing, revoke, suspend, or refuse to grant a registration, permit, license, or certification if a person violates this chapter or has a history within the past three years of violations of this chapter.

Subd. 3. [SERVICE OF ORDER OR NOTICE.] If the person is not available for service of an order, the commissioner may attach the order to the fertilizer, soil amendment or plant amendment equipment, or device or facility, and notify the person. The fertilizer, soil amendment, or plant amendment, equipment, or device may not be sold, used, or removed until the fertilizer, soil amendment, or plant amendment equipment, or device has been released under conditions specified by the commissioner, an administrative law judge, or a court.



## Sec. 43. [17.7282] [ADMINISTRATIVE COMPLIANCE.]

Subdivision 1. [CONTESTED ORDER.] After personal service of an order, a person shall be granted at least 45 days from receipt of the order within which to notify the commissioner in writing that the person intends to contest the order. If the person fails properly to notify the commissioner that the person intends to contest the order, the order shall be deemed a final order of the agency and not subject to review by any court or agency.

Subd. 2. [ADMINISTRATIVE REVIEW.] (a) If a person notifies the commissioner that the person intends to contest an order issued under this chapter, the state office of administrative hearings shall conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings. A hearing shall be conducted at a place designated by the commissioner within the county where the violation occurred or where the person contesting the order resides or has a principal place of business or any other place on which all the parties agree.

(b) Notwithstanding any provision of chapter 14, the final administrative law report shall be the final decision of the agency. Only an administrative law judge, under rules adopted by the office of administrative hearings, may entertain any application or reconsideration of a final agency decision.

Subd. 3. [JUDICIAL REVIEW.] (a) The commissioner or any party aggrieved by a final agency decision may seek judicial review of a final agency decision under sections 14.63 to 14.69.

(b) Any additional evidence required by a reviewing court under section 14.67 shall be taken by an administrative law judge. Only an administrative law judge may change the agency decision or any findings contained in it. The administrative law judge shall file with the reviewing court the additional evidence, together with any modifications or new findings or decisions as provided in section 14.67.

Subd. 4. [RECOVERING EXPENSES.] A prevailing party, including the commissioner, may recover the reasonable and necessary expenses incurred in a contested case or an appeal from a contested case.

## Sec. 44. [17.7283] [CIVIL PENALTIES.]

Subdivision 1. [GENERAL PENALTY.] Except as provided in subdivision 2, a person who violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner is subject to a civil penalty of up to \$5,000 per day of violation as determined by the court.

Subd. 2. [DISPOSAL THAT BECOMES HAZARDOUS WASTE.] A person who violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner that relates to disposal of fertilizers, soil amendments, or plant amendments so that they become hazardous waste, is subject to the penalties in section 115.071.

Subd. 3. [DEFENSE TO CIVIL REMEDIES AND DAMAGES.] As a defense to a civil penalty or claim for damages under subdivisions 1 to 4, the defendant may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.

Subd. 4. [ACTIONS TO COMPEL PERFORMANCE.] In an action to compel performance of an order of the commissioner to enforce a provision of this chapter, the court may require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

Subd. 5. [RECOVERY OF PENALTIES BY CIVIL ACTION.] The civil penalties and payments provided for in this section may be recovered by a civil action brought by the county attorney or the attorney general in the name of the state.

Subd. 6. [RECOVERY OF LITIGATION COSTS AND EXPENSES.] A prevailing party may recover the reasonable and necessary value of all or a part of the litigation expenses incurred in an action brought under this chapter for civil penalties or injunctive relief, or in an action to compel compliance. In determining the amount of these litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

#### Sec. 45. [17.7284] [CRIMINAL PENALTIES.]

Subdivision 1. [GENERAL VIOLATION.] Except as provided in subdivisions 2 and 3, a person is guilty of a misdemeanor, if the person violates a provision of this chapter, or a special order, standard, stipulation, agreement, or schedule or compliance of the commissioner.

Subd. 2. [VIOLATION ENDANGERING HUMANS.] A person is guilty of a gross misdemeanor if the person violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner, and the violation endangers humans.

Subd. 3. [VIOLATION WITH KNOWLEDGE.] A person is guilty of a gross misdemeanor if the person knowingly violates a provision

of this chapter or standard, or a special order, stipulation, agreement, or schedule of compliance of the commissioner.

Subd. 4. [DISPOSAL THAT BECOMES HAZARDOUS WASTE.] A person who knowingly, or with reason to know, disposes of a fertilizer or soil and plant amendment so that the product becomes hazardous waste is subject to the penalties in section 115.071.

Sec. 46. Minnesota Statutes 1988, section 17.7285, is amended to read:

17.7285 [INCIDENTS.]

The commissioner may apply appropriate, efficient procedures to contain and control fertilizers and soil and plant amendments involved in an emergency incident likely to cause unreasonable adverse effects on the environment. For purposes of this section "incident" includes a flood, fire, tornado, or motor vehicle accident, which unintentionally releases fertilizers and soil and plant amendments on the environment. Persons involved in or responsible for an incident shall report the incident to the commissioner immediately upon discovering the incident. The department of agriculture shall be the lead government agency for decisions involving the emergency.

Sec. 47. [17.7286] [FERTILIZER RELEASE INCIDENTS.]

Subdivision 1. [CORRECTIVE ACTION ORDERS.] A responsible party or an owner of real property must, upon discovering that an incident has occurred, immediately report that incident to the commissioner. The responsible party must submit a written report of the incident to the commissioner containing the information requested by the commissioner within the time specified by the commissioner. After determining an incident has occurred, the commissioner may order the responsible party to take reasonable and necessary corrective actions. The commissioner shall notify the owner of real property where corrective action is ordered that access to the property will be required for the responsible party or the commissioner to take corrective action. A political subdivision may not request or order any person to take an action that conflicts with the corrective action ordered by the commissioner. The attorney general may bring an action to compel corrective action.

Subd. 2. [COMMISSIONER AND COMPELLED PERFORMANCE CORRECTIVE ACTIONS.] The commissioner may take corrective action if:

- (1) a responsible party cannot be identified; or

(2) an identified responsible party cannot or will not comply with an order issued under subdivision 1.

Subd. 3. [EMERGENCY CORRECTIVE ACTION.] To assure an adequate response to an incident, the commissioner may take corrective action without following the procedures of subdivision 1 if the commissioner determines that the incident constitutes a clear and immediate danger requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment. Before taking an action under this subdivision, the commissioner shall make all reasonable efforts, taking into consideration the urgency of the situation, to order a responsible party to take a corrective action and notify the owner of real property where the corrective action is to be taken.

Subd. 4. [LEAD AGENCY.] The department of agriculture is the lead state agency in taking corrective action for incidents.

Subd. 5. [CONTINGENCY PLAN.] Persons storing bulk fertilizers or soil and plant amendment products must develop and maintain a contingency plan that describes the storage, handling, disposal, and incident handling practices. The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request. The plan must be available for inspection by the commissioner.

Sec. 48. [17.7287] [RESPONSIBILITY FOR COSTS.]

Subdivision 1. [RESPONSIBLE PARTY.] (a) A responsible party is liable for the costs, including administrative costs, for corrective action under section 47. The commissioner may issue an order for recovery of corrective action costs. The cleanup costs and other expenses must be paid after a corrective order is issued.

(b) A responsible party is also liable for the costs of any destruction to wildlife. Payments of these costs must be deposited in the game and fish fund in the state treasury.

Subd. 2. [AVOIDANCE OF LIABILITY.] (a) A responsible party may not avoid liability by a conveyance of any right, title, or interest in real property or by any indemnification, hold harmless agreement, or similar agreement.

(b) This subdivision does not:

(1) prohibit a person who may be liable from entering an agreement by which the person is insured, held harmless, or indemnified for part or all of the liability;

(2) prohibit the enforcement of an insurance, hold harmless, or indemnification agreement; or

(3) bar a cause of action brought by a person who may be liable or by an insurer or guarantor, whether by right of subrogation or otherwise.

Subd. 3. [OWNER OF REAL PROPERTY.] An owner of real property is not a responsible party for an incident on the property unless that person:

(1) was engaged in manufacturing, making, transporting, storing, handling, applying, distributing, or disposing of a fertilizer on the property;

(2) knowingly permitted any person to make regular use of the property for disposal of fertilizers; or

(3) violated this chapter in a way that contributed to the incident.

Subd. 4. [DEFENSE.] As a defense to a penalty or liability for damages, a person may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.

Sec. 49. [17.7288] [APPORTIONMENT AND CONTRIBUTION.]

Subdivision 1. [RIGHT OF APPORTIONMENT; FACTORS.] A person held liable under this chapter has the right to have the trier of fact apportion liability among the parties as provided in this section. The burden is on each responsible party to show how that responsible party's liability should be apportioned. The trier of fact shall reduce the amount of damages in proportion to any amount of liability apportioned to the party recovering.

In apportioning the liability of a party under this section, the trier of fact shall consider the following:

(1) the extent to which that party contributed to the incident;

(2) the amount of fertilizer, soil amendment, or plant amendment involved;

(3) the degree of toxicity of the fertilizer, soil amendment, or plant amendment involved;

(4) the degree of involvement of and care exercised by the party in manufacturing, blending, handling, storing, distributing, transport-

ing, applying, and disposing of the fertilizer, soil amendment, or plant amendment;

(5) the degree of cooperation by the party with federal, state, or local officials to prevent any harm to the public health or the environment; and

(6) knowledge by the party of the hazardous nature of the fertilizer, soil amendment, or plant amendment.

Subd. 2. [CONTRIBUTION.] If a person is held liable under this chapter and establishes a proportionate share of the aggregate liability, section 604.02, subdivisions 1 and 2, apply with respect to contribution and reallocation of any uncollectible amounts, except that an administrative law judge may also perform the functions of a court identified in section 604.02, subdivision 2.

Sec. 50. Minnesota Statutes 1988, section 17.73, subdivision 5, is amended to read:

Subd. 5. [CERTIFICATION FEES.] (a) A laboratory applying for certification shall pay an application fee of \$100 and a certification fee of \$100 before the certification is issued.

(b) Certification is valid for one year and the renewal fee is \$100. The commissioner shall charge an additional application fee of \$100 if a certified laboratory allows certification to lapse before applying for renewed certification.

(c) The commissioner shall notify a certified lab that its certification lapses within 30 to 60 days of the date when the certification lapses.

~~(d) Fees collected under this subdivision must be deposited in the state treasury and credited to the laboratory services account. The money in the account is annually appropriated to the commissioner to administer this section.~~

Sec. 51. Minnesota Statutes 1988, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

(a) chosen by election or appointed to fill an elective office;

(b) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;

(c) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a;

(d) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;

(e) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

(f) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;

(g) employees of the Washington, D.C., office of the state of Minnesota;

(h) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;

(i) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program in the school and resource center for the arts, state universities and community colleges, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(j) officers and enlisted persons in the national guard;

(k) attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(l) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(m) members of the state patrol; provided that selection and appointment of state patrol troopers shall be made in accordance with applicable laws governing the classified service;

(n) chaplains employed by the state;

(o) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;

(p) student workers; and

(q) employees unclassified pursuant to other statutory authority; and

(r) intermittent employees employed by the department of agriculture to perform duties related to pesticide, fertilizer, and seed regulation.

Sec. 52. Minnesota Statutes 1988, section 604.02, subdivision 1, is amended to read:

Subdivision 1. When two or more persons are jointly liable, contributions to awards shall be in proportion to the percentage of fault attributable to each, except that each is jointly and severally liable for the whole award. Except in cases where liability arises under chapters 17 - fertilizer regulations, 18B - pesticide control, 115 - water pollution control, 115A - waste management, 115B - environmental response and liability, 115C - leaking underground storage tanks, and 299E - pipeline safety, public nuisance law for damage to the environment or the public health, any other environmental or public health law, or any environmental or public health ordinance or program of a municipality as defined in section 466.01, a person whose fault is 15 percent or less is liable for a percentage of the whole award no greater than four times the percentage of fault, including any amount reallocated to that person under subdivision 2.

If the state or a municipality as defined in section 466.01 is jointly liable, and its fault is less than 35 percent, it is jointly and severally liable for a percentage of the whole award no greater than twice the amount of fault, including any amount reallocated to the state or municipality under subdivision 2.

Sec. 53. [REPEALER.]

Minnesota Statutes 1988, sections 17.714, subdivisions 4, 4a, and 4b; 17.715, subdivision 3; 17.721; 17.726; 17.727; 17.728, subdivisions 4 and 5; 17.729; and 17.73, subdivision 5, paragraph (d), are repealed.

### ARTICLE 3

#### PESTICIDE CONTROL

Section 1. [17.114] [SUSTAINABLE AGRICULTURE.]



Subdivision 1. [PURPOSE.] The purpose of this section is to assure the viability of Minnesota agriculture.

Subd. 2. [REPORT.] The commissioner of agriculture shall investigate, demonstrate, report on, and make recommendations on the current and future sustainability of Minnesota agriculture.

Subd. 3. [DEFINITIONS.] For purposes of this section, the following definitions apply:

(a) "Sustainable agriculture" represents the best aspects of traditional and modern agriculture by using a fundamental understanding of nature, as well as the latest scientific advances to create integrated, self-reliant, resource conserving practices that increase farm profitability, maintain or improve the quality of soil and water resources, and lessen dependency on nonrenewable resources, and thereby enhance the enrichment of the environment and provide short- and long-term productive agriculture.

(b) "Integrated pest management" means use of a combination of approaches, incorporating the judicious application of ecological principles, management techniques, cultural and biological controls, and chemical methods, to keeping pests below levels where they do economic damage.

Subd. 4. [DUTIES.] The commissioner shall:

(1) establish a task force of appropriate agencies and organizations to assist the department by:

(i) recommending indices or measures to assess the long-term sustainability of Minnesota agriculture;

(ii) assisting the commissioner in evaluating the identified trends;

(iii) identifying new innovations; and

(iv) suggesting state policies and programs that may be needed to assure the sustainability of Minnesota agriculture and related natural resources;

(2) establish a clearinghouse and provide information, appropriate educational opportunities, and other assistance to individuals, producers, and groups about sustainable agricultural techniques, practices, and opportunities;

(3) survey producers, support services, and organizations to determine information and research needs in the area of sustainable agricultural practices;

(4) demonstrate the applicability of sustainable agriculture practices to Minnesota conditions;

(5) coordinate the efforts of state agencies regarding activities relating to sustainable agriculture;

(6) direct the programs of the department so as to work toward the sustainability of Minnesota agriculture;

(7) inform agencies of how state or federal programs could utilize and support sustainable agriculture practices;

(8) work with farmers, the University of Minnesota, public post-secondary institutions, and other appropriate organizations to identify opportunities and needs as well as promote cooperation, assure coordination, and avoid duplication of efforts regarding research, teaching, and extension work relating to sustainable agriculture; and

(9) report to the legislature every odd-numbered year on at least the following:

(i) the presentation and analysis of findings regarding the current status and trends of the economic condition of producers, the status of soil and water resources utilized by production agriculture, the magnitude of off-farm inputs used and the amount of nonrenewable resources used by Minnesota farmers;

(ii) a description of current state or federal programs directed toward sustainable agriculture including significant results and experience of those programs;

(iii) a description of specific actions the department of agriculture is taking in the area of sustainable agriculture;

(iv) a description of current and future research needs at all levels in the area of sustainable agriculture; and

(v) suggestions for changes in existing programs or policies or enactment of new programs of policies that will affect farm profitability, maintain soil and water quality, reduce input costs, or lessen dependence upon nonrenewable resources.

Subd. 5. [INTEGRATED PEST MANAGEMENT.] The state shall promote and facilitate the use of integrated pest management through education, financial assistance, information and research.

Subd. 6. [INTEGRATED PEST MANAGEMENT APPROACH.] The commissioner shall coordinate the development of a state approach to the promotion and use of integrated pest management,

which shall include delineation of the responsibilities of the state, public post-secondary institutions, Minnesota extension service, local units of government, and the private sector; establishment of information exchange and integration; procedures for identifying research needs and reviewing and preparing informational materials; procedures for factoring integrated pest management into state laws, rules, and uses of pesticides; and identification of barriers to adoption. The commission shall report to the governor and legislature by November 15, 1990 and on a biennial basis thereafter.

Subd. 7. [CONSULTANT CERTIFICATION.] The commissioner shall, in consultation with Minnesota extension service and the consultant community, develop recommendations for a mandatory state crop consultant certification program under chapter 326 and report its recommendations to the governor and legislature by November 15, 1990. The program shall include consideration of educational requirements, current professional certification programs, and certification subcategories based on the need for consultant specialization.

Subd. 8. [STATE USES OF PESTICIDES AND NUTRIENTS.] The state shall use integrated pest management techniques in its management of public lands, including roadside rights-of-way, parks and forests; and shall use planting regimes that minimize the need for pesticides and added nutrients.

Subd. 9. [USER INFORMATION SYSTEM.] The commissioner shall promote establishment of a pilot pesticide and nutrient user information system at the county level in cooperation with the board of water and soil resources, the United States Soil Conservation Service, and the Minnesota extension service, to ensure that accurate and consistent information is available at the local level on recommended application rates and possible environmental impacts.

Subd. 10. [COOPERATION OF OTHER AGENCIES.] Other agencies of state government and the University of Minnesota shall cooperate with the commissioner in the exercise of responsibilities under this section. The commissioner of agriculture shall consult with the University of Minnesota and other agencies and organizations in carrying out duties under this section.

Sec. 2. Minnesota Statutes 1988, section 17.73, subdivision 3, is amended to read:

Subd. 3. [ANALYSES REPORTING STANDARDS.] (a) The results obtained from soil or plant analysis must be reported in accordance with standard reporting units established by the commissioner by rule. The standard reporting units must conform as far as practical to uniform standards that are adopted on a regional or national basis.

(b) If a certified laboratory offers a recommendation, the University of Minnesota recommendation or that of another land grant college in a contiguous state must be offered in addition to other recommendations, and the source of the recommendation must be identified on the recommendation form. If relative levels such as low, medium, or high are presented to classify the analytical results, the corresponding relative levels based on the analysis as designated by the University of Minnesota or the land grant college in a contiguous state must also be presented.

(c) Information on efficient and environmentally sound practices based on research studies shall be included with all soil test results.

Sec. 3. Minnesota Statutes 1988, section 18B.01, subdivision 5, is amended to read:

Subd. 5. [COMMERCIAL APPLICATOR.] "Commercial applicator" means a person who has or is required to have a commercial applicator license.

Sec. 4. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 6a. [CORRECTIVE ACTION.] "Corrective action" means action taken to minimize, eliminate, or clean up an incident.

Sec. 5. Minnesota Statutes 1988, section 18B.01, subdivision 12, is amended to read:

Subd. 12. [INCIDENT.] "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, ~~portable container rupture~~, leak, spill, emission, discharge, escape, leach, disposal, or other event that releases or immediately threatens to release a pesticide accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. "Incident" does not include the lawful use or intentional release of a pesticide in accordance with its approved label or labeling or a discharge or other release authorized by law.

Sec. 6. Minnesota Statutes 1988, section 18B.01, subdivision 15, is amended to read:

Subd. 15. [NONCOMMERCIAL APPLICATOR.] "Noncommercial applicator" means a person with who has or is required to have a noncommercial applicator license.

Sec. 7. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 15a. [OWNER OF REAL PROPERTY.] "Owner of real

property" means a person who is in possession of, has the right of control, or controls the use of real property, including without limitation a person who may be a fee owner, lessee, renter, tenant, lessor, contract for deed vendee, licensor, licensee, or occupant.

Sec. 8. Minnesota Statutes 1988, section 18B.01, subdivision 19, is amended to read:

Subd. 19. [PESTICIDE DEALER.] "Pesticide dealer" means a person with who has or is required to have a pesticide dealer license.

Sec. 9. Minnesota Statutes 1988, section 18B.01, subdivision 21, is amended to read:

Subd. 21. [PRIVATE APPLICATOR.] "Private applicator" means a person certified to use or supervise use of restricted use pesticides.

Sec. 10. Minnesota Statutes 1988, section 18B.01, subdivision 23, is amended to read:

Subd. 23. [RESPONSIBLE PARTY.] "Responsible party" means a person or persons who at the time of an incident has custody of, control of, or responsibility for a pesticide, pesticide container, or pesticide rinsate.

Sec. 11. Minnesota Statutes 1988, section 18B.01, subdivision 26, is amended to read:

Subd. 26. [SAFEGUARD.] "Safeguard" means a facility, equipment, device, or system, or a combination of these, as required by rule, designed to prevent the escape or movement of a pesticide from the place it is stored or kept under conditions that might otherwise result in contamination of the environment an incident.

Sec. 12. Minnesota Statutes 1988, section 18B.01, subdivision 30, is amended to read:

Subd. 30. [STRUCTURAL PEST CONTROL APPLICATOR.] "Structural pest control applicator" means a person with who has or is required to have a structural pest control license.

Sec. 13. Minnesota Statutes 1988, section 18B.04, is amended to read:

18B.04 [PESTICIDE IMPACT ON WATER QUALITY THE ENVIRONMENT.]

The commissioner shall:

(1) determine the impact of pesticides on the environment, including surface water and ground water in this the state;

(2) develop best management practices and water resources protection measures as defined in article 1, section 2, involving pesticide distribution, storage, handling, use, and disposal; and

(3) cooperate with and assist other state agencies and local governments to protect public health and the environment from harmful exposure to pesticides.

Sec. 14. Minnesota Statutes 1988, section 18B.07, subdivision 2, is amended to read:

Subd. 2. [PROHIBITED PESTICIDE USE.] (a) A person may not use, store, handle, distribute, or dispose of a pesticide, rinsate, pesticide container, or pesticide application equipment in a manner:

(1) that is inconsistent with a label or labeling;

(2) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife, or beneficial insects; or

(3) that will cause unreasonable adverse effects on the environment.

(b) A person may not:

(1) direct a pesticide on onto property beyond the boundaries of the target site. A person may not apply a pesticide resulting in;

(2) apply a pesticide so as to cause damage to adjacent nearby property;

(c) ~~A person may not directly;~~

(3) apply a pesticide on a human by overspray or target site spray;  
or

(d) A person may not

(4) apply a pesticide in a manner so as to expose a worker human in an immediately adjacent, open field area.

Sec. 15. Minnesota Statutes 1988, section 18B.07, subdivision 3, is amended to read:

Subd. 3. [POSTING.] (a) If the pesticide labels prescribe specific hourly or daily intervals for human reentry following application,

the person applying the pesticide must post fields, buildings, or areas where the pesticide has been applied. The posting must be done with placards in accordance with label requirements and rules adopted under this section.

(b) Fields Sites being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment. The posting must be done in accordance with labeling and rules adopted under this chapter.

Sec. 16. Minnesota Statutes 1988, section 18B.07, subdivision 4, is amended to read:

Subd. 4. [PESTICIDE SAFEGUARDS AT APPLICATION SITES.] A person may not allow a pesticide, rinsate, or unrinsed pesticide container to be stored, kept, or to remain in or on any site without safeguards adequate to prevent the escape or movement of the pesticides from the site an incident.

Sec. 17. Minnesota Statutes 1988, section 18B.07, subdivision 5, is amended to read:

Subd. 5. [USE OF PUBLIC WATER SUPPLIES FOR FILLING EQUIPMENT.] A person may not fill pesticide application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the public water supply is equipped with a backflow prevention device that complies with the Minnesota Plumbing Code under Minnesota Rules, parts 4715.2000 to 4715.2280. The person may not introduce pesticides into the application equipment until after filling the equipment from a public water supply.

Sec. 18. Minnesota Statutes 1988, section 18B.07, subdivision 7, is amended to read:

Subd. 7. [CLEANING EQUIPMENT IN OR NEAR SURFACE WATER.] (a) A person may not:

(1) clean pesticide application equipment in surface waters of the state; or

(2) fill or clean pesticide application equipment adjacent to surface waters, ditches, or wells where, because of the slope or other conditions, pesticides or materials contaminated with pesticides could enter or contaminate the surface waters, ground water, or wells, as a result of overflow, leakage, or other causes.

(b) This subdivision does not apply to permitted application of aquatic pesticides to public waters.

Sec. 19. Minnesota Statutes 1988, section 18B.08, subdivision 1, is amended to read:

Subdivision 1. [PERMIT REQUIRED.] (a) A person may not apply pesticides through an irrigation system without a chemigation permit from the commissioner. Only one chemigation permit is required for ~~two~~ one or more wells or other irrigation water sources that are protected from pesticide contamination by the same devices as required by rule. The commissioner may allow irrigation to be used to apply pesticides on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

(b) A person must apply for a chemigation permit on forms prescribed by the commissioner.

Sec. 20. Minnesota Statutes 1988, section 18B.08, subdivision 3, is amended to read:

Subd. 3. [EQUIPMENT.] A chemigation system must be fitted with effective antisiphon devices or check valves that prevent the backflow of pesticides or pesticide-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

(1) the irrigation system pump or water source discharge and the point of pesticide injection; and

(2) the point of pesticide injection and the pesticide supply.

Sec. 21. Minnesota Statutes 1988, section 18B.08, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FEE.] A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50 for each well that is to be used in applying the pesticides by irrigation. A person who holds a valid fertilizer chemigation permit, as defined in chapter 17, is exempt from the fee in this section.

Sec. 22. Minnesota Statutes 1988, section 18B.15, is amended to read:

#### 18B.15 [PESTICIDE RELEASE INCIDENTS.]

Subdivision 1. [DUTIES OF RESPONSIBLE PARTY CORRECTIVE ACTION ORDERS.] (a) A responsible party involved in an incident or an owner of real property must immediately, upon discovering that an incident has occurred, report the that incident to the department of agriculture and provide information as requested by the commissioner. The responsible party must pay for the costs



and immediately take all action necessary to minimize or abate the release and to recover pesticides involved in the incident.

(b) The responsible party must submit a written report of the incident to the commissioner containing the information requested by the commissioner within the time specified by the commissioner and also submit a written report to the commissioner containing the information requested by the commissioner within the time specified by the commissioner. After determining that an incident has occurred, the commissioner may order the responsible party to take reasonable and necessary corrective actions. The commissioner shall notify the owner of real property where corrective action is ordered that access to the property will be required for the responsible party or the commissioner to take corrective action. A political subdivision may not request or order any person to take an action that conflicts with the corrective action ordered by the commissioner. The attorney general may bring an action to compel corrective action.

Subd. 2. [COMMISSIONER'S COMMISSIONER AND COMPELLED PERFORMANCE CORRECTIVE ACTION.] (a) If in the judgment of the commissioner the responsible party does not take immediate and sufficient action to abate the release of and to recover the pesticide, The commissioner may take corrective action necessary to mitigate or correct the conditions resulting from an incident. The responsible party must reimburse the commissioner for the costs incurred by the commissioner in the enforcement of this subdivision.

(b) The department of agriculture is the lead state agency for responding to and taking action with regard to pesticide incidents. if:

(1) a responsible party cannot be identified; or

(2) an identified responsible party cannot or will not comply with an order issued under subdivision 1.

Subd. 3. [EMERGENCY CORRECTIVE ACTION.] To assure an adequate response to an incident, the commissioner may take corrective action without following the procedures of subdivision 1 if the commissioner determines that the incident constitutes a clear and immediate danger requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment. Before taking an action under this subdivision, the commissioner shall make all reasonable efforts, taking into consideration the urgency of the situation, to order a responsible party to take a corrective action and notify the owner of real property where the corrective action is to be taken.

Subd. 4. [LEAD AGENCY.] The department of agriculture is the lead state agency in taking corrective action for incidents.

Sec. 23. Minnesota Statutes 1988, section 18B.17, subdivision 2, is amended to read:

Subd. 2. [EDUCATION AND TRAINING AGREEMENTS.] For purposes of education and training only, the commissioner may enter into agreements or contracts with qualified public or private organizations that wish to offer training programs developed under this chapter. In addition, the commissioner may provide pesticide information and related educational materials to interested clientele and residents of Minnesota.

Sec. 24. Minnesota Statutes 1988, section 18B.18, is amended to read:

18B.18 [INSPECTION.]

Subdivision 1. [ACCESS AND ENTRY.] (a) ~~The commissioner, and the commissioner's agents, upon issuance presentation of a notice of inspection official department credentials, must be granted access at reasonable times without delay to (1) sites where a restricted use pesticide is used; (2) (1) where a person manufactures, formulates, distributes, uses, disposes of, stores, or transports a pesticide in violation of provisions of this chapter; and (3) to all sites (2) which the commissioner reasonably believes are affected, or possibly affected, by the use of a pesticide, rinsate, pesticide container, or device in violation of a provision of this chapter.~~

(b) ~~The commissioner and commissioner's agents~~ may enter sites for:

(1) inspection of equipment for the manufacture, formulation, distribution, disposal, or application of pesticides and the premises on which the equipment is stored;

(2) sampling of sites actually or reportedly exposed to pesticides;

(3) inspection of storage, handling, distribution, use, or disposal areas of pesticides or pesticide containers;

(4) inspection or investigation of complaints of injury to humans, wildlife, domesticated animals, crops, or the environment;

(5) sampling of pesticides;

(6) observation of the use and application of a pesticide;

(7) inspection of records related to the manufacture, distribution, storage, handling, use, or disposal of pesticides; and

(8) investigating the source, nature, and extent of an incident, and the extent of the adverse effects on the environment; and

(9) other purposes necessary to implement this chapter.

Subd. 2. [NOTICE OF INSPECTION SAMPLES AND ANALYSES.] Before leaving the premises inspected, The commissioner shall provide the owner, operator, or agent in charge with a receipt describing the suspected violation and any samples obtained. The commissioner shall also split any samples obtained and provide these to the owner, operator, or agent in charge for independent analysis if so desired. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge within 30 days of completion. If an analysis is not completed on the samples obtained, the commissioner shall notify the owner, operator, or agent in charge within 30 days of making this decision.

Subd. 3. [OBTAINING EVIDENCE.] In making inspections under this chapter, the commissioner may administer oaths, certify as to official acts, issue subpoenas to and take and cause to be taken depositions of witnesses, and compel the attendance of witnesses and production of papers, books, documents, records, and testimony. If a person fails to comply with a subpoena lawfully issued, or a witness refuses to produce evidence or testify to a matter regarding which the person may be lawfully interrogated, the district court shall, upon application of the commissioner, compel obedience proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify in the court.

Subd. 4. [REQUEST FOR INSPECTION.] A person who believes that a violation of this chapter has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, set forth with reasonable particularity the grounds for the notice, and be signed by the person. If upon receipt of the notice the commissioner reasonably believes that a violation occurred, the commissioner shall provide the party believed responsible with a copy of the request for investigation, excluding the name of the person who made the request, and notice of intent to investigate. The commissioner shall make a special inspection in accordance with this section as soon as practicable to determine if a violation occurred. An inspection conducted because of a complaint may cover an entire site and is not limited to that portion of the site specified in the notice. If the commissioner determines that there are no reasonable grounds to believe that a violation occurred, the commissioner shall notify the person in writing of that determination.

Subd. 5. [REFUSAL TO PERMIT ENTRY.] Upon the refusal or anticipated refusal, based on a refusal to permit entrance on a prior occasion, of an owner, operator, or agent in charge to permit entry under this chapter, the commissioner may apply for an order in the district court in the county in which a site is located to compel a person with authority to permit the commissioner to enter and inspect the site.

Subd. 6. [EXEMPTIONS FROM SUBPOENA AUTHORITY.] (a) Neither the commissioner nor any employee of the department, including those employees of other approved agencies providing services to the department, is subject to subpoena for purposes of inquiry into any inspection except in enforcement proceedings brought under this chapter.

(b) Once an inspection file is closed by the commissioner, the commissioner shall, upon request from any person, certify as official department records any information contained in a file which is public information.

Subd. 7. [COSTS OF INVESTIGATION.] In addition to any other penalties, the cost of reinspection and reinvestigation may be assessed by the commissioner if the person subject to a corrective action order or remedial action order does not comply with the order in a reasonable time as provided in the order.

Sec. 25. [18B.191] [RESPONSIBILITY FOR COSTS.]

Subdivision 1. [RESPONSIBLE PARTY.] (a) A responsible party is liable for the costs including administrative costs for corrective action under section 18B.15. The commissioner may issue an order for recovery of those costs.

(b) A responsible party is liable for the costs of any destruction of wildlife. Payments of these costs must be deposited in the game and fish fund in the state treasury.

Subd. 2. [AVOIDANCE OF LIABILITY.] (a) A responsible party may not avoid liability by means of a conveyance of any right, title, or interest in real property or by any indemnification, hold harmless agreement, or similar agreement.

(b) This subdivision does not:

(1) prohibit a person who may be liable from entering an agreement by which the person is insured, held harmless, or indemnified for part or all of the liability;

(2) prohibit the enforcement of an insurance, hold harmless, or indemnification agreement; or

(3) bar a cause of action brought by a person who may be liable or by an insurer or guarantor, whether by right of subrogation or otherwise.

Subd. 3. [OWNER OF REAL PROPERTY.] An owner of real property is not a responsible party for an incident on the owner's property unless that owner:

(1) was engaged in manufacturing, formulating, transporting, storing, handling, applying, distributing, or disposing of a pesticide on the property;

(2) knowingly permitted a person to make regular use of the property for disposal of pesticides; or

(3) violated this chapter in a way that contributed to the incident.

Subd. 4. [DEFENSES.] As a defense to a penalty or liability for damages, a person may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.

#### Sec. 26. [18B.192] [APPORTIONMENT AND CONTRIBUTION.]

Subdivision 1. [RIGHT OF APPORTIONMENT; FACTORS.] A responsible party held liable under this chapter may have the trier of fact apportion liability among the responsible parties under this section. The burden is on each responsible party to show how that responsible party's liability should be apportioned. The trier of fact shall reduce the amount of damages in proportion to any amount of liability apportioned to the party recovering.

In apportioning the liability of a party under this section, the trier of fact shall consider the following:

(1) the extent to which that responsible party contributed to the incident;

(2) the amount of pesticide involved;

(3) the degree of toxicity of the pesticide involved;

(4) the degree of involvement of and care exercised by the responsible party in manufacturing, formulating, handling, storing, distributing, transporting, applying, and disposing of the pesticide;

(5) the degree of cooperation by the responsible party with federal, state, or local officials to prevent harm to the public health or the environment; and

(6) knowledge by the responsible party of the hazardous nature of the pesticide.

Subd. 2. [CONTRIBUTION.] If a responsible party is held liable under this chapter and establishes a proportionate share of the aggregate liability, the provisions of section 604.02, subdivisions 1 and 2, apply with respect to contribution and reallocation of any uncollectible amounts, except that an administrative law judge may also perform the functions of a court identified in section 604.02, subdivision 2.

**Sec. 27. [18B.193] [ADMINISTRATIVE PENALTIES.]**

Subdivision 1. [FACTORS.] In determining the size of the penalty, the commissioner shall give due consideration to the economic benefit gained by the person by allowing or committing the violation, the gravity of the violation in terms of actual or potential damage to the environment, and the violator's culpability, good faith, and history of violations.

Subd. 2. [DOLLAR LIMIT.] The commissioner may by administrative order assess penalties of up to \$5,000 for a violation of this chapter.

Subd. 3. [PAYMENT.] Penalties assessed under this chapter must be paid to the commissioner for deposit in the pesticide regulatory account. If a violator fails to pay a penalty which is part of a final order within 30 days, the commissioner may commence a civil action for double the assessed penalty and attorney fees and costs. A penalty may be recovered in a civil action in the name of the department brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office.

Subd. 4. [COMPLIANCE TIME.] The administrative penalty may be assessed if the person subject to a corrective action order or remedial action order does not comply with the order in a reasonable time as provided in the order.

**Sec. 28. [18B.194] [LIABILITY FOR APPLICATION ACCORDING TO THE LABEL.]**

(a) Notwithstanding other provisions relating to liability for pesticide use, a pesticide end user or landowner is not liable for the cost of active cleanup or damages associated with or resulting from a pesticide in groundwater if the end user or landowner has applied or has had others apply the pesticide in compliance with the label or labeling of the pesticide and other state law and orders of the commissioner.

(b) It is a complete defense to liability that the end user or landowner has complied with the provisions in paragraph (a).

Sec. 29. Minnesota Statutes 1988, section 18B.20, is amended by adding a subdivision to read:

Subd. 7. [EMPLOYER LIABILITY FOR EMPLOYEES.] Structural pest control applicators, commercial applicators, noncommercial applicators, and pesticide dealers are civilly liable for violations of this chapter by their employees and agents.

Sec. 30. [18B.205] [ADMINISTRATIVE COMPLIANCE.]

Subdivision 1. [CONTESTED ORDER.] After being served with an order, a person has at least 45 days from receipt of the order within which to notify the commissioner in writing that the person intends to contest the order. If the person fails to properly notify the commissioner that the person intends to contest the order, the order is a final order of the agency and not subject to review by any court or agency.

Subd. 2. [ADMINISTRATIVE REVIEW.] (a) If a person notifies the commissioner that the person intends to contest an order issued under this chapter, the state office of administrative hearings shall conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings. A hearing shall be conducted at a place designated by the commissioner, within the county where the violation occurred, or where the person contesting the order resides or has a principal place of business or any other place on which all the parties agree.

(b) Notwithstanding any provision of chapter 14, the final administrative law report shall be the final decision of the agency. Only an administrative law judge, under rules adopted by the office of administrative hearings, may entertain an application for reconsideration of a final agency decision.

Subd. 3. [JUDICIAL REVIEW.] (a) The commissioner or any party aggrieved by a final agency decision may seek judicial review of a final agency decision under sections 14.63 to 14.69.

(b) Any additional evidence required by a reviewing court under section 14.67 shall be taken by an administrative law judge. Only an administrative law judge may change the agency decision or any findings contained in it. The administrative law judge shall file with the reviewing court the additional evidence, together with any modifications or new findings or decisions, as provided in section 14.67.

Subd. 4. [EXPENSES.] A prevailing party, including the commis-

sioner, may recover the reasonable and necessary expenses in a contested case or an appeal from a contested case.

Sec. 31. Minnesota Statutes 1988, section 18B.21, is amended to read:

**18B.21 [ADMINISTRATIVE ACTION REMEDIES FOR VIOLATIONS.]**

Subdivision 1. [ADMINISTRATIVE REMEDIES.] The commissioner may seek to remedy violations of this chapter or the commissioner's orders by (1) a written warning, (2) an administrative meeting, (3) a cease and desist, stop-use, stop-sale, removal, administrative penalty, or other special order, or (4) a seizure, stipulation, or agreement, if the commissioner determines that the remedy is in the public interest.

Subd. 2. [REVOCATION AND SUSPENSION.] The commissioner may, after written notice and hearing, revoke, suspend, or refuse to grant or renew a registration, permit, license, or certification if a person violates a provision of this chapter or has a history, within the last three years, of violations of chapter 18A or 18B.

Subd. 3. [REMEDIAL ACTION ORDERS SERVICE OF ORDER OR NOTICE.] (a) If the commissioner has probable cause that a pesticide, pesticide container, rinsate, pesticide equipment, or device is being used, manufactured, distributed, stored, or disposed of in violation of a provision of this chapter, the commissioner may investigate and issue a written cease and desist, stop-sale, stop-use, or removal order or other remedial action to the owner, custodian, or other responsible party. If the owner, custodian, or other responsible party a person is not available for service of the an order, the commissioner may attach the order to the pesticide, pesticide container, rinsate, pesticide equipment, or device or facility and notify the owner, custodian, other responsible party, or the registrant. The pesticide, pesticide container, rinsate, pesticide equipment, or device may not be sold, used, or removed until the violation has been corrected and the pesticide, pesticide container, rinsate, pesticide equipment, or device has been released in writing under conditions specified by the commissioner, or until the violation has been otherwise disposed of by an administrative, law judge, or a court.

(b) If a violation of a provision of this chapter results in conditions that may have an unreasonable adverse effect on humans, domestic animals, wildlife, or the environment, the commissioner may, by order, require remedial action, including removal and proper disposal.

Sec. 32. Minnesota Statutes 1988, section 18B.26, subdivision 1, is amended to read:



Subdivision 1. [REQUIREMENT.] (a) A person may not use or distribute a pesticide in this state unless it is registered with the commissioner. Pesticide registrations expire on December 31 of each year and may be renewed on or before that date for the following calendar year.

(b) Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as an ingredient in the formulation of a pesticide that is registered under this chapter.

(c) An unregistered pesticide that was previously registered with the commissioner may be used only with the written permission of the commissioner.

(d) Each pesticide with a unique EPA registration number or brand name must be registered with the commissioner.

Sec. 33. Minnesota Statutes 1988, section 18B.26, subdivision 5, is amended to read:

Subd. 5. [APPLICATION REVIEW AND REGISTRATION.] (a) The commissioner may not deny the registration of a pesticide because the commissioner determines the pesticide is not essential.

(b) The commissioner shall review each application and may approve, deny, or cancel the registration of any pesticide. The commissioner may impose state use or distribution restrictions on a pesticide as part of the registration to prevent unreasonable adverse effects on the environment.

(c) The commissioner must notify the applicant of the approval, denial, cancellation, or state use or distribution restrictions ~~within 30 days after the application and fee are received.~~

(d) The applicant may request a hearing on any adverse action of the commissioner within 30 days after being notified by the commissioner.

Sec. 34. Minnesota Statutes 1988, section 18B.26, is amended by adding a subdivision to read:

Subd. 6. [WITHDRAWAL.] A person who intends to discontinue a pesticide registration must do one of the following to ensure complete withdrawal from distribution or further use of the pesticide:

(1) terminate a further distribution within the state and continue to register the pesticide annually for two successive years;

(2) initiate and complete a total recall of the pesticide from all distribution in the state within 60 days from the date of notification to the commissioner of intent to discontinue registration; or

(3) submit to the commissioner evidence adequate to document that no distribution of the registered pesticide has occurred in the state.

Sec. 35. [18B.281] [PESTICIDE EDUCATION AND TRAINING.]

Subdivision 1. [EDUCATION AND TRAINING.] The commissioner shall develop, in conjunction with the University of Minnesota extension service, unique and innovative educational and training programs addressing pesticide concerns including, but not limited to: (1) water quality protection; (2) endangered species; (3) pesticide residues in food and water; (4) worker protection; (5) chronic toxicity; (6) integrated pest management; and (7) pesticide disposal. Educational planning session committees must include representatives of industry and of the commissioner. Specific current regulatory concerns must be discussed and, where appropriate, incorporated into each training session. These training materials must be used as a parameter for all educational programs affected by any organization.

Subd. 2. [TRAINING MANUAL AND EXAMINATION DEVELOPMENT.] The commissioner, in conjunction with the University of Minnesota extension service, shall continually revise and update pesticide applicator training manuals and examinations. The manuals and examinations must be written to meet or exceed the minimum standards required by the United States Environmental Protection Agency and pertinent state-specific information. Questions in the examinations must be determined by the responsible agencies. Manuals and examinations must include pesticide management practices that discuss prevention of pesticide occurrence in groundwaters of the state.

Subd. 3. [PESTICIDE APPLICATOR EDUCATION AND EXAMINATION REVIEW BOARD.] The commissioner shall establish and chair a pesticide applicator education and examination review board. This board shall meet at least once a year before the initiation of pesticide educational planning programs. The purpose of this board is to discuss topics of current concern that can be incorporated into pesticide applicator training sessions and appropriate examinations. This board shall review and evaluate the various educational programs recently conducted and recommend options to increase overall effectiveness. Membership on this board must represent industry, private, nonprofit organizations, and other governmental agencies, including the University of Minnesota, the pollution control agency, and the departments of health, natural resources, and transportation.

Sec. 36. Minnesota Statutes 1988, section 18B.31, subdivision 3, is amended to read:

Subd. 3. [LICENSE.] A pesticide dealer license:

(1) expires on December 31 of each year unless it is suspended or revoked before that date; ~~and~~

(2) is not transferable to another person; or location; and

(3) must be prominently displayed to the public in the pesticide dealer's place of business.

Sec. 37. Minnesota Statutes 1988, section 18B.32, subdivision 2, is amended to read:

Subd. 2. [LICENSES.] (a) A structural pest control license:

(1) expires on December 31 of the year for which the license is issued; ~~and~~

(2) is not transferable; and

(3) must be prominently displayed to the public in the structural pest controller's place of business.

(b) The commissioner shall establish categories of master, journeyman, and fumigator for a person to be licensed under a structural pest control license.

Sec. 38. Minnesota Statutes 1988, section 18B.33, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] (a) A person may not apply a pesticide for hire without a commercial applicator license for the appropriate use categories except a licensed structural pest control applicator.

(b) A person with a commercial applicator license may not apply pesticides on or into surface waters without an aquatic category endorsement on a commercial applicator license.

(c) A commercial applicator licensee must have a valid license identification card when applying pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The commissioner shall prescribe the information required on the license identification card.

Sec. 39. Minnesota Statutes 1988, section 18B.33, subdivision 3, is amended to read:

Subd. 3. [LICENSE.] A commercial applicator license:

(1) expires on December 31 of the year for which it is issued, unless suspended or revoked before that date; and

(2) is not transferable to another person; and

(3) must be prominently displayed to the public in the commercial applicator's place of business.

Sec. 40. Minnesota Statutes 1988, section 18B.33, subdivision 7, is amended to read:

Subd. 7. [APPLICATION FEES.] (a) A person initially applying for or renewing a commercial applicator license ~~as a business entity must pay a nonrefundable application fee of \$50; except a person who is an employee of a business entity that has a commercial applicator license and is applying for or renewing a commercial applicator license as an individual the nonrefundable application fee is \$25.~~

(b) If a renewal application is not filed before March 1 of the year for which the license is to be issued, an additional penalty fee of \$10 must be paid before the commercial applicator license may be issued.

Sec. 41. Minnesota Statutes 1988, section 18B.34, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] (a) Except for a licensed commercial applicator, certified private applicator, or licensed structural pest control applicator, a person, including a government employee, may not use a restricted use pesticide in performance of official duties without having a noncommercial applicator license for an appropriate use category.

(b) ~~A person with~~ A licensed noncommercial applicator ~~license~~ may not apply pesticides into or on surface waters without an aquatic category endorsement on the license.

(c) A licensee must have a valid license identification card when applying pesticides and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

Sec. 42. Minnesota Statutes 1988, section 18B.34, subdivision 2, is amended to read:

Subd. 2. [LICENSE.] A noncommercial applicator license:

(1) expires on December 31 of the year for which it is issued unless suspended or revoked before that date; and

(2) is not transferable; and

(3) must be prominently displayed to the public in the noncommercial applicator's place of business.

Sec. 43. Minnesota Statutes 1988, section 18B.34, subdivision 5, is amended to read:

Subd. 5. [FEES.] (a) A person initially applying for or renewing a noncommercial applicator license as a business entity must pay a nonrefundable application fee of \$50. ~~A person who is an employee of a business entity that has a noncommercial applicator license and is applying for or renewing a noncommercial applicator license as an individual must pay a nonrefundable application fee of \$25, except an applicant who is a government employee who uses pesticides in the course of performing official duties must pay a nonrefundable application fee of \$10.~~

(b) If an application for renewal of a noncommercial license is not filed before March 1 in the year for which the license is to be issued, an additional penalty fee of \$10 must be paid before the renewal license may be issued.

Sec. 44. Minnesota Statutes 1988, section 18B.36, is amended to read:

#### 18B.36 [PRIVATE APPLICATOR CERTIFICATION.]

Subdivision 1. [REQUIREMENT.] (a) Except for a licensed commercial or noncommercial applicator, only a person certified as a private applicator may use ~~or supervise the use of~~ a restricted use pesticide to produce an agricultural commodity:

(1) as a traditional exchange of services without financial compensation; or

(2) on a site owned, rented, or managed by the person or the person's employees.

(b) A private applicator may not purchase a restricted use pesticide without presenting a private applicator card or the card number.

Subd. 2. [CERTIFICATION.] (a) The commissioner shall prescribe certification requirements and provide training that meets or ex-

ceeds EPA standards to certify persons as private applicators and provide information relating to changing technology to help ensure a continuing level of competency and ability to use pesticides properly and safely. The training may be done through cooperation with other government agencies and must be a minimum of three hours in duration.

(b) A person must apply to the commissioner for certification as a private applicator. After completing the certification requirements, which must include an examination as determined by the commissioner, an applicant must be certified as a private applicator to use restricted use pesticides. The certification is for a period of five three years from the applicant's nearest birthday.

(c) The commissioner shall issue a private applicator card to a private applicator.

Subd. 3. [FEES.] (a) A person applying to be certified as a private applicator must pay a nonrefundable \$10 application fee for the certification period.

(b) A \$5 fee must be paid for the issuance of a duplicate private applicator card.

Sec. 45. Minnesota Statutes 1988, section 18B.37, subdivision 1, is amended to read:

Subdivision 1. [PESTICIDE DEALER.] (a) A pesticide dealer must maintain records of all sales of restricted use pesticides as required by the commissioner. Records must be kept at the time of the sale on forms supplied by the commissioner or on the pesticide dealer's forms if they those forms are approved by the commissioner.

(b) Records must be submitted annually with the renewal application for a pesticide dealer license or upon request of the commissioner.

(c) Copies of records required under this subdivision must be maintained by the pesticide dealer for a period of five years after the date of the pesticide sale.

Sec. 46. Minnesota Statutes 1988, section 18B.37, subdivision 2, is amended to read:

Subd. 2. [COMMERCIAL AND NONCOMMERCIAL APPLICATORS.] (a) A commercial ~~or noncommercial~~ applicator, or the applicator's authorized agent, must shall maintain a record of pesticides used on each site. A noncommercial applicator, or the applicator's authorized agent, shall maintain a record of restricted use pesticides used on each site. The record must include the:

- (1) date of the pesticide use;
- (2) time the pesticide application was completed;
- (3) brand name of the pesticide, EPA registration number, and dosage used;
- (4) number of units treated;
- (5) temperature, wind speed, and wind direction;
- (6) location of the site where the pesticide was applied;
- (7) name and address of the customer;
- (8) name and signature of the applicator, company name, license number of the applicator, and address, and signature of the applicator or company; and
- (9) any other information required by the commissioner.

(b) Portions of records not relevant to a specific type of application may be omitted upon approval from the commissioner.

(c) All information for this record requirement must be contained in a single page document for each pesticide application, except a map may be attached to identify treated areas. For the rights-of-way and wood preservative categories, the required record may not exceed five pages. Invoices An invoice containing the required information may constitute the required record.

(d) A commercial applicator must give a copy of the record to the customer when the application is completed.

(e) Records must be retained by the applicator, company, or authorized agent for five years after the date of treatment.

Sec. 47. Minnesota Statutes 1988, section 18B.37, subdivision 3, is amended to read:

Subd. 3. [STRUCTURAL PEST CONTROL APPLICATORS.] (a) A structural pest control applicator must maintain a record of each structural pest control application conducted by that person or by the person's employees. The record must include the:

- (1) date of structural pest control application;
- (2) target pest;

(3) brand name of the pesticide, EPA registration number, and amount of pesticide used;

(4) for fumigation, the temperature and exposure time;

(5) time the pesticide application was completed;

(6) name and address of the customer;

~~(6)~~ (7) structural pest control applicator's company name and address, applicator's signature, and license number; and

~~(7)~~ (8) any other information required by the commissioner.

(b) Invoices All information for this record requirement must be contained in a single page document for each pesticide application. An invoice containing the required information may constitute the record.

(c) Records must be retained for five years after the date of treatment.

(d) A copy of the record must be given to a person who ordered the application that is present at the site where the structural pest control application is conducted, placed in a conspicuous location at the site where the structural pest control application is conducted immediately after the application of the pesticides, or delivered to the person who ordered an application or the owner of the site.

Sec. 48. Minnesota Statutes 1988, section 18B.37, subdivision 4, is amended to read:

Subd. 4. [STORAGE, HANDLING, AND DISPOSAL PLAN.] A commercial, noncommercial, or structural pest control applicator or the ~~licensed~~ business that the applicator is employed by must develop and maintain a plan that describes its pesticide storage, handling, and disposal practices. The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request on forms provided by the commissioner. The plan must be available for inspection by the commissioner.

Sec. 49. [18B.41] [PESTICIDE MANAGEMENT PLAN.]

Subdivision 1. [PLAN SPECIFICATIONS.] The commissioner shall develop a pesticide management plan for the prevention, evaluation, and mitigation of occurrences of pesticides or pesticide breakdown products in groundwaters and surface waters of the state. The pesticide management plan must include components promoting prevention, developing appropriate responses to the



detection of pesticides or pesticide breakdown products in ground-water and surface waters, and providing responses to reduce or eliminate continued pesticide movement to groundwater and surface water as outlined in subdivisions 3 to 8.

The pesticide management plan shall be coordinated and developed with other state agency plans and with other state agencies through the environmental quality board. In addition, the University of Minnesota extension service, farm organizations, farmers, environmental organizations, and industry shall be involved in the pesticide management plan development.

Subd. 2. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Pesticide" means a pesticide active ingredient as defined in section 18B.01, subdivision 18, or the breakdown product or metabolite of the pesticide active ingredient.

(b) "Specific management plan" means a plan applied to a pesticide and may be specific to a pesticide-sensitive groundwater protection area that incorporates voluntary chemical and nonchemical activities, procedures, and practices or pesticide use restrictions established by the department of agriculture in consultation with the University of Minnesota agricultural extension service due to determination of common detection of a pesticide in groundwater.

(c) "Nonpoint source" means the presence of a pesticide in ground-water or surface water from normal registered use of a pesticide.

(d) "Pesticide-sensitive groundwater protection areas" means a geographically definable area with characteristics of susceptibility to pesticide migration to groundwater and containing criteria as stipulated in article 1, section 5, subdivision 2.

(e) "Best management practices" means practices as defined in article 1, section 2, subdivision 2.

(f) "Water resources protection measures" has the meaning given it in article 1, section 2, subdivision 5.

(g) "Monitoring" means a program designed for the collection of data, through a network of groundwater quality sampling stations or surface water sampling points, for scientific inquiry and statistically significant analysis.

Subd. 3. [PESTICIDE-SENSITIVE GROUNDWATER PROTECTION AREAS.] The commissioner shall designate pesticide-sensitive groundwater protection areas based on criteria established in article 1, section 7, subdivision 3, and may involve cooperation with

the department of natural resources, the pollution control agency, the University of Minnesota, and other pertinent local, state, or federal agencies. Pesticide-sensitive groundwater protection areas must be based on factors associated with susceptibility of groundwater to the leaching or direct movement of pesticides to the groundwater.

Upon designation of pesticide-sensitive groundwater protection areas the commissioner shall conduct an assessment of the likelihood of certain pesticides to migrate to groundwater. Determination of pesticide mobility must be based on the best currently available data and may involve pesticide registrants data and state and federal data bases. Mobile pesticide determination must include pesticide use, physiochemical properties, and previous groundwater detection information.

The commissioner shall increase regulatory efforts in pesticide-sensitive groundwater protection areas, provide additional and increased pesticide educational and training activities for prevention of movement of pesticides to water resources.

Subd. 4. [PESTICIDE USE INFORMATION.] The commissioner shall monitor urban and rural pesticide use on a biennial basis. Information shall be collected and automated consistent with section 116C.41, subdivision 1.

Subd. 5. [BEST MANAGEMENT PRACTICES.] The commissioner shall promote best management practices that minimize the potential for pesticide movement to water resources throughout the state. Within a pesticide-sensitive groundwater protection area the commissioner shall promote additional appropriate best management practices and may consult with representatives of farmers, local and state agencies, the University of Minnesota, federal agencies, and the pesticide industry. The best management practices for agricultural and urban pesticide use must be practical and appropriate for implementation in the pesticide-sensitive groundwater protection areas. In addition to agronomic and horticultural best management practices, increased and expanded pesticide educational programs for counties with designated pesticide groundwater protection areas shall be provided in cooperation with the Minnesota extension service.

Subd. 6. [EVALUATION OF DETECTION.] The commissioner shall evaluate the detection of pesticides in groundwaters of the state to determine the probable source and possible courses of action. Evaluation of the detection of the presence of a pesticide may include, but is not limited to, the following items:

(1) the methods of sample collection, handling, and confirmation mechanisms;

(2) the adherence of the reporting laboratory to good laboratory practices;

(3) the adequacy of the quality control and quality assurance programs;

(4) the physiochemical properties of the pesticide and their relationship, if any, to the detection;

(5) the general climatological, geographical, and hydrogeological factors that may impact the detection of the pesticide;

(6) the relationship of the concentration detected to the health based standard;

(7) the information available of the construction of the well from which the sample was obtained;

(8) the information available on pesticide use in the area;

(9) other potential pesticide sources; and

(10) the adherence to label directions, including precautions on the pesticide product label.

If conditions indicate a likelihood that the detection of the pesticide to be a result of normal registered use, the commissioner shall evaluate the need for increased promotion of best management practices and water resources protection measures to mitigate potential nonpoint source impact. Monitoring and subsequent evaluation shall occur on an as needed basis to determine if the pesticide is commonly detected and the potential nonpoint impacts of the pesticide in similar conditions.

Subd. 7. [SPECIFIC PESTICIDE MANAGEMENT PLAN.] The commissioner shall develop a specific pesticide management plan for a pesticide if the pesticide has been determined to be commonly detected in groundwater as a result of normal registered use following evaluation by the commissioner. Each specific pesticide management plan must be designed to minimize movement to groundwater through a series of efforts such as increased educational activities, increased training and certification, and increased enforcement activities.

The commissioner shall develop and implement a focused groundwater monitoring and hydrogeologic evaluation following common pesticide detection to evaluate contamination frequency and concentration trend. Assessment of the site-specific and pesticide-specific conditions and the likelihood of common detection must include monitoring, pesticide use information, physical and chemical prop-

erties of the pesticide hydrogeologic information and review of information, and data from other local, state, or federal monitoring data bases.

The specific pesticide management plan must be developed following evaluation, increased monitoring efforts, and site-specific and pesticide-specific information. The specific management plan must include best management practices and water resources protection measures and pesticide use restrictions commensurate with applicable information obtained by the commissioner, the severity of the groundwater contamination and the trend assessment. The specific pesticide management plan must involve the registrant and be coordinated with the department of natural resources, the pollution control agency, the University of Minnesota agricultural extension service, the Minnesota environmental education board, the environmental quality board, the state planning agency, the department of health, the board of water and soil resources, and may include consultation with appropriate federal agencies, local governmental units, farm organizations, and the pesticide industry. The specific pesticide management plan shall be updated at no more than two-year intervals.

Subd. 8. [ACTIONS TO COMMON DETECTIONS WITH CONCENTRATIONS OR TRENDS GREATER THAN HEALTH LIMITS.] The commissioner shall impose additional use restrictions, or label modifications or cancel a pesticide use when:

(1) common detections of pesticides exceed previous or newly established limits as described in article 1, section 5 or, where applicable, state drinking water standards; or

(2) if trend analysis indicates that common detections will exceed limits as described in article 1, section 5 or, where applicable, state drinking water standards notwithstanding implementation of best management practices and water resources protection measures or previous use restrictions.

Restrictions may include limitations on product purpose, rate, time of application, frequency of application, method of application, application to soil types or crops, or geographic area of application. Restrictions may be altered based on continued trend analysis of common pesticide detections.

Subd. 9. [RULES.] The commissioner shall adopt permanent rules necessary to implement this section. The rules must contain at a minimum:

(1) an education and information plan to promote pesticide best management practices and water resources protection measures in pesticide-sensitive groundwater protection areas;

(2) investigation and monitoring procedures to assess unusual pesticide detections in groundwater;

(3) procedures to implement best management practices and water resources protection measures, increased monitoring, and trend evaluation following the common detection of pesticides; and

(4) regulatory actions to be taken if trend analysis or common detections indicate exceedance of limits as described in article 1, section 5 or, where appropriate, state drinking water standards.

**Sec. 50. [PESTICIDE CONTAINER COLLECTION AND RECYCLING PILOT PROJECT.]**

**Subdivision 1. [PESTICIDE; DEFINITION.]** For the purposes of this section, "pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate a pest, and a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

**Subd. 2. [PROJECT.]** The department of agriculture, in consultation and cooperation with the commissioner of the pollution control agency and the director of the Minnesota extension service, shall design and implement a pilot collection project, to be completed by June 30, 1991, to:

(1) collect, recycle, and dispose of empty, triple-rinsed pesticide containers;

(2) develop, demonstrate, and promote proper pesticide container management; and

(3) evaluate the current pesticide container management methods and the cause and extent of the problems associated with pesticide containers.

**Subd. 3. [COLLECTION AND DISPOSAL.]** The department of agriculture shall provide for the establishment and operation of temporary collection sites for pesticide containers. The department may limit the type and quantity of pesticide containers acceptable for collection.

**Subd. 4. [INFORMATION AND EDUCATION.]** The department shall develop informational and educational materials, in consultation and cooperation with the Minnesota extension service, to promote proper methods of pesticide container management.

**Subd. 5. [REPORT.]** During the pilot project, the department of agriculture shall conduct surveys and collect information on proper and improper pesticide container storage and disposal. By Novem-

ber 30, 1991, the department shall report to the legislature its conclusions from the project and recommendations for additional legislation or rules governing management of pesticide containers.

Subd. 6. [MANAGEMENT AND DISPOSAL.] The department of agriculture or other entity collecting pesticide containers must manage and dispose of the containers in compliance with applicable federal and state requirements.

Sec. 51. [REVISOR'S INSTRUCTION.]

In the next and subsequent editions of Minnesota Statutes, the sections in column A shall be renumbered as the sections in column B.

Column A

18A.49  
18B.08  
18B.15  
18B.18  
18B.20  
18B.21  
18B.22

Column B

18B.40  
18B.285  
18B.19  
18B.15  
18B.21  
18B.18  
18B.20

Cross-references to these sections within Minnesota Statutes must also be corrected.

Sec. 52. [COMPLEMENT ADJUSTMENT.]

The complement for the department of agriculture is reduced by four positions in the fertilizer and pesticide management programs for special revenue funds under articles 2 and 3 of this act.

Sec. 53. [REPEALER.]

Minnesota Statutes 1988, sections 18B.16; 18B.19; 18B.20, subdivision 6, are repealed.

ARTICLE 4

WASTE PESTICIDE COLLECTION

Section 1. [115.84] [DEFINITIONS.]

Subdivision 1. [COLLECTION SITE.] "Collection site" means a permanent or temporary designated location with scheduled hours for collection where pesticide end users may bring their waste pesticides.

Subd. 2. [LOCAL UNIT OF GOVERNMENT.] "Local unit of

government” means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, any other special purpose district, and local or regional board.

Subd. 3. [PESTICIDE.] “Pesticide” means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate a pest, and a substance, mixture, or substances intended for use as a plant regulator, defoliant, or desiccant.

Subd. 4. [PESTICIDE END USER.] “Pesticide end user” means a farmer or other person who owns a pesticide. Pesticide end user does not include the manufacturer, formulator, or packager.

Subd. 5. [WASTE PESTICIDE.] “Waste pesticide” means a pesticide that the pesticide end user considers a waste. A waste pesticide can be a canceled pesticide, an unusable pesticide, or a usable pesticide.

Sec. 2. [115.84] [WASTE PESTICIDE COLLECTION PROGRAM.]

Subdivision 1. [COLLECTION AND DISPOSAL.] The agency may establish and operate a program to collect and dispose of waste pesticides. The program shall be made available to pesticide end users whose waste generating activity occurs in the state of Minnesota.

Subd. 2. [IMPLEMENTATION.] In conducting the program the agency will comply with all applicable federal and state laws. The agency may obtain a United States Environmental Protection Agency hazardous waste identification number to manage the waste pesticides collected. The agency may limit the type and quantity of waste pesticides accepted for collection and may assess pesticide end users for portions of the costs incurred.

Subd. 3. [INFORMATION AND EDUCATION.] The agency may provide informational and educational materials in consultation and cooperation with the Minnesota extension service regarding waste pesticides and the proper management of waste pesticides to the public.

Subd. 4. [DEPARTMENT OF AGRICULTURE.] The agency shall develop the program in this section in consultation and cooperation with the commissioner of agriculture.

Subd. 5. [AUTHORITY.] The agency may adopt rules to administer this section.

Subd. 6. [COOPERATIVE AGREEMENTS.] The agency may

enter into cooperative agreements with state and local units of government for administration of the collection program.

## ARTICLE 5

### WATER SUPPLY MONITORING AND PROTECTION

Section 1. Minnesota Statutes 1988, section 156A.01, is amended to read:

#### 156A.01 [LEGISLATIVE INTENT.]

It is The legislative intent and purpose in of sections 156A.01 to 156A.08 156A.09 is to reduce and minimize the waste of ground water groundwater resources within this state by reasonable legislation in licensing of drillers or makers of water wells and the regulation of exploratory borings in Minnesota and to. Sections 156A.01 to 156A.09 are also intended to protect the health and general welfare by providing a means for the development and protection of the natural resource of underground water in an orderly, sanitary and reasonable manner. In furtherance of the above intents and purposes, To carry out the intent of sections 156A.01 to 156A.09 and in recognition of the effects of that exploration and mining of metallic minerals have on ground water groundwater resources, the legislature finds that it is necessary to require submission to the state of factual data generated by exploratory borings to the state, for the purpose of controlling: (1) control possible adverse environmental effects of mining; to; (2) preserve the natural resources; and to; (3) encourage the planning of future land utilization; while at the same time promoting; (4) promote the orderly development of mining, the encouragement of; (5) encourage good mining practices; and the recognition (6) recognize and identification of identify the beneficial aspects of mining.

Sec. 2. Minnesota Statutes 1988, section 156A.02, is amended to read:

#### 156A.02 [DEFINITIONS; EXCLUSIONS.]

Subdivision 1. For the purposes of sections 156A.01 to 156A.08 156A.09, the following terms have the meanings given them in this section.

Subd. 1a. [WATER WELL.] "Water well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of the same excavation is intended for the location, diversion, artificial recharge, or acquisition extraction of groundwater; provided, however, that the term. Water well includes monitoring well as defined in subdivision 13. Water well does not include excavation by backhoe, or otherwise for



temporary dewatering of groundwater for nonpotable use during construction, where the depth thereof of the excavation is 25 feet or less; nor shall does it include an excavation other than exploratory boring made for the purpose of obtaining to obtain or prospecting prospect for oil, natural gas, minerals, or products of mining or quarrying, or for the inserting excavation to insert media to repressure oil or natural gas bearing formations or for storing to store petroleum, natural gas, or other products; nor an excavation for nonpotable use for wildfire suppression activities.

Subd. 2. [WATER WELL CONTRACTOR OR CONTRACTOR.] For the purposes of sections 156A.01 to 156A.08, "Water well contractor" and "contractor" means any person, firm, ~~co~~partnership partnership, association or corporation, who ~~shall~~ construct constructs, abandon, or repair repairs, or seals a water well or seals a water well upon land other than its own for compensation.

Subd. 2a. [WATER WELL DRILLING MACHINE.] "Water well drilling machine" means any machine or device such as a cable tool, rotary, hollow rod, or auger; used for construction, ~~abandonment, or repair, or sealing of a water well or a hole excavated for an elevator or a hydraulic cylinder.~~

Subd. 3. Sections 156A.01 to 156A.08 shall not require licensing of (1) an individual who drills a water well on land which is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode, or (2) to an individual who performs labor or services for a water well contractor in connection with the drilling, abandonment, or repair of a water well at the direction and at the personal supervision of a licensed water well contractor; provided, however, that the individual shall comply with all other provisions of sections 156A.01 to 156A.08 and with any rule or well code adopted thereunder.

Subd. 4. [EXPLORER.] For the purposes of sections 156A.01 to 156A.08 "Explorer" means a person who has the right to drill any exploratory boring.

Subd. 5. [EXPLORATORY BORING.] For the purposes of sections 156A.01 to 156A.08 "Exploratory boring" means any surface drilling done for the purpose of exploring to explore or prospecting prospect for oil, natural gas, and metallic minerals, including but not limited to the following: iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium. "Exploratory boring" does not include drilling done in the Biwabik iron formation in relation to natural iron ore or activities regulated pursuant according to section 298.48.

Subd. 6. [GROUNDWATER THERMAL EXCHANGE DEVICE.]

For the purposes of sections 156A.02 to 156A.10 "Groundwater thermal exchange device" means any heating or cooling device, the operation of which is dependent upon extraction and reinjection of groundwaters from an independent aquifer. Thermal exchange devices licensed under this chapter shall be sealed against the introduction of any foreign substance into the system, but shall be so constructed as to permit periodic inspection of water quality and temperature.

Subd. 7. [VERTICAL HEAT EXCHANGER.] For the purposes of sections 156A.02 to 156A.11 "Vertical heat exchanger" means any earth-coupled heating or cooling device consisting of a sealed piping system installed vertically in the ground for the purpose of transferring to transfer heat to or from the surrounding earth.

Subd. 8. [ELEVATOR SHAFT.] "Elevator shaft" means any bore hole, jack hole, drilled hole, or excavation constructed to install an elevator shaft or hydraulic cylinder for elevators.

Subd. 9. [ELEVATOR SHAFT CONTRACTOR.] "Elevator shaft contractor" means a person, firm, partnership, or corporation licensed by the commissioner to drill or excavate holes to install elevator shafts and hydraulic cylinders.

Subd. 10. [ENVIRONMENTAL BORE HOLE.] "Environmental bore hole" means a hole drilled, cored, bored, washed, driven, dug, or jetted in the ground used to monitor chemical, radiological or biological contaminants. An environmental bore hole does not include any other well, boring, or other excavation as defined in this chapter.

Subd. 11. [MONITORING WELL.] "Monitoring well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of extracting groundwater for physical, chemical, or biological testing. Monitoring well includes water wells installed to measure groundwater levels or to test hydrologic properties in an area being investigated for potential or existing groundwater contamination.

Subd. 12. [MONITORING WELL CONTRACTOR.] "Monitoring well contractor" means a person who is registered by the department to construct monitoring wells and who is a professional engineer registered according to sections 326.02 to 326.15 in the branches of civil or geological engineering, or a geologist or hydrogeologist certified by the American Institute of Professional Geologists, the American Institute of Hydrologists, the National Water Well Association, or other organizations approved by the commissioner.

Subd. 13. [WELLHEAD PROTECTION AREA.] "Wellhead protection area" means the surface and subsurface area surrounding a

water well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the water well or well field.

Sec. 3. Minnesota Statutes 1988, section 156A.03, is amended to read:

156A.03 [REGULATION AND LICENSING.]

Subdivision 1. [COMMISSIONER OF HEALTH REGULATES WATER WELL AND MONITORING WELL WORK AND EXCAVATION FOR ELEVATOR SHAFTS AND HYDRAULIC CYLINDERS.] The state commissioner of health shall regulate and license the: (1) drilling and, constructing, and repair of all water wells within this state; (2) sealing of unused wells; (3) installing of water well pumps and pumping equipment; (4) excavating or drilling holes for the installation of elevator shafts and hydraulic cylinders for elevators and sealing of holes excavated for the installation of elevator shafts and hydraulic cylinders for elevators; and (5) installing and sealing environmental bore holes. The commissioner of health shall examine and license water well contractors and, limited water well contractors, and elevator shaft contractors and shall examine and register monitoring well contractors. The commissioner of health shall establish standards for installing and sealing environmental bore holes. After consultation with the commissioner of natural resources and the pollution control agency, the commissioner shall establish standards for the design, location, construction, abandonment, and repair and sealing of water wells within this state. As provided in section 156A.071, the commissioner shall license explorers engaged in exploratory boring and shall examine individuals who supervise or oversee exploratory boring.

Subd. 2. [WATER WELL CONTRACTORS MUST BE LICENSED.] No contractor person shall drill, construct, abandon, or repair a water well within this state unless in possession of a valid license to do so issued annually by the state commissioner of health. An applicant who is otherwise qualified but who does not have practical field experience in the operation of conventional drilling machines such as a cable tool, rotary, hollow rod, or auger, but who does install unconventional wells such as drive point, or who is in the well repair service which involves modification to the well casing, screen, depth, or diameter below the upper termination of the well casing, shall have the license limited to such water well contracting work.

A person who desires to drill, construct, repair, or seal one or more wells in this state must apply to the commissioner of health for a water well contractor's license. In the application, the person must set out qualifications for the license, the equipment the person will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the

commissioner. The commissioner shall charge a fee of \$50 according to section 144.122 for the filing of the application by any person. The commissioner shall not act upon any application until the fee has been paid. When the commissioner has approved the application, the applicant shall take an examination given by the commissioner.

Subd. 2a. [LIMITED LICENSES REQUIRED FOR CERTAIN WORK.] (a) A limited water well contractor, as defined in section 156A.02, subdivision 12, may obtain a license limited to the following work:

(1) modifying or repairing well casings, well screens, or well diameters;

(2) constructing unconventional wells such as drive points or dug wells;

(3) sealing wells; or

(4) installing water well pumps or pumping equipment; or

(5) excavating holes to install elevator shafts or hydraulic cylinders for elevators.

(b) No person shall perform the work described in this subdivision, within this state, unless the individual possesses a valid license issued annually by the commissioner of health. A person performing the work under this section must apply to the commissioner for a license. In the application, the person must set out qualifications for the license, the equipment the person will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner. The commissioner shall charge a fee of \$50 for the filing of the application. The commissioner shall not act upon an application until the fee has been paid. When the commissioner has approved the application, the applicant shall take an examination given by the commissioner.

Subd. 3. [MONITORING WELL CONTRACTORS MUST BE REGISTERED.] A professional engineer registered pursuant to the provisions of sections 326.02 to 326.15, in the branches of civil or geological engineering, shall not be required to be licensed as a water well contractor under the provisions of this section to drill test borings or to install piezometer wells for engineering purposes, or to construct groundwater quality sampling and monitoring wells as defined in rules promulgated by the commissioner. Test holes, piezometer wells installed for engineering purposes, and other wells described by this subdivision, shall be constructed, maintained and abandoned in accordance with this chapter and the rules promulgated thereunder.

Any A professional engineer or other certified professional engaged in the practice of constructing groundwater quality sampling and sealing monitoring wells as described in this subdivision section 156A.02, subdivision 11, and environmental bore holes as described in section 156A.02, subdivision 10, shall register with the commissioner on forms provided by the commissioner. A monitoring well contractor shall not be required to be licensed as a water well contractor.

After December 31, 1990, a person seeking initial registration as a monitoring well contractor under this subdivision must meet examination and experience requirements that the commissioner establishes in rule.

Subd. 4. [EXEMPTIONS FROM LICENSING REQUIREMENTS.] (a) Sections 156A.01 to 156A.09 do not require licensing of (1) an individual who drills a water well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode, or (2) an individual who performs labor or services for a water well contractor in connection with the drilling, repair, or sealing of a water well at the direction and at the personal supervision of a licensed water well contractor. An individual exempt under this subdivision must comply with sections 156A.01 to 156A.09 and with any rule adopted under those sections.

(b) Test holes, piezometer wells installed for engineering purposes, and other wells described by this subdivision, shall be constructed, maintained, and sealed according to sections 156A.01 to 156A.09, and the rules adopted under those sections.

Subd. 5. [BONDING REQUIREMENTS.] As a condition of licensing water well contractors, limited water well contractors or registering monitoring well contractors under this section, a person seeking a license or registration shall give a \$10,000 bond to the state. The bond shall be conditioned upon the faithful and lawful performance of work contracted for or performed by the person in Minnesota. The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of the performance. The bond shall be in lieu of all other license bonds to any political subdivision of the state. The bond shall be written by a corporate surety licensed to do business in Minnesota.

Subd. 6. [LICENSE AND REGISTRATION FEE; ISSUANCE OF LICENSE OR REGISTRATION.] On successfully passing the examination for original license or registration required under subdivision 2 or 3, and showing evidence of bonding required in subdivision 5, the applicant shall submit to the commissioner a license fee of \$250 or a registration fee of \$50. Upon receiving the fee and bond information, the commissioner may issue a license or registration.

Subd. 7. [NONTRANSFERABILITY OF LICENSES AND REGISTRATION; RENEWAL PROCEDURES.] A license or registration issued under this section is not transferable. The person licensed or registered must submit to the commissioner an application to renew the license or registration on a date set by the commissioner. The renewal application must be accompanied by a fee set by the commissioner under section 144.122. The application must also include documentation that the person has met requirements for continuing education that the commissioner establishes by rule. The person must also pay a penalty fee set by the commissioner under section 144.122 if the person submits the renewal application after the required renewal date. If a person submits a renewal application after the required renewal date, the person shall not perform the work for which the person was licensed or registered from the renewal date until the date the person submits an application, fee, and penalty fee.

Subd. 8. [REGISTRATION OF DRILLING MACHINES REQUIRED.] As part of the application for licensing or registration, or annual renewal of a license or registration, a person licensed or registered under this section must pay an annual fee of \$5 for the registration with the commissioner of each drilling machine used to construct water wells and monitoring wells and to excavate holes for elevator shafts or hydraulic cylinders, and \$5 for the registration of each machine such as a pump hoist used to repair wells, seal wells, or install pumps.

Subd. 9. [FEES DEPOSITED WITH STATE TREASURER.] Fees collected for licenses or registration under this section shall be submitted to the department for deposit in the general fund.

Subd. 10. [RECIPROCITY.] The commissioner may license or register, without giving an examination, a person who is licensed or registered in any state, territory, or possession of the United States, or any foreign country, if: (1) the requirements for licensing or registration under which the water well contractor was licensed or registered do not conflict with sections 156A.01 to 156A.09; (2) the requirements are of a standard not lower than that specified by the rules adopted under sections 156A.01 to 156A.09; and (3) equal reciprocal privileges are granted to licensees of this state. A person who seeks a license or registration under this subdivision must apply for the license or registration and pay the fees required under this section.

Subd. 11. [POLITICAL SUBDIVISIONS CANNOT REQUIRE ADDITIONAL LICENSES OR REGISTRATION.] No political subdivision shall require a person licensed or registered under this section to pay a license or registration fee. However, a political subdivision shall be provided upon request with a list of licensed water well contractors, limited water well contractors, elevator shaft contractors, and monitoring well contractors.

**Sec. 4. [156A.041] [REQUIREMENTS FOR WATER WELL AND MONITORING WELL CONSTRUCTION AND SEALING AND ELEVATOR SHAFT EXCAVATION AND SEALING.]**

Subdivision 1. [WRITTEN CONTRACT REQUIRED.] A person licensed or registered under sections 156A.01 to 156A.09 shall not construct or seal a well or excavate or seal a hole for an elevator shaft or hydraulic cylinder until the well owner or owner of the property on which the water well or hole for the elevator shaft or hydraulic cylinder is located and the person signs a written contract that describes the nature of the work to be performed and the estimated cost of the work. A person may not construct a monitoring well until the owner of the property on which the well is located and the well owner sign a written contract that describes the nature of the work to be performed, the estimated cost of the work, and provisions for sealing the well.

Subd. 2. [WATER WELLS MUST BE IDENTIFIED.] When a water well has been constructed, the contractor shall attach to the well a label showing the unique well number, the depth of the well, the contractor's name, and the date the well was constructed.

Subd. 3. [NONCONFORMING MONITORING WELL.] Any monitoring well whose casing is completed less than 12 inches above grade, may only be constructed if there is no alternative location for constructing a well that ends at least 12 inches above grade. All these monitoring wells must be constructed and sealed in accordance with rules to be adopted by the commissioner.

Subd. 4. [DISTANCE REQUIREMENTS FOR SOURCES OF CONTAMINATION.] No person may place, construct, or install an actual or potential source of contamination any closer to a well than the isolation distances set in the Minnesota water well code adopted under section 156A.05 unless a variance has been issued by the commissioner according to the procedures in the water well construction code.

Subd. 5. [REPORT OF WORK.] Within 30 days after completion or sealing of a well or completion of an excavation for or sealing of an elevator shaft or hydraulic cylinder, a person licensed or registered under this chapter or a person exempt under section 156A.03, subdivision 4, paragraph (a), clause (1), shall submit to the commissioner of health a verified report upon forms provided by the commissioner. The report must contain the following information: (1) the name and address of the owner of the well, elevator shaft or hydraulic cylinder shaft and the actual location of the well or elevator shaft or hydraulic cylinder shaft; (2) a log of the materials and water encountered in connection with drilling, and related pumping tests; and (3) other information the commissioner may require concerning the drilling or sealing of the well or hole for an elevator shaft or hydraulic cylinder. Within 30 days after receiving

the report, the commissioner of health shall send one copy of the report to the commissioner of natural resources, the local soil and water conservation district within which the well or elevator shaft or hydraulic cylinder shaft is located, and one copy to the director of the Minnesota geological survey.

Sec. 5. [156A.042] [ENVIRONMENTAL BORE HOLES.]

Any environmental bore hole shall be constructed, sealed, and reported in accordance with rules to be adopted by the commissioner.

Sec. 6. [156A.043] [RIGHTS AND DUTIES OF OWNER OF PROPERTY ON WHICH A WATER WELL IS LOCATED.]

Subdivision 1. [DISCLOSURE OF WELLS TO BUYER.] Effective July 1, 1990, before signing an agreement to sell or transfer property, the seller or transferor shall disclose in writing to the buyer or transferee information about the status and the location of all wells on the property. In the disclosure, the seller or transferor must indicate, for each well, whether it is in use, not in use, or permanently sealed. At the time of sale, the same information must be provided on the certificate of value required pursuant to section 272.115, or on some other form prescribed by the commissioner. The well information shall be signed by the seller or transferor of the property or a person authorized to act on behalf of the seller. If a seller fails to provide the well information, a buyer or a person authorized to act on behalf of the seller, may sign the well information portion based on the information provided on the disclosure required by this section or based on other available information. The county recorder shall not record a deed, instrument, or writing for which a certificate of value is required under section 272.115, unless the well information required by this section has been provided. The owner shall retain a copy.

Subd. 2. [FAILURE TO DISCLOSE AT TIME OF SALE.] If a seller or transferor fails to disclose the existence of a well at the time of sale, and knew or had reason to know of the existence of a well, the seller or transferor is liable to the buyer for costs and damages related to the sealing of a well and reasonable attorney fees. The right of action must be exercised by the buyer or transferee within six years after the date the buyer purchased or transferee received the property on which the well is located.

Subd. 3. [WHO MUST SEAL WELLS.] To seal wells, the owner of property on which a well is located shall employ a licensed water well contractor or a contractor with a license to seal unused wells. The owner of property with monitoring wells, or holes for elevator shafts, or hydraulic cylinders for elevators shall employ a licensed water well contractor, a contractor with a license to seal unused wells, or a monitoring well contractor to seal monitoring wells no



longer in use; and an elevator shaft contractor to seal holes no longer used for elevator shafts or shafts for hydraulic cylinders for elevators.

Subd. 4. [OWNER'S CAUSE OF ACTION.] The owner of the property on which a water well or a shaft for an elevator or hydraulic cylinder for an elevator is located has a cause of action for civil damages against a person whose action or inaction caused contamination of the well. The right of an owner to maintain a cause of action extends for a period of six years after the owner knows or becomes aware of the contamination of the well. The court may award damages, reasonable attorneys' fees, and costs and disbursements.

**Sec. 7. [156A.044] [PERMITS FOR GROUNDWATER THERMAL EXCHANGE DEVICES.]**

Subdivision 1. [PERMIT REQUIRED.] Notwithstanding any department or agency rule to the contrary, the commissioner shall issue, upon request by the owner of the property and submission of a \$50 fee, permits for the reinjection of water by a properly constructed well into the same aquifer from which the water was drawn for the operation of a groundwater thermal exchange device.

Subd. 2. [PROCEDURES FOR GROUNDWATER EXCHANGE.] Withdrawal and reinjection shall be accomplished by a closed system in which the waters drawn for thermal exchange have no contact or commingling with water from other sources or with any polluting material or substances. The closed system must be constructed to allow opening for inspection by the commissioner. Wells that are part of a groundwater thermal exchange system shall serve no other function. However, water may be supplied to the domestic water system if the supply is taken off the thermal exchange system ahead of the heat exchange unit, and if the water discharges to a break tank through an air gap that is at least twice the effective diameter of the water inlet to the tank. A groundwater thermal exchange system may be used for domestic water heating only if the water heating device is an integral part of the heat exchange unit that is used for space heating and cooling.

Subd. 3. [LIMITATIONS AND REQUIREMENTS FOR PERMITS.] As a condition of the permit issued under subdivision 1, an applicant shall agree to allow inspection by the commissioner of health during regular working hours for department inspectors. A maximum of 200 permits shall be issued for small systems having maximum capacities of 20 gallons per minute or less. The small systems shall be subject to inspection twice a year. A maximum of ten permits shall be issued for larger systems having maximum capacities from 20 to 50 gallons per minute. These larger systems shall be subject to inspection four times a year. The commissioner may adopt rules to administer this section.

Subd. 4. [REQUIREMENTS FOR WATER APPROPRIATION APPLY.] Water appropriation permit requirements and penalties provided in sections 105.41 to 105.416 and related rules adopted and enforced by the department of natural resources apply to ground-water thermal exchange permit recipients. A person issued a permit under subdivision 1 must comply with this section for the permit to be valid. Noncompliance subjects the person to sanctions for the noncomplying activity that are available to the department of health and pollution control agency.

Sec. 8. [156A.047] [VERTICAL HEAT EXCHANGER; LICENSING AND REGULATION.]

Subdivision 1. [LICENSE REQUIREMENTS.] No water well contractor shall drill or construct any excavation used to install a vertical heat exchanger unless the water well contractor has a valid water well contractor's license.

Subd. 2. [REGULATIONS FOR VERTICAL HEAT EXCHANGERS.] Vertical heat exchangers must be constructed, maintained, and sealed according to sections 156A.01 to 156A.09, and rules adopted under those sections.

Subd. 3. [PERMIT REQUIRED.] No water well contractor shall install a vertical heat exchanger without first obtaining a permit from the commissioner of health. The water well contractor must apply for the permit on forms provided by the commissioner and must pay a \$50 fee. As a condition of the permit, the owner of the property on which the vertical heat exchanger is to be installed shall agree to allow inspection by the commissioner, or an agent, during regular working hours of department of health inspectors.

Sec. 9. Minnesota Statutes 1988, section 156A.05, is amended to read:

156A.05 [POWERS AND DUTIES OF THE COMMISSIONER OF HEALTH.]

Subdivision 1. [POWERS OF COMMISSIONER.] The state commissioner of health shall possess all possesses the powers reasonable and necessary to exercise effectively the authority granted by sections 156A.01 to ~~156A.08~~ 156A.09.

Subd. 1a. [DUTIES.] The commissioner shall:

(1) regulate the drilling, construction, and sealing of water wells within this state;

(2) examine and license water well contractors, persons modifying or repairing well casings, well screens, or well diameters; construct-

ing unconventional wells such as drive points or dug wells; sealing wells; installing water well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders for elevators; and sealing holes for elevator shafts and hydraulic cylinders for elevator shafts;

(3) register and examine monitoring well contractors;

(4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;

(5) after consultation with the commissioner of natural resources and the pollution control agency, establish standards for the design, location, construction, repair, and sealing of water wells and holes for elevator shafts or hydraulic cylinders within the state; and

(6) issue permits for construction and maintenance of groundwater thermal devices, vertical heat exchangers, and excavation for holes to install elevator shafts or hydraulic cylinders.

Subd. 2. [COMMISSIONER TO ADOPT RULES.] The commissioner of health shall by December 31, 1971, in the manner prescribed by chapter 15, hold a public hearing and promulgate adopt rules necessary under chapter 14 to carry out the purposes of sections 156A.01 to 156A.08 156A.09 including, but not limited to:

(a) Issuance of licenses for qualified water well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing unconventional wells such as drive points or dug wells; sealing wells; installing water well pumps or pumping equipment and excavating holes for installing elevator shafts or hydraulic cylinders; and issuance of registration for monitoring well contractors.

(b) Establishment of conditions for examination and review of applications for license.

(c) Establishment of conditions for revocation and suspension of license.

(d) Establishment of minimum standards for design, location, construction, abandonment, and repair, and sealing of wells and holes dug to construct elevator shafts or hydraulic cylinders, to effectuate carry out the purpose and intent of sections 156A.01 to 156A.08 156A.09. The use of plastic water well casing is expressly permitted and the commissioner shall adopt appropriate construction procedures and material standards in rule.

(e) Establishment of a system for reporting on wells drilled and abandoned by licensed water well contractors sealed.

(f) Establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination.

(g) Establishment of wellhead protection measures for water wells serving public water supplies.

(h) Establishment of procedures for coordinating collection of well data with other state and local governmental agencies.

(i) Establishment of criteria and procedures for submission of reports, formation samples or cuttings, water samples, or other special information required for geologic and water resource mapping.

Subd. 3. [INSPECTIONS BY COMMISSIONER.] The state commissioner of health may inspect and have access at all reasonable times to any well site, including water wells drilled, abandoned sealed, or repaired or being drilled, abandoned, or repaired, and shall have access to same at all reasonable times. The commissioner may also collect water samples from the wells.

Subd. 4. [COMMISSIONER MAY ORDER REPAIRS AND SEALING OF WELLS.] The commissioner may order the owner of a well to take remedial measures, including making repairs, reconstructing or abandoning sealing the well in accordance with according to rules of the commissioner. The order may be issued if the commissioner determines, based upon inspection of the well and site or an analysis of water from the well, that any of the following conditions exist:

(1) the well is contaminated,

(2) the well has not been abandoned in accordance with sealed according to the rules of the commissioner,

(3) the well is in such a state of disrepair that its continued existence endangers the quality of the groundwater located, constructed, or maintained in such a manner that its continued use or existence endangers the quality of the groundwater or provides a health or safety hazard,

(4) the water well does not produce water because it is not equipped with an operable pump or the electrical supply has been disconnected from the well, or

(5) the well is located in such a place or constructed in such a manner that its continued use or existence endangers the quality of the groundwater the water well has construction failure that may

include holes in the casing, collapsed holes, plugged screens, or pumps only sediment or sand.

The order may be enforced in an action to seek compliance brought by the commissioner in the district court of the county in which the well is located.

The owner has a cause of action for civil damages against any person whose action or inaction caused contamination of the well. The right of an owner to maintain a course of action as provided herein extends for a period of six years after the owner knows or becomes aware of the contamination of the well. The court shall award damages, reasonable attorneys' fees, and costs and disbursements.

Subd. 5. [COMMISSIONER MAY RECOVER COSTS.] Failure to comply with a commissioner's order to seal a water well may result in the commissioner entering into a contract to have the well sealed. Any expense incurred by the state in sealing a well pursuant to an order to seal shall constitute and be a lien in favor of the state against the land involved. The state may recover its costs by either of the following means:

(a) The amount of the expense shall be certified to the county auditor, who shall enter the expense upon the tax books, as a special assessment upon the land, to be collected in the same manner as other real estate taxes on the parcel for the next year.

(b) If the amount certified in paragraph (a) exceeds \$1,000, the state may allow the assessment to be collected in ten equal annual installments payable to the county treasurer with the taxes on the property next due. When collected by the county treasurer the amount shall be reimbursed to the state treasurer.

(c) The lien attaches to real property on which the well is located. The lien is perfected by filing a copy of the lien with the county recorder or registrar of deed where the well and property are located and serving or mailing by return receipt a copy of the lien to the property owner.

Subd. 6. [SATISFACTION OF LIEN.] The amount due of a lien under this section may be paid at any time. When the amount of the lien is paid, the commissioner must execute a satisfaction of the lien and record the satisfaction with the county recorder or registrar of deeds where the lien was filed.

Subd. 7. [APPROPRIATION OF RECOVERED COSTS.] Costs of sealing wells recovered from property owners shall be deposited in the state treasury and credited to the account from which the amounts were originally appropriated.

Sec. 10. Minnesota Statutes 1988, section 156A.06, is amended to read:

156A.06 [WATER WELL CONTRACTORS AND EXPLORATORY BORERS ADVISORY COUNCIL ON WATER WELLS AND EXPLORATORY BORING; MEMBERS; TERMS; EMPLOYEES.]

Subdivision 1. [ADVISORY COUNCIL ESTABLISHED.] There is hereby created (a) The advisory council on water well contractors and wells, exploratory borers advisory council, herein referred to as the borings, and elevator shaft excavations ("advisory council,") is established as an advisory council to the state commissioner of health. The advisory council shall be composed consist of 16 15 voting members. Of the 16 15 voting members;

(1) one member shall be from the state department of health, appointed by the state commissioner of health;

(2) one member shall be from the department of natural resources, appointed by the commissioner of natural resources;

(3) one member shall be a member of the Minnesota geological survey of the University of Minnesota appointed by the director; two members

(4) one member shall be engaged in the business of exploratory boring for minerals a licensed exploratory borer;

(5) one member shall be a licensed elevator shaft contractor;

(6) two members must be members of the public members who are not connected with the business of exploratory boring or the water well drilling industry;

(7) one member shall be from the pollution control agency, appointed by the commissioner of the pollution control agency;

(8) one member shall be a professional engineer monitoring well contractor; one member shall be a certified professional geologist; and

(9) six members shall be contractors must be residents of Minnesota appointed by the commissioner of health, who are actively engaged in the water well drilling industry, with not to exceed more than two from the seven county metropolitan area and at least four from the remainder rest of the state who shall be representative of represent different geographical regions.

(b) ~~They shall be residents of the state of Minnesota and appointed by the commissioner of health. No appointee of the water well drilling industry shall serve more than two consecutive terms. The appointees to the advisory council from the water well drilling industry shall must have been bona fide residents of this state for a period of at least three years prior to before appointment and shall. Members must have had at least five years experience in the water well drilling business. Expiration of the council shall expire, and the terms of the appointed members and the compensation and removal of all members shall be as provided in are governed by section 15.059.~~

Sec. 11. Minnesota Statutes 1988, section 156A.071, is amended to read:

156A.071 [EXPLORATORY BORING; LICENSING AND REGULATION PROCEDURES.]

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following words have the meanings given them:

(a) "Data" includes but is not limited to all samples and factual noninterpreted data obtained from exploratory borings and samples including analytical results;

(b) "Parcel" means a government section, fractional section, or government lot; and

(c) "Samples" means at least a one-quarter portion of all samples from exploratory borings that are customarily collected by the explorer.

Subd. 2. [LICENSING LICENSE REQUIRED.] An explorer engaging in exploratory boring shall obtain a license to do so in accordance with according to the provisions of this chapter and the rules adopted thereunder under this chapter. The explorer may designate a responsible individual who supervises and oversees the making of exploratory borings. Before an individual supervises or oversees an exploratory boring, the individual shall take and pass an examination on those sections of the Minnesota Water Well Construction Code relating to construction, location, and abandonment sealing of wells, which apply to exploratory borings. A professional engineer registered pursuant according to sections 326.02 to 326.15, or a certified professional geologist shall is not be required to take the examination specified required in this section subdivision but shall be required to must be licensed in accordance with according to this section to engage in exploratory boring.

Subd. 3. [REGISTRATION.] At least 30 days prior to before commencing exploratory borings, an explorer shall register with the

commissioner of natural resources and provide a copy of the registration to the commissioner of health. The registration shall include:

(a) The identity of the firm, association, or company engaged in exploratory boring; and

(b) The identification of an agent, including the agent's business address. The commissioner of natural resources may require a bond, security, or other assurance from an explorer if the commissioner of natural resources has reasonable doubts as to about the explorer's financial ability to comply with requirements of law relating to exploratory boring. An explorer shall register annually with the commissioner of natural resources while conducting exploratory boring.

Subd. 4. [INFORMATIONAL REQUIREMENTS.] At least ten days ~~prior to the commencement of~~ before beginning exploratory boring, ~~each an~~ explorer shall submit to the commissioner of natural resources a county road map having a scale of one-half inch equal to one mile, as prepared by the state department of transportation, ~~indicating~~ showing the location of each proposed exploratory boring to the nearest estimated 40 acre parcel. ~~The explorer must submit a copy of this map shall be submitted to the commissioner of health.~~

Subd. 5. [ACCESS TO DRILL SITES.] The commissioner of health, the commissioner of natural resources, the commissioner of the pollution control agency, the ~~agent of a board of community health board~~ as authorized under section 145A.04, and their officers and employees shall have access to exploratory boring sites ~~for the purpose of inspecting to inspect the drill holes, drilling, and abandonment sealing of exploratory borings, and for the purpose of sampling to sample ambient air and drilling waters, and measuring to measure the radioactivity of the waste drill cuttings at the drilling site at the time of on-site observation.~~

Subd. 6. [EMERGENCY NOTIFICATION.] The explorer shall promptly notify the commissioner of health, the commissioner of natural resources, the pollution control agency, and the ~~authorized agent board of health~~ of any occurrence during exploratory boring that has a potential for significant adverse health or environmental effects ~~and. The explorer shall take such reasonable action as may be reasonably possible to minimize such the adverse effects.~~ The commissioner of health may inspect data ~~prior to before~~ its submission as required by subdivision 8, if necessary, to accomplish the purposes of the laws relating to explorers and exploratory borings. The data examined by the commissioner of health ~~shall be considered to be is~~ not public data ~~prior to the time for making any submissions of the data before it is submitted~~ under subdivision 8 or 9.

Subd. 7. [PERMANENT AND TEMPORARY ABANDONMENT



SEALING PROCEDURES.] Permanent and temporary abandonment sealing of exploratory borings shall be accomplished pursuant according to rules adopted in accordance with under this chapter.

Subd. 8. [~~ABANDONMENT SEALING REPORT.] Within 30 days of permanent or temporary abandonment sealing of an exploratory boring, the explorer shall submit on forms provided by the commissioner of health a report to the commissioner of health and the commissioner of natural resources a report to. The report must be on forms provided by the commissioner of health and must include:~~

(a) The location of each drill hole at as large a scale as possible, which is normally prepared as part of the explorer's record;

(b) The type and thickness of overburden and rock encountered;

(c) Identification of water bearing formations encountered;

(d) Identification of hydrologic conditions encountered;

(e) Method of ~~abandonment~~ sealing used;

(f) Methods of construction and drilling used;

(g) Average scintillometer reading of waste drill cuttings ~~prior to before~~ backfilling of the recirculation pits.

Subd. 9. [SUBMISSION OF DATA FROM EXPLORATORY BORINGS.] Data obtained from exploratory borings shall be submitted by the explorer to the commissioner of natural resources as follows:

(a) Upon application for a state permit required for activities relating to mineral deposit evaluation, the explorer shall submit to the commissioner of natural resources data relevant to the proposal under consideration. The explorer may identify portions of the data ~~which that~~, if released, would impair the competitive position of the explorer submitting the data. Data so identified shall be considered to be not public data. If requested to disclose the data, the commissioner shall mail notice of the request to the explorer and determine whether release of the data would impair the competitive position of the explorer submitting the data. If the commissioner determines that release of the data would impair the competitive position of the explorer submitting the data, the commissioner shall not release the data to any person other than parties to the proceedings relating to the permit under consideration. Parties to the proceedings shall maintain the confidentiality of data. Further, data ~~which are~~ classified as not public shall not be released by the commissioner until 30 days after mailed notice to the explorer of the commissioner's intention to do so. Under no circumstances shall The commissioner shall not release data to any person engaged in exploration, mining,

milling, or related industry pertaining to any mineral. If the commissioner determines to release data, the explorer may demand a contested case hearing on the commissioner's determination or may withdraw the permit application and the data shall not be released. Any person aggrieved by the decision of the commissioner may appeal the decision ~~in accordance with~~ according to chapter 14.

(b) Upon application for a state permit required for mine development, the explorer shall submit to the commissioner of natural resources data relevant to the proposal under consideration. This data shall be considered public data and persons submitting the data shall not be subject to civil or criminal liability for its use by others.

(c) Within six months after termination by the explorer of its lease or any other type of exploration agreement on a property all data shall be submitted. The data shall be considered public data and persons submitting the data shall not be subject to civil or criminal liability for its use by others. Data submitted to the commissioner of natural resources ~~prior to before~~ May 1, 1980 need not be submitted under this section. The commissioner of natural resources shall designate which samples shall be submitted, and shall specify the ~~location to which~~ where the sample shall be delivered. ~~In the event that if~~ the explorer requires certain samples in their entirety, the commissioner of natural resources may waive the requirement for a one-fourth portion of the samples. Samples submitted become property of the state.

(d) As used in this subdivision, "mineral deposit evaluation" means examining an area to determine the quality and quantity of minerals, excluding exploratory boring but including obtaining a bulk sample, by ~~such means as~~ excavating, trenching, constructing shafts, ramps, tunnels, pits and producing refuse and other associated activities. "Mineral deposit evaluation" ~~shall~~ does not include activities intended, by themselves, for commercial exploitation of the ore body. "Mine development" means those activities undertaken after mineral deposit evaluation for commercial exploitation of the ore body.

Sec. 12. Minnesota Statutes 1988, section 156A.075, is amended to read:

156A.075 [LOCAL CONTROL OF EXPLORERS ALLOWED.]

Nothing contained in Laws 1980, chapter 535 shall be construed as limiting chapter 156A limits the lawful authority of local units of government to prohibit mineral exploration within their boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, consistent with the provisions of Laws 1980, chapter 535 sections 156A.01 to 156A.09, other state laws, and rules promulgated thereunder adopted under those laws.

Sec. 13. Minnesota Statutes 1988, section 156A.08, is amended to read:

**156A.08 [PENALTIES.]**

Subdivision 1. [VIOLATIONS ARE GROSS MISDEMEANORS.] ~~Any person who shall~~ A person is guilty of a gross misdemeanor if the person: (1) ~~willfully violate~~ violates any lawful rule or order of the commissioner; ~~or who shall engage;~~ (2) engages in the business of drilling or making water wells, sealing wells, installing pumps or pumping equipment, or excavating holes for elevator shafts or hydraulic cylinders without first having obtained a license as required in sections 156A.01 to 156A.08 required; ~~or who shall engage~~ 156A.09; (3) engages in the business of exploratory boring without either being licensed in accordance with the provisions of under this chapter, or being registered as a professional engineer or certified as a professional geologist; ~~or who shall violate~~ (4) violates any provision of sections 156A.01 to 156A.08, shall be guilty of a gross misdemeanor 156A.09. ~~Any~~ A violation of sections 156A.01 to 156A.08 156A.09 shall be prosecuted by the county attorney in the county in which the said violation occurred or is occurring, and. The trial thereof shall be held in that county.

Subd. 2. [DENIAL OF RENEWAL.] The commissioner may deny an application for renewal of a license or registration if the applicant has violated any provision of sections 156A.01 to 156A.09 or rules adopted under those sections. The following are sufficient grounds to refuse renewal: failure to submit a well report, well sealing report, or report on excavation of holes to install elevator shafts or hydraulic cylinders.

Subd. 3. [SUSPENSION, REVOCATION OF LICENSE OR REGISTRATION.] A license or registration issued under sections 156A.01 to 156A.09 may be suspended or revoked upon finding that the licensee or person registered has violated provisions of sections 156A.01 to 156A.09 or the rules and regulations adopted under sections 156A.01 to 156A.09 that apply to the particular license or registration. Proceedings by the commissioner of health under this section and review of the proceedings shall be according to the administrative procedure act.

Subd. 4. [HEARING.] The commissioner may, after providing a person with reasonable notice and a hearing, suspend or revoke the license or registration of the person upon finding that the person has violated requirements of this chapter or rules adopted under this chapter that apply to the person's license or registration. Proceedings by the commissioner of health according to this section and review shall be according to chapter 14.

Subd. 5. [ADMINISTRATIVE PENALTIES.] The commissioner may seek to remedy violations of this chapter or the commissioner's

orders by imposing administrative penalties. The penalties may be appealed within ten days of the order in a contested case hearing under chapter 14.

(a) A well contractor or limited well contractor who seals a well, a monitoring well contractor who seals a monitoring well, or an elevator shaft contractor who seals a hole that was used for an elevator shaft in a manner that does not comply with the water well construction code, shall be assessed \$500.

(b) A well contractor or monitoring well contractor who fails to comply with the rules in the water well construction code relating to location of wells in relation to potential sources of contamination, grouting, materials, or construction techniques shall be assessed \$500.

(c) A well contractor or monitoring well contractor shall be assessed \$250 if the contractor: (1) constructs a well without an approved plan review when a plan review is required; (2) constructs a well without a permit; (3) fails to register a drilling rig or pump rig and fails to display the state decal and the registration number on the machine; or (4) fails to comply with the rules in the water well construction code relating to disinfection of water wells and submission of well construction or well sealing logs and water samples.

(d) A person who fails to disclose or who falsifies information about the status and location of wells on property before signing an agreement of sale or transfer of the property, or on a well certificate shall be assessed \$250 unless the seller or transferor can show that reasonable steps were taken to determine that no unreported wells exist on the property. Steps include examination of historical and land ownership records.

(e) A person who employs a well contractor on the person's property and fails to obtain a permit for construction of the well, or who fails to have a well sealed in accordance with the rules, shall be assessed \$250.

#### Sec. 14. [156A.09] [DUTIES AND RESPONSIBILITIES OF LOCAL UNITS OF GOVERNMENT.]

Upon notice from the commissioner of health, local law enforcement authorities shall impound the equipment of any person who has constructed, repaired, or sealed wells or installed pumps or pumping equipment or excavated holes for installing elevator shafts or hydraulic cylinders without a license or registration as required under this chapter. The equipment shall remain in the custody of the local law enforcement office until a final court order is issued.

Sec. 15. Minnesota Statutes 1988, section 326.37, is amended to read:

**326.37 [PLUMBERS; SUPERVISION BY STATE COMMISSIONER OF HEALTH; RULES; VIOLATION; PENALTY.]**

Subdivision 1. [MINIMUM STANDARDS.] The state commissioner of health may, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located. Violation of the rules shall be a misdemeanor.

Subd. 2. [STANDARDS FOR CAPACITY.] By January 1, 1991, all new and replacement floor-mounted water closets may not have a flush volume of more than 1.6 gallons. The water closets must meet the standards of the commissioner and the American National Standards Institute.

Subd. 3. [ADMINISTRATION.] The commissioner shall administer the provisions of sections 326.37 to 326.45 and for such purposes may employ plumbing inspectors and other assistants.

**Sec. 16. [REPEALER.]**

Minnesota Statutes 1988, sections 156A.02, subdivision 3; 156A.031; 156A.04; 156A.07; 156A.10; and 156A.11, are repealed.

**ARTICLE 6**

Section 1. Minnesota Statutes 1988, section 116C.41, subdivision 1, is amended to read:

Subdivision 1. [WATER PLANNING.] The board shall:

(1) coordinate public water resource management and regulation activities among the state agencies having jurisdiction in the area;

(2) initiate, coordinate, and continue to develop comprehensive long-range water resources planning in furtherance of the plan adopted by the water planning board entitled "A Framework for a Water and Related Land Resources Strategy for Minnesota, 1979";

(3) coordinate water planning activities of local, regional, and

federal bodies with state water planning and integrate these plans with state strategies; and

(4) coordinate development of state water policy recommendations and priorities, and recommend a program for funding identified needs, including priorities for implementing the state water resources monitoring plan under clause (5);

(5) develop a plan for monitoring the state's water resources in cooperation with state agencies and local units of government participating in the monitoring of water resources and in the development of comprehensive local water plans;

(6) administer federal water resources planning with multiagency interests;

(7) establish minimum data compatibility standards governing the collection and automation of water resource and related data that has common value for natural resource planning;

(8) identify water resources information and education needs, priorities, and goals and prepare an implementation plan to guide state activities relating to water resources information and education;

(9) coordinate the development and evaluation of water information and education materials and resources;

(10) coordinate the dissemination of water information and education through existing delivery systems;

(11) prepare an interdisciplinary program of instruction on water education for teachers and students in kindergarten through grade 12; and

(12) prepare an annual report on program results.

Sec. 2. Minnesota Statutes 1988, section 116C.41, is amended by adding a subdivision to read:

Subd. 4. [CONSISTENCY OF STATE INFORMATION ACTIVITIES.] State agency information and education activities must be consistent with the implementation plan required under subdivision 1, clause (8).

## ARTICLE 7

LOCAL WATER RESOURCES PROTECTION  
AND MANAGEMENT

Section 1. Minnesota Statutes 1988, section 110B.35, subdivision 3, is amended to read:

Subd. 3. [EX OFFICIO NONVOTING MEMBERS.] The following agencies shall each provide one nonvoting member to the board:

- (1) department of agriculture;
- (2) department of health;
- (3) department of natural resources; and
- (4) pollution control agency; and
- (5) the University of Minnesota.

Sec. 2. [110C.01] [SHORT TITLE.]

Sections 2 to 7 may be cited as the "local water resources protection and management program."

Sec. 3. [110C.02] [PURPOSE.]

The purpose of the local water resources protection and management program is to provide state financial and technical assistance to local units of government for local programs to protect and manage water resources within the framework provided by approved comprehensive local water plans.

Sec. 4. [110C.03] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 2 to 7, the terms defined in this section have the meanings given them.

Subd. 2. [BOARD.] "Board" means the board of water and soil resources.

Subd. 3. [LOCAL UNIT OF GOVERNMENT.] "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a local health board, or other special purpose district or authority with local jurisdiction in water and related land resources management.

Subd. 4. [COMPREHENSIVE LOCAL WATER PLAN.] "Comprehensive local water plan" means a county water plan authorized under section 110B.04, a watershed management plan required under section 473.878, an overall plan required under section 112.46, or a county groundwater plan authorized under section 473.8785.

Sec. 5. [110C.04] [COMPREHENSIVE LOCAL WATER PLANS HAVE PRIORITY FOR FINANCIAL ASSISTANCE.]

State agencies must give priority to local requests that are part of, or responsive to, a comprehensive local water plan when administering programs for water-related financial and technical assistance.

Sec. 6. [110C.05] [LOCAL WATER RESOURCES PROTECTION AND MANAGEMENT GRANTS.]

Subdivision 1. [ESTABLISHMENT; FINANCIAL ASSISTANCE TO COUNTIES.] A local water resources protection and management grants program is established. The board shall provide financial assistance to counties for cooperative local government activities that protect and improve water quality or quantity. These activities may include, but are not limited to, planning, official controls, and other activities to implement comprehensive local water plans.

Subd. 2. [COUNTY SPONSORSHIP.] Funding requests must be submitted to the board by a county. A county must coordinate and submit requests on behalf of other units of government within its jurisdiction. A county may contract with other appropriate local units of government to implement programs conducted under this section. An explanation of the program responsibilities proposed to be contracted with other local units of government must accompany grant requests. A county that contracts with other local units of government is responsible for ensuring that state funds are properly expended and for providing an annual report to the board describing expenditures of funds and program accomplishments.

Subd. 3. [FINANCIAL ASSISTANCE.] Grants may be used to employ persons and to obtain and use information necessary to implement the following activities:

(1) develop comprehensive local water plans under sections 110B.04 and 473.8785 which have not received state funding for water resources planning as provided for in Laws 1987, chapter 404, section 30, subdivision 5, clause (a); and

(2) implement water resources programs identified as priorities in comprehensive local water plans.



Subd. 4. [LIMITATIONS.] Grants provided to carry out mandated or delegated state programs under this section shall be reviewed by the agency having statutory program authority to assure compliance with minimum state standards. At the request of the agency commissioner, the board shall revoke that portion of the grant used to support a noncompliant program.

Grants provided for the purpose of developing comprehensive local water plans shall not be awarded for greater than a two-year time period.

Subd. 5. [RULES.] The board shall adopt rules that:

(a) establish performance criteria for grant administration for local implementation of state delegated or mandated programs that recognize regional variations in program needs and priorities;

(b) recognize the unique nature of state delegated or mandated programs;

(c) specify that program activities contracted by a county to another local unit of government are eligible for funding;

(d) require that grants from the board shall not exceed the amount matched by participating local units of government; and

(e) specify a process for the board to establish a base level grant amount that all participating counties may be eligible to receive.

Subd. 6. [ELIGIBILITY.] A county requesting funds must have adopted a comprehensive local water plan unless the request is made under subdivision 3, clause (1).

Subd. 7. [PRIORITIES.] The board must consider requests for funding according to the following:

(1) completing comprehensive local water plans under sections 110B.04 and 473.8785;

(2) adoption, administration, and enforcement of official controls;

(3) indicate the participation of several local units of government, including multicounty efforts;

(4) complement goals of federal, state, and local units of government; and

(5) demonstrate long-term commitments to effective water protection and management programs.

Subd. 8. [COORDINATED REVIEW OF COUNTY WATER RESOURCES PROTECTION AND MANAGEMENT PROGRAM.] The board shall consult with appropriate agencies to evaluate grant requests and coordinate project activities with other state, federal, and local resource management projects.

Sec. 7. [110C.06] [WELL SEALING GRANTS.]

Subdivision 1. [POLICY.] The board shall make grants to counties to seal wells. The board may allocate funds to counties to be used to share the cost of sealing priority wells. The county shall use the state funds to pay up to 75 percent, but not to exceed \$2,000 per well, of the cost of sealing priority wells.

Subd. 2. [REPORT.] The board in consultation with the commissioner of health shall make annual reports to the legislature on the status of expenditures and well sealings.

Subd. 3. [SUNSET.] The grant program established under this section shall not continue beyond June 30, 1995. Grants provided between July 1, 1989 and June 30, 1995, are contingent upon biennial appropriation of funds.

Subd. 4. [ELIGIBILITY.] All wells proposed for sealing with grants by the board under this section must be wells identified as part of the priority action in an approved comprehensive local water plan and are wells that qualify for sealing under criteria established by the board.

Subd. 5. [APPLICATION.] (a) Counties shall complete and submit applications for well sealing grants on forms prescribed by the board.

(b) In its application, the county shall provide evidence that it has consulted the local community health service boards, soil and water conservation districts, and other appropriate local units of government or organizations in preparing the application.

Subd. 6. [BOARD DUTIES.] (a) The board, in selecting counties for participation, shall consult with the commissioners of natural resources, pollution control, and health, and the director of the Minnesota geological survey, and must consider appropriate criteria including the following:

- (1) diversity of well construction;
- (2) diversity of geologic conditions;
- (3) current use of affected aquifers;

(4) diversity of land use; and

(5) aquifer susceptibility to contamination by unsealed wells.

(b) The board and the commissioner of health shall establish priorities for sealing wells based upon the following criteria:

(1) well construction, depth, and condition;

(2) importance of aquifer as public and private water supply source;

(3) proximity to known or potential point or nonpoint contamination sources;

(4) current contamination of the well or aquifer;

(5) susceptibility of aquifer to contamination by unsealed wells;

(6) limited availability of alternative sources of drinking water;

(7) potential for use of the well for monitoring groundwater;

(8) anticipated changes in land or water use;

(9) unique conditions such as construction, rehabilitation, or demolition areas; and

(10) danger to humans or animals of falling into the well.

Subd. 7. [COUNTY DUTIES AND RESPONSIBILITIES.] (a) A county may contract for the administration of the well sealing program with another local unit of government.

(b) A county, or contracted local unit of government, shall contract with landowners to share in the cost of sealing priority wells in accordance with subdivision 6. The contract shall specify that:

(1) sealing must be done in accordance with chapter 156A and the commissioner of health rules relating to sealing of wells;

(2) that payment shall be made to the landowner, upon completion of sealing of the well by a contractor licensed in accordance with chapter 156A; and

(3) that a record of well sealing shall be filed along with a copy of the water well record with the commissioner of health.

(c) The county shall make an annual report to the board, by or before February 15 of each year, on the status of the well sealing grant program including the number and location of wells sealed and the amount spent on each.

(d) The county must consult with local health boards, soil and water conservation districts, planning and zoning departments, and other appropriate organizations during program implementation.

(e) To encourage landowner participation in the program, the county shall publicize in newspapers of general circulation, information regarding availability of state funds to share the cost of sealing wells, may conduct appropriate well sealing workshops and demonstrations, and invite the public to report to the county on the existence of wells that need to be sealed.

Subd. 8. [LANDOWNER RIGHTS AND RESPONSIBILITIES.] The owner shall file the record of well sealing with the county recorder or register of deeds where the sealed well is located.

Sec. 8. Minnesota Statutes 1988, section 115.093, subdivision 5, is amended to read:

Subd. 5. [LOCAL UNIT OF GOVERNMENT.] "Local unit of government" means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, an Indian tribe or an authorized Indian tribal organization, and any other special purpose district or authority exercising authority in water and related land resources management at the local level.

## ARTICLE 8

### WATER APPROPRIATION PRIORITIES

Section 1. [105.406] [NEW ONCE-THROUGH PERMITS PROHIBITED.]

No new water use permits for groundwater may be issued for once-through cooling systems for human comfort constructed after the effective date of this act. The renewal or amendment of existing permits shall be allowed.

Sec. 2. [CONSUMPTIVE WATER USE STUDY.]

The commissioner of natural resources shall conduct a study of consumptive water use and its impact on existing aquifers. The commissioner shall review methods of reducing consumptive groundwater use, including the conversion of once-through cooling

systems for human comfort to alternative systems. The commissioner shall report to the legislature by January 1, 1990, the commissioner's recommendations for alternatives to the once-through heating and cooling systems including potential uses for discharge water from the systems, the environmental and economic implications of the alternatives, and other uses for the discharge water. The report shall also describe the relative impact on affected aquifers, examine the efficiency of once-through cooling systems, and make recommendations for corrective action on inefficient systems. The corrective action shall include either upgrading such systems or the conversion to an alternative system within a time schedule to be recommended by the commissioner of natural resources, but not later than January 2, 1994.

Sec. 3. Minnesota Statutes 1988, section 105.41, subdivision 1a, is amended to read:

Subd. 1a. [WATER ALLOCATION RULES, PRIORITIES.] The commissioner shall ~~submit to the legislature by January 1, 1975, for its approval, proposed~~ adopt rules in the manner provided in chapter 14, governing the allocation of waters among potential water users. For the purposes of this section, "consumption" shall mean water withdrawn from a supply which is lost for immediate further use in the area. These rules must be based on the following priorities for the consumptive appropriation and use of water:

First priority: domestic water supply, excluding industrial and commercial uses of municipal water supply, and use for power production that meets the contingency planning provisions of section 105.417, subdivision 5.

Second priority: any use of water that involves consumption of less than 10,000 gallons of water a day. In this section "consumption" means water withdrawn from a supply that is lost for immediate further use in the area.

Third priority: agricultural irrigation, involving consumption in excess of 10,000 gallons a day, and processing of agricultural products.

Fourth priority: power production involving consumption in excess of 10,000 gallons a day in excess of the use provided for in the contingency plan developed pursuant to section 105.417, subdivision 5.

Fifth priority: other uses, involving consumption in excess of 10,000 gallons a day.

Appropriation and use of surface water from streams during periods of flood flows and high water levels must be encouraged

subject to consideration of the purposes for use, quantities to be used, and the number of persons appropriating water.

Appropriation and use of surface water from lakes of less than 500 acres in surface area must be discouraged.

The treatment and reuse of water from nonconsumptive uses shall be encouraged.

Diversions of water from the state for use in other states or regions of the United States or Canada must be discouraged.

No permit may be issued under this section unless it is consistent with state, regional, and local water and related land resources management plans, if regional and local plans are consistent with statewide plans. The commissioner must not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued under section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers any domestic water supply.

Sec. 4. Minnesota Statutes 1988, section 105.418, is amended to read:

#### 105.418 [CONSERVATION OF PUBLIC WATER SUPPLIES.]

During periods of critical water deficiency as determined by the governor and declared by order of the governor, public water supply authorities appropriating water shall adopt and enforce restrictions consistent with rules adopted by the commissioner of natural resources within their areas of jurisdiction. The restrictions must limit lawn sprinkling, car washing, golf course and park irrigation, and other nonessential uses and have appropriate penalties for failure to comply with the restrictions. The commissioner may adopt emergency rules according to sections 14.29 to 14.36 relating to matters covered by this section during the year 1977. Disregard of critical water deficiency orders, even though total appropriation remains less than that permitted, is grounds for immediate modification of any public water supply authority's appropriator's permit.

### ARTICLE 9

#### APPROPRIATIONS

##### Section 1. [APPROPRIATION.]

\$440,000 the first year and \$440,000 the second year are appropriated to the commissioner of agriculture from the general fund for

the implementation of the pesticide and fertilizer control provisions of this act."

Delete the title and insert:

"A bill for an act relating to groundwater; establishing best management practices and identification of sensitive areas; adopting health risk limits; changing various requirements and procedures concerning fertilizer, soil amendments, and plant amendments; requiring a study of sustainable agriculture; changing certain pesticide laws; requiring a pesticide management plan; providing for responses to pesticide and fertilizer incidents; reorganizing and revising laws on water wells, exploratory boring, and elevator shafts; providing for local water resources protection and management; establishing water appropriation priorities; amending Minnesota Statutes 1988, sections 17.713; 17.714, subdivisions 1, 3, 6, and by adding a subdivision; 17.715, subdivisions 1, 2, 4, and by adding subdivisions; 17.7155; 17.716, subdivisions 1, 2, and 4; 17.718; 17.719, subdivisions 1, 2, 3, 4, and by adding subdivisions; 17.72; 17.721, by adding a subdivision; 17.722; 17.723; 17.725, subdivision 2, and by adding subdivisions; 17.728, subdivision 1, and by adding subdivisions; 17.7285; 17.73, subdivisions 3 and 5; 18B.01, subdivisions 5, 12, 15, 19, 21, 23, 26, 30, and by adding subdivisions; 18B.04; 18B.07, subdivisions 2, 3, 4, 5, and 7; 18B.08, subdivisions 1, 3, and 4; 18B.15; 18B.17, subdivision 2; 18B.18; 18B.20, by adding a subdivision; 18B.21; 18B.26, subdivisions 1, 5, and by adding a subdivision; 18B.31, subdivision 3; 18B.32, subdivision 2; 18B.33, subdivisions 1, 3, and 7; 18B.34, subdivisions 1, 2, and 5; 18B.36; 18B.37, subdivisions 1, 2, 3, and 4; 43A.08, subdivision 1; 105.41, subdivision 1a; 105.418; 110B.35, subdivision 3; 115.093, subdivision 5; 116C.41, subdivision 1, and by adding a subdivision; 156A.01; 156A.02; 156A.03; 156A.05; 156A.06; 156A.071; 156A.075; 156A.08; 326.37; and 604.02, subdivision 1; proposing coding for new law as Minnesota Statutes, chapters 110C and 115D; proposing coding for new law in Minnesota Statutes, chapters 17; 18B; 105; 115; and 156A; repealing Minnesota Statutes 1988, sections 17.714, subdivisions 4, 4a, and 4b; 17.715, subdivision 3; 17.721; 17.726; 17.727; 17.728, subdivisions 4 and 5; 17.729; 17.73, subdivision 5, paragraph (d); 18B.16; 18B.19; 18B.20, subdivision 6; 156A.02, subdivision 3; 156A.031; 156A.04; 156A.07; 156A.10; and 156A.11."

The motion prevailed and the amendment was adopted.

Munger moved to amend S. F. No. 262, as amended, as follows:

Page 74, line 24, delete "5" and insert "7"

Page 74, line 25, delete "2" and insert "3"

Page 87, line 16, after the comma delete the remainder of the line

Page 87, line 17, delete "156A.02, subdivision 12,"

The motion prevailed and the amendment was adopted.

The Speaker called Krueger to the Chair.

McPherson and Carlson, D., moved to amend S. F. No. 262, as amended, as follows:

Page 87, line 23, delete "sealing wells; or"

Page 87, line 24, delete "(4)"

Page 87, line 25, delete "(5)" and insert "(4)"

A roll call was requested and properly seconded.

Speaker pro tempore Krueger called Quinn to the Chair.

The question was taken on the McPherson and Carlson, D., amendment and the roll was called. There were 32 yeas and 100 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Frerichs	Knickerbocker	Omann	Swenson
Boo	Girard	Limmer	Poppenhagen	Uphus
Burger	Gutknecht	Lynch	Richter	Valento
Carlson, D.	Haukoos	McDonald	Schafer	Waltman
Dempsey	Heap	McPherson	Schreiber	
Dille	Henry	Miller	Seaberg	
Frederick	Hugoson	Olson, K.	Svigum	

Those who voted in the negative were:

Abrams	Dorn	Kinkel	O'Connor	Reding
Anderson, G.	Forsythe	Kostohryz	Ogren	Rest
Battaglia	Greenfield	Krueger	Olsen, S.	Rice
Bauerly	Gruenes	Lasley	Olson, E.	Rodosovich
Beard	Hartle	Lieder	Onnen	Rukavina
Begich	Himle	Long	Orenstein	Runbeck
Bennett	Jacobs	Macklin	Osthoff	Sarna
Bertram	Janezich	Marsh	Ostrom	Scheid
Bishop	Jaros	McEachern	Otis	Segal
Blatz	Jefferson	McGuire	Pappas	Simoneau
Brown	Jennings	McLaughlin	Pauly	Skoglund
Carlson, L.	Johnson, A.	Milbert	Pellow	Solberg
Carruthers	Johnson, R.	Morrison	Pelowski	Sparby
Clark	Johnson, V.	Munger	Peterson	Stanius
Conway	Kahn	Murphy	Price	Steensma
Cooper	Kalis	Nelson, C.	Pugh	Tjornhom
Dauner	Kelly	Nelson, K.	Quinn	Tompkins
Dawkins	Kelso	Neuenschwander	Redalen	Trimble



Tunheim  
VellengaWagenius  
WeaverWelle  
WenzelWilliams  
WinterWynia  
Spk. Vanasek

The motion did not prevail and the amendment was not adopted.

The Speaker resumed the Chair.

S. F. No. 262, A bill for an act relating to protection of groundwater; protecting sensitive areas; promoting and requiring certain best management practices; providing financial assistance for certain groundwater protection activities; authorizing local government groundwater and resource protection programs; establishing a joint legislative committee on water; providing for determination of water research needs; developing a water education curriculum; regulating wells, borings, and underground drillings and uses; regulating water conservation, water appropriations, and setting fees; establishing regulations, enforcing violations, and establishing civil and criminal penalties for violations relating to pesticide, fertilizer, soil amendment, and plant amendment manufacture, storage, sale, use, and misuse; providing a mechanism to aid cleanup and response to incidents relating to agricultural chemicals; providing a task force relating to sustainable agriculture; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, subdivisions 5, 12, 15, 19, 21, 26, 30, and by adding subdivisions; 18B.04; 18B.07, subdivisions 2, 3, 4, and 6; 18B.08, subdivisions 1, 3, and 4; 18B.26, subdivisions 1, 3, 5, and by adding a subdivision; 18B.31, subdivisions 3 and 5; 18B.32, subdivision 2; 18B.33, subdivisions 1, 3 and 7; 18B.34, subdivisions 1, 2 and 5; 18B.36, subdivisions 1 and 2; 18B.37, subdivisions 1, 2, 3, and 4; 40.42, by adding a subdivision; 40.43, subdivisions 2 and 6; 43A.08, subdivision 1; 105.41, subdivisions 1, 1a, 1b, 5, and by adding a subdivision; 105.418; 110B.04, subdivision 6; 115B.20; 116C.41, subdivision 1; 144.381; 144.382, subdivision 1, and by adding a subdivision; and 473.877, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 3; 17; 18B; 40; and 144; proposing coding for new law as Minnesota Statutes, chapters 18C; 18D; 18E; 103A; 103B; 103H; and 103I; repealing Minnesota Statutes 1988, sections 17.711 to 17.73; 18A.49; 18B.15; 18B.16; 18B.18; 18B.19; 18B.20; 18B.21; 18B.22; 18B.23; 18B.25; 84.57 to 84.621; 105.51, subdivision 3; and 156A.01 to 156A.11.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams

Anderson, G.

Anderson, R.

Battaglia

Bauerly

Beard	Gutknecht	Limmer	Osthoff	Simoneau
Begich	Hartle	Long	Ostrom	Skoglund
Bennett	Hasskamp	Lynch	Otis	Solberg
Bertram	Haukoos	Macklin	Ozment	Sparby
Bishop	Heap	Marsh	Pappas	Stanisus
Blatz	Henry	McDonald	Pauly	Steensma
Boo	Himle	McEachern	Pellow	Swiggum
Brown	Hugoson	McGuire	Pelowski	Swenson
Burger	Jacobs	McLaughlin	Peterson	Tjornhom
Carlson, D.	Janezich	McPherson	Poppenhagen	Tompkins
Carlson, L.	Jaros	Milbert	Price	Trimble
Carruthers	Jefferson	Miller	Pugh	Tunheim
Clark	Jennings	Morrison	Quinn	Uphus
Conway	Johnson, A.	Munger	Redalen	Valento
Cooper	Johnson, R.	Murphy	Reding	Vellenga
Dauner	Johnson, V.	Nelson, C.	Rest	Wagenius
Dawkins	Kahn	Nelson, K.	Rice	Waltman
Dempsey	Kalis	Neuenschwander	Richter	Weaver
Dille	Kelly	O'Connor	Rodosovich	Welle
Dorn	Kelso	Ogren	Rukavina	Wenzel
Forsythe	Kinkel	Olsen, S.	Runbeck	Williams
Frederick	Knickerbocker	Olson, E.	Sarna	Winter
Frerichs	Kostohryz	Olson, K.	Schafer	Wynia
Girard	Krueger	Omann	Scheid	Spk. Vanasek
Greenfield	Lasley	Onnen	Schreiber	
Gruenes	Lieder	Orenstein	Seaberg	

The bill was passed, as amended, and its title agreed to.

### INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House File was introduced:

Kelly, Vellenga and Blatz introduced:

H. F. No. 1775, A bill for an act relating to judges; providing for the manner of filling vacancies in the office of judge and on the workers' compensation court of appeals; proposing coding for new law as Minnesota Statutes, chapter 480B.

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

### 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 File, herewith returned:

H. F. No. 579, A bill for an act relating to certain commercial transactions; adopting an article of the uniform commercial code that governs leases; providing the conditions for the determination of the existence of certain vehicle leases; amending Minnesota Statutes 1988, sections 168A.17, by adding a subdivision; 336.1-105; 336.1-201; and 336.9-113; proposing coding for new law in Minnesota Statutes, chapter 336.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

H. F. No. 1143, A bill for an act relating to taxation; permitting the city of Rochester to continue levying a general sales tax for flood control costs; amending Laws 1983, chapter 342, article 19, sections 4 and 5.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

H. F. No. 786, A bill for an act relating to employment; requiring the hiring of local workers and the payment of wages equal to those of railroad workers on certain railroad projects assisted with state money; amending Minnesota Statutes 1988, section 222.50, subdivision 5.

H. F. No. 1548, A bill for an act relating to financial institutions; regulating charges and fees on loans and extensions of credit by financial institutions and others; making various internal reference changes; amending Minnesota Statutes 1988, sections 51A.01; 51A.02, subdivision 14; 51A.38, subdivision 3; 51A.385, subdivisions 4, 5, 6, 7, 8, 9, 11, 12, and 13; 51A.51, subdivision 4; 51A.53; 51A.55, subdivisions 1 and 2; 51A.56; 51A.57; 56.131, subdivision 1; 168.72, subdivision 1; 168.73; and 507.45, subdivision 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 371, A bill for an act relating to corrections; authorizing

the commissioner of corrections to take photographs of juveniles committed to the commissioner for management and law enforcement purposes; amending Minnesota Statutes 1988, section 260.161, subdivision 3.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 456, A bill for an act relating to human rights; allowing results of job evaluation systems as evidence in discrimination actions; amending Minnesota Statutes 1988, sections 43A.05, by adding a subdivision; and 471.997.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 943, A bill for an act relating to health; requiring post-secondary students to submit a statement of immunization; providing exemptions; amending Minnesota Statutes 1988, sections 120.102, subdivision 1; and 123.70, subdivisions 1, 2, 4, 9, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 135A.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 949, A bill for an act relating to traffic safety; increasing penalties for persons convicted of DWI after a previous conviction for criminal vehicular operation or for another impaired driving crime; amending Minnesota Statutes 1988, section 169.121, subdivision 3.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 956, A bill for an act relating to insurance; clarifying the calculation of underinsured motorist benefits; amending Minnesota Statutes 1988, section 65B.49, subdivisions 3a and 4a.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1107, A bill for an act relating to landlord and tenant; authorizing emergency proceeding for loss of essential services; proposing coding for new law in Minnesota Statutes, chapter 566.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 59, A bill for an act relating to public safety; authorizing bonding for capital improvements; appropriating money to convert a regional treatment center for use as an adult correctional facility and to operate the facility; appropriating money for a variety of correctional and treatment programs; revising and increasing penalties for controlled substance crimes; authorizing increased sentences and juvenile court reference for controlled substance crimes committed within a drug free school or park zone; increasing penalties for a variety of other crimes; providing for life imprisonment without supervised release for persons convicted of first degree murder or a third criminal sexual conduct offense; providing for sex offender treatment programs; providing that an inmate who completes a sex offender treatment program is eligible for an adjustment to the supervised release date; providing for the collection and admissibility of DNA evidence; modifying certain forfeiture provisions; permitting a school-sponsored alcohol awareness program; requiring reporting of newborns with signs of controlled substance exposure and reporting of certain controlled substance use by pregnant women; providing for toxicology testing; requiring an education program to protect unborn children from such prenatal exposure; providing for civil commitment of pregnant women for certain controlled substance use; establishing a community crime prevention grant program; providing a soft body armor reimbursement program; creating a drug abuse prevention resource council; establishing a child protection system study commission; providing for a community resources program for cities of the first class; appropriating money; amending Minnesota Statutes 1988, sections 152.01, subdivision 7, and by adding subdivisions; 152.096, subdivision 1; 152.097, by adding a subdivision; 152.15, subdivision 4a; 152.151; 152.18, subdivision 1; 152.20; 152.21, subdivision 6; 169.09, subdivision 14; 243.05, subdivision 1; 244.05, subdivisions 1, 4, 5, and by adding a subdivision; 244.09, subdivision 5; 253B.02, subdivisions 2 and 10; 256.01, by adding a subdivision; 260.125, subdivision 3; 260.161, subdivision 1; 260.185, subdivision 1; 297D.09, subdivision 1a; 299F.80, subdivision 1; 325D.56, subdivision 2; 340A.701; 340A.702; 526.10; 609.11, subdivisions 7 and 9; 609.185; 609.19; 609.195; 609.205; 609.221; 609.222; 609.223; 609.2231, subdivision 1; 609.255, subdivision 3; 609.2665; 609.267; 609.323, subdivision 1; 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.346; 609.377; 609.445; 609.48, subdivision 4; 609.487, subdivision 4; 609.52; 609.53, subdivisions 1 and 4; 609.5311, subdivision 3; 609.5314, subdivision 1; 609.5315, subdivision 1; 609.576; 609.62, subdivision 2; 609.631, subdivision 2; 609.86, subdivision 3; 611A.038; 624.701; 624.712, subdivision 5; and 626.556, subdivisions 2, 3, and 10; proposing coding for new law in Minnesota Statutes, chapters 116K; 121; 144; 152; 241; 242; 244; 299A; 299C; 466A; 609; 626; 634; and 638; repealing Minnesota Statutes 1988, sections 152.09; 152.15, subdivisions 1, 2, 2a, 2b, 3, and 5; 609.53, subdivisions 1a, 3, and 3a; and 609.55.

The Senate has appointed as such committee:

Mr. Spear; Ms. Peterson, D. C.; Messrs. Luther; Cohen and McGowan.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 66, A bill for an act relating to gambling; creating a department of gaming; authorizing a state lottery to be conducted by a department of state lottery; creating a division of inspection and enforcement in the department of public safety and providing for its duties; prescribing penalties; appropriating money; amending Minnesota Statutes 1988, sections 10A.01, subdivision 18; 10A.09, subdivision 1; 15.06, subdivision 1; 15A.081, subdivision 1; 43A.08, subdivision 1a; 240.01, by adding subdivisions; 240.02, subdivisions 1 and 2; 240.04, subdivisions 1, 3, and 7; 240.06, subdivisions 3 and 8; 240.07, subdivision 2; 240.08, subdivision 3; 240.21; 240.28; 340A.410, subdivision 5; 349.12, subdivisions 11, 17, 20, and by adding subdivisions; 349.151, subdivisions 1, 2, 4, and 5; 349.16, subdivisions 3 and 4; 349.161, subdivision 4; 349.162, subdivisions 1, 2, 4, and 5; 349.163; 349.18, subdivision 1; 349.19, subdivisions 5 and 6; 349.212; 349.2121, subdivisions 2, 3, 4, 4a, 6, 7, 8, and 10; 349.2122; 349.2125, subdivisions 1, 2, and 3; 349.2127, subdivision 2; 349.213, subdivision 1; 349.214, subdivision 2; 349.22, subdivisions 1 and 3; 541.20; 541.21; 609.75, subdivision 3; 609.76, subdivision 1; 609.761; 626.05, subdivision 2; 626.13; and 626.84, subdivision 1; proposing coding for new law as Minnesota Statutes, chapters 299K; 349A; and 349B; proposing coding for new law in Minnesota Statutes, chapters 240; 245; and 349; repealing Minnesota Statutes 1988, sections 240.02, subdivision 7; 349.151, subdivisions 3 and 5; 349.161, subdivision 7; 349.164, subdivision 5; 349.171; and 349.22, subdivision 4.

The Senate has appointed as such committee:

Messrs. Lessard, Purfeerst and Knaak, Mrs. Lantry and Ms. Peterson, D. C.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 245, A bill for an act relating to environment; exempting generators of small amounts of hazardous waste from administrative regulation; amending Minnesota Statutes 1988, section 116.07, subdivision 2.

The Senate has appointed as such committee:

Messrs. Stumpf, Dahl and Merriam.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 761, A bill for an act relating to judgments; providing a reasonable exemption for employee benefits; amending Minnesota Statutes 1988, section 550.37, subdivision 24.

The Senate has appointed as such committee:

Messrs. Frank, Stumpf and Luther.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1016, A bill for an act relating to juvenile justice; authorizing the juvenile court to place juvenile alcohol or controlled substance offenders on probation; authorizing the juvenile court to require the commissioner of public safety to revoke the driver's license or permit of habitual petty offenders or to deny driving privileges to them if they do not have a license or permit; removing



certain limitations on parental liability for thefts by minors; removing a repealer; amending Minnesota Statutes 1988, sections 171.04; 260.195, subdivision 3, and by adding subdivisions; and 332.51, subdivision 3; repealing Laws 1985, chapter 278, section 2.

The Senate has appointed as such committee:

Messrs. Cohen, Spear and Laidig.

Said House File is herewith returned to the House.

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. 1137, A bill for an act relating to metropolitan government; regulating the borrowing authority of the regional transit board; amending Minnesota Statutes 1988, section 473.39, subdivision 1a, and by adding subdivisions.

PATRICK E. FLAHAVEN, Secretary of the Senate

Johnson, A., moved that the House concur in the Senate amendments to H. F. No. 1137 and that the bill be repassed as amended by the Senate.

Johnson, A., moved that the House refuse to concur in the Senate amendments to H. F. No. 1137, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 169.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

## CONFERENCE COMMITTEE REPORT ON S. F. NO. 169.

A bill for an act relating to motor vehicles; allowing custodial parent of handicapped minor to obtain special license plates for the handicapped; amending Minnesota Statutes 1988, section 168.021, subdivisions 1 and 3.

May 15, 1989

The Honorable Jerome M. Hughes  
President of the Senate

The Honorable Robert E. Vanasek  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 169, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 169 be further amended as follows:

Page 1, line 10, before "When" insert "(a)"

Page 1, line 21, before the period insert "or proof of physical handicap provided for in that section"

Page 1, after line 21, insert:

"(b) The owner of a motor vehicle may apply for and secure a set of special plates for a motor vehicle if:

(1) the owner employs a permanently physically handicapped person who would qualify for special plates under this section; and

(2) the owner furnishes the motor vehicle to the physically handicapped person for the exclusive use of that person in the course of employment."

Page 2, after line 16, insert:

"Sec. 3. Minnesota Statutes 1988, section 169.345, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purpose of this section, "physically handicapped person" means a person who:

(1) because of disability cannot walk without significant risk of falling;

(2) because of disability cannot walk 200 feet without stopping to rest;

(3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(4) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one meter;

(5) has an arterial oxygen tension (PAO2) of less than 60 mm/hg on room air at rest;

(6) uses portable oxygen; or

(7) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

(8) has lost an arm or a leg and does not have or cannot use an artificial limb.

Sec. 4. Minnesota Statutes 1988, section 169.345, subdivision 2a, is amended to read:

Subd. 2a. [PHYSICIAN'S OR CHIROPRACTOR'S STATEMENT.]

(a) The commissioner shall develop a form for the physician's or chiropractor's statement. The statement must be signed by a licensed physician or chiropractor who certifies that the applicant is a physically handicapped person as defined in subdivision 2. The commissioner may request additional information from the physician or chiropractor if needed to verify the applicant's eligibility. The statement that the applicant is a physically handicapped person must specify whether the disability is permanent or temporary, and if temporary, the opinion of the physician or chiropractor as to the duration of the disability. A physician or chiropractor who fraudulently certifies to the commissioner that a person is a physically handicapped person as defined in subdivision 2, and that the person is entitled to the license plates authorized by section 168.021 or to the certificate authorized by this section, is guilty of a misdemeanor and is subject to a fine of \$500.

(b) The commissioner may waive the requirement of providing a statement of a licensed physician or chiropractor, if the applicant has previously filed with the commissioner a statement of a licensed physician or chiropractor certifying that the applicant has a permanent physical handicap.

Sec. 5. Minnesota Statutes 1988, section 169.345, subdivision 3, is amended to read:

Subd. 3. [IDENTIFYING CERTIFICATE.] (a) The division of driver and vehicle services in the department of public safety shall issue a special identifying certificate for a motor vehicle when a physically handicapped applicant submits a statement of a physician or chiropractor proof of physical handicap under subdivision 2a. The commissioner shall design separate certificates for persons with permanent and temporary disabilities that can be readily distinguished from each other from outside a vehicle at a distance of 25 feet. The certificate is valid for the duration of the person's disability, as specified in the physician's or chiropractor's statement, up to a maximum of six years. A person with a disability of longer duration will be required to renew the certificate for additional periods of time, up to six years each, as specified in the physician's or chiropractor's statement.

(b) When the commissioner is satisfied that a motor vehicle is used primarily for the purpose of transporting physically handicapped persons, the division may issue without charge a special identifying certificate for the vehicle. The operator of a vehicle displaying the certificate has the parking privileges provided in subdivision 1 while the vehicle is in use for transporting physically handicapped persons. The certificate issued to a person transporting physically handicapped persons must be renewed every third year. On application and renewal, the person must present evidence that the vehicle continues to be used for transporting physically handicapped persons.

(c) A certificate must be made of plastic or similar durable material, must be distinct from certificates issued before January 1, 1988, and must bear its expiration date prominently on its face. A certificate issued to a temporarily disabled person must display the date of expiration of the duration of the disability, as determined under paragraph (a). Each certificate must have printed on the back a summary of the parking privileges and restrictions that apply to each vehicle in which it is used. The commissioner may charge a fee of \$5 for issuance or renewal of a certificate, and a fee of \$5 for a duplicate to replace a lost, stolen, or damaged certificate.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective the day following final enactment."

Amend the title as follows:

Page 1, line 4, after the semicolon insert "allowing second set of handicapped license plates to be issued to physically handicapped person who is furnished a vehicle as part of employment; defining a handicapped person for purposes of parking privileges; allowing

commissioner of public safety to waive requirement of physician's statement in certain circumstances."

Page 1, line 5, delete "section" and insert "sections" and before the period insert "; and 169.345, subdivisions 2, 2a, and 3"

We request adoption of this report and repassage of the bill.

Senate Conferees: MEL FREDERICK, MARILYN M. LANTRY AND A. W. "BILL" DIESSNER

House Conferees: DEAN HARTLE, PAT BEARD AND HAROLD LASLEY.

Hartle moved that the report of the Conference Committee on S. F. No. 169 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 169, A bill for an act relating to motor vehicles; allowing custodial parent of handicapped minor to obtain special license plates for the handicapped; amending Minnesota Statutes 1988, section 168.021, subdivisions 1 and 3.

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

The question was taken on the repassage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dorn	Kahn	Munger	Price
Anderson, G.	Forsythe	Kahis	Murphy	Pugh
Anderson, R.	Frederick	Kelly	Nelson, C.	Quinn
Bauerly	Frerichs	Kelso	Nelson, K.	Redalen
Beard	Girard	Kinkel	Neuenschwander	Reding
Begich	Greenfield	Knickerbocker	O'Connor	Rest
Bennett	Gruenes	Kostohryz	Ogren	Rice
Bertram	Gutknecht	Krueger	Olsen, S.	Richter
Bishop	Hartle	Lasley	Olson, E.	Rodosovich
Blatz	Hasskamp	Lieder	Olson, K.	Rukavina
Boo	Haukoos	Limmer	Omann	Runbeck
Brown	Heap	Long	Onnen	Sarna
Burger	Henry	Lynch	Orenstein	Schafer
Carlson, D.	Himle	Macklin	Osthoff	Scheid
Carlson, L.	Hugoson	Marsh	Ostrom	Schreiber
Carruthers	Jacobs	McDonald	Otis	Seaberg
Clark	Janezich	McEachern	Ozment	Segal
Conway	Jaros	McGuire	Pappas	Simoneau
Cooper	Jefferson	McLaughlin	Pauly	Skoglund
Dauner	Jennings	McPherson	Pellow	Solberg
Dawkins	Johnson, A.	Milbert	Pelowski	Sparby
Dempsey	Johnson, R.	Miller	Peterson	Stanisus
Dille	Johnson, V.	Morrison	Poppenhagen	Steensma

Svigum  
Swenson  
Tjornhom  
Tompkins

Trimble  
Tunheim  
Uphus  
Valento

Vellenga  
Wagenius  
Waitman  
Weaver

Welle  
Wenzel  
Williams  
Winter

Wynia  
Spk. Vanasek

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

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 486.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 486

A bill for an act relating to juvenile justice; requiring reasonable efforts to prevent placement of children in need of protection or services proceedings; amending duty of juvenile court to ensure placement prevention and family reunification; defining reasonable efforts; clarifying definitions, jurisdiction, and services for Indian children; requiring preference for racial or ethnic heritage for appointment of guardian ad litem; requiring consideration of reasonable efforts in factors determining neglect; requiring that a child be in imminent danger for detention; permitting social services to release for detention; requiring finding of reasonable efforts at detention; and imposing requirements for disposition case plans; amending Minnesota Statutes 1988, sections 260.012; 260.015, subdivisions 11, 13, 14, and by adding subdivisions; 260.111, by adding a subdivision; 260.135, subdivision 2; 260.141; 260.155, subdivisions 4 and 7; 260.165, subdivision 1; 260.171, subdivision 1; 260.172, subdivisions 1 and 4; 260.173, subdivision 2; 260.181, subdivision 2; and 260.191, subdivisions 1a and 1e.

May 15, 1989

The Honorable Jerome M. Hughes  
President of the Senate

The Honorable Robert E. Vanasek  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 486, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 486 be further amended as follows:

Page 2, line 4, after "Act" insert "of 1978"

Page 2, delete lines 32 to 36 and insert:

"(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program."

Page 3, line 16, delete "that shall be" and insert "as"

Page 3, line 21, delete "shall be defined consistent with" and insert "has the meaning given in"

Page 4, line 1, after "or" insert "who is"

Page 6, line 4, delete everything after the colon

Page 6, delete lines 5 to 7 and insert:

"(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage."

Page 7, line 16, strike "such" and insert "the"

Page 7, line 19, after "child" insert "into custody"

Page 10, line 33, strike "or"

Page 12, delete lines 21 and 22

Renumber the remaining clauses in sequence

Page 12, after line 31, insert:

"Sec. 21. Minnesota Statutes 1988, section 260.231, subdivision 3, is amended to read:

Subd. 3. The court shall have notice of the time, place, and purpose of the hearing served on the parents, as defined in sections 257.51 to 257.74 or 259.26, subdivision 1, clause (2), and upon the child's grandparent if the child has lived with the grandparent within the

two years immediately preceding the filing of the petition. Notice must be served in the manner provided in sections 260.135 and 260.141, except that personal service shall be made at least ten days before the day of the hearing. Published notice shall be made for three weeks, the last publication to be at least ten days before the day of the hearing; and notice sent by certified mail shall be mailed at least 20 days before the day of the hearing. A parent who consents to the termination of parental rights under the provisions of section 260.221, clause (a), may waive in writing the notice required by this subdivision; however, if the parent is a minor or incompetent the waiver shall be effective only if the parent's guardian ad litem concurs in writing."

Amend the title as follows:

Page 1, line 15, after the semicolon, insert "providing for notice to certain grandparents;"

Page 1, line 22, delete the first "and" and before the period, insert "; and 260.231, subdivision 3"

We request adoption of this report and repassage of the bill.

Senate Conferees: LINDA BERGLIN, ALLAN H. SPEAR AND NANCY BRATAAS.

House Conferees: ANN H. REST, ART SEABERG AND KATHLEEN VEL-LENGA.

Rest moved that the report of the Conference Committee on S. F. No. 486 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 486, A bill for an act relating to juvenile justice; requiring reasonable efforts to prevent placement of children in need of protection or services proceedings; amending duty of juvenile court to ensure placement prevention and family reunification; defining reasonable efforts; clarifying definitions, jurisdiction, and services for Indian children; requiring preference for racial or ethnic heritage for appointment of guardian ad litem; requiring consideration of reasonable efforts in factors determining neglect; requiring that a child be in imminent danger for detention; permitting social services to release for detention; requiring finding of reasonable efforts at detention; and imposing requirements for disposition case plans; amending Minnesota Statutes 1988, sections 260.012; 260.015, subdivisions 11, 13, 14, and by adding subdivisions; 260.111, by adding a subdivision; 260.135, subdivision 2; 260.141; 260.155,



subdivisions 4 and 7; 260.165, subdivision 1; 260.171, subdivision 1; 260.172, subdivisions 1 and 4; 260.173, subdivision 2; 260.181, subdivision 2; and 260.191, subdivisions 1a and 1e.

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

The question was taken on the repassage of the bill and the roll was called. There were 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Knickerbocker	Olson, K.	Schafer
Anderson, G.	Frerichs	Kostohryz	Omnn	Scheid
Anderson, R.	Girard	Lasley	Onnen	Seaberg
Battaglia	Greenfield	Lieder	Orenstein	Segal
Bauerly	Gruenes	Limmer	Osthoff	Simoneau
Beard	Gutknecht	Long	Ostrom	Solberg
Begich	Hartle	Lynch	Otis	Sparby
Bennett	Hasskamp	Macklin	Ozment	Stanius
Bertram	Haukoos	Marsh	Pappas	Steensma
Bishop	Heap	McDonald	Pauly	Svigum
Blatz	Henry	McEachern	Pellow	Swenson
Boo	Himle	McGuire	Pelowski	Tjornhom
Brown	Hugoson	McLaughlin	Peterson	Tompkins
Burger	Jacobs	McPherson	Poppenhagen	Trimble
Carlson, D.	Janezich	Milbert	Price	Tunheim
Carlson, L.	Jaros	Miller	Pugh	Uphus
Carruthers	Jefferson	Morrison	Quinn	Valento
Clark	Jennings	Munger	Redalen	Vellenga
Conway	Johnson, A.	Murphy	Reding	Wagenius
Cooper	Johnson, R.	Nelson, C.	Rest	Waltman
Dauner	Johnson, V.	Nelson, K.	Rice	Weaver
Dawkins	Kahn	Neuenschwander	Richter	Welle
Dempsey	Kalis	O'Connor	Rodosovich	Wenzel
Dille	Kelly	Ogren	Rukavina	Williams
Dorn	Kelso	Olsen, S.	Runbeck	Winter
Forsythe	Kinkel	Olson, E.	Sarna	Wynia
				Spk. Vanasek

Those who voted in the negative were:

Skoglund

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

Mr. Speaker:

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

S. F. Nos. 530, 564, 38, 470, 481, 499 and 748.

PATRICK E. FLAHAVEN, Secretary of the Senate

**FIRST READING OF SENATE BILLS**

S. F. No. 530, A bill for an act relating to waste management; defining waste reduction; extending the expiration date of waste advisory councils; authorizing counties to designate waste to landfills; requiring financial reports from landfills; clarifying the limits of political subdivision liability for superfund cleanup at landfills; authorizing the pollution control agency to acquire interests in real estate necessary for superfund; authorizing superfund to reimburse political subdivisions for costs incurred in responding to emergency releases of hazardous materials; making claims for injuries due to petroleum contamination eligible for compensation by the harmful substance compensation fund; authorizing transfer of money from the petroleum tank release cleanup fund; altering the metropolitan council's authority for solid waste planning; raising the solid waste disposal fee in the metropolitan area; clarifying the 1990 ban on disposal of unprocessed waste in the metropolitan area; extending the date until which metalcasters are not liable for payment of solid waste generator fees; requiring a study of solid waste management district legislation; amending Minnesota Statutes 1988, sections 115A.01; 115A.02; 115A.03, by adding a subdivision; 115A.12, subdivision 1; 115A.14, subdivision 2; 115A.46, subdivision 2; 115A.54, subdivision 2a; 115A.80; 115A.81, subdivision 2; 115A.83; 115A.84; 115A.85, subdivision 2; 115A.86, subdivisions 3 and 5; 115A.893; 115A.906, by adding a subdivision; 115A.919; 115A.921; 115A.94, by adding subdivisions; 115B.04, subdivision 4; 115B.17, by adding a subdivision; 115B.20, subdivision 2; 115B.25, subdivisions 1, 2, 7, and by adding subdivisions; 115B.26; 115B.27, subdivision 1; 115B.28, subdivision 2; 115B.29, subdivision 1; 115B.30, subdivision 3; 115B.34, subdivision 2; 115C.08, subdivision 4, and by adding a subdivision; 116.07, by adding a subdivision; 400.04, subdivision 3; 466.04, subdivision 1; 473.149, subdivisions 2d and 2e, and by adding a subdivision; 473.803, by adding a subdivision; 473.811, subdivisions 1a and 4; 473.823, subdivisions 3 and 6; 473.831, subdivision 2; 473.833, subdivision 2a; 473.840, subdivision 2; 473.843, subdivisions 1 and 2; 473.844, subdivision 1a; 473.8441, subdivision 5; 473.845, subdivisions 1 and 2; and 473.848; Laws 1984, chapter 644, section 85, as amended; proposing coding for new law in Minnesota Statutes, chapters 115A and 473; repealing Minnesota Statutes 1988, sections 115A.98; 115B.29, subdivision 2; 473.149, subdivision 2b; 473.803, subdivision 1a; and 473.806.

The bill was read for the first time.

Long moved that S. F. No. 530 and H. F. No. 601, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 564, A bill for an act relating to natural resources; increasing the amount of levy for the Kanaranzi-Little Rock watershed district administrative fund.

The bill was read for the first time.

Winter moved that S. F. No. 564 and H. F. No. 810, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 38, A bill for an act relating to taxation; regulating travel trailers; requiring a registration certificate for park trailers; imposing a registration tax on park trailers; requiring owners of unregistered park trailers to pay property tax; imposing motor vehicle excise tax on park trailers; providing that motor vehicle dealers may sell park trailers; amending Minnesota Statutes 1988, sections 168.011, subdivisions 4, 8, 22, and 25; 168.012, subdivisions 8 and 9; 168.013, subdivision 1, and by adding a subdivision; 168.053, subdivision 2; 168.181, subdivision 1; 168.27, subdivision 1; 168A.01, subdivision 21; 169.34; 169.67, subdivision 4; 169.75, subdivisions 1 and 3; 171.01, subdivision 18; 171.02, subdivision 2; and 297B.01, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 168.

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

S. F. No. 470, A bill for an act relating to environment; regulating municipal wastewater treatment funding; amending Minnesota Statutes 1988, sections 116.18, subdivisions 3a and 3b; 446A.02, subdivision 4; 446A.07, subdivision 8; and 446A.12, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115.

The bill was read for the first time.

Winter moved that S. F. No. 470 and H. F. No. 584, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 481, A bill for an act relating to state government; financing the beginning farmer loan program; regulating certain administrative duties of the commissioner of finance; permitting certain financial arrangements; amending Minnesota Statutes 1988, sections 16A.065; 16A.27, subdivision 5; 16A.58; 16A.631; 16A.641, subdivision 7; 16A.661, subdivision 7; 16A.85, subdivisions 1 and 3; 41B.19, subdivision 5; 41B.195; 115A.58, subdivisions 1, 3, 4, and 5; 115A.59; 116.16, subdivisions 1, 2, 3, 4, 5, and 9;

116.17, subdivisions 1, 3, and 5; 116.18, subdivisions 1, 4, 5, and 6; 124.42, subdivision 3; 136C.44; 216C.37, subdivision 6; 246.50, subdivision 5; 246.64, subdivision 1; and Laws 1987, chapter 396, article 12, section 10; repealing Minnesota Statutes 1988, sections 84B.08; 85A.04, subdivision 2; 115A.57; 136C.42; 136C.43, subdivisions 1, 2, and 3.

The bill was read for the first time.

Rodosovich moved that S. F. No. 481 and H. F. No. 773, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 499, A bill for an act relating to transportation; specifying that state airports fund money may be used as state's match of costs of the federal essential air services program; establishing registration classification for recreational aircraft; amending Minnesota Statutes 1988, sections 360.305, subdivision 2; and 360.55, by adding a subdivision.

The bill was read for the first time.

Wagenius moved that S. F. No. 499 and H. F. No. 408, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 748, A bill for an act relating to human services; establishing state child mortality review panel; authorizing the state to require local reviews; protecting data generated by the review panel as confidential and nondiscoverable; clarifying neglect or endangerment of a child; clarifying provisions of the child abuse reporting act dealing with neglect; requiring the commissioner of health to develop uniform procedures for coroner and medical examiner investigations relating to sudden deaths of infants; amending Minnesota Statutes 1988, sections 256.01, by adding a subdivision; 609.378; 626.556, subdivisions 2 and 10e; and 626.558; proposing coding for new law in Minnesota Statutes, chapter 145.

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

The following Conference Committee Reports were received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 831

A bill for an act relating to game and fish; Mom Fishing Weekend; season opening date for certain game fish; amending Minnesota

Statutes 1988, sections 97A.445, by adding a subdivision; and 97C.395, subdivision 1.

May 16, 1989

The Honorable Robert E. Vanasek  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

We, the undersigned conferees for H. F. No. 831, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 831 be further amended as follows:

Page 1, line 17, before "The" insert "(a)"

Page 2, after line 3, insert:

"(b) The commissioner shall close the season in areas of the state where fish are spawning and closing the season will protect the resource."

We request adoption of this report and repassage of the bill.

House Conferees: ANTHONY G. KINKEL, BOB JOHNSON AND DAVE GRUENES.

Senate Conferees: JIM VICKERMAN, BOB LESSARD AND GARY W. LAIDIG.

Kinkel moved that the report of the Conference Committee on H. F. No. 831 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 831, A bill for an act relating to game and fish; Mom Fishing Weekend; season opening date for certain game fish; amending Minnesota Statutes 1988, sections 97A.445, by adding a subdivision; and 97C.395, subdivision 1.

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

The question was taken on the repassage of the bill and the roll was called. There were 131 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kostohryz	Onnen	Schreiber
Anderson, G.	Frerichs	Krueger	Orenstein	Seaberg
Anderson, R.	Girard	Lasley	Osthoff	Segal
Battaglia	Greenfield	Lieder	Ostrom	Simoneau
Bauerly	Gruenes	Limmer	Otis	Skoglund
Beard	Gutknecht	Long	Ozment	Soiberg
Begich	Hartle	Lynch	Pappas	Sparby
Bennett	Hasskamp	Macklin	Pauly	Stanisus
Bertram	Haukoos	Marsh	Pellow	Steensma
Bishop	Heap	McDonald	Pelowski	Sviggum
Blatz	Henry	McEachern	Peterson	Swenson
Boo	Himle	McGuire	Poppenhagen	Tjornhom
Brown	Hugoson	McLaughlin	Price	Tompkins
Burger	Jacobs	McPherson	Pugh	Trimble
Carlson, D.	Janezich	Milbert	Quinn	Tunheim
Carlson, L.	Jaros	Miller	Redalen	Uphus
Carruthers	Jefferson	Morrison	Reding	Valento
Clark	Jennings	Munger	Rest	Vellenga
Conway	Johnson, A.	Nelson, C.	Rice	Wagenius
Cooper	Johnson, R.	Nelson, K.	Richter	Waltman
Dauner	Johnson, V.	Neuenschwander	Rodosovich	Weaver
Dawkins	Kalis	O'Connor	Rukavina	Welle
Dempsey	Kelly	Ogren	Runbeck	Wenzel
Dille	Kelso	Olson, E.	Sarna	Williams
Dorn	Kinkel	Olson, K.	Schafer	Winter
Forsythe	Knickerbocker	Omann	Scheid	Wyma
				Spk. Vanasek

Those who voted in the negative were:

Kahn                      Murphy                      Olsen, S.

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

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1267

A bill for an act relating to Anoka county; permitting the appointment of the auditor, recorder, and treasurer; authorizing the reorganization of county offices.

May 15, 1989

The Honorable Robert E. Vanasek  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

We, the undersigned conferees for H. F. No. 1267, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

We request adoption of this report and repassage of the bill.

House Conferees: JOE QUINN, JOEL JACOBS AND CHARLIE WEAVER.

Senate Conferees: DON FRANK AND RANDOLPH W. PETERSON

Quinn moved that the report of the Conference Committee on H. F. No. 1267 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 1267, A bill for an act relating to Anoka county; permitting the appointment of the auditor, recorder, and treasurer; authorizing the reorganization of county offices.

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

The question was taken on the repassage of the bill and the roll was called. There were 134 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frerichs	Krueger	Onnen	Seaberg
Anderson, G.	Girard	Lasley	Orenstein	Segal
Anderson, R.	Greenfield	Lieder	Osthoff	Simoneau
Battaglia	Gruenes	Limmer	Ostrom	Skoglund
Bauerly	Gutknecht	Long	Otis	Solberg
Beard	Hartle	Lynch	Ozment	Sparby
Begich	Hasskamp	Macklin	Pappas	Stanius
Bennett	Haukoos	Marsh	Pauly	Steensma
Bertram	Heap	McDonald	Pellow	Sviggum
Bishop	Henry	McEachern	Pelowski	Swenson
Blatz	Himle	McGuire	Peterson	Tjornhom
Boo	Hugoson	McLaughlin	Poppenhagen	Tompkins
Brown	Jacobs	McPherson	Price	Trimble
Burger	Janezich	Milbert	Pugh	Tunheim
Carlson, D.	Jaros	Miller	Quinn	Uphus
Carlson, L.	Jefferson	Morrison	Redalen	Valento
Carruthers	Jennings	Munger	Reding	Vellenga
Clark	Johnson, A.	Murphy	Rest	Wagenius
Conway	Johnson, R.	Nelson, C.	Rice	Waltman
Cooper	Johnson, V.	Nelson, K.	Richter	Weaver
Dauner	Kahn	Neuenschwander	Rodosovich	Welle
Dawkins	Kalis	O'Connor	Rukavina	Wenzel
Dempsey	Kelly	Ogren	Runbeck	Williams
Dille	Kelso	Olsen, S.	Sarna	Winter
Dorn	Kinkel	Olson, E.	Schafer	Wynia
Forsythe	Knickerbocker	Olson, K.	Scheid	Spk. Vanasek
Frederick	Kostohryz	Omann	Schreiber	

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

## CONFERENCE COMMITTEE REPORT ON H. F. NO. 472

A bill for an act relating to transportation; motor carriers; increasing maximum length of certain semitrailers; defining mobile cranes and providing for their maximum length; requiring a highway cost allocation study; amending Minnesota Statutes 1988, sections 169.01, by adding a subdivision; 169.81, subdivision 2; and 169.86, subdivision 5.

May 15, 1989

The Honorable Robert E. Vanasek  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

We, the undersigned conferees for H. F. No. 472, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 472 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 169.01, is amended by adding a subdivision to read:

Subd. 74. [MOBILE CRANE.] "Mobile crane" means a vehicle (1) not designed or used to transport persons or property, (2) operated only incidentally on the highway and not subject to vehicle registration under chapter 168, and (3) comprising a boom and hoisting mechanism used in the construction industry. Mobile crane does not include a motor vehicle, designed to transport persons or property, to which a boom, hoist, crane, or other machinery has been attached.

Sec. 2. Minnesota Statutes 1988, section 169.81, subdivision 2, is amended to read:

Subd. 2. [LENGTH OF VEHICLES.] (a) No single unit motor vehicle, except mobile cranes which may not exceed 45 48 feet, unladen or with load may exceed a length of 40 feet extreme overall dimensions inclusive of front and rear bumpers, except that the governing body of a city is authorized by permit to provide for the maximum length of a motor vehicle, or combination of motor vehicles, or the number of vehicles that may be fastened together, and which may be operated upon the streets or highways of a city; provided, that the permit may not prescribe a length less than that permitted by state law. A motor vehicle operated in compliance with



the permit on the streets or highways of the city is not in violation of this chapter.

(b) No single semitrailer may have an overall length, exclusive of non-cargo-carrying accessory equipment, including refrigeration units or air compressors, necessary for safe and efficient operation mounted or located on the end of the semitrailer adjacent to the truck or truck-tractor, in excess of 48 feet, except that a single semitrailer may have an overall length in excess of 48 feet but not greater than 53 feet if (1) the distance from the kingpin to the centerline of the rear axle group of the semitrailer does not exceed 41 feet, and (2) if the semitrailer is operated only in a combination of vehicles which does not exceed an overall length of 65 feet. No single trailer may have an overall length inclusive of tow bar assembly and exclusive of rear protective bumpers which do not increase the overall length by more than six inches, in excess of 45 feet. For determining compliance with the provisions of this subdivision, the length of the semitrailer or trailer must be determined separately from the overall length of the combination of vehicles.

(c) No semitrailer or trailer used in a three-vehicle combination may have an overall length, exclusive of non-cargo-carrying accessory equipment, including refrigeration units or air compressors, necessary for safe and efficient operation mounted or located on the end of the semitrailer or trailer adjacent to the truck or truck-tractor, and further exclusive of the tow bar assembly, in excess of 28½ feet. The commissioner may not grant a permit authorizing the movement, in a three-vehicle combination, of a semitrailer or trailer that exceeds 28½ feet, except that the commissioner may renew a permit that was granted before April 16, 1984, for the movement of a semitrailer or trailer that exceeds the length limitation in this paragraph.

Sec. 3. Minnesota Statutes 1988, section 169.86, subdivision 5, is amended to read:

Subd. 5. [FEES.] The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) \$15 for each single trip permit.

(b) \$36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight and dimension.

(c) \$60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) refuse compactor vehicles that carry a gross weight up to but not in excess of 22,000 pounds on a single rear axle and not in excess of 38,000 pounds on a tandem rear axle;

(2) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(3) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

(4) motor vehicles operating with gross weights authorized under section 169.825, subdivision 11, paragraph (a), clause (3).

(d) \$120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) ~~truck~~ mobile cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

(4) farm equipment when the movement is not made according to the provisions of section 169.80, subdivision 1, paragraphs (a) to (f);

(5) double-deck buses;

(6) commercial boat hauling.

(e) for vehicles which have axle weights exceeding the weight limitations of section 169.825, an additional cost added to the fees listed above. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

#### Overweight Axle Group Cost Factors

Weight (pounds) exceeding weight limi- tations on axles	Cost Per Mile For Each Group Of:		
	Two consec- utive axles spaced within 8 feet or less	Three consec- utive axles spaced within 9 feet or less	Four consec- utive axles spaced with- in 14 feet or less
0-2,000	.100	.040	.036

2,001-4,000	.124	.050	.044
4,001-6,000	.150	.062	.050
6,001-8,000	Not permitted	.078	.056
8,001-10,000	Not permitted	.094	.070
10,001-12,000	Not permitted	.116	.078
12,001-14,000	Not permitted	.140	.094
14,001-16,000	Not permitted	.168	.106
16,001-18,000	Not permitted	.200	.128
18,001-20,000	Not permitted	Not permitted	.140
20,001-22,000	Not permitted	Not permitted	.168

The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

Gross Weight (pounds) of vehicle	Annual Permit Fee
90,000 or less	\$200
90,001-100,000	\$300
100,001-110,000	\$400
110,001-120,000	\$500
120,001-130,000	\$600
130,001-140,000	\$700
140,001-145,000	\$800

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) for vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to \$120 added to the amount in paragraph (a) when the permit is issued while seasonal load restrictions pursuant to section 169.87 are in effect.

Sec. 4. Minnesota Statutes 1988, section 221.022, is amended to read:

**221.022 [METROPOLITAN TRANSIT COMMISSION; EXCEPTION.]**

The powers granted to the board under sections 221.011 to 221.296 do not include the power to regulate any service or vehicles operated by the metropolitan transit commission or to regulate passenger transportation service provided under contract to the department. A provider of passenger transportation service under contract to the department may not provide charter service without first having obtained a permit to operate as a charter carrier.

Sec. 5. Minnesota Statutes 1988, section 221.025, is amended to read:

**221.025 [EXEMPTIONS.]**

Except as provided in sections 221.031 and 221.033, the provisions of this chapter do not apply to the intrastate transportation described below:

(a) the transportation of students to or from school or school activities in a school bus inspected and certified under section 169.451;

(b) the transportation of rubbish as defined in section 443.27;

(c) a commuter van as defined in section 221.011, subdivision 27;

(d) authorized emergency vehicles as defined in section 169.01, subdivision 5, including ambulances, and tow trucks when picking up and transporting disabled or wrecked motor vehicles and when carrying proper and legal warning devices;

(e) the transportation of grain samples under conditions prescribed by the board;

(f) the delivery of agricultural lime;

(g) the transportation of dirt and sod within an area having a 50-mile radius from the home post office of the person performing the transportation;

(h) a person while exclusively engaged in the transportation of sand, gravel, bituminous asphalt mix, concrete ready mix, concrete blocks or tile, or crushed rock to or from the point of loading or a place of gathering within an area having a 50-mile radius from that

person's home post office or a 50-mile radius from the site of construction or maintenance of public roads and streets;

(i) the transportation of pulpwood, cordwood, mining timber, poles, posts, decorator evergreens, wood chips, sawdust, shavings, and bark from the place where the products are produced to the point where they are to be used or shipped;

(j) a person while engaged exclusively in transporting fresh vegetables from farms to canneries or viner stations, from viner stations to canneries, or from canneries to canneries during the harvesting, canning, or packing season, or transporting potatoes, sugar beets, wild rice, or rutabagas from the field of production to the first place of delivery or unloading, including a processing plant, warehouse, or railroad siding;

(k) a person engaged in transporting property or freight, other than household goods and petroleum products in bulk, entirely within the corporate limits of a city or between contiguous cities except as provided in section 221.296;

(l) the transportation of unprocessed dairy products in bulk within an area having a 100-mile radius from the home post office of the person providing the transportation;

(m) a person engaged in transporting agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25-mile radius from the person's home post office and the carrier may transport other commodities within the 25-mile radius if the destination of each haul is a farm;

(n) a person providing limousine service that is not regular route service in a passenger automobile that is not a van, and that has a seating capacity, excluding the driver, of not more than 12 persons;

(o) passenger transportation service that is not charter service and that is under contract to and with operating assistance from the department.

## Sec. 6. [COST ALLOCATION STUDY.]

Subdivision 1. [STUDY REQUIRED.] The commissioner of transportation shall contract with a qualified and impartial consultant to conduct a study of how the costs of state and local highways in Minnesota, including costs and revenues attributable to federal aid programs, are allocated among users. This study shall:

(1) determine the costs of designing, constructing, administering, and maintaining state and local highways in Minnesota;

(2) determine the extent to which those costs are attributable to various classes of vehicles using those highways;

(3) determine the extent to which various classes of vehicles contribute revenue, including federal highway user taxes, for the design, construction, administration, and maintenance of those highways; and

(4) recommend changes in highway financing which would make the payments of various classes of vehicles for the design, construction, administration, and maintenance of state and local highways more nearly equal the costs those classes impose on those highways.

The commissioner shall regularly consult with the commissioner's motor carrier advisory board on the design of the request for proposals for the study, the selection of the consultant to perform the study, and the periodic review and evaluation of the study.

Subd. 2. [REPORT.] The commissioner shall report the results of the study to the chairs of the senate and house committees on transportation not later than October 1, 1990."

Delete the title and insert:

"A bill for an act relating to transportation; motor carriers; increasing maximum length of certain semitrailers; defining mobile cranes and providing for their maximum length; deregulating persons who provide passenger transportation service under contract to and with assistance from the department of transportation; requiring a highway cost allocation study; amending Minnesota Statutes 1988, sections 169.01, by adding a subdivision; 169.81, subdivision 2; 169.86, subdivision 5; 221.022; and 221.025."

We request adoption of this report and repassage of the bill.

House Conferees: HENRY J. KALIS, CONNIE MORRISON AND HAROLD LASLEY.

Senate Conferees: CLARENCE M. PURFEERST, MEL FREDERICK AND GARY M. DECramer.

Kalis moved that the report of the Conference Committee on H. F. No. 472 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 472, A bill for an act relating to transportation; motor

carriers; increasing maximum length of certain semitrailers; defining mobile cranes and providing for their maximum length; requiring a highway cost allocation study; amending Minnesota Statutes 1988, sections 169.01, by adding a subdivision; 169.81, subdivision 2; and 169.86, subdivision 5.

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

The question was taken on the repassage of the bill and the roll was called. There were 134 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frerichs	Krueger	Onnen	Seaberg
Anderson, G.	Girard	Lasley	Orenstein	Segal
Anderson, R.	Greenfield	Lieder	Osthoft	Simoneau
Battaglia	Gruenes	Limmer	Ostrom	Skoglund
Bauerly	Gutknecht	Long	Otis	Solberg
Beard	Hartle	Lynch	Ozment	Sparby
Begich	Hasskamp	Macklin	Pappas	Stanisus
Bennett	Haukoos	Marsh	Pauly	Steensma
Bertram	Heap	McDonald	Pellow	Swiggum
Bishop	Henry	McEachern	Pelowski	Swenson
Blatz	Himle	McGuire	Peterson	Tjornhom
Boo	Hugoson	McLaughlin	Poppenhagen	Tompkins
Brown	Jacobs	McPherson	Price	Trimble
Burger	Janezich	Milbert	Pugh	Tunheim
Carlson, D.	Jaros	Miller	Quinn	Uphus
Carlson, L.	Jefferson	Morrison	Redalen	Valento
Carruthers	Jennings	Munger	Reding	Vellenga
Clark	Johnson, A.	Murphy	Rest	Wagenius
Conway	Johnson, R.	Nelson, C.	Rice	Waltman
Cooper	Johnson, V.	Nelson, K.	Richter	Weaver
Dauner	Kahn	Neuenschwander	Rodosovich	Welle
Dawkins	Kalis	O'Connor	Rukavina	Wenzel
Dempsey	Kelly	Ogren	Runbeck	Williams
Dille	Kelso	Olsen, S.	Sarna	Winter
Dorn	Kinkel	Olsen, E.	Schafer	Wynia
Forsythe	Knickerbocker	Olson, K.	Scheid	Spk. Vanasek
Frederick	Kostohryz	Omann	Schreiber	

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

#### ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1137:

Johnson, A.; McLaughlin and Olsen, S.

#### CONSIDERATION UNDER RULE 1.10

Pursuant to rule 1.10, Anderson, G., requested immediate consid-

eration of H. F. Nos. 661, 354 and 624; S. F. Nos. 353, 299 and 232; and H. F. No. 1532.

H. F. No. 661 was reported to the House.

Kahn moved to amend H. F. No. 661, the third engrossment, as follows:

Page 6, delete line 1, and insert "deposited in the state treasury and credited to the general fund."

Page 6, line 25, delete "credited"

Page 6, delete line 26, and insert "deposited in the state treasury and credited to the general fund."

Page 9, line 20, delete "\$270,000" and insert "\$265,000"

Page 9, lines 28 and 33, delete "infectious waste account" and insert "general fund"

Page 10, delete lines 3 to 5

The motion prevailed and the amendment was adopted.

H. F. No. 661, A bill for an act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 134 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Brown	Dorn	Henry	Kalis
Anderson, G.	Burger	Forsythe	Himle	Kelly
Anderson, R.	Carlson, D.	Frederick	Hugoson	Kelso
Battaglia	Carlson, L.	Frerichs	Jacobs	Kinkel
Bauerly	Carruthers	Girard	Janezich	Knickerbocker
Beard	Clark	Greenfield	Jaros	Kostohryz
Begich	Conway	Gruenes	Jefferson	Krueger
Bennett	Cooper	Gutknecht	Jennings	Lasley
Bertram	Dauner	Hartle	Johnson, A.	Lieder
Bishop	Dawkins	Hasskamp	Johnson, R.	Limmer
Blatz	Dempsey	Haukoos	Johnson, V.	Long
Boo	Dille	Heap	Kahn	Lynch



Macklin	O'Connor	Pelowski	Schafer	Trimble
Marsh	Ogren	Peterson	Scheid	Tunheim
McDonald	Olsen, S.	Poppenhagen	Schreiber	Uphus
McEachern	Olson, E.	Price	Seaberg	Valento
McGuire	Olson, K.	Pugh	Segal	Vellenga
McLaughlin	Omann	Quinn	Simoneau	Wagenius
McPherson	Onnen	Redalen	Skoglund	Waltman
Milbert	Orenstein	Reding	Solberg	Weaver
Miller	Osthoff	Rest	Sparby	Welle
Morrison	Ostrom	Rice	Stanisus	Wenzel
Munger	Otis	Richter	Steensma	Williams
Murphy	Ozment	Rodosovich	Sviggum	Winter
Nelson, C.	Pappas	Rukavina	Swenson	Wynia
Nelson, K.	Pauly	Runbeck	Tjornhom	Spk. Vanasek
Neuenschwander	Pellow	Sarna	Tompkins	

The bill was passed, as amended, and its title agreed to.

The Speaker called Rodosovich to the Chair.

H. F. No. 354, A bill for an act relating to elections; providing for handicap access to precinct caucuses and party conventions; providing for interpreters at precinct caucuses and party conventions; making convention and caucus materials available to the visually impaired; appropriating money; amending Minnesota Statutes 1988, sections 202A.13; and 202A.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 202A.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 134 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dempsey	Johnson, A.	McPherson	Pauly
Anderson, G.	Dille	Johnson, R.	Milbert	Pellow
Anderson, R.	Dorn	Johnson, V.	Miller	Pelowski
Battaglia	Forsythe	Kahn	Morrison	Peterson
Bauerly	Frederick	Kalis	Munger	Poppenhagen
Beard	Frerichs	Kelly	Murphy	Price
Begich	Girard	Kelso	Nelson, C.	Pugh
Bennett	Greenfield	Kinkel	Nelson, K.	Quinn
Bertram	Gruenes	Knickerbocker	Neuenschwander	Redalen
Bishop	Gutknecht	Kostohryz	O'Connor	Reding
Blatz	Hartle	Krueger	Ogren	Rest
Boo	Hasskamp	Lasley	Olsen, S.	Rice
Brown	Haukoos	Lieder	Olson, E.	Richter
Burger	Heap	Limmer	Olson, K.	Rodosovich
Carlson, D.	Henry	Long	Omann	Rukavina
Carlson, L.	Himle	Lynch	Onnen	Runbeck
Carruthers	Hugoson	Macklin	Orenstein	Sarna
Clark	Jacobs	Marsh	Osthoff	Schafer
Conway	Janezich	McDonald	Ostrom	Scheid
Cooper	Jaros	McEachern	Otis	Schreiber
Dauner	Jefferson	McGuire	Ozment	Seaberg
Dawkins	Jennings	McLaughlin	Pappas	Segal

Simoneau  
Skoglund  
Solberg  
Sparby  
Stanius

Steensma  
Sviggum  
Swenson  
Tjornhom  
Tompkins

Trimble  
Tunheim  
Uphus  
Valento  
Vellenga

Wagenius  
Waltman  
Weaver  
Welle  
Wenzel

Williams  
Winter  
Wynia  
Spk. Vanasek

The bill was passed and its title agreed to.

Anderson, R., was excused while in conference.

H. F. No. 624 was reported to the House.

Price moved to amend H. F. No. 624, the second engrossment, as follows:

Page 16, line 5, delete "or"

Page 16, after line 5, insert:

"(14) give an appraisal in any circumstances where the appraiser has a conflict of interest, as determined under rules adopted by the commissioner; or"

Page 16, line 6, delete "14" and insert "15"

The motion prevailed and the amendment was adopted.

H. F. No. 624, A bill for an act relating to commerce; regulating real estate appraisers; creating the real estate appraiser advisory board; providing for membership, compensation, powers, and duties; providing licensing and education requirements; regulating the issuance, renewal, suspension, and revocation of licenses; providing fees; prescribing penalties; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 82B.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 117 yeas and 16 nays as follows:

Those who voted in the affirmative were:

Abrams  
Anderson, G.  
Battaglia  
Bauerly  
Beard  
Begich

Bennett  
Bertram  
Bishop  
Boo  
Burger  
Carlson, D.

Carlson, L.  
Carruthers  
Clark  
Conway  
Cooper  
Dauner

Dawkins  
Dempsey  
Dille  
Dorn  
Forsythe  
Frederick

Frerichs  
Girard  
Greenfield  
Hartle  
Hasskamp  
Heap

Henry	Krueger	Olsen, S.	Reding	Swenson
Himle	Lasley	Olson, E.	Rest	Tompkins
Hugoson	Lieder	Omann	Rice	Trimble
Jacobs	Long	Onnen	Richter	Tunheim
Janezich	Lynch	Orenstein	Rodosovich	Uphus
Jaros	Macklin	Osthoff	Rukavina	Valento
Jefferson	Marsh	Ostrom	Runbeck	Vellenga
Jennings	McEachern	Otis	Sarna	Wagenius
Johnson, A.	McGuire	Ozment	Scheid	Weaver
Johnson, R.	McLaughlin	Pappas	Schreiber	Welle
Johnson, V.	Morrison	Pauly	Seaberg	Wenzel
Kahn	Munger	Pellow	Segal	Williams
Kalis	Murphy	Pelowski	Simoneau	Winter
Kelly	Nelson, C.	Peterson	Skoglund	Wynia
Kelso	Nelson, K.	Poppenhagen	Solberg	Spk. Vanasek
Kinkel	Neuenschwander	Price	Sparby	
Knickerbocker	O'Connor	Quinn	Stanislaus	
Kostohryz	Ogren	Redalen	Steensma	

Those who voted in the negative were:

Blatz	Haukoos	Milbert	Schafer
Brown	Limmer	Miller	Sviggum
Gruenes	McDonald	Olson, K.	Tjornhom
Gutknecht	McPherson	Pugh	Waltman

The bill was passed, as amended, and its title agreed to.

S. F. No. 353 was reported to the House.

Jefferson moved to amend S. F. No. 353, as follows:

Page 1, line 12, after "checks" insert a comma.

Page 1, line 13, delete "and" and after "drafts" insert a comma and delete "or selling"

Page 5, line 14, after the period insert "However, a currency exchange may act as agent for the issuer of money orders or travelers' checks."

The motion prevailed and the amendment was adopted.

S. F. No. 353, A bill for an act relating to commerce; regulating currency exchanges; requiring currency exchanges to be licensed by the commissioner of commerce; requiring charges to be reasonable; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 53A.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Girard	Lasley	Orenstein	Segal
Anderson, G.	Greenfield	Lieder	Osthoff	Simoneau
Battaglia	Gruenes	Limmer	Ostrom	Skoglund
Bauerly	Gutknecht	Long	Otis	Solberg
Beard	Hartle	Lynch	Ozment	Sparby
Begich	Hasskamp	Macklin	Pappas	Stanias
Bennett	Haukoos	Marsh	Pauly	Steensma
Bertram	Heap	McDonald	Pellow	Sviggum
Bishop	Henry	McEachern	Pelowski	Swenson
Blatz	Himle	McGuire	Peterson	Tjornhom
Boo	Hugoson	McLaughlin	Poppenhagen	Tompkins
Brown	Jacobs	McPherson	Price	Trimble
Burger	Janezich	Milbert	Pugh	Tunheim
Carlson, D.	Jaros	Miller	Quinn	Uphus
Carlson, L.	Jefferson	Morrison	Redalen	Valento
Carruthers	Jennings	Munger	Reding	Vellenga
Clark	Johnson, A.	Murphy	Rest	Wagenius
Conway	Johnson, R.	Nelson, C.	Rice	Waltman
Cooper	Johnson, V.	Nelson, K.	Richter	Weaver
Dauner	Kahn	Neuenschwander	Rodosovich	Welle
Dawkins	Kalis	O'Connor	Rukavina	Wenzel
Dempsey	Kelly	Ogren	Runbeck	Williams
Dille	Kelso	Olsen, S.	Sarna	Winter
Dorn	Kinkel	Olson, E.	Schafer	Wynia
Forsythe	Knickerbocker	Olson, K.	Scheid	Spk. Vanasek
Frederick	Kostohryz	Omann	Schreiber	
Frerichs	Krueger	Onnen	Seaberg	

The bill was passed, as amended, and its title agreed to.

S. F. No. 299 was reported to the House.

Rukavina moved to amend S. F. No. 299, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 97A.065, is amended by adding a subdivision to read:

Subd. 5. [RESTITUTION FOR WILD ANIMALS.] Money collected from restitution under section 2 for wild animals killed, injured, or possessed in violation of the game and fish laws must be used by the commissioner for replacement, propagation, or protection of wild animals.

Sec. 2. [97A.341] [RESTITUTION FOR WILD ANIMALS ILLEGALLY TAKEN.]

Subdivision 1. [LIABILITY FOR RESTITUTION.] A person who kills, injures, or possesses a wild animal in violation of the game and

fish laws is liable to the state for the value of the wild animal as provided in this section. Species afforded protection include members of the following groups as defined by statute or rule: game fish, game birds, big game, small game, fur-bearing animals, minnows, and threatened and endangered animal species. Other animal species may be added by order of the commissioner as determined after public meetings and with the approval of the chairs of the environment and natural resources committees in the senate and house of representatives.

Subd. 2. [ARREST AND CHARGING PROCEDURE.] (a) An enforcement officer who arrests a person for killing, injuring, or possessing a wild animal in violation of the game and fish laws must describe the number, species, and restitution value of wild animals illegally killed, injured, or possessed on the warrant or the notice to appear in court.

(b) As part of the charge against a person arrested for killing, injuring, or possessing a wild animal in violation of the game and fish laws, the prosecuting attorney must include a demand that restitution be made to the state for the value of the wild animal killed, injured, or possessed. The demand for restitution is in addition to the criminal penalties otherwise provided for the violation.

Subd. 3. [SENTENCING PROCEDURE.] If a person is convicted of or pleads guilty to killing, injuring, or possessing a wild animal in violation of the game and fish laws, the court must require the person to pay restitution to the state for replacement of the wild animal as part of the sentence or state in writing why restitution was not imposed. The court may consider the economic circumstances of the person and, in lieu of monetary restitution, order the person to perform conservation work representing the amount of restitution that will aid the propagation of wild animals. If the court does not order a person to pay restitution, the court administrator must send a copy of the court order to the commissioner.

Subd. 4. [AMOUNT OF RESTITUTION.] The amount of restitution shall be determined by the court by a preponderance of the evidence. In determining the amount of restitution, the court must consider the value of the wild animal under section 3.

Subd. 5. [RESTITUTION CREDITED TO GAME AND FISH FUND.] The court administrator shall forward restitution collected under this section to the commissioner of finance and the commissioner shall credit all money forwarded to the game and fish fund in the state treasury.

Sec. 3. [97A.345] [RESTITUTION VALUE OF WILD ANIMALS.]

(a) The commissioner may, by rules adopted under chapter 14,

prescribe the dollar value to the state of species of wild animals. The value may reflect the value to other persons to legally take the wild animal, the replacement cost, or the intrinsic value to the state of the wild animals. Species of wild animals with similar values may be grouped together.

(b) The value of a wild animal under the rules adopted by the commissioner is prima facie evidence of a wild animal's value under section 2.

(c) The commissioner shall report annually to the legislature the amount of restitution collected under section 2 and the manner in which the funds were expended.

#### Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 2 are effective November 1, 1989, and apply to game and fish law violations committed on or after that date. Section 3 is effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A."

The motion prevailed and the amendment was adopted.

S. F. No. 299, A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; providing for civil penalties for wild animals killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abrams  
Anderson, G.  
Battaglia

Bauerly  
Beard  
Begich

Bennett  
Bertram  
Bishop

Blatz  
Boo  
Brown

Burger  
Carlson, D.  
Carlson, L.

Carruthers	Jacobs	McGuire	Ozment	Skoglund
Clark	Janezich	McLaughlin	Pappas	Solberg
Cooper	Jaros	McPherson	Pellow	Sparby
Dauner	Jefferson	Milbert	Pelowski	Stanius
Dawkins	Jennings	Miller	Peterson	Steensma
Dempsey	Johnson, A.	Morrison	Poppenhagen	Sviggum
Dille	Johnson, V.	Munger	Price	Swenson
Dorn	Kahn	Murphy	Pugh	Tjornhom
Forsythe	Kalis	Nelson, C.	Quinn	Tompkins
Frederick	Kelly	Nelson, K.	Reding	Trimble
Frerichs	Kinkel	Neuenschwander	Rest	Tunheim
Girard	Knickerbocker	O'Connor	Rice	Uphus
Greenfield	Kostohryz	Ogren	Rodosovich	Valento
Gruenes	Lasley	Olsen, S.	Rukavina	Vellenga
Gutknecht	Lieder	Olson, E.	Runbeck	Wagenius
Hartle	Limmer	Olson, K.	Sarna	Waltman
Hasskamp	Long	Omam	Schafer	Weaver
Haukoos	Lynch	Onnen	Scheid	Welle
Heap	Macklin	Orenstein	Schreiber	Wenzel
Henry	Marsh	Osthoff	Seaberg	Winter
Himle	McDonald	Ostrom	Segal	Wynia
Hugoson	McEachern	Otis	Simoneau	Spk. Vanasek

Those who voted in the negative were:

Johnson, R.      Redalen      Richter

The bill was passed, as amended, and its title agreed to.

S. F. No. 232, A bill for an act relating to corporations; providing for the simplification of certain filings made with the office of the secretary of state; changing the recipients of certain notices; modifying the definition of address to include zip codes; appropriating money; amending Minnesota Statutes 1988, sections 302A.011, subdivision 3; 302A.123, subdivision 1; 302A.821, subdivision 1; 303.02, subdivision 5; 303.10, subdivision 2; 303.13, subdivision 2; 303.14, subdivision 1; and 303.17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 5.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Brown	Dille	Haukoos	Johnson, R.
Anderson, G.	Burger	Dorn	Heap	Johnson, V.
Battaglia	Carlson, D.	Forsythe	Henry	Kahn
Bauerly	Carlson, L.	Frederick	Himle	Kalis
Beard	Carruthers	Frerichs	Hugoson	Kelly
Begich	Clark	Girard	Jacobs	Kelso
Bennett	Conway	Greenfield	Janezich	Kinkel
Bertram	Cooper	Gruenes	Jaros	Knickerbocker
Bishop	Dauner	Gutknecht	Jefferson	Kostohryz
Blatz	Dawkins	Hartle	Jennings	Krueger
Boo	Dempsey	Hasskamp	Johnson, A.	Lasley

Lieder	Nelson, C.	Pauly	Sarna	Trimble
Limmer	Nelson, K.	Pellow	Schafer	Tunheim
Long	Neuenschwander	Pelowski	Scheid	Uphus
Lynch	O'Connor	Peterson	Schreiber	Valento
Macklin	Ogren	Poppenhagen	Seaberg	Vellenga
Marsh	Olsen, S.	Price	Segal	Wagenius
McDonald	Olson, E.	Pugh	Simoneau	Waltman
McEachern	Olson, K.	Quinn	Skoglund	Weaver
McGuire	Omann	Redalen	Solberg	Welle
McLaughlin	Onnen	Reding	Sparby	Wenzel
McPherson	Orenstein	Rest	Stanius	Williams
Milbert	Osthoff	Rice	Steenasma	Winter
Miller	Ostrom	Richter	Sviggum	Wynia
Morrison	Otis	Rodosovich	Swenson	Spk. Vanasek
Munger	Ozment	Rukavina	Tjornhom	
Murphy	Pappas	Runbeck	Tompkins	

The bill was passed and its title agreed to.

H. F. No. 1532 was reported to the House.

Ogren, Dawkins, Boo and Stanius moved to amend H. F. No. 1532, the third engrossment, as follows:

Page 9, after line 35, insert:

"Sec. 8. [OIL OVERCHARGE MONEY.]

Money received after the effective date of this section as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations that is not otherwise dedicated by court order must be allocated one-half to energy conservation projects that directly serve low-income Minnesotans for cost effective weatherization and other conservation measures including, but not limited to, furnace retrofits. Money received under this section must be appropriated by law."

Renumber the sections in sequence

Correct internal references accordingly

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Ogren et al amendment and the roll was called. There were 96 yeas and 32 nays as follows:

Those who voted in the affirmative were:

Battaglia	Beard	Bennett	Boo	Carlson, D.
Bauerly	Begich	Bertram	Brown	Carlson, L.



Carruthers	Johnson, A.	McPherson	Pelowski	Skoglund
Clark	Johnson, R.	Munger	Peterson	Solberg
Conway	Johnson, V.	Murphy	Price	Sparby
Cooper	Kalis	Nelson, C.	Pugh	Stanis
Dauner	Kelly	Nelson, K.	Quinn	Steenma
Dawkins	Kelso	Neuenschwander	Redalen	Swigum
Dille	Kinkel	O'Connor	Reding	Swenson
Dorn	Kostohryz	Ogren	Rest	Tjornhom
Greenfield	Krueger	Olson, E.	Rice	Trimble
Gruenes	Lasley	Omann	Rodovich	Uphus
Hasskamp	Lieder	Onnen	Rukavina	Valento
Haukoos	Long	Orenstein	Runbeck	Vellenga
Jacobs	Lynch	Otis	Sarna	Wagenius
Janezich	Macklin	Ozment	Schafer	Welle
Jaros	McEachern	Pappas	Seaberg	Wenzel
Jefferson	McGuire	Pauly	Segal	Williams
Jennings	McLaughlin	Pellow	Simoneau	Winter
				Spk. Vanasek

Those who voted in the negative were:

Abrams	Gutknecht	Limmer	Olson, K.	Tompkins
Bishop	Hartle	Marsh	Osthoff	Tunheim
Burger	Heap	McDonald	Ostrom	Waltman
Dempsey	Henry	Milbert	Poppenhagen	Weaver
Forsythe	Himle	Miller	Richter	
Frerichs	Hugoson	Morrison	Scheid	
Girard	Knickerbocker	Olsen, S.	Schreiber	

The motion prevailed and the amendment was adopted.

H. F. No. 1532, A bill for an act relating to utilities; low-income energy needs; designating the department of public service as the agency responsible for coordinating energy policy for low-income Minnesotans; requiring the department to gather certain information on low-income energy programs; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Blatz	Cooper	Greenfield	Hugoson
Anderson, G.	Boo	Dauner	Gruenes	Jacobs
Battaglia	Brown	Dawkins	Gutknecht	Janezich
Bauerly	Burger	Dempsey	Hartle	Jaros
Beard	Carlson, D.	Dille	Hasskamp	Jefferson
Begich	Carlson, L.	Dorn	Haukoos	Jennings
Bennett	Carruthers	Forsythe	Heap	Johnson, A.
Bertram	Clark	Frerichs	Henry	Johnson, R.
Bishop	Conway	Girard	Himle	Johnson, V.

Kahn	McGuire	Onnen	Rest	Sviggum
Kalis	McLaughlin	Orenstein	Richter	Swenson
Kelly	McPherson	Osthoff	Rodosovich	Tjornhom
Kelso	Milbert	Ostrom	Rukavina	Tompkins
Kinkel	Miller	Otis	Runbeck	Trimble
Knickerbocker	Morrison	Ozment	Sarna	Tunheim
Kostohryz	Munger	Pappas	Schafer	Uphus
Krueger	Murphy	Pauly	Scheid	Valento
Lasley	Nelson, C.	Pellow	Schreiber	Vellenga
Lieder	Nelson, K.	Pelowski	Seaberg	Wagenius
Limmer	Neuenschwander	Peterson	Segal	Waltman
Long	O'Connor	Poppenhagen	Simoneau	Weaver
Lynch	Ogren	Price	Skoglund	Welle
Macklin	Olsen, S.	Pugh	Solberg	Wenzel
Marsh	Olson, E.	Quinn	Sparby	Williams
McDonald	Olson, K.	Redalen	Stanius	Winter
McEachern	Omann	Reding	Steensma	Wynia
				Spk. Vanasek

The bill was passed, as amended, and its title agreed to.

There being no objection, the order of business reverted to Reports of Standing Committees.

## REPORTS OF STANDING COMMITTEES

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 150, A bill for an act relating to health care; providing a program of affordable health care coverage for Minnesota residents; creating a health care access commission to implement and administer the program; establishing eligibility requirements and funding sources; modifying income eligibility requirements for medical assistance; requiring a report; appropriating money; amending Minnesota Statutes 1988, section 256B.056, subdivision 4; proposing coding for new law as Minnesota Statutes, chapter 62J.

Reported the same back with the following amendments:

Page 2, line 10, delete "11" and insert "seven"

Page 2, line 14, delete everything after the period

Page 2, delete line 15

Page 2, line 16, delete "rules of the house of representatives." and insert "Beginning on February 2, 1990, the two members appointed under the rules of the senate and the two members appointed under the rules of the house shall become ex officio, nonvoting members."

Page 2, after line 20, insert:

"In addition, two ex officio, nonvoting members shall be appointed under the rules of the senate and two ex officio, nonvoting members shall be appointed under the rules of the house."

Page 7, after line 26, insert:

"The commission may examine and make recommendations to the legislature on alternative gatekeeping mechanisms for access to health care services, different benefit and service packages for the minimum core coverage plan, and alternative dollar limitations for prescription drug costs."

Page 8, line 23, after the semicolon insert "and"

Page 8, line 26, delete "," and and insert a period

Page 8, delete lines 27 and 28, and insert:

"The commission may also consider alternative or additional limits on provider reimbursement and covered services, and make recommendations to the legislature."

Page 9, line 6, after the period insert "The commission may examine the effect of different copayment levels on access to health care for persons with low incomes, and provide recommendations to the legislature based on this analysis."

Page 9, line 8, after the period insert "The commission may also examine and make recommendations to the legislature on alternative maximum lifetime benefits."

Page 9, line 19, delete "PARTICIPATION" and insert "ENROLLMENT"

Page 9, line 20, delete "(a)" and insert:

"Subdivision 1. [DEFINITIONS.] For purposes of sections 1 to 11, the following terms have the meanings given:

(1) "Dependent child" means a person who is: (1) under 18 years old, or under 22 years old and a student regularly attending school, college, or training; (2) not married; and (3) not the head of a household.

(2) "Enrollee" means an eligible resident who is enrolled in the health care access plan.

(3) "Family" means one or more people who live together and between whom there is a legal duty of support. "Family" includes dependent children, whether or not they live in the household of the parent.

(4) "Income" means income as defined in the federal poverty income guidelines. Income considered available to a dependent child whose parents are not enrollees is determined under chapter 256B.

(5) "Resident" means a person who is currently living in Minnesota and has been living in Minnesota for the six months immediately preceding the date of receipt by the commission or its carrier of a completed application for coverage and who meets the eligibility requirements of subdivision 2.

Subd. 2. [MANDATORY HEALTH INSURANCE.]"

Page 9, line 24, delete "paragraph" and insert "subdivision"

Page 9, delete lines 31 to 36

Page 10, delete lines 1 to 6 and insert:

"Subd. 3. [HEALTH CARE ACCESS PROGRAM.] A Minnesota resident must enroll"

Page 10, line 22, delete "Subd. 2." and insert "Sec. 6. [62J.06]" and before "(a)" insert paragraph coding

Page 11, line 2, delete "person" and insert "resident"

Page 11, line 23, delete "A" and insert "An enrollee's"

Page 11, line 24, delete "participant's"

Page 11, delete lines 26 and 27 and insert "income of the enrollee's family, according to the following table:"

Page 11, line 28, delete the first "Participant's" and insert "Family" and delete the second "Participant's" and insert "Enrollee's"

Page 11, after line 35, insert:

"The commission may also consider and make recommendations to the legislature on alternative sliding fee scales."

Page 12, line 3, delete "persons" and insert "residents"

Page 13, delete lines 14 and 15 and insert:

"This appropriation may not exceed \$150,000,000 in any fiscal year. The commission may, however, recommend to the legislature a different maximum appropriation level, based upon its examination of issues related to financing a health care program for the uninsured."

Page 14, line 16, delete "\$3,000,000" and insert "\$2,000,000"

Page 14, line 18, after the period insert "Of this appropriation, \$500,000 must be used by the commission for a subsidy program for community clinics meeting the definition in section 3, subdivision 2. In allocating this money between clinics, the commission shall take into account each clinic's financial condition and the proportion of low-income persons served by each clinic."

Page 14, line 28, delete "ARTICLE 2"

Page 14, line 29 to page 15, line 7, delete sections 1 and 2

Page 15, line 8, delete "3" and insert "2"

Page 15, line 10, delete "articles 1 or 2" and insert "article 1" and delete "are" and insert "is"

Page 15, line 11, delete "those articles" and insert "the article"

Amend the title as follows:

Page 1, delete line 9

Page 1, line 10, delete "subdivision 4,"

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 207, A bill for an act relating to public safety; establishing the board of jail employee training and standards; regulating jail employees; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 214.01, subdivision 3; 214.04, subdivisions 1 and 3; and 364.09; proposing coding for new law in Minnesota Statutes, chapter 214; proposing coding for new law as Minnesota Statutes, chapter 644.

Reported the same back with the following amendments:

Page 2, line 8, reinstate the stricken "and"

Page 2, line 9, after the comma, insert "the commissioner of corrections with respect to"

Page 8, line 27, delete "1990" and insert "1991"

Page 9, line 7, delete "1991" and insert "1992"

Page 9, line 14, delete "1991" and insert "1992"

Page 9, line 35, delete "1991" and insert "1992"

Page 10, line 23, delete "1991" and insert "1992"

Page 10, line 29, delete "1990" and insert "1991"

Page 11, line 25, delete "\$475,900" and insert "\$100,000"

Amend the title as follows:

Page 1, line 2, delete "public safety" and insert "corrections"

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 376, A bill for an act relating to public safety; regulating the operation and operators of elevators; amending Minnesota Statutes 1988, sections 183.351, by adding a subdivision; and 183.355; proposing coding for new law in Minnesota Statutes, chapter 183.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 16B.70, subdivision 1, is amended to read:

Subdivision 1. [COMPUTATION.] To defray the costs of administering sections 16B.59 to 16B.73, a surcharge is imposed on all permits issued by municipalities in connection with the construction of or addition or alteration to buildings and equipment or appurtenances after June 30, 1971, as follows:

If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mill (.0005) of the fee or 50 cents, whichever amount is greater. For all other permits, the surcharge is as follows: (a) (1) if the valuation of the structure, addition, or alteration is \$1,000,000 or less, the surcharge is equivalent to one-half mill (.0005) of the valuation of the structure, addition, or alteration; (b) (2) if the valuation is greater than \$1,000,000, the surcharge is \$500 plus two-fifths mill (.0004) of the value between \$1,000,000 and \$2,000,000; (c) (3) if the valuation is greater than \$2,000,000 the surcharge is \$900 plus three-tenths mill (.0003) of the value between \$2,000,000 and \$3,000,000; (d) (4) if the valuation is greater than \$3,000,000 the surcharge is \$1,200 plus one-fifth mill (.0002) of the value between \$3,000,000 and \$4,000,000; (e) (5) if the valuation is greater than \$4,000,000 the surcharge is \$1,400 plus one-tenth mill (.0001) of the value between \$4,000,000 and \$5,000,000; and (f) (6) if the valuation exceeds \$5,000,000 the surcharge is \$1,500 plus one-twentieth mill (.00005) of the value which that exceeds \$5,000,000.

By September 1 of each odd-numbered year, the commissioner shall rebate to municipalities any money received under this section and section 16B.62 in the previous biennium in excess of the cost to the building code division and the passenger elevator inspector in the department of labor and industry in that biennium of carrying out their its duties under sections 16B.59 to 16B.73. The rebate to each municipality must be in proportion to the amount of the surcharges collected by that municipality and remitted to the state. The amount necessary to meet the commissioner's rebate obligations under this subdivision is appropriated to the commissioner from the special revenue fund.

#### Sec. 2. [183.001] [ADMINISTRATION, PENALTIES.]

The commissioner of the department of labor and industry shall administer chapter 183. In addition to the remedies provided for violations of this chapter, the commissioner may impose a penalty of up to \$1,000 for a violation of any provision of this chapter.

#### Sec. 3. [183.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] When used in this chapter, the terms defined in this section have the meanings given them.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of the department of labor and industry.

Subd. 3. [DEPARTMENT.] "Department" means the department of labor and industry.

#### Sec. 4. [183.022] [ELEVATOR AVAILABLE FOR INSPECTION.]

A person, firm, entity, or corporation that owns or controls a building or other structure housing an elevator that is subject to inspection by the department, shall, upon request, provide access at a reasonable hour to the elevator for purposes of inspection.

Sec. 5. Minnesota Statutes 1988, section 183.351, is amended by adding a subdivision to read:

Subd. 5. As used in this chapter, "elevator" means moving walks and vertical transportation devices such as escalators, passenger elevators, freight elevators, dumbwaiters, handpowered elevators, endless belt lifts, and wheelchair platform lifts, but does not include external temporary material lifts, temporary construction personnel elevators at sites of construction of new or remodeled buildings, or elevators in owner-occupied buildings of no more than four living units.

Sec. 6. Minnesota Statutes 1988, section 183.351, is amended by adding a subdivision to read:

Subd. 6. [MUNICIPALITY.] "Municipality," as used in sections 183.351 to 183.358, means a city, county, or town meeting the requirements of section 368.01, subdivision 1.

Sec. 7. Minnesota Statutes 1988, section 183.355, is amended to read:

### 183.355 [VIOLATIONS, PENALTIES.]

Subdivision 1. [REMOVAL OF SEAL.] Any No person, firm or corporation who violates any of the provisions of sections 183.351 to 183.355 or who removes may remove any seal or notice forbidding the use of any such an elevator, except by authority of the department of labor and industry or the licensing authority having jurisdiction over such the elevator, or who operates operate such an elevator after such a notice has been attached forbidding its use, unless such the notice has been removed by authority of the department of labor and industry or the licensing authority having jurisdiction over such the elevator shall be guilty of a misdemeanor.

Subd. 2. [FALSE CERTIFICATION.] No inspector, or other party authorized by this section or by rule to inspect elevators, may falsely certify the safety of an elevator, or grant a license or permit contrary to any provision of this chapter.

Subd. 3. [MINIMUM REQUIREMENTS.] No person, firm, or corporation may construct, install, or repair an elevator that does not meet the minimum requirements of this chapter, adopted rules, or national codes adopted by rule.



## Sec. 8. [183.357] [FEES FOR LICENSURE AND INSPECTION.]

Subdivision 1. [PERMITS.] No person, firm, or corporation may construct or install an elevator without first filing an application for a permit with the department of labor and industry or a municipality authorized by subdivision 3 to inspect elevators. Projects under actual construction before July 1, 1989, are not required to obtain a permit from the department. Upon successfully completing inspection and the payment of the appropriate fee, the owner must be granted an operating permit for the elevator.

Subd. 2. [CONTRACTOR LICENSES.] The commissioner may establish criteria for the qualifications of elevator contractors and issue licenses based upon proof of the applicant's qualifications.

Subd. 3. [PERMISSIVE MUNICIPAL REGULATION.] A municipality that conducts a system of elevator inspection on a periodic basis in conformity with this chapter, state building code requirements, and adopted rules, and that employs or contracts with inspectors meeting the minimum requirements established by rule, may provide for the inspection of elevator installation, repair, construction, and the periodic routine inspection of elevators. A municipality may not adopt standards that do not conform to the uniform standards prescribed by the department.

If a municipality does not conduct elevator inspections as provided in this chapter, or if the commissioner determines that a municipality is not properly administering and enforcing the law, rules, and codes, the commissioner shall have the inspection, administration, and enforcement undertaken by a qualified inspector employed by the department.

Subd. 4. [DEPOSIT OF FEES.] Fees received under this section must be deposited in the state treasury and credited to the special revenue fund.

## Sec. 9. [183.358] [RULES.]

The commissioner may adopt rules for the following purposes:

(1) to set a fee under section 16A.128 for processing a construction or installation permit or elevator contractor license application;

(2) to set a fee under section 16A.128 to cover the cost of elevator inspections;

(3) to establish minimum qualifications for elevator inspectors that must include possession of a current journeyman elevator electrician's license issued by the state board of electricity and proof

of successful completion of the national elevator construction mechanic examination or equivalent experience;

(4) to establish criteria for the qualifications of elevator contractors;

(5) to establish elevator standards under sections 16B.61, subdivisions 1 and 2, and 16B.64; and

(6) to establish procedures for appeals of decisions of the commissioner under chapter 14 and procedures allowing the commissioner, before issuing a decision, to seek advice from the elevator trade, building owners or managers, and others knowledgeable in the installation, construction, and repair of elevators."

Delete the title and insert:

"A bill for an act relating to public safety; regulating the operation and operators of elevators; imposing penalties; amending Minnesota Statutes 1988, sections 16B.70, subdivision 1; 183.351, by adding subdivisions; and 183.355; proposing coding for new law in Minnesota Statutes, chapter 183."

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 404, A bill for an act relating to health; requiring a person to be licensed to perform radon work; regulating radon testing and mitigation work; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 326.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [326.83] [TITLE.]

Sections 326.83 to 326.92 may be cited as the "radon research and remediation act."

Sec. 2. [326.84] [DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in sections 326.83 to 326.92, the following terms have the meanings given them in this section.

Subd. 2. [PERSON.] "Person" means any individual, partnership, association, private corporation, or other private business entity.

Subd. 3. [RADON.] "Radon" means the radioactive noble gas radon-222 and the short-lived radionuclides that are products of radon-222 decay, including polonium-218, lead-214, bismuth-214, and polonium-214.

**Sec. 3. [326.85] [RADON TESTING; REGISTRATION.]**

Subdivision 1. [WHEN REGISTRATION REQUIRED.] No person may conduct radon testing in Minnesota unless the person is registered with the department of health.

Subd. 2. [WHEN REGISTRATION NOT REQUIRED.] A registration for radon testing is not required for:

(1) a person who performs radon testing or radon work involving property owned by the person; or

(2) a person performing preventive or safeguarding measures during new construction or remodeling.

Subd. 3. [REGISTRATION REQUIREMENTS.] To obtain a registration to perform radon testing, a person must demonstrate that the person has met the requirements of the most current round of the National Radon Measurement Proficiency Program established by the United States Environmental Protection Agency.

Subd. 4. [COPIES OF THE REGISTRATION.] A registration holder must provide a copy of the registration upon request by anyone who contracts for radon services from the registration holder.

Subd. 5. [CONDUCTING RADON TESTING.] A person shall be deemed to be conducting radon testing if the person, by oral or written representation, claims to determine the presence of or the level of radon in a building.

Subd. 6. [LOCAL GOVERNMENT REGULATION.] A municipality or other local government entity may not require an additional registration or impose additional conditions or requirements upon a person performing radon testing, if the person is registered under this section.

**Sec. 4. [326.86] [REGISTRATION FEE.]**

A person required to be registered under section 3 must, before performing radon testing, pay the commissioner of health an initial registration fee of \$200. A registration is valid for two years after the date it is issued. The registration must be renewed every two years. A person seeking to renew the registration must pay a \$200 renewal fee.

Sec. 5. [326.87] [DUTIES OF THE COMMISSIONER OF HEALTH.]

Subdivision 1. [RADON EDUCATION.] (a) The commissioner of health shall hold public meetings and publish material the commissioner of health determines is necessary to inform the public about radon. The commissioner of health shall make written materials about radon testing and remediation available to real estate agents, builders, public libraries, building code enforcement officials, hardware stores, and home improvement stores for free distribution.

(b) The commissioner of health shall prepare and distribute technical information the commissioner of health determines is necessary or useful to help assure testing, building, and mitigation practices that will accurately identify radon levels and will help reduce or abate radon problems. The commissioner of health must distribute this information to mitigation companies, builders, radon testing companies, and local officials.

(c) The commissioner of health may charge a fee for educational materials based on the cost of producing the materials.

Subd. 2. [RADON RESEARCH.] (a) To the extent that funding is available, the commissioner of health may undertake research, directly through department staff or under contract, and publish the results of the research in the following areas:

(1) radon mitigation techniques;

(2) radon testing procedures for schools, licensed day care centers, apartment buildings and other multiple family dwellings with particular emphasis on below-grade units, and publicly owned residential facilities;

(3) health risk assessments using varying exposure levels and lengths of exposure;

(4) radon levels in selected public buildings; and

(5) to the extent that federal funds become available, other subjects the commissioner of health determines require research, including soil gas testing to determine radon source levels and the estimation of long-term radon and radon daughter product levels.

(b) To the extent possible, consistent with the objectives of the research, homes of low income residents shall be selected for research under this subdivision. Studies conducted by the commissioner of health shall not duplicate work available from the federal government or from other sources. The commissioner of health may establish priorities among the areas of research listed in this subdivision.

Sec. 6. [326.88] [VIOLATIONS; PENALTIES; INVESTIGATIONS.]

Subdivision 1. [INJUNCTIVE RELIEF] The attorney general may bring an action for injunctive relief in the district court for Ramsey county or in the district court in the county where the testing is being undertaken to halt violations of sections 326.83 to 326.92 or rules of the commissioner of health.

Subd. 2. [CIVIL PENALTIES.] The attorney general may seek civil penalties of up to \$10,000 per day for any violations of sections 326.83 to 326.92.

Subd. 3. [DENIAL, SUSPENSION, REVOCATION, OR REFUSAL TO REISSUE A REGISTRATION.] The commissioner of health may deny, suspend, revoke, or refuse to reissue a registration for the following reasons:

(1) serious violation of or failure to comply with sections 326.83 to 326.92;

(2) fraudulent, deceptive, or dishonest practices by the person applying for or holding a registration; or

(3) false or misleading statements on any document required under sections 326.83 to 326.92.

A person denied a registration, or whose registration is suspended, revoked, or not reissued under this section may request a hearing on the matter under chapter 14.

Subd. 4. [SUBPOENAS.] In matters under investigation by or pending before the commissioner of health under sections 326.83 to 326.92, the commissioner of health may issue subpoenas and compel the attendance of witnesses and the production of papers, books, records, documents, and other relevant evidentiary materials. If a person fails or refuses to comply with the subpoena or order, the commissioner of health may ask the district court in any district, to order the person to comply with the commissioner's order or subpoena. The commissioner of health may also administer oaths and affirmations to witnesses. Depositions may be taken within or without the state in the manner provided by law for the taking of

depositions in civil actions. A subpoena or other process or paper may be served upon any person anywhere within the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage costs paid, and in the manner prescribed by law, for process of the state district courts. Fees and mileage and other costs of persons subpoenaed by the commissioner of health shall be paid in the manner prescribed for proceedings in district court.

Sec. 7. [326.89] [STATE PLUMBING CODE.]

The commissioner of administration, in consultation with the commissioner of health, shall adopt changes to the state plumbing code that the commissioner of administration finds are necessary to minimize infiltration of soil gas into buildings. The changes shall be adopted within six months after federal standards are adopted.

Sec. 8. [326.90] [STATE BUILDING CODE.]

The commissioner of administration shall adopt changes to the state building code that the commissioner of administration finds are needed to minimize the accumulation of excess levels of radon in buildings. The changes shall be adopted within six months after federal standards are adopted.

Sec. 9. [326.91] [REPORT OF RADON TEST DATA.]

A person licensed under sections 326.83 to 326.92 who conducts radon tests in Minnesota must submit a copy of the test results to the department of health. The test results need not include the name of the property owner but must include the street address of the building. The street addresses of buildings for which data is collected under this section are nonpublic data. A government agency may share the data, including street addresses, with other government agencies.

Sec. 10. [326.92] [MANDATORY TESTING.]

Public and private schools and licensed day care centers must conduct an initial screening test for radon by July 1, 1991. The commissioner of health may by rule require additional testing.

Sec. 11. [EFFECTIVE DATE.]

Section 6, subdivision 1, is effective the day following final enactment. Section 3 is effective October 1, 1989. Sections 4; 6, subdivisions 2, 3, 4, 5, and 6; and 9, are effective January 1, 1990. Section 5 is effective July 1, 1989.

Sec. 12. [APPROPRIATION.]

Subdivision 1. \$300,000 is appropriated from the general fund to the commissioner of health for the biennium ending June 30, 1991, to carry out the requirements of sections 1 to 10.

Subd. 2. The department of health complement is increased by three persons."

Amend the title as follows:

Page 1, line 2, delete "licensed" and insert "registered"

Page 1, line 3, delete "work" and insert "testing"

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 417, A bill for an act relating to solid waste; establishing plans and programs to reduce waste generated, recycle waste, develop markets for recyclables, address materials that cause special problems in the waste stream, prevent, control, and abate litter, inform and educate the public on proper waste management; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, by adding a subdivision; 115A.03, by adding subdivisions; 115A.072; 115A.12, subdivision 1; 115A.15, subdivision 5, and by adding subdivisions; 115A.46, subdivision 2, and by adding a subdivision; 115A.48, subdivision 3, and by adding subdivisions; 115A.96, subdivision 2, and by adding a subdivision; 116.07, by adding a subdivision; 116K.04, by adding a subdivision; 275.50, subdivision 5; 325E.115, subdivision 1; 400.08, by adding a subdivision; 473.149, subdivision 1; and 473.803, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 18B; 115A; 116C; 116J; 121; 173; and 473.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

## "ARTICLE 1

## SOLID WASTE REDUCTION

Section 1. Minnesota Statutes 1988, section 115A.15, subdivision 5, is amended to read:

Subd. 5. [REPORTS.] By January 1 of each odd-numbered year, the commissioner of administration shall submit a report to the governor and to the legislative commission summarizing past activities and proposed goals of the program for the following biennium. The report shall include at least:

(1) a summary list of product and commodity purchases that contain recycled materials;

(2) the results of any performance tests conducted on recycled products and agencies' experience with recycled products used;

(3) a list of all organizations participating in and using the cooperative purchasing program;

(4) a list of products and commodities purchased for their recyclability and of recycled products reviewed for purchase; and

(5) proposals for legislative action to enhance recycling efforts by state agencies.

By July 1 of each even-numbered year the commissioner of the pollution control agency and the commissioner of public service shall submit recommendations to the commissioner regarding the operation of the program.

Sec. 2. Minnesota Statutes 1988, section 115A.15, is amended by adding a subdivision to read:

Subd. 7. [WASTE REDUCTION; PROCUREMENT MODEL.] For the purposes of reducing the amount of solid waste generated by the state and providing a model for other public and private procurement systems, the commissioner, in cooperation with the the waste management board, shall develop, based on the recommendations in the study in section 6, waste reduction procurement programs, including an expanded life cycle costing system for procurement of durable and repairable items. The commissioner shall implement the program by January 1, 1992. On implementation of the model procurement system, the commissioner, in cooperation with the board, shall develop and distribute informational materials for the purpose of promoting the procurement model to other public and private entities under section 5, subdivision 2.



Sec. 3. Minnesota Statutes 1988, section 115A.15, is amended by adding a subdivision to read:

Subd. 8. [RECYCLED MATERIALS; PURCHASING.] The commissioner shall develop and implement a cooperative purchasing program under section 471.59 to include state agencies, local governmental units, and, where feasible, other state governments and the federal government, for the purpose of purchasing recycled materials. By January 1, 1991, the commissioner shall develop a program to promote the cooperative purchasing program to those units of government and other persons.

Sec. 4. Minnesota Statutes 1988, section 115A.15, is amended by adding a subdivision to read:

Subd. 9. [RECYCLING GOAL.] By January 1, 1992, the commissioner shall recycle or compost at least 25 percent by weight of the solid waste generated by state offices and other operations located in the metropolitan area. The commissioner must keep records of the recycling and composting operation and share them annually with the metropolitan council and counties to assist the council and the counties in their data collection efforts.

Sec. 5. [115A.55] [SOLID WASTE REDUCTION.]

Subdivision 1. [AGENCY COORDINATION.] The board shall develop and coordinate solid waste reduction programs to include at least public education, promotion of waste reduction, and technical and financial assistance to solid waste generators.

Subd. 2. [EDUCATION; PROMOTION; PROCUREMENT.] The board shall include waste reduction as an element of its program of public education on waste management required under section 115A.072. The waste reduction education program must include dissemination of information and may include an award program for model waste reduction efforts. Waste reduction educational efforts must also include provision of information about and promotion of the model procurement program developed by the commissioner of administration under section 1, or any other model procurement program that results in significant waste reduction.

Subd. 3. [TECHNICAL ASSISTANCE.] The board shall provide technical assistance to solid waste generators to enable the waste generators to implement programs or methods to reduce the amount of solid waste generated. The board may use any means specified in section 115A.52 to provide technical assistance.

Subd. 4. [FINANCIAL ASSISTANCE.] The board shall make loans and grants to any person for the purpose of developing and implementing projects or practices to prevent or reduce the gener-

ation of solid waste including those that involve reuse of items in their original form or procuring, using, or producing products with long useful lives. Grants may be used to fund studies needed to determine the technical and financial feasibility of a waste reduction project or practice or for the cost of implementation of a waste reduction project or practice that the board has determined is technically and financially feasible.

In making grants or loans, the board shall give priority to waste reduction or problem materials projects or practices that have broad application in the state and that have the potential for significant reduction of the amount of waste generated; or that are directed toward removing problem materials from the waste stream.

All information developed as a result of a grant or loan shall be made available to other solid waste generators through the public information program established in subdivision 2.

The board shall adopt rules for the administration of this program. Board rules must prescribe the level or levels of matching funds required for grants or loans under this subdivision.

#### Sec. 6. [STUDIES; IMPLEMENTATION PLAN.]

By November 1, 1991, the commissioner of administration shall prepare and present to the legislative commission on waste management:

(1) recommendations, proposed in conjunction with the commissioner of public safety, to address barriers to recycling that may exist due to existing building, safety and fire codes; and

(2) a plan and implementation strategy based on a study and evaluation, to be conducted by an outside consultant, of practices, procedures and methods to ensure that state contracts and purchasing be structured to encourage procurement of recycled materials and to meet the requirements of section 1.

### ARTICLE 2

### RECYCLING

#### Section 1. [115A.151] [STATE AND LOCAL FACILITIES.]

By July 1, 1990, a state agency or local unit of government, other than a school district if it is not economical to do so, shall:

(1) ensure that facilities under its control, from which mixed municipal solid waste is collected, have containers for at least three recyclable materials; and

(2) transfer all recyclable materials collected at those facilities to a recycler.

Sec. 2. Minnesota Statutes 1988, section 115A.46, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems. The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste. The plans shall address at least waste reduction, separation, and resource recovery, and; shall include objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste; and shall describe proposed mechanisms for complying with the recycling requirements of section 4 and the household hazardous waste management requirements of article 4, section 8. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall include a comparison of the costs of the activities to be undertaken, including capital and operating costs, and the effects of the activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established. The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable. The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste

management and shall describe existing and proposed regulation and enforcement procedures.

Sec. 3. Minnesota Statutes 1988, section 115A.46, is amended by adding a subdivision to read:

Subd. 4. [DELEGATION; SOLID WASTE RESPONSIBILITIES.] A county or a solid waste management district established under sections 115A.62 to 115A.72 may not delegate to another governmental unit or other person any portion of its responsibility for solid waste management unless it establishes a funding mechanism to assure the ability of the entity to which it delegates responsibility to adequately carry out the responsibility delegated.

Sec. 4. [115A.551] [RECYCLING.]

Subdivision 1. [DEFINITION.] The definitions in this section apply to this section.

(a) "Recycling" means, in addition to the meaning given in section 115A.03, subdivision 25b, yard waste composting and recycling that occurs through mechanical or hand separation of materials that are then delivered for reuse in their original form or for use in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

(b) "Total solid waste generation" means the total by weight of:

(1) materials separated for recycling;

(2) materials separated for yard waste composting; and

(3) mixed municipal solid waste plus yard waste, used oil, tires, lead acid batteries, and white goods.

Subd. 2. [COUNTY RECYCLING GOALS.] It is the goal of each county to recycle a minimum of 25 percent by weight of its annual total solid waste generation by July 1, 1993. Each county shall either develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or any other law may be construed to prohibit a county from establishing a higher recycling goal. The Western Lake Superior Sanitary District established by Laws 1971, chapter 478, as amended, shall have all of the duties, authority, and rights of a county under this section with respect to recycling and total solid waste generation within the district.

Subd. 3. [INTERIM GOALS; NONMETROPOLITAN COUN-

TIES.] The board shall establish interim recycling goals for the nonmetropolitan counties to assist them in meeting the 1993 goal.

Subd. 4. [INTERIM MONITORING.] The board, for the nonmetropolitan counties, and the metropolitan council, for the metropolitan counties, shall monitor the progress of the counties toward meeting the recycling goal in subdivision 2. If the board or the council finds that a county is not progressing toward the goal in subdivision 2, it shall negotiate with the county to develop and implement solid waste management techniques designed to assist the county in meeting the goal, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

Subd. 5. [FAILURE TO MEET GOAL.] If, based on the recycling monitoring described in subdivision 4, the board or the metropolitan council finds that a county will be unable to meet the recycling goal established in subdivision 2, the board or council shall, after consideration of the reasons for the county's inability to meet the goal, recommend legislation for consideration by the legislative commission on waste management to establish mandatory recycling standards and to authorize the board or council to mandate appropriate solid waste management techniques designed to meet the standards in those counties that are unable to meet the goal.

Subd. 6. [COUNTY AND DISTRICT SOLID WASTE PLANS.] Each county and the Western Lake Superior Sanitary District shall include in its solid waste management plan described in section 115A.46, or its solid waste master plan described in section 473.803, a plan for implementing the recycling goal established in subdivision 2 along with mechanisms for providing financial incentives to solid waste generators to reduce the amount of waste generated and to separate recyclable materials from the waste stream. The recycling plan must include detailed recycling implementation information to form the basis for the strategy required in subdivision 7.

Each county required to submit its plan to the board under section 115A.46 shall amend its plan to comply with this subdivision within one year after the effective date of this section.

Subd. 7. [RECYCLING IMPLEMENTATION STRATEGY.] Within one year of board approval of the portion of the plan required in subdivision 6, each nonmetropolitan county shall submit for board approval a local recycling implementation strategy. The local recycling implementation strategy must:

(1) be consistent with the approved county solid waste management plan;

(2) identify the materials that are being and will be recycled in the

county to meet the goals under this section and the parties responsible and methods for recycling the material; and

(3) define the need for funds to ensure continuation of local recycling, methods of raising and allocating such funds, and permanent sources and levels of local funding for recycling.

Subd. 8. [EMERGENCY RULEMAKING.] The board may adopt emergency rules implementing subdivision 6 and article 4, section 8.

Sec. 5. [115A.555] [RECYCLING CENTER DESIGNATION.]

The commissioner of the agency shall designate recycling centers for the purpose of section 11. To be designated as a recycling center, a recycling facility must be open a minimum of 12 operating hours each week, 12 months each year, and must accept for recycling at least three different materials such as paper, glass, and metal.

Sec. 6. [115A.556] [MATERIALS USED FOR RECYCLING.]

Materials and products used for recycling, including containers, receptacles, and storage bins with short life cycles, must be recyclable and made at least in part from recycled materials from this state, if available.

Sec. 7. [115A.557] [COUNTY WASTE REDUCTION AND RECYCLING; FUNDING.]

Subdivision 1. [DISTRIBUTION; FORMULA.] Any funds appropriated to the board for the purpose of distribution to counties under this section must be annually distributed by the board to eligible counties based on population, except that a county may not receive less than \$60,000 annually. For the purposes of this subdivision "population" has the meaning given it in section 477.011, subdivision 3.

Subd. 2. [PURPOSES FOR WHICH MONEY MAY BE SPENT.] A county receiving money distributed by the board under this section may use the money only for the development and implementation of programs to:

(1) reduce the amount of solid waste generated;

(2) recycle the maximum amount of solid waste technically feasible;

(3) create and support markets for recycled products;

(4) remove problem materials from the solid waste stream and develop proper disposal options for them;

(5) inform and educate all sectors of the public about proper solid waste management procedures;

(6) provide technical assistance to public and private entities to ensure proper solid waste management; and

(7) provide educational, technical, and financial assistance for litter prevention.

Subd. 3. [ELIGIBILITY TO RECEIVE MONEY.] (a) To be eligible to receive money distributed by the board under this section, a county shall within one year of the effective date of this section:

(1) create a separate account in its general fund in which to deposit the money;

(2) set up accounting procedures to ensure that money in the separate account is spent only for the purposes in subdivision 2; and

(3) provide evidence to the board that local revenue equal to 25 percent of the money sought for distribution under this section will be expended for the purposes in subdivision 2.

(b) In each following year, each county shall also:

(1) have in place an approved solid waste management plan or master plan including a recycling implementation strategy under section 4, subdivision 7, or section 473.803, subdivision 1e, and a household hazardous waste management plan under article 4, section 8, by the dates specified in those provisions; and

(2) submit a report by August 1 of each year to the board detailing how the money was spent and the resulting gains achieved in solid waste management practices during the previous fiscal year.

**Sec. 8. [115A.945] [VISIBLE SOLID WASTE MANAGEMENT COSTS.]**

Any political subdivision that provides or pays for the costs of collection or disposal of solid waste shall, through a billing or other system, make the prorated share of those costs for each solid waste generator visible and obvious to the generator.

**Sec. 9. Minnesota Statutes 1988, section 116K.04, is amended by adding a subdivision to read:**

Subd. 6. [MODEL ZONING CRITERIA.] The commissioner shall, in consultation with the advisory council on state and local relations, develop and disseminate model zoning criteria for use by local units of government in siting recycling facilities.

Sec. 10. [121.938] [DISTRICTS TO RECYCLE PAPER.]

Subdivision 1. [DEFINITION.] For the purposes of this section, "recycle" has the meaning given it in section 115A.03, subdivision 25b.

Subd. 2. [RECYCLING REQUIRED.] The state board of education shall require all public school districts to recycle paper used by the districts. The board may exempt from its requirement to recycle any district that the board determines will spend more money to recycle paper than will be saved by recycling.

Sec. 11. [173.086] [RECYCLING CENTER SIGNS.]

Subdivision 1. [AUTHORITY TO ERECT.] A recycling facility that has complied with the permitting rules of the pollution control agency and has been designated a recycling center by the agency under section 5 may erect a recycling center sign upon payment of a fee to the department of transportation or to the local road authority required to cover all costs of fabrication and installation of the signs.

Subd. 2. [SIGN STANDARDS.] The department of transportation shall design and manufacture the recycling center sign to specifications not contrary to other federal and state highway sign standards. The sign must contain the international three arrow recycling symbol followed by the words "recycling center."

Subd. 3. [LOCATION.] Each local road authority shall permit recycling center signs to be located on roads, excluding freeways, in its jurisdiction, subject to sign placement and distance requirements of the local authority in conformance with standard policies for placement of signs for other traffic generators.

Sec. 12. Minnesota Statutes 1988, section 400.08, is amended by adding a subdivision to read:

Subd. 5. [VARIABLE RATES; AUTHORITY.] A county may:

(1) charge or may require any person who collects solid waste in the county to charge solid waste generators rates for collection or disposal that vary depending on the volume or weight of waste generated;



(2) require collectors to provide financial incentives to solid waste generators who separate recyclable materials from their waste; or

(3) require use of any other mechanism to provide encouragement or rewards to solid waste generators who reduce their waste generation or who separate recyclable materials from their waste.

Notwithstanding any other law to the contrary, the Western Lake Superior Sanitary District may amend its solid waste management plan to require that the cities contained within the district require variable rates under clauses (1) to (3).

Sec. 13. Minnesota Statutes 1988, section 473.149, subdivision 1, is amended to read:

Subdivision 1. [POLICY PLAN; GENERAL REQUIREMENTS.] The metropolitan council shall prepare and by resolution adopt as part of its development guide a long range policy plan for solid waste management in the metropolitan area. When adopted, the plan shall be followed in the metropolitan area. The plan shall address the state policies and purposes expressed in section 115A.02. The plan shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use. The plan shall include goals and policies for solid waste management, including recycling consistent with section 4 and household hazardous waste management consistent with article 4, section 8, in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1. The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plan shall include additional criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In developing the plan the council shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions

conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal environmental protection agency.

Sec. 14. Minnesota Statutes 1988, section 473.803, subdivision 1, is amended to read:

Subdivision 1. [COUNTY MASTER PLANS; GENERAL REQUIREMENTS.] Each metropolitan county, following adoption or revision of the council's solid waste policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to the council for its approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the council's policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; proposed mechanisms for complying with the recycling requirements of section 4 and the household hazardous waste management requirements of article 4, section 8; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the master plan shall contain criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

## Sec. 15. [SAFETY GUIDE.]

The pollution control agency, in cooperation with the waste management board and the metropolitan council, shall prepare and distribute to all interested persons a guide for operation of a recycling or yard waste composting facility to protect the environment and public health.

## Sec. 16. [EFFECTIVE DATE.]

Section 6 is effective August 1, 1990.

## ARTICLE 3

## RECYCLING MARKET DEVELOPMENT

Section 1. Minnesota Statutes 1988, section 115A.12, subdivision 1, is amended to read:

Subdivision 1. [SOLID AND HAZARDOUS WASTE MANAGEMENT.] (a) The chair of the board shall establish a solid waste management advisory council and a hazardous waste management planning council broadly representative of the geographic areas and interests of the state.

(b) The councils solid waste council shall have not less than nine nor more than 18 21 members each. The membership of the solid waste council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives from private solid waste management firms. The solid waste council shall contain at least three members experienced in the private recycling industry and at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery.

(c) The hazardous waste council shall have not less than nine nor more than 18 members. The membership of the hazardous waste advisory council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives of hazardous waste generators and private hazardous waste management firms.

(d) The chairs of the advisory councils shall be appointed by the chair of the board. The chair of the board shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the chair of the board. The solid waste advisory council shall make recommendations to the board on its solid waste management activities. The hazardous waste advisory council shall make recommendations to

the board on its activities under sections 115A.08, 115A.09, 115A.10, 115A.11, 115A.20, 115A.21, and 115A.24. Members of the advisory councils shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the chair of the board. The solid waste management advisory council and the hazardous waste management planning council expire as provided in section 15.059, subdivision 5.

Sec. 2. Minnesota Statutes 1988, section 115A.48, subdivision 3, is amended to read:

Subd. 3. [PUBLIC PROCUREMENT.] The board shall provide technical assistance and advice to political subdivisions and other public agencies to encourage solid waste reduction and development of markets for recyclable materials and compost through procurement policies and practices. Political subdivisions, educational institutions, and other public agencies shall aggressively pursue procurement practices that encourage solid waste reduction, recycling, and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials.

Sec. 3: Minnesota Statutes 1988, section 115A.48, is amended by adding a subdivision to read:

Subd. 4. [RECYCLING TRANSPORTATION SYSTEM.] The board shall, in consultation with local government units and other interested persons, develop a cooperative and comprehensive program to enhance existing systems to transport recyclable materials to market. The board must begin implementation by September 1, 1990.

Sec. 4. Minnesota Statutes 1988, section 115A.48, is amended by adding a subdivision to read:

Subd. 5. [MARKET DEVELOPMENT PROJECTS.] (a) The board shall make grants and loans and shall provide technical assistance to persons for research and development or for the acquisition and betterment of projects that develop markets or end uses for recyclable materials. At least 50 percent of all funds appropriated under article 9 for market development under this section must be used to support county market development efforts. Grants to counties for market development must be made available to those counties that achieve significant land disposal abatement through use of source separation of recyclable materials. The board may use any means specified in section 115A.52 to provide technical assistance.

(b) A project may receive a loan for up to 50 percent of the capital cost of the project or \$2,000,000, whichever is less.

(c) A project may receive a grant for up to 25 percent of the capital cost of the project or \$500,000, whichever is less.

(d) The board shall adopt rules for the program including rules to determine which counties that have developed recycling programs are in immediate need of market development assistance for the purposes of article 8, section 2, subdivision 4.

Sec. 5. [116J.99] [SOLID WASTE RECYCLING; PRIORITY IN GRANTING ASSISTANCE.]

Whenever practical, the commissioner, in approving grants under this chapter, shall place a priority on those businesses or projects that recycle solid waste, transport recyclable materials, or develop end uses or markets for recyclable materials or that develop transportation equipment or systems for recyclable materials. For the purposes of this section, the terms "solid waste" and "recyclable materials" have the meanings given them in section 115A.03.

#### ARTICLE 4

#### PROBLEM MATERIALS

Section 1. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 24a. [RETURNABLE CONTAINER.] "Returnable container" means a container for distributing pesticides that enables the empty container and unused pesticide product to be returned to the distributor, manufacturer, or packager and facilitates the refilling or reuse of the container. Returnable container includes bulk, minibulk, or dedicated containers designed to protect the integrity of the pesticide and prevent contamination through the introduction of unauthorized materials.

Sec. 2. [18B.141] [SALE OF PESTICIDES IN RETURNABLE CONTAINERS AND MANAGEMENT OF UNUSED PORTIONS.]

(a) After July 1, 1994, no person shall distribute, offer for sale, or sell any pesticide product in containers that do not:

(1) accommodate the return of the empty container and any unused portion of the pesticide to the seller, distributor, or registrant; and

(2) facilitate the refilling or reusing of the pesticide container.

(b) After July 1, 1994, a person distributing, offering for sale, or selling any pesticide in returnable containers shall accept from any pesticide end user empty returnable pesticide containers and any

unused portion of pesticide that remains in the original container if the pesticide was purchased after July 1, 1994.

(c) Pesticide products packaged solely for household use are exempt from the requirements of this section.

(d) The commissioner may adopt rules to implement this section including procedures and standards prescribing the exemption of certain pesticide products and pesticide containers.

Sec. 3. Minnesota Statutes 1988, section 115A.03, is amended by adding a subdivision to read:

Subd. 24a. [PROBLEM MATERIAL.] "Problem material" means a material that, when it is processed or disposed of with mixed municipal solid waste, contributes to one of the following results:

(1) the release of a hazardous substance, or pollutant or contaminant, as defined in section 115B.02, subdivisions 8, 13, and 15;

(2) pollution of water as defined in section 115.01, subdivision 5;

(3) air pollution as defined in section 116.06, subdivision 3; or

(4) a significant threat to the safe or efficient operation of a solid waste processing facility.

Sec. 4. Minnesota Statutes 1988, section 115A.03, is amended by adding a subdivision to read:

Subd. 38. [WHITE GOODS.] "White goods" means major household appliances including household clothes washers and dryers, dishwashers, hot water heaters, garbage disposals, trash compactors, conventional ovens, ranges or stoves, air conditioners, refrigerators, and freezers.

Sec. 5. [115A.952] [RETAIL SALE OF PROBLEM MATERIALS; UNIFORM LABELING AND CONSUMER INFORMATION.]

Subdivision 1. [DUTIES OF AGENCY; RULES.] The agency shall adopt rules to identify products used primarily for personal, family, or household purposes that constitute a problem material or contain a problem material as defined in section 3. The rules must also prescribe a uniform label to be used by retailers of identified products as provided in subdivision 3. The rules must identify products that constitute a problem material or contain a problem material from at least the following categories:

(1) drain cleaners, oven cleaners, and wood and metal cleaners and polishes;

(2) automotive fuel additives, grease and rust solvents, carburetor and fuel injection cleaners, and starter fluids;

(3) herbicides, insecticides, fungicides, and wood preservatives;

(4) paint and paint thinners, paint strippers, and adhesives; or

(5) household batteries, as defined in section 9, and products containing nickel-cadmium batteries.

The agency may adopt rules to identify additional products that meet the criteria provided in this subdivision. Packaging that is recyclable or that is made from recycled material is not a problem material.

Subd. 2. [PREPARATION AND SUPPLY OF MATERIALS.] The agency shall prepare and supply to retailers, without charge to the retailers, the labels and informational materials required to comply with subdivision 3. Informational materials must include specific instructions on environmentally sound ways to use identified products and to handle them when the products or their containers are discarded.

Subd. 3. [DUTIES OF RETAILERS.] A person who sells or offers for sale at retail any product that is identified pursuant to rules of the agency adopted under subdivision 1 shall:

(1) affix a uniform label as prescribed by the rules in a prominent location upon or near the display area of the product. If the adjacent display area is a shelf, the label shall be affixed to the price information for the product on the shelf. The label shall not be directly affixed to any product; and

(2) maintain and prominently display informational materials supplied by the agency at the location where identified products covered by the materials are sold or offered for sale.

#### Sec. 6. [115A.954] [WHITE GOODS.]

A person may not place white goods in mixed municipal solid waste or dispose of white goods in a solid waste processing or disposal facility after January 1, 1990. The agency may enforce this section pursuant to section 115.071.

Sec. 7. Minnesota Statutes 1988, section 115A.96, subdivision 2, is amended to read:

Subd. 2. [MANAGEMENT PROGRAM.] The agency shall establish a statewide program to manage household hazardous wastes. The program must include:

- (1) the establishment and operation of collection sites; and
- (2) the provision of information, education, and technical assistance regarding proper management of household hazardous wastes.

Sec. 8. Minnesota Statutes 1988, section 115A.96, is amended by adding a subdivision to read:

Subd. 6. [HOUSEHOLD HAZARDOUS WASTE MANAGEMENT PLANS.] Each county shall include in its solid waste management plan required in section 115A.46 or its solid waste master plan required in section 473.803 a household hazardous waste management plan. The plan must at least:

- (1) include a broad based public education component;
- (2) include a strategy for reduction of household hazardous waste; and
- (3) address separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and disposal of that waste.

Each county required to submit its plan to the board under section 115A.46 shall amend its plan to comply with this subdivision within one year after the effective date of this section.

Each county in the state shall implement its household hazardous waste management plan by December 31, 1991.

Sec. 9. [115A.961] [HOUSEHOLD BATTERIES; COLLECTION, PROCESSING, AND DISPOSAL.]

Subdivision 1. [DEFINITION.] For the purposes of this section, "household batteries" means disposable or rechargeable dry cells commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, lithium, and carbon-zinc batteries, but excluding lead acid batteries.

Subd. 2. [PROGRAM.] The board, in consultation with other state agencies, political subdivisions, and representatives of the household battery industry, shall develop household battery programs.

The board shall investigate options and develop guidelines for collection, processing, and disposal of household batteries. The options the board shall investigate include:

- (1) establishing a grant program for counties to plan and implement household battery collection, processing, and disposal projects;



(2) establishing collection and transportation systems;

(3) developing and disseminating educational materials regarding environmentally sound battery management; and

(4) developing markets for materials recovered from the batteries.

The board may also distribute funds to political subdivisions to develop battery management plans and implement those plans.

Subd. 3. [PARTICIPATION.] A political subdivision, on its own or in cooperation with others, may implement a program to collect, process, or dispose of household batteries. A political subdivision may provide financial incentives to any person, including public or private civic groups, to collect the batteries.

Subd. 4. [REPORT.] By November 1, 1990, the board shall report to the legislative commission on waste management on its activities under this section with recommendations for legislation necessary to address management of household batteries.

Sec. 10. Minnesota Statutes 1988, section 116.07, is amended by adding a subdivision to read:

Subd. 4j. [HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.] The agency shall adopt rules to require the owner or operator of a solid waste disposal facility or resource recovery facility to submit a management plan for the separation of household hazardous waste. The plan must include:

(1) participation in public education activities on household hazardous waste management in the facility's service area;

(2) a strategy for reduction of household hazardous waste entering the facility; and

(3) a plan for the storage and disposal of separated household hazardous waste.

After January 1, 1991, the agency may not grant or renew a permit for a facility that has not submitted a household hazardous waste management plan.

Sec. 11. Minnesota Statutes 1988, section 325E.115, subdivision 1, is amended to read:

Subdivision 1. [SURCHARGE; COLLECTION; NOTICE.] (a) A person selling lead acid batteries at retail or offering lead acid batteries for retail sale in this state shall:

(1) accept, at the point of transfer, lead acid batteries from customers; and

(2) charge a fee of \$5 per battery sold unless the customer returns a used battery to the retailer; and

(3) post written notice, which must be at least 8½ inches by 11 inches in size and must contain the universal recycling symbol and the following language:

(i) "It is illegal to put a motor vehicle battery in the garbage.";

(ii) "Recycle your used batteries."; and

(iii) "State law requires us to accept motor vehicle batteries for recycling."

(b) Any person selling lead acid batteries at wholesale or offering lead acid batteries for sale at wholesale must accept, at the point of transfer, lead acid batteries from customers.

#### Sec. 12. [473.804] [HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.]

By December 31, 1991, each metropolitan county shall develop and implement a permanent program to manage household hazardous waste. Each program must include at least quarterly collection of wastes. Each program must be consistent with the adopted council's policy plan and must be described as part of each county's solid waste master plan revision as required under section 473.803, subdivision 1.

#### Sec. 13. [PESTICIDE CONTAINER COLLECTION AND RECYCLING PILOT PROJECT.]

Subdivision 1. [PESTICIDE; DEFINITION.] For the purposes of this section, "pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate a pest, and a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Subd. 2. [PROJECT.] The department of agriculture, in consultation and cooperation with the commissioner of the pollution control agency, shall design and implement a pilot collection project, to be completed by June 30, 1991, to:

(1) collect and recycle empty, triple-rinsed pesticide containers;

(2) develop, demonstrate, and promote proper pesticide container management; and

(3) evaluate the current pesticide container management methods and the cause and extent of the problems associated with pesticide containers.

Subd. 3. [COLLECTION AND DISPOSAL.] The department of agriculture shall provide for the establishment and operation of temporary collection sites for pesticide containers. The department of agriculture may limit the type and quantity of pesticide containers acceptable for collection.

Subd. 4. [INFORMATION AND EDUCATION.] The department of agriculture shall develop informational and educational materials to promote proper methods of pesticide container management.

Subd. 5. [REPORT.] During the pilot project, the department of agriculture shall conduct surveys and collect information on proper and improper pesticide container storage and disposal. By November 30, 1991, the department of agriculture shall report to the legislature its conclusions from the project and recommendations for additional legislation or rules governing management of pesticide containers.

Subd. 6. [MANAGEMENT AND DISPOSAL.] The department of agriculture or other entity collecting pesticide containers must manage and dispose of the containers in compliance with applicable federal and state requirements.

## ARTICLE 5

### LITTER

#### Section 1. [115A.99] [LITTER; CIVIL PENALTY.]

Any person who unlawfully places any portion of solid waste in or on public or private lands, shorelands, roadways, or waters is subject to a civil penalty of not less than twice nor more than five times the amount of cost incurred by any governmental agency or political subdivision to remove, process, and dispose of the waste. A governmental agency or political subdivision that incurs cost as described in this section may bring an action to recover the civil penalty, any related legal, administrative, and court costs, and damages for injury to or pollution of the lands, shorelands, roadways, or waters where the waste was placed if owned or managed by the entity bringing the action.

Civil penalties paid under this section must be deposited in the general fund of the jurisdiction enforcing the penalties.

If the property where waste was unlawfully placed was owned by a private person, that person, in order to recover damages for injury

to the property, may join any action to recover a civil penalty brought under this section.

Sec. 2. [115A.991] [LITTER; GRANTS.]

The board may make grants to each county that has included in its solid waste plan required in section 115A.46, or its solid waste master plan required in section 473.803, programs to prevent, control, or abate litter. The board shall establish eligibility criteria for grants including the required level of matching funds from applicants.

Sec. 3. [116C.36] [LITTER PREVENTION; CONTROL; ABATEMENT.]

Subdivision 1. [DUTIES OF BOARD.] The board shall coordinate state and local efforts to prevent, control, and abate litter through an interagency committee described in subdivision 2. By November 1, 1991, the board shall report to the waste management board on the problems of litter prevention, control, and abatement including the advisability of creating a permanent statewide system for state and local programs and coordination to address litter and shall also report its findings, together with its recommendations for legislation to address those problems, to the governor.

## ARTICLE 6

### WASTE EDUCATION

Section 1. Minnesota Statutes 1988, section 115A.072, is amended to read:

115A.072 [PUBLIC EDUCATION ON WASTE MANAGEMENT.]

Subdivision 1. [WASTE EDUCATION; COALITION.] The board shall provide for the development and implementation of a program of general public education on waste management in cooperation and coordination with the pollution control agency, metropolitan council, department of education, department of agriculture, state planning agency, environmental quality board, environmental education board, educational institutions, and other public agencies with responsibility for waste management or public education, and three other persons who represent private industry and who have knowledge of or expertise in recycling and solid waste management issues. The objectives of the program are to: develop increased public awareness of and interest in environmentally sound waste management methods; encourage better informed decisions on waste management issues by business, industry, local governments, and the public; and disseminate practical information about ways in which

households and other institutions and organizations can improve the management of waste.

Subd. 2. [BOARD DUTIES.] In addition to its general duties established in subdivision 1, the board shall:

(1) develop a statewide waste management public education campaign with materials that may be easily adapted by political subdivisions to meet their program needs;

(2) develop and make available to schools educational curricula on waste education for grades kindergarten to 12 to address at least waste reduction, recycling, litter, and proper management and disposal of problem materials as defined in article 4, section 3; and

(3) provide grants to governmental agencies for the purposes of developing and distributing waste education information and may provide grants to any education facility for the other purposes specified in subdivision 3.

Subd. 3. [EDUCATION GRANTS; MODEL SCHOOL PROGRAM.] The board shall provide grants to school districts, education districts, or ECSU's for the purpose of developing and distributing waste education information to students in kindergarten through grade 12.

The board shall provide grants and technical assistance to school districts, education districts, or ECSU's to develop and implement a model program to incorporate waste reduction, recycling, litter prevention, and proper management of problem materials into the education curriculum.

The board shall provide grants or awards to school districts, education districts, or ECSU's to develop or implement ongoing waste reduction, recycling, litter prevention, and proper management of problem materials programs.

Subd. 4. [COORDINATION; UNIVERSITY.] Whenever practical the board shall request assistance from the University of Minnesota and the university's extension service, and other post-secondary institutions, in developing and distributing waste education materials.

## Sec. 2. [WASTE EDUCATION; CURRICULUM.]

The state board of education and the department of education shall include waste education components in the model learner outcomes and essential learner outcomes developed for environmental education under section 126.663, subdivisions 2 and 3.

## ARTICLE 7

## REPORTS, STUDIES AND TASK FORCES

Section 1. [REPORTS; STUDIES.] (a) By November 1 of each year the waste management board, in consultation with the pollution control agency, the state planning agency, the metropolitan council and the department of administration where applicable, shall prepare an analysis and report to the legislative commission on waste management on:

(1) implementation of county recycling programs and county progress in attaining the recycling goals in article 3, section 4;

(2) how funds were distributed during the previous fiscal year to counties under article 2, section 6 and how the money was spent, including the resulting impacts on statewide solid waste management; and

(3) how other funds appropriated to state agencies for the purposes of this act were expended.

(b) The pollution control agency, in coordination with the waste management board and the metropolitan council where applicable, shall present to the legislative commission on waste management:

(1) by November 1, 1991, an analysis of the statewide and regional composition of solid waste using existing and newly gathered data, including information on recyclables and noncombustibles in the waste, generation data and other solid waste characteristics;

(2) by November 1, 1991, a report of the agency's progress in establishing permanent household hazardous waste collection sites; and

(3) by November 1, 1990, a report on the proper management and disposal of waste paint, polychlorinated biphenyl capacitors of three pounds or less in white goods and other electrical devices, and household water and automotive filters that collect pollutants or contaminants.

(c) The reports required by paragraphs (a) and (b) may be combined where possible and may contain recommendations for legislative action.

## Sec. 2. [TASK FORCES.]

The waste management board, the pollution control agency and the environmental quality board may establish and appoint advisory task forces, councils or committees as necessary for the imple-

mentation of this act. The membership of any task force, council or committee established under this section must be geographically representative of the state and shall include members of state and local government, affected businesses and industries and the public. The appointing agency shall determine whether the members will be compensated, provided that compensation may not exceed that authorized under section 15.059, subdivision 3. Expiration of a task force, council or committee established under this section will be determined by the appointing agency.

## ARTICLE 8

### FUNDING

Section 1. Minnesota Statutes 1988, section 275.50, subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in 1988 1989 payable in 1989 1990 and subsequent years, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. Except for the costs of general assistance as defined in section 256D.02, subdivision 4, general assistance medical care under section 256D.03 and the costs of hospital care pursuant to section 261.21, the aggregate amounts levied pursuant to this clause are subject to a maximum increase of 18 percent over the amount levied for these purposes in the previous year. Effective with taxes levied in 1989, the portion of this special levy for income maintenance programs identified in section 273.1398, subdivision 1, paragraph (i), is eliminated;

(b) pay the costs of principal and interest on bonded indebtedness except on bonded indebtedness issued under section 471.981, subdivisions 4 to 4c or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(c) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(d) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(e) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(f) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(g) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(h) pay amounts required by law to be paid to pay the interest on and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215 and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(i) to compensate the state for the cost of a reassessment ordered by the commissioner of revenue pursuant to section 270.16; and

(j) pay the debt service on tax increment financing revenue bonds to the extent that revenue to pay the bonds or to maintain reserves for the bonds is insufficient as a result of the provisions of Laws 1988, chapter 719, article 5; and

(k) pay an amount of up to 25 percent of the money sought for distribution and approved under article 2, section 7, subdivision 3, paragraph (a), clause (3).

Sec. 2. [115A.922] [SOLID WASTE COLLECTION AND DISPOSAL SURCHARGE.]



Subdivision 1. [SURCHARGE.] A surcharge of six percent is imposed on the gross receipts for the collection and disposal of mixed municipal solid waste as described in subdivision 2.

Subd. 2. [APPLICATION.] The surcharge imposed by subdivision 1 applies to all public and private mixed municipal solid waste collection and disposal services. A political subdivision that purchases collection or disposal services on behalf of its citizens shall pay the surcharge. A political subdivision that provides collection or disposal services to its citizens without direct charge to the citizens for the service shall pay the surcharge based on the cost to the political subdivision of providing the service. A person who transports mixed municipal solid waste generated by that person or by another person without compensation shall pay the surcharge at the disposal or resource recovery facility based on the disposal charge or tipping fee.

Subd. 3. [EXEMPTIONS.] (a) The cost of a service or the portion of a service to collect recyclable materials separated from mixed municipal solid waste by the waste generator is exempt from the surcharge imposed in subdivision 1.

(b) Waste from a recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least 85 percent is exempt from the surcharge. To qualify for this exemption under this paragraph, waste must be brought to the disposal facility separately.

Subd. 4. [COLLECTION.] The commissioner of revenue shall collect the surcharge and shall use the collection procedures and has the enforcement powers under chapters 290 and 297A to collect the surcharge. The commissioner shall deposit 91 percent of the receipts from the surcharge in the environmental fund and nine percent of the receipts in the recycling accounts of counties that have developed recycling programs and are in immediate need of market development assistance, as certified by the waste management board.

## ARTICLE 9

### APPROPRIATIONS

#### Section 1. [APPROPRIATIONS.]

\$17,162,000 the first year and \$19,460,000 the second year are appropriated from the environmental fund to the agencies identified and are for the purposes indicated, to be available for the fiscal year ending June 30 in the years indicated.

	1990	1991
	\$	\$
(a) To the Waste Management Board		
(1) For solid waste reduction programs in Article 1	375,000	375,000
(2) For solid waste recycling programs in Article 2	725,000	725,000
(3) For market development programs in Article 3	720,000	1,070,000
(4) For waste education in Article 6	270,000	270,000
(5) For studies in Article 7	200,000	200,000
(6) For distribution to counties under Article 2, section 7	13,500,000	13,500,000
(7) For waste management board operation	400,000	2,085,000

The approved complement of the Waste Management Board is increased by nine full-time complement positions.

Eleven complement positions the first year and 23 complement positions the second year are transferred from the office waste management of the pollution control agency to the waste management board.

(b) To the pollution control agency

(1) For problem materials program in Article 4	835,000	1,085,000
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The approved complement of the pollution control agency is increased by 6 full-time complement positions.

(c) To the department of administration

(1) For the recycling programs in Article 1	100,000	150,000
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The approved complement of the department of administration is increased by one full-time position.

(d) To the department of revenue  
for administration of Article  
8, section 2.

37,000

0

\$116,000 the first year and \$116,000 the second year is appropriated to the department of transportation from the trunk highway fund for the sign development program in Article 2. If the appropriation for either year is insufficient, the appropriation for the other year is available for it."

Amend the title accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 723, A bill for an act relating to veterans; providing for establishment of a veterans home in Luverne; proposing coding for new law in Minnesota Statutes, chapter 198.

Reported the same back with the following amendments:

Page 1, after line 17, insert:

"Sec. 2. [VETERANS HOMES SITING STUDY.]

Subdivision 1. [STUDY AUTHORIZATION.] The commissioner of administration, in cooperation with the veterans home board of directors and the interagency board for quality assurance must by January 1, 1990, complete a study that will assist the legislature to determine:

(1) if additional veterans homes should be established in any regions of the state; and

(2) in which communities homes should be sited if the legislature determines additional homes are necessary.

Subd. 2. [NEED FOR ADDITIONAL VETERANS HOMES.] In analyzing whether additional veterans homes should be established in the state, the study should consider the following factors:

(1) the number of veterans that are projected to need nursing home care in the state and in each region of the state;

(2) the availability and feasibility of other long-term care alternatives for veterans;

(3) the impact of additional veterans homes on existing community nursing homes;

(4) the availability of federal funding for construction and operation of additional veterans homes and the impact of other federal regulations;

(5) the overall cost to the state of a regional system of veterans nursing homes; and

(6) the veterans home board of directors' long-term plan for veterans health care.

Based on these factors, the study shall recommend in which regions of the state, if any, additional veterans homes should be established.

Subd. 3. [ANALYSIS OF SITING ALTERNATIVES.] If the commissioner of administration recommends that additional veterans homes should be established in one or more regions of the state, the study must analyze various potential sites for veterans homes based on the following factors:

(1) proximity to a veterans administration medical center;

(2) proximity to other medical services in the community;

(3) availability of staff to operate a home;

(4) construction costs;

(5) operating costs;

(6) local financial contributions toward construction and operating costs;

(7) physical features of a site; and

(8) the number of veterans needing nursing care in the area.

The commissioner may allow local communities in the affected regions to submit proposals for veterans homes, and the study must recommend in rank order sites for new veterans homes in each affected region giving equal weight to each of the above factors.

Sec. 3. [APPROPRIATION.]

\$50,000 is appropriated from the general fund to the veterans nursing homes board to be transferred to the commissioner of administration to conduct the study required by section 2.

Sec. 4. [REPEALER.]

Section 1 is repealed September 1, 1990, unless the United States Veterans Administration has approved the request to establish a veterans nursing home in Luverne."

Amend the title as follows:

Page 1, line 3, after the semicolon insert "requiring a study; appropriating money;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 851, A bill for an act relating to courts; increasing certain fees collected by the court administrator; amending Minnesota Statutes 1988, sections 171.06, subdivisions 2 and 4; 357.021, subdivision 2; and 525.22.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 960, A bill for an act relating to conservation; changing certain responsibilities; defining certain terms; adopting eligibility criteria; changing agreement terms and payment procedures; providing for enforcement; authorizing sale of certain bonds; appropriating money; amending Minnesota Statutes 1988, sections 40.42;

40.43; 40.44; 40.45; 84.95, subdivision 2; and Laws 1986, chapter 383, section 17, subdivision 4.

Reported the same back with the following amendments:

Page 3, line 25, after the comma insert "provided that no funds are used for compensation for the value of the buildings,"

Pages 11 to 14, delete sections 7, 8, and 9

Amend the title as follows:

Page 1, lines 6 and 7, delete "appropriating money;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 1066, A bill for an act relating to sentencing; requiring certain county corrections administrators and the commissioner of corrections to gather data on the capacity and usage of local correctional resources and alternative sentencing programs; requiring the sentencing guidelines commission to assist in the performance of these tasks; requiring the commission to develop nonimprisonment guideline options for legislative consideration; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 244.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [244.12] [LOCAL CORRECTIONAL RESOURCES; DATA COLLECTION; NEEDS ASSESSMENT.]

Subdivision 1. [PURPOSE.] The scarcity of adequate correctional resources at the local level is a crisis that is becoming increasingly acute as crime rates increase and as the state correctional institutions experience similar capacity problems. One way to respond to this problem is to develop a more uniform and structured approach to the use of local correctional resources as a condition of a stayed felony sentence. The purpose of this section is to enable counties, the sentencing guidelines commission, and the legislature to develop a

workable system of nonimprisonment sentencing guidelines based on a clear understanding of local resources, needs, and priorities.

Subd. 2. [DUTIES OF COUNTIES AND COMMISSIONER OF CORRECTIONS.] The corrections administrator for each county or group of counties participating in chapter 401 shall furnish data and information to assist the sentencing guidelines commission in making its determinations under this subdivision as the determinations pertain to the county or counties served by each administrator. In a like manner the commissioner of corrections shall furnish pertinent data on those counties which do not participate in chapter 401. The sentencing guidelines commission, with the assistance of the supreme court, the state planning agency, corrections administrators, and the commissioner of corrections, shall determine how more detailed information can be gathered on a routine basis on local sentencing practices, usage of local correctional resources, and local alternatives to incarceration for convicted felons.

Subd. 3. [NONIMPRISONMENT GUIDELINES PILOT PROJECT.] The commissioner of corrections shall report to the sentencing guidelines commission on the results of its nonimprisonment guidelines pilot project when the project is completed. If the pilot project is not completed by July 1, 1990, the commissioner shall provide an interim report to the commission on or before that date.

Subd. 4. [REPORT.] The sentencing guidelines commission shall report to the legislature on or before February 1, 1991, describing what improvements have been made to address subdivision 2 and whether any legislative action is necessary to implement further improvements.

Delete the title and insert:

“A bill for an act relating to sentencing; requiring certain county corrections administrators and the commissioner of corrections to gather data on the capacity and usage of local correctional resources and alternative sentencing programs; requiring the sentencing guidelines commission to make determinations based on this data; proposing coding for new law in Minnesota Statutes, chapter 244.”

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 1163, A bill for an act relating to resource development; requiring a research study on the effect of aspen thinning; appropriating money.

Reported the same back with the following amendments:

Page 2, line 7, delete "\$ ....." and insert "\$100,000"

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

H. F. No. 1201, A bill for an act relating to the environment; regulating genetic engineering; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116C.

Reported the same back with the following amendments:

Page 2, line 27, delete "\$ ....." and insert "\$55,000"

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

S. F. No. 258, A bill for an act relating to state government; regulating state employment practices; regulating the setting of certain salaries; extending inclusion of veterans in the category of protected groups for the purpose of state employment; authorizing an alternative procedure for discharges of state troopers; ratifying certain salaries; amending Minnesota Statutes 1988, sections 15A.083, subdivisions 5 and 7; 43A.02, subdivision 33; 43A.04, subdivisions 1 and 3, and by adding a subdivision; 43A.10, subdivisions 7 and 8; 43A.12, subdivision 5; 43A.13, subdivisions 4, 5, 6, and 7; 43A.15, subdivision 10; 43A.17, subdivision 1; 43A.18, subdivisions 4 and 5; 43A.191, subdivisions 2 and 3; 43A.27, subdivision 4; 43A.316, subdivision 5; 43A.37, subdivision 1;



176.421, by adding a subdivision; and 299D.03, subdivision 7; repealing Minnesota Statutes 1988, section 43A.081, subdivisions 1, 2, and 5.

Reported the same back with the following amendments:

Page 1, after line 19, insert:

"Section 1. Minnesota Statutes 1988, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. [SALARY RANGES.] The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Salary Range

Effective

July 1, 1987 1989

~~\$57,500~~ ~~\$78,500~~ \$57,500-\$85,000

Commissioner of finance;  
Commissioner of education;  
Commissioner of transportation;  
Commissioner of human services;  
Commissioner of revenue;  
Executive director, state board of investment;

\$50,000 ~~\$67,500~~ \$50,000-\$75,000

Commissioner of administration;  
Commissioner of agriculture;  
Commissioner of commerce;  
Commissioner of corrections;  
Commissioner of jobs and training;  
Commissioner of employee relations;  
Commissioner of health;  
Commissioner of labor and industry;  
Commissioner of natural resources;  
Commissioner of public safety;  
Commissioner of trade and economic development;  
Chair, waste management board;  
Chief administrative law judge;  
Office of administrative hearings;  
Commissioner, pollution control agency;  
Commissioner, state planning agency;  
Executive director, housing finance agency;

Executive director, public employees retirement association;  
 Executive director, teacher's retirement association;  
 Executive director, state retirement system;  
 Chair, metropolitan council;  
 Chair, regional transit board;  
 Chair, metropolitan waste control commission

\$42,500-\$60,000 \$42,000-\$65,000

Commissioner of human rights;  
 Commissioner, department of public service;  
 Commissioner of veterans' affairs;  
 Commissioner, bureau of mediation services;  
 Commissioner, public utilities commission;  
 Member, transportation regulation board;  
 Ombudsman for corrections;  
 Ombudsman for mental health and retardation.

Sec. 2. Minnesota Statutes 1988, section 15A.081, subdivision 7, is amended to read:

Subd. 7. [PART-TIME METROPOLITAN OFFICERS.] The governor shall set the salary rate within the range set forth below for the following part-time positions position, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

	Effective July 1, 1987 1989
Chair, metropolitan airports commission	<del>\$15,000-\$25,000</del> <u>\$15,000-\$27,000</u>
Chair, metropolitan waste control commission	<u>\$25,000-\$35,000</u>

Fringe benefits for unclassified employees of the metropolitan waste control commission ~~shall~~ may not exceed those fringe benefits received by unclassified employees of the metropolitan council."

Page 12, after line 14, insert:

"Sec. 22. Minnesota Statutes 1988, section 43A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The commissioner is authorized to request bids from carriers or to negotiate with carriers and to enter into contracts with carriers which in the judgment of the commissioner are best qualified to underwrite and service the benefit plans. Contracts entered into with carriers are not subject to the require-

ments of sections 16B.189 to 16B.22. The commissioner may negotiate premium rates and coverage provisions with all carriers licensed under chapters 62A, 62C, and 62D. The commissioner may also negotiate reasonable restrictions to be applied to all carriers under chapters 62A, 62C, and 62D. Contracts to underwrite the benefit plans must be bid or negotiated separately from contracts to service the benefit plans, which may be awarded only on the basis of competitive bids. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers and any other factors which the commissioner deems appropriate. Each benefit contract must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. The commissioner shall, to the extent feasible, make hospital and medical benefits available from at least one carrier licensed to do business pursuant to each of chapters 62A, 62C and 62D. The commissioner need not provide health maintenance organization services to an employee who resides in an area which is not served by a licensed health maintenance organization. The commissioner may refuse to allow a health maintenance organization to continue as a carrier. The commissioner may elect not to offer all three types of carriers if there are no bids or no acceptable bids by that type of carrier or if the offering of additional carriers would result in substantial additional administrative costs. A carrier licensed under chapter 62A is exempt from the tax imposed by section 60A.15 on premiums paid to it by the state."

Page 15, delete lines 17 to 31 and insert:

"Sec. 27. Minnesota Statutes 1988, section 299D.03, subdivision 7, is amended to read:

Subd. 7. [DISCHARGE OF TROOPER.] Every person employed and designated as a state trooper under and pursuant to the provisions of this section, after ~~six~~ 12 months of continuous employment, shall continue in service and hold the position without demotion, until suspended, demoted, or discharged in the manner hereinafter provided for one or more of the causes specified herein."

Page 16, line 27, delete "1, 2, 15 and 17" and insert "1 to 4, 17, 19, and 22"

Page 16, line 28, delete "20 and 24 to 26" and insert "23 and 27 to 29"

Page 16, line 29, delete "23" and insert "26"

Renumber the sections in sequence

Correct internal cross-references

Amend the title as follows:

Page 1, line 8, after "sections" insert "15A.081, subdivisions 1 and 7;"

Page 1, line 14, after "3;" insert "43A.23, subdivision 1;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, G., from the Committee on Appropriations to which was referred:

S. F. No. 775, A bill for an act relating to workers' compensation; requiring a report on recodification and simplification of the workers' compensation law; appropriating money.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 150, 207, 376, 404, 417, 723, 851, 960, 1066, 1163 and 1201 were read for the second time.

## **SECOND READING OF SENATE BILLS**

S. F. Nos. 258 and 775 were read for the second time.

## **MESSAGES FROM THE SENATE**

The following message was received from 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. 1764, A bill for an act relating to transportation; changing distribution of highway user taxes; authorizing use of state park road account to improve and maintain city streets and town roads that provide immediate access to state parks and campgrounds; increasing motor vehicle license tax on older vehicles; appropriating money; amending Minnesota Statutes 1988, sections 161.081; 161.082, subdivision 2a; 162.06, subdivision 5; 162.081, subdivision 1; 168.013, subdivision 1a; and 297B.09, subdivision 1.

PATRICK E. FLAHAVEN, Secretary of the Senate

Kalis moved that the House refuse to concur in the Senate amendments to H. F. No. 1764, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

#### ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1764:

Kalis, Lasley, Redalen, Brown and Steensma.

#### CONSIDERATION UNDER RULE 1.10

Pursuant to rule 1.10, Long requested immediate consideration of S. F. Nos. 1278, 1239 and 46; H. F. No. 1181; and S. F. Nos. 1101 and 54.

S. F. No. 1278, A bill for an act relating to taxation; extending the duration of a property tax exemption for land held for economic development by the city of Hermantown; amending Laws 1988, chapter 719, article 19, section 31.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams

Anderson, G.

Battaglia

Bauerly

Beard

Begich	Hartle	Lynch	Otis	Skoglund
Bennett	Hasskamp	Macklin	Ozment	Solberg
Bertram	Haukoos	Marsh	Pappas	Sparby
Bishop	Heap	McDonald	Pauly	Stamius
Blatz	Henry	McEachern	Pellow	Steensma
Boo	Himle	McGuire	Pelowski	Sviggun
Brown	Hugoson	McLaughlin	Peterson	Swenson
Burger	Jacobs	McPherson	Poppenhagen	Tjornhom
Carlson, D.	Janezich	Milbert	Price	Tompkins
Carlson, L.	Jaros	Miller	Pugh	Trimble
Carruthers	Jefferson	Morrison	Quinn	Tunheim
Clark	Jennings	Munger	Redalen	Uphus
Conway	Johnson, A.	Murphy	Reding	Valento
Cooper	Johnson, R.	Nelson, C.	Rest	Vellenga
Dauner	Johnson, V.	Nelson, K.	Rice	Wagenius
Dawkins	Kahn	Neuenschwander	Richter	Waltman
Dempsey	Kalis	O'Connor	Rodosovich	Weaver
Dille	Kelly	Ogren	Rukavina	Welle
Dorn	Kelso	Olsen, S.	Runbeck	Wenzel
Forsythe	Kinkel	Olson, E.	Sarna	Williams
Frederick	Knickerbocker	Olson, K.	Schafer	Winter
Frerichs	Kostohryz	Omann	Scheid	Wynia
Girard	Krueger	Onnen	Schreiber	Spk. Vanasek
Greenfield	Lasley	Orenstein	Seaberg	
Gruenes	Limmer	Osthoff	Segal	
Gutknecht	Long	Ostrom	Simoneau	

The bill was passed and its title agreed to.

S. F. No. 1239, A bill for an act relating to Roseau county; providing increased bonding authority for hospital districts in the county; amending Laws 1961, chapter 115, section 4, as amended.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dawkins	Jaros	Marsh	Onnen
Anderson, G.	Dempsey	Jefferson	McDonald	Orenstein
Battaglia	Dille	Jennings	McEachern	Ostrom
Bauerly	Dorn	Johnson, A.	McGuire	Otis
Beard	Forsythe	Johnson, R.	McLaughlin	Ozment
Begich	Frederick	Johnson, V.	McPherson	Pappas
Bennett	Frerichs	Kahn	Milbert	Pauly
Bertram	Girard	Kalis	Miller	Pellow
Bishop	Greenfield	Kelly	Morrison	Pelowski
Blatz	Gruenes	Kelso	Munger	Peterson
Boo	Gutknecht	Kinkel	Murphy	Poppenhagen
Brown	Hartle	Knickerbocker	Nelson, C.	Price
Burger	Hasskamp	Kostohryz	Nelson, K.	Pugh
Carlson, D.	Haukoos	Krueger	Neuenschwander	Quinn
Carlson, L.	Heap	Lasley	O'Connor	Redalen
Carruthers	Henry	Lieder	Ogren	Reding
Clark	Himle	Limmer	Olsen, S.	Rest
Conway	Hugoson	Long	Olson, E.	Richter
Cooper	Jacobs	Lynch	Olson, K.	Rodosovich
Dauner	Janezich	Macklin	Omann	Rukavina

Runbeck	Segal	Steensma	Uphus	Welle
Sarna	Simoneau	Sviggum	Valento	Wenzel
Schafer	Skoglund	Swenson	Vellenga	Williams
Scheid	Solberg	Tjornhom	Wagenius	Winter
Schreiber	Sparby	Tompkins	Waltman	Wynia
Seaberg	Stanius	Tunheim	Weaver	Spk. Vanasek

The bill was passed and its title agreed to.

S. F. No. 46, A bill for an act relating to taxation; exempting leased hangars at airports in small cities from property taxation; amending Minnesota Statutes 1988, sections 272.01, subdivision 2; and 273.19, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abrams	Greenfield	Lieder	Orenstein	Seaberg
Anderson, G.	Gruenes	Limmer	Osthoft	Segal
Battaglia	Gutknecht	Long	Ostrom	Simoneau
Bauerly	Hartle	Lynch	Otis	Solberg
Beard	Hasskamp	Macklin	Ozment	Sparby
Begich	Haukoos	Marsh	Pappas	Stanius
Bennett	Heap	McDonald	Pauly	Steensma
Bertram	Henry	McEachern	Pellow	Sviggum
Bishop	Hugoson	McGuire	Pelowski	Swenson
Blatz	Jacobs	McLaughlin	Peterson	Tjornhom
Boo	Janezich	McPherson	Poppenhagen	Tompkins
Brown	Jaros	Milbert	Price	Trimble
Burger	Jefferson	Miller	Pugh	Tunheim
Carlson, D.	Jennings	Morrison	Quinn	Uphus
Carlson, E.	Johnson, A.	Munger	Redalen	Valento
Clark	Johnson, R.	Murphy	Reding	Vellenga
Conway	Johnson, V.	Nelson, C.	Rest	Wagenius
Cooper	Kahn	Nelson, K.	Rice	Waltman
Dauner	Kalis	Neuenschwander	Richter	Weaver
Dempsey	Kelly	O'Connor	Rodosovich	Welle
Dille	Kelso	Ogren	Rukavina	Wenzel
Dorn	Kinkel	Olsen, S.	Runbeck	Williams
Forsythe	Knickerbocker	Olson, E.	Sarna	Winter
Fraserick	Kostohryz	Olson, K.	Schafer	Wynia
Frerichs	Krueger	Omann	Scheid	Spk. Vanasek
Girard	Lasley	Onnen	Schreiber	

Those who voted in the negative were:

Carruthers	Dawkins	Himle	Skoglund
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The bill was passed and its title agreed to.

H. F. No. 1181 was reported to the House.

Carruthers and Ozment moved to amend H. F. No. 1181, the second engrossment, as follows:

Page 1, after line 9, insert:

"Section 1. Minnesota Statutes 1988, section 273.111, subdivision 4, is amended to read:

Subd. 4. The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 8, be determined solely with reference to its appropriate agricultural classification and value notwithstanding sections 272.03, subdivision 8 and 273.11. In determining ~~such~~ the value for ad valorem tax purposes, the assessor shall use sales data obtained from agricultural lands located outside the seven metropolitan counties having similar soil types, number of degree days and other similar agricultural characteristics as provided in section 273.11, subdivision 10; and furthermore the assessor shall not consider any added values resulting from nonagricultural factors."

Renumber the sections in sequence

Page 11, line 18, delete "This act" and insert "Sections 2 to 11 and 13"

Page 11, line 24, delete "6, 7, 10, and 12" and insert "1, 7, 8, 11 and 13"

Amend the title as follows:

Page 1, line 3, after "budgets;" insert "clarifying the valuation of certain agriculture land;" and after "sections" insert "273.111, subdivision 4;"

The motion prevailed and the amendment was adopted.

H. F. No. 1181, A bill for an act relating to metropolitan government; regulating budgets; clarifying the valuation of certain agriculture land; amending Minnesota Statutes 1988, sections 273.111, subdivision 4; 473.145; 473.1623, subdivision 4, and by adding subdivisions; 473.167, subdivisions 2, 3, and 5; 473.173, subdivisions 3 and 4; 473.249, subdivision 1; repealing Minnesota Statutes 1988, section 473.249, subdivision 3.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:



Those who voted in the affirmative were:

Abrams	Girard	Lasley	Onnen	Segal
Anderson, G.	Greenfield	Lieder	Orenstein	Simoneau
Battaglia	Gruenes	Limmer	Ostrom	Skoglund
Bauerly	Gutknecht	Long	Otis	Solberg
Beard	Hartle	Lynch	Ozment	Sparby
Begich	Hasskamp	Macklin	Pappas	Stanius
Bennett	Haukoos	Marsh	Pauly	Steensma
Bertram	Heap	McDonald	Pellow	Sviggum
Bishop	Henry	McEachern	Pelowski	Swenson
Blatz	Himle	McGuire	Peterson	Tjornhom
Boo	Hugoson	McLaughlin	Poppenhagen	Tompkins
Brown	Jacobs	McPherson	Price	Trimble
Carlson, D.	Janezich	Milbert	Pugh	Tunheim
Carlson, L.	Jaros	Miller	Quinn	Uphus
Carruthers	Jefferson	Morrison	Redalen	Valento
Clark	Jennings	Munger	Reding	Vellenga
Conway	Johnson, R.	Murphy	Rest	Wagenius
Cooper	Johnson, V.	Nelson, C.	Rice	Waltman
Dauner	Kahn	Nelson, K.	Richter	Weaver
Dawkins	Kalis	Neuenschwander	Rodosovich	Welle
Dempsey	Kelly	O'Connor	Rukavina	Wenzel
Dille	Kelso	Ogren	Runbeck	Williams
Dorn	Kinkel	Olsen, S.	Sarna	Winter
Forsythe	Knickerbocker	Olson, E.	Schafer	Wynia
Frederick	Kostohryz	Olson, K.	Schreiber	Spk. Vanasek
Frerichs	Krueger	Omann	Seaberg	

The bill was passed, as amended, and its title agreed to.

S. F. No. 1101, A bill for an act relating to St. Louis county; regulating budget procedures; providing for certain recorder's fees; allowing the county to assess the cost of maintenance of television relay service; proposing coding for new law in Minnesota Statutes, chapter 383C; repealing Minnesota Statutes 1988, sections 383C.01, 383C.011, 383C.012, 383C.013, 383C.014, 383C.015, 383C.016, 383C.017, 383C.018, and 383C.019.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abrams	Burger	Forsythe	Hugoson	Kelso
Anderson, G.	Carlson, D.	Frerichs	Jacobs	Kinkel
Battaglia	Carlson, L.	Girard	Janezich	Knickerbocker
Bauerly	Carruthers	Greenfield	Jaros	Kostohryz
Beard	Clark	Gruenes	Jefferson	Krueger
Begich	Conway	Gutknecht	Jennings	Lasley
Bennett	Cooper	Hartle	Johnson, A.	Lieder
Bertram	Dauner	Hasskamp	Johnson, R.	Limmer
Bishop	Dawkins	Haukoos	Johnson, V.	Long
Blatz	Dempsey	Heap	Kahn	Lynch
Boo	Dille	Henry	Kalis	Macklin
Brown	Dorn	Himle	Kelly	Marsh

McDonald	Ogren	Peterson	Scheid	Tunheim
McEachern	Olsen, S.	Poppenhagen	Schreiber	Uphus
McGuire	Olson, E.	Price	Seaberg	Valento
McLaughlin	Omann	Pugh	Simoneau	Vellenga
McPherson	Onnen	Quinn	Skoglund	Wagenius
Milbert	Orenstein	Redalen	Solberg	Waltman
Miller	Osthoff	Reding	Sparby	Weaver
Morrison	Ostrom	Rest	Stanius	Welle
Munger	Otis	Rice	Steensma	Wenzel
Murphy	Ozment	Rodosovich	Swiggum	Williams
Nelson, C.	Pappas	Rukavina	Swenson	Winter
Nelson, K.	Pauly	Runbeck	Tjornhom	Wynia
Neuenschwander	Pellow	Sarna	Tompkins	Spk. Vanasek
O'Connor	Pelowski	Schafer	Trimble	

Those who voted in the negative were:

Frederick

The bill was passed and its title agreed to.

S. F. No. 54, A bill for an act relating to the city of Edina; authorizing the city to operate a public transit system and to acquire necessary equipment; land, and interests in land; permitting the establishment of special service districts in the city; providing that the city and the housing and redevelopment authority need not require competitive bidding and bonds in connection with certain redevelopment projects.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dille	Johnson, R.	Milbert	Pelowski
Anderson, G.	Dorn	Johnson, V.	Miller	Peterson
Battaglia	Forsythe	Kahn	Morrison	Poppenhagen
Bauerly	Frederick	Kalis	Munger	Price
Beard	Frerichs	Kelly	Murphy	Pugh
Begich	Girard	Kelso	Nelson, C.	Quinn
Bennett	Greenfield	Kinkel	Nelson, K.	Redalen
Bertram	Gruenes	Knickerbocker	Neuenschwander	Reding
Bishop	Gutknecht	Kostohryz	O'Connor	Rest
Blatz	Hartle	Krueger	Ogren	Rice
Boo	Hasskamp	Lasley	Olsen, S.	Richter
Brown	Haukoos	Lieder	Olson, E.	Rodosovich
Burger	Heap	Limmer	Olson, K.	Rukavina
Carlson, D.	Henry	Long	Omann	Runbeck
Carlson, L.	Himle	Lynch	Onnen	Sarna
Carruthers	Hugoson	Macklin	Orenstein	Schafer
Clark	Jacobs	Marsh	Ostrom	Scheid
Conway	Janezich	McDonald	Otis	Schreiber
Cooper	Jaros	McEachern	Ozment	Seaberg
Dauner	Jefferson	McGuire	Pappas	Segal
Dawkins	Jennings	McLaughlin	Pauly	Simoneau
Dempsey	Johnson, A.	McPherson	Pellow	Skoglund

Solberg  
Sparby  
Stanius  
Steensma  
Sviggunn

Swenson  
Tjornhom  
Tompkins  
Trimble  
Tunheim

Uphus  
Valento  
Vellenga  
Wagenius  
Waltman

Weaver  
Welle  
Wenzel  
Williams  
Winter

Wynia  
Spk. Vanasek

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

There being no objection, the order of business reverted to Messages from the Senate.

### MESSAGES FROM THE SENATE

The following message was received from 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. 1155, A bill for an act relating to insurance; life and health; regulating policy and contract provisions, coverages, certain cost-containment mechanisms, cancellations and nonrenewals, trade and marketing practices, and remedies in these and other lines; making technical changes; amending Minnesota Statutes 1988, sections 45.025, subdivision 8; 45.027, subdivision 7; 45.028, subdivision 1; 61A.011, subdivision 1; 61A.092, subdivision 3; 61B.03, subdivision 6; 62A.01; 62A.041; 62A.08; 62A.09; 62A.15, subdivision 3a; 62A.17, subdivision 2; 62A.46, by adding a subdivision; 62A.48, subdivision 1; 62B.01; 62B.04, subdivision 1; 62D.12, by adding a subdivision; 62E.06, subdivision 1; 72A.20, subdivision 15, and by adding subdivisions; 72A.325; and 149.11; proposing coding for new law in Minnesota Statutes, chapters 60A; 62A; 65A; and 72A; repealing Minnesota Statutes 1988, sections 60A.23, subdivision 7; and 72A.13, subdivision 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

Skoglund moved that the House refuse to concur in the Senate amendments to H. F. No. 1155, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

## ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1155:

Skoglund, Knickerbocker and Scheid.

## SPECIAL ORDERS

Rodosovich moved that the bill on Special Orders for today be continued. The motion prevailed.

## GENERAL ORDERS

Rodosovich moved that the bills on General Orders for today be continued. The motion prevailed.

## MOTIONS AND RESOLUTIONS

Sarna moved that the following statement be printed in the Permanent Journal of the House:

"It was my intention to vote in the affirmative when the final vote was taken on passage of H. F. No. 629 on Monday, May 15, 1989. In error I pressed the wrong button." The motion prevailed.

## ADJOURNMENT

Rodosovich moved that when the House adjourns today it adjourn until 12:00 noon, Thursday, May 18, 1989. The motion prevailed.

Rodosovich moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 12:00 noon, Thursday, May 18, 1989.

EDWARD A. BURDICK, Chief Clerk, House of Representatives