

STATE OF MINNESOTA

SEVENTY-SIXTH SESSION—1990

SEVENTIETH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, MARCH 14, 1990

The House of Representatives convened at 2:30 p.m. and was called to order by Robert E. Vanasek, Speaker of the House.

Prayer was offered by Dr. Joseph Everson, Pastor of Hope Lutheran Church and Adjunct Professor, United Theological Seminary, St. Paul, Minnesota.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced that Jeff Conway in a letter addressed to the Governor resigned as State Representative from District 30B effective March 13, 1990.

The roll was called and the following members were present:

Abrams	Girard	Krueger	Onnen	Schreiber
Anderson, G.	Greenfield	Lasley	Orenstein	Seaberg
Anderson, R.	Gruenes	Lieder	Osthoff	Segal
Battaglia	Gutknecht	Limmer	Ostrom	Simoneau
Bauerly	Hartle	Long	Otis	Skoglund
Beard	Hasskamp	Lynch	Ozment	Solberg
Begich	Haukoos	Macklin	Pappas	Sparby
Bennett	Hausman	Marsh	Pauly	Stanisus
Bertram	Heap	McDonald	Pellow	Steensma
Bishop	Henry	McEachern	Pelowski	Sviggum
Blatz	Hugoson	McGuire	Peterson	Swenson
Boo	Jacobs	McLaughlin	Poppenhagen	Tjornhom
Brown	Janezich	McPherson	Price	Tompkins
Burger	Jaros	Milbert	Pugh	Trimble
Carlson, L.	Jefferson	Miller	Quinn	Tunheim
Carruthers	Jennings	Morrison	Redalen	Uphus
Clark	Johnson, A.	Munger	Reding	Valento
Cooper	Johnson, R.	Murphy	Rest	Vellenga
Dauner	Johnson, V.	Nelson, C.	Rice	Wagenius
Dawkins	Kahn	Nelson, K.	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	Spk. Vanasek

A quorum was present.

Carlson, D.; Himle and Neuenschwander were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Price 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. 232, 1784, 1870, 1924, 1960, 1963, 1976, 1977, 2001, 2002, 2028, 2057, 2097, 2116, 2134, 2138, 2147, 2163, 2173, 2189, 2202, 2219, 2252, 2291, 2296, 2336, 2350, 2384, 2407, 2426, 2448, 2462, 2494, 2505, 2594, 2628, 2637, 2645, 2650, 2657, 1894, 1939, 1970, 1987, 2043, 2056, 2090, 2092, 2105, 2124, 2131, 2148, 2156, 2211, 2222, 2223, 2234, 2321, 2351, 2397, 2459, 2507, 2534, 2541, 2614 and 2623 and S. F. Nos. 1695, 1813, 1906, 1943, 1922, 1947 and 1783 have been placed in the members' files.

S. F. No. 1922 and H. F. No. 2028, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Carlson, L., moved that S. F. No. 1922 be substituted for H. F. No. 2028 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1947 and H. F. No. 2090, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Jennings moved that the rules be so far suspended that S. F. No. 1947 be substituted for H. F. No. 2090 and that the House File be indefinitely postponed. The motion prevailed.

REPORTS OF STANDING COMMITTEES

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 31, A bill for an act relating to natural resources; prohibiting drainage of certain wetlands; amending Minnesota

Statutes 1988, sections 105.38; 105.391, by adding subdivisions; and 106A.701, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 105.37, subdivision 14, is amended to read:

Subd. 14. [PUBLIC WATERS.] "Public waters" includes and shall be limited to the following waters of the state:

(1) All waterbasins assigned a shoreland management classification by the commissioner pursuant to section 105.485, except wetlands less than 80 acres in size which are classified as natural environment lakes;

(2) All waters of the state which have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;

(3) All meandered lakes, except for those which have been legally drained;

(4) All waterbasins previously designated by the commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;

(5) All waterbasins designated as scientific and natural areas pursuant to section 84.033;

(6) All waterbasins located within and totally surrounded by publicly owned lands;

(7) All waterbasins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;

(8) All waterbasins where there is a publicly owned and controlled access which is intended to provide for public access to the waterbasin; and

(9) All natural and altered natural watercourses with a total drainage area greater than two square miles, except that trout streams officially designated by the commissioner shall be public waters regardless of the size of their drainage area; and

(10) All types 3, 4, and 5 wetlands as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), which are ten or more acres in unincorporated areas or 2-1/2 or more acres in incorporated areas, and are not included in clauses (1) to (9).

The public character of water shall not be determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water which was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.

For the purposes of statutes other than this section and sections 105.38 and 105.391, the term "public waters" shall include "wetlands" unless the statute expressly states otherwise.

Sec. 2. Minnesota Statutes 1988, section 105.37, subdivision 15, is amended to read:

Subd. 15. [WETLANDS.] "Wetlands" includes, and shall be limited to, all types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, which are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

"Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have two or more of the following three attributes:

(1) at least periodically, the land supports predominantly hydrophytes;

(2) the substrate is predominantly undrained hydric soil; and

(3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Sec. 3. Minnesota Statutes 1988, section 105.37, is amended by adding a subdivision to read:

Subd. 19. [LOCAL WATER MANAGEMENT ORGANIZATION.] "Local water management organization" means the managers of a watershed district established under chapter 112. Where no watershed district has been established, the local water management organization shall be the governing board of the county, city, or the watershed management organization under section 473.876, subdivision 9.

Sec. 4. Minnesota Statutes 1988, section 105.37, is amended by adding a subdivision to read:

Subd. 20. [MITIGATION.] "Mitigation" is the quantification and replacement of an area's size, quality, character, and diversity through restoration or creation of equivalent quantities in another area after the impacts of the proposed project have been avoided and minimized to the extent possible and there are no feasible and practical alternatives.

Sec. 5. Minnesota Statutes 1988, section 105.37, is amended by adding a subdivision to read:

Subd. 21. [WATERSHED.] "Watershed" means the 81 major watershed units delineated by the "State of Minnesota Watershed Boundaries - 1979" map.

Sec. 6. Minnesota Statutes 1988, section 105.38, is amended to read:

105.38 [DECLARATION OF POLICY.]

Subdivision 1. [POLICY.] To conserve and use the state's water resources in the best interests of its people, and to promote the public health, safety, and welfare, the policy of the state is as follows:

(a) Subject to existing rights, public waters and wetlands are subject to the control of the state.

(b) The state, to the extent provided by law, shall control the appropriation and use of surface and underground waters of the state.

(c) The state shall control and supervise, so far as practicable, any activity that changes or will change the course, current, or cross-section of public waters or wetlands, including but not limited to the construction, reconstruction, repair, removal, abandonment, the making of any other change, or the transfer of ownership of dams, reservoirs, control structures, and waterway obstructions in public waters or wetlands of the state.

Subd. 2. [FINDINGS; PUBLIC INTEREST.] (a) The legislature finds that the wetlands of Minnesota provide public value by conserving surface waters, maintaining and improving water quality, preserving wildlife habitat, providing recreational opportunities, reducing runoff, providing for floodwater retention, reducing stream sedimentation, contributing to improved subsurface moisture, and enhancing the natural beauty of the landscape, and are important to comprehensive water management, and that it is in the public interest to:

(1) achieve no net loss in the quantity and quality of Minnesota's existing wetlands;

(2) increase the quantity and quality of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;

(3) avoid direct or indirect impacts from activities that destroy or diminish wetlands; and

(4) mitigate where avoidance is not feasible or practical.

(b) Mitigation must be guided by the following principles in descending order of priority:

(1) restoration of a wetland area;

(2) enhancement of a wetland area; or

(3) creation of new wetland.

(c) This subdivision controls the enforcement and administration of all other statutes affecting wetlands.

Sec. 7. Minnesota Statutes 1988, section 105.391, subdivision 1, is amended to read:

Subdivision 1. [INVENTORY, COUNTY BOARD REVIEW, HEARINGS.] On the basis of information available to the commissioner and the criteria in section 105.37, ~~subdivisions~~ subdivision 14 and 15, the commissioner shall inventory the waters of each county and make a preliminary designation as to which are public waters ~~and wetlands~~. The commissioner shall send a list and map of the waters preliminarily designated as public waters ~~and wetlands~~ in each county to the county board of that county for its review and comment.

The county board shall conduct at least one public informational meeting within the county regarding the commissioner's preliminary designation. After conducting the meetings and within 90 days after receipt of the list or maps, the county board shall present its recommendation to the commissioner, listing any waters regarding which the board disagrees with the commissioner's preliminary designation and stating with particularity the waters involved and the reasons for disagreement.

The commissioner shall review the county board's response and, if in agreement with any of the board's recommendations, shall revise the list and map to reflect the recommendations. Within 30 days after receiving the county board's recommendations, the commis-

sioner shall also notify the county board which recommendations are accepted and rejected and the reasons for the decision.

After the revision of the map and list, if any, or if no response is received from the county board within the 90 days review period, the commissioner shall file the revised list and map with the recorder of each county and shall have the list and map published in the official newspaper of the county. The published notice must also state that any person or any county may challenge the designation of specific waters as public waters or wetlands or may request the designation of additional waters as public waters or wetlands, by filing a petition for a hearing with the commissioner within 90 days following the date of publication. The petition must state with particularity the waters for which the commissioner's designation is disputed and the reasons for disputing the designation.

If any designations are disputed by petition, the commissioner shall order a public hearing to be held within the county within 60 days following the 90-day period. Notice of the hearing must be published in the State Register and the official newspaper of the county. The hearings must be conducted by a hearings unit. The unit is composed of: one person appointed by the affected county board; one person appointed by the commissioner; and one board member of the local soil and water conservation district or districts within the county who must be selected by the other two members at least 20 days before the hearing date. The expenses and per diem of any member of the hearings unit who is not a state employee must be paid as provided for in section 15.059, subdivision 3, within the limits of funds available from grants to the county under Laws 1979, chapter 199, section 16.

If there is a watershed district whose boundaries include the waters involved, the district may give the hearings unit its recommendations.

Within 60 days after completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which must be considered the decision of an agency in a contested case for purposes of judicial review under sections 14.63 to 14.69. The commissioner, the county, or any person aggrieved by the decision of the hearings unit may appeal from the hearings unit's order. On receiving the order of the hearings unit and after the appeal period has expired, or on receiving the final order of the court in the case of an appeal, the commissioner shall publish a list of the waters determined to be public waters and wetlands. The commissioner shall complete the public waters and wetlands inventory by December 31, 1982.

Sec. 8. Minnesota Statutes 1988, section 105.391, subdivision 3, is amended to read:

Subd. 3. [PERMISSION TO DRAIN WATERS AND WETLANDS.] Except as provided below, no public waters or wetlands shall be drained, and no permit authorizing drainage of public waters or wetlands shall be issued, unless the public waters or wetlands being drained are replaced by public waters or wetlands that will have equal or greater public value. Wetlands, as defined in section 105.37, subdivision 14, clause (10), drainage of which is lawful, feasible, and practical and would provide high quality cropland and that is the projected land use, as determined by the commissioner, may be drained without a permit and without replacement of wetlands of equal or greater public value if the commissioner does not choose, within 60 days of receiving an application for a permit to drain the wetlands, to (1) place the wetlands in the state waterbank program under section 105.392, or (2) acquire it in fee under section 97A.145. The applicant, if not offered a choice of the above alternatives, is entitled to drain the wetlands involved.

In addition, the owner of lands underlying wetlands situated on privately owned lands may apply to the commissioner for a permit to drain the wetlands at any time more than ten years after their original designation. On receiving an application, the commissioner shall review the status and conditions of the wetlands. If the commissioner finds that the current status or conditions make it likely that the economic or other benefits from agricultural use to the owner from drainage would exceed the public benefits of maintaining the wetlands, the commissioner shall grant the application and issue a drainage permit. If the application is denied, the owner may not apply again for another ten years.

Sec. 9. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3a. [REPLACEMENT OF WETLANDS.] (a) Wetlands not inventoried under subdivision 1 which are identified on United States Fish and Wildlife Service National Wetlands Inventory maps, or which have been created or restored by public or private conservation programs, must not be drained or filled, wholly or partially, unless there are no feasible, practical, or prudent alternatives and unless replaced by creating wetland areas of at least equivalent size, quantity, character, and diversity under either a mitigation plan approved as provided in subdivision 3d or a mining reclamation plan approved by the commissioner under a permit to mine under section 93.481.

(b) Any mitigation or replacement shall be within the same watershed or county as the impacted wetlands, as based on the wetland evaluation.

(c) Wetlands that are created or restored as a result of an approved

mitigation plan are subject to the provisions of this section for any subsequent drainage or filling.

(d) All requests to add or delete a wetland from the jurisdiction of subdivision 3a must be approved in the same way as provided for mitigation plans by the committee for dispute resolution of the board of water and soil resources and must be based on substantial evidence that the wetland does or does not comply with established criteria for inclusion in the national wetlands inventory:

Sec. 10. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3b. [CALCAREOUS FENS.] Calcareous fens as identified by the commissioner may not be filled or drained, wholly or partially, by any activity.

Sec. 11. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3c. [EXCEPTIONS.] Wetlands identified in subdivision 3a are not subject to mitigation or replacement if:

(1) the wetland was planted and harvested with annually seeded crops or was in a crop rotation seeding six of the ten years prior to January 1, 1990;

(2) the wetland is a wetland restored under a contract or easement providing the landowner with the right to drain the restored wetland;

(3) the wetland is a type 2 wetland;

(4) the wetland is located between the banks of a ditch, as defined in section 106A.005, subdivision 8; or is located between the crowns of the leveled spoil banks planted with permanent grass, as provided in section 106A.021, and the opposite bank; and the wetland is drained pursuant to a ditch repair as defined in section 106A.701;

(5) the wetland is less than ten acres;

(6) except for bottomland hardwood wetlands, the wetland is a type 1 as defined in United States Fish and Wildlife Circular No. 39 (1971 edition);

(7) the wetland was included in a request for a commenced drainage determination provided for by the 1985 federal Food Security Act that was made to the county agricultural stabilization and conservation service office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that

drainage of the wetland had been commenced prior to December 23, 1985;

(8) the wetland is located in a subdivision that has received plat approval before the effective date of this section;

(9) the wetland was created solely as a result of beaver dam construction, or the blockage of culverts through roadways maintained by a public authority; or

(10) the wetland is located in a development area in which the governing body or the developing company acting under local approvals has installed infrastructure improvements or made agreements and financial commitments for infrastructure improvements.

Sec. 12. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3d. [MITIGATION RULES.] (a) By July 1, 1992, the commissioner shall adopt rules governing the approval of mitigation plans under this section. These rules must address the criteria, procedure, timing, and location of acceptable mitigation; the establishment and administration of a wetland banking program for public transportation projects; the methodology to be used in identifying and evaluating wetland functions; the administrative, monitoring, and enforcement procedures to be used; and provide a procedure for the review and appeal of decisions under this section.

(b) Prior to the adoption of these rules, the mitigation plan must be approved by a four-member review panel. The review panel shall be composed of the regional administrator for the department of natural resources, one board member of the local soil and water conservation district or districts within the county, one manager of the watershed district, and one member of the local water planning group who must be appointed by the county board. Where there is no watershed district, a member of the governing board of the county or city shall be present on the review panel.

(c) After the adoption of these rules, the mitigation plan must be approved by a resolution of the governing board of the local water management organization, consistent with the provisions of the rules.

(d) By July 1, 1994, the commissioner shall review the feasibility of and may adopt rules extending wetland banking to projects in addition to public transportation projects.

Sec. 13. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3e. [EVALUATION.] Questions concerning the location, size, or type of a wetland shall be submitted to and decided by a technical evaluation panel. The technical evaluation panel shall be composed of a technical professional employee of the department of natural resources, a technical professional employee of the local soil and water conservation district or districts, and an engineer for the local water management organization. This panel shall provide this information to the authority that must approve a mitigation plan under subdivision 3d.

Sec. 14. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3f. [DECISION.] As provided in subdivision 3d, and upon receiving all required data, the local water management organization approving a mitigation plan must act on all applications for mitigation plan approval within 60 days.

Sec. 15. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3g. [NOTICE OF APPLICATION.] Within ten days of receiving an application for approval of a mitigation plan under this section, a copy of the application must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the commissioner, the board of supervisors of the soil and water conservation district, the managers of the watershed district, the board of county commissioners, and within the wetland watershed, the mayors of the cities.

Sec. 16. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3h. [NOTICE OF DECISION.] At least 30 days prior to the effective date of the approval or denial of a mitigation plan under this section, a copy of the approval or denial must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the applicant, the commissioner, the board of supervisors of the soil and water conservation district, the managers of the watershed district, the board of county commissioners, and the mayor of the city.

Sec. 17. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3i. [APPEAL.] Appeal of the decision may be obtained by mailing a notice of appeal to the board of water and soil resources within 30 days after the postmarked date of the mailing specified in subdivision 3h. If appeal is not sought within 30 days, the decision becomes final and is not thereafter subject to judicial review. Appeal

may be made by any of those to whom notice is required to be mailed under subdivision 3h, or by 25 landowners or residents in the county or watershed of the impacted wetland. All appeals must be heard by the committee for dispute resolution of the board of water and soil resources, and a decision made within 60 days of the appeal. The decision must be served by mail on the parties to the appeal, and is not subject to the provisions of chapter 14. The decision must be considered the decision of an agency in a contested case for purposes of judicial review under Minnesota Statutes, sections 14.63 to 14.69.

Sec. 18. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3j. [WETLAND HERITAGE ADVISORY COMMITTEE.] The commissioner shall establish a wetland heritage advisory committee consisting of a balanced diversity of interests including agriculture, environmental, sporting organizations, land development organizations, local government organizations, and other agencies. The committee shall advise the commissioner on the development of rules and, after rule adoption, shall meet twice a year to review implementation of the program, to identify strengths and weaknesses, and to recommend changes to the rules and the law to improve the program.

Sec. 19. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3k. [MITIGATION CREDITS.] No public or private wetland restoration, enhancement, or construction may be allowed for mitigation unless specifically designated for mitigation by the individual or organization performing the wetland restoration, enhancement, or construction.

Sec. 20. Minnesota Statutes 1988, section 105.391, is amended by adding a subdivision to read:

Subd. 3l. [DRAINING PUBLIC WATERS.] No public ditch may be repaired in such a way as to partially or completely drain a public water inventoried under subdivision 1, except as provided in subdivision 3. This section does not limit the rights of a landowner to maintain an existing drainage system within the criteria set forth in subdivision 3c.

Sec. 21. Minnesota Statutes 1988, section 105.391, subdivision 10, is amended to read:

Subd. 10. [LANDOWNER'S USE OF WETLANDS.] This chapter does not prevent a landowner from:

(1) using the bed of wetlands or public waters for pasture or cropland during periods of drought, if there is no;

(2) filling a wetland to accommodate wheeled booms on irrigation devices, so long as the fill does not impede normal drainage; or

(3) harvesting timber from a wetland as part of a forest management plan;

if the activities do not result in the construction of dikes, ditches, tile lines or buildings, and the agricultural or forestry use does not result in the drainage of the wetlands or public waters. This chapter does not prevent a landowner from filling a wetland to accommodate wheeled booms on irrigation devices so long as the fill does not impede normal drainage.

Sec. 22. Minnesota Statutes 1988, section 105.392, subdivision 2, is amended to read:

Subd. 2. [TWENTY-YEAR WATERBANK AGREEMENTS.] For the conservation of wetlands, whether or not included in the definition contained in section 105.37, subdivision 14, clause (10), and subdivision 15, the commissioner may acquire wetlands in fee pursuant to section 97A.145, or may enter into easement agreements with landowners for the conservation of wetlands and other waters. These easement agreements shall be conservation easements, as defined in section 84C.01, paragraph (1), but, in addition, may be made possessory as well as nonpossessory if agreed upon by the landowner and the commissioner. These easements must be entered into for a period of not less than 20 years, with provision for renewal for not less than 20-year periods, or the agreements may provide that the easement will be permanent in duration. Highest priority must be given to the selection of permanent easements. The commissioner may reexamine the payment rates at the beginning of a 20-year renewal period and adjust them giving consideration to current land and crop values.

Sec. 23. Minnesota Statutes 1988, section 105.392, subdivision 4, is amended to read:

Subd. 4. [PAYMENT AND HELP TO OWNER.] In return for the easement of the owner, the commissioner must provide advice on conservation and development practices on the wetlands and adjacent areas for the purposes of this section as the commissioner determines to be appropriate. The commissioner must make the following payments to the landowner for the easement:

(1) for a permanent easement, 50 to 70 percent of the average equalized estimated market value of cropland in the township as

established by the commissioner of revenue for the time period when the application is made;

(2) for an easement of limited duration, a lump sum payment equal to 65 percent of the value of the permanent easement value for the time period when the application is made 90 percent of the average of the accepted bids for the federal Conservation Reserve Program in the county in 1989, or in the most recent year prior to 1989 in which bids were accepted, if no bids were accepted in 1989, as contained in Public Law Number 99-198, in the relevant geographic area and on bids accepted at the time of easement application; or

(3) an alternative payment system for easements based on cash rent or a similar system as may be determined by the commissioner.

Sec. 24. Minnesota Statutes 1988, section 106A.701, is amended by adding a subdivision to read:

Subd. 5. [WETLAND RESTORATION AND MITIGATION.] Repair of a drainage system may include the restoration or enhancement of wetlands; wetland mitigation under section 105.391, subdivision 3a; and the realignment of a drainage system to prevent drainage of a wetland.

Sec. 25. [APPROPRIATION; BONDING.]

Subdivision 1. [WETLANDS ENROLLMENT.] \$10,000,000 is appropriated from the bond proceeds fund to the commissioner of natural resources to enroll wetlands in the state waterbank program.

Subd. 2. [SALE OF BONDS.] To provide the money appropriated in this section from the bond proceeds fund, the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to \$10,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Subd. 3. [COMMISSIONER OF NATURAL RESOURCES.] \$1,000,000 is appropriated from the general fund to the commissioner of natural resources for administrative costs for the purposes of this act.

Subd. 4. [BOARD OF WATER AND SOIL RESOURCES.] \$1,000,000 is appropriated from the general fund to the board of water and soil resources for grants to local water management organizations and administrative costs for the purposes of this act.

Subd. 5. [RULE DEVELOPMENT.] \$50,000 is appropriated from the general fund to the commissioner of natural resources for development of draft rules and adoption of rules under section 18.

Sec. 26. [EFFECTIVE DATE.]

Section 18 is effective the day following final enactment. Section 25, subdivision 5, is effective July 1, 1990. Sections 1 to 17, 19 to 24, and section 25, subdivisions 1 to 4 are effective July 1, 1991.

Delete the title and insert:

"A bill for an act relating to waters; enacting the Wetlands Heritage Act of 1990; providing for wetlands identification, preservation, and management; prohibiting drainage of certain wetlands; appropriating money; amending Minnesota Statutes 1988, sections 105.37, subdivisions 14, 15, and by adding subdivisions; 105.38; 105.391, subdivisions 1, 3, 10, and by adding subdivisions; 105.392, subdivisions 2 and 4; 106A.701, by adding a subdivision."

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

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 45, A bill for an act relating to education; appropriating money to administer a "2 + 2" program at Anoka-Ramsey Community College.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [PLANNING.]

The state university board shall develop plans to expand the "2 + 2" program offered at Anoka-Ramsey Community College through St. Cloud State University. The planning must be done by the board in cooperation with the community college board. It must include relevant issues necessary to meet the students' needs, including at least the following: proposed academic program offerings, anticipated enrollment, need for additional faculty and facilities, availability of student support services, and estimated costs of the expansion.

Sec. 2. [REPORT.]

The state university board shall report its plans to the education committees and the education divisions of the appropriations and finance committees by January 14, 1991.

Sec. 3. [APPROPRIATION.]

\$ is appropriated in fiscal year 1991 to the state university board for the purpose of undertaking the planning in section 1.

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

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 173, A bill for an act relating to agriculture; requiring certain restaurants and retailers of prepared foods to disclose the use of cheese substitutes; exempting certain restaurants and retailers; proposing coding for new law in Minnesota Statutes, chapter 31.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [31.105] [ARTIFICIAL CHEESE DISCLOSURE.]

Subdivision 1. [APPLICATION; DISCLOSURE.] A restaurant or retailer whose principle business is serving or selling prepared foods that prepares foods containing artificial cheese shall:

(1) post in a clearly visible manner on or near each customer entrance to the premises a notice substantially as follows: “NOTICE: ONE OR MORE OF THE PRODUCTS SERVED OR SOLD BY THIS ESTABLISHMENT MAY CONTAIN ARTIFICIAL CHEESE”; or

(2) print on or affix to the menu or menu board a list of the foods that contain artificial cheese.

Subd. 2. [EXCEPTIONS.] A restaurant or retailer that prepares and serves or sells foods is exempt from the disclosure requirements of subdivision 1 if:

- (1) the foods do not contain artificial cheese;
- (2) the foods contain only minor quantities of artificial cheese used principally for cosmetic purposes; or
- (3) the foods containing artificial cheese are prepackaged and labeled in accordance with federal labeling regulations.

Subd. 3. [RULES.] The commissioner may adopt rules necessary to administer this section. The rules may include provisions governing the size, location, and wording of disclosure notices.

Delete the title and insert:

“A bill for an act relating to agriculture; providing customer information when artificial cheese is used in certain foods; proposing coding for new law in Minnesota Statutes, chapter 31.”

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 869, A bill for an act relating to motor carriers; establishing a joint legislative subcommittee on motor carrier regulation and requiring a report.

Reported the same back with the following amendments:

Page 1, line 23, delete “February” and insert “January”

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 1067, A bill for an act relating to education; requiring students on all HECB advisory groups; amending Minnesota Statutes 1988, section 136A.02, subdivision 7, and by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 9, after "must" insert ", if requested by the student advisory council,"

Page 1, line 10, delete "each" and insert "an"

Page 1, line 12, after "student" insert "member or"

Pages 1 and 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 1989 Supplement, section 136A.02, subdivision 7, is amended to read:

Subd. 7. [STUDENT ADVISORY COUNCIL.] A student advisory council to the board is established. The members of the council shall include the chair of the University of Minnesota university student senate, the state chair of the Minnesota state university student association, the president of the Minnesota community college student association, the president of the Minnesota vocational technical student association, the president of the Minnesota association of private college students, and a student who is enrolled in a private vocational school registered under this chapter, to be appointed by the Minnesota association of private post-secondary schools. A member may be represented by a designee.

The advisory council shall:

(1) bring to the attention of the board any matter that the council believes needs the attention of the board;

(2) make recommendations to the board as the council deems appropriate;

(3) review and comment upon proposals and other matters before the board;

(4) appoint student members to board advisory groups as provided in section 1;

(5) provide any reasonable assistance to the board; and

(5) (6) select one of its members to serve as chair. The board shall inform the council of all matters under consideration by the board and shall refer all proposals to the council before the board acts or sends the proposals to the governor or the legislature. The board shall provide time for a report from the advisory council at each meeting of the board.

The student advisory council shall report to the board quarterly and at other times that the council considers desirable. The council shall determine its meeting time, but the council shall also meet with the executive director of the board within 30 days after the director's request for a council meeting. The student advisory council shall meet quarterly with the higher education advisory council and the board executive committee. The council expires June 30, 1993."

Amend the title as follows:

Page 1, line 4, delete "subdivision 7, and"

Page 1, line 5, before the period insert "; Minnesota Statutes 1989 Supplement, section 136A.02, subdivision 7"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1101, A bill for an act relating to probate; adopting the uniform anatomical gift act (1987); correcting cross-references; amending Minnesota Statutes 1988, sections 65B.44, subdivision 4; 171.07, subdivision 5; and 390.36; proposing coding for new law in Minnesota Statutes, chapter 525; repealing Minnesota Statutes 1988, sections 525.921 to 525.93.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 65B.44, subdivision 4, is amended to read:

Subd. 4. [FUNERAL AND BURIAL EXPENSES.] Funeral and burial benefits shall be reasonable expenses not in excess of \$2,000, including expenses for cremation or delivery under the uniform anatomical gift act (1987), sections 525.921 4 to 525.93 25.

Sec. 2. Minnesota Statutes 1988, section 171.07, subdivision 5, is amended to read:

Subd. 5. The department may provide a donor document to each person making application for a driver's license or a Minnesota

identification card whereby any such person may execute an anatomical gift, pursuant to the provisions of the uniform anatomical gift act (1987), sections ~~525.921 4~~ to ~~525.93 25~~. The commissioner of public safety shall prescribe the form of the donor document. If the donor is 18 years of age or older, the donor document must be signed by the donor in the presence of two witnesses who must sign the donor document in the donor's presence. If the donor cannot sign, the donor document may be signed for the donor at the donor's direction, in the donor's presence, and in the presence of two witnesses who must sign the donor document in the donor's presence. If the donor is a minor, the donor document must be signed by the minor donor, and both of the minor donor's parents, a legal guardian, or the parent or parents having legal custody. If the minor cannot sign, the donor document may not be signed for the minor. The department shall identify donors of anatomical gifts by the designation "donor" on the front side of the donor's driver's license or Minnesota identification card. The designation "donor" shall constitute sufficient legal authority for the removal of all body organs or parts upon death of the donor for the purpose of transplantation and the designation shall be removed only upon written notice to the department. Delivery of the license or Minnesota identification card during the donor's lifetime is not necessary to make the gift valid.

Sec. 3. Minnesota Statutes 1988, section 390.36, is amended to read:

390.36 [CORONER REMOVAL OF PITUITARY GLAND DURING AUTOPSY.]

A county coroner who performs an autopsy under section 390.11, 390.32, or any other general or local law relating to county coroners or medical examiners, may remove the pituitary gland from the body and give it to the national pituitary agency, or any other agency or organization, for research if the following conditions have been met:

(a) the removal would not alter a gift made under sections ~~525.921 4~~ to ~~525.93 25~~;

(b) the coroner or medical examiner has no knowledge of any objection to the removal by the decedent or other person having the right to control the disposition of the body; and

(c) the coroner or medical examiner has followed generally accepted ethical guidelines and the removal would not violate the tenets of the deceased's religion.

Sec. 4. Minnesota Statutes 1988, section 525.921, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For the purposes of sections ~~525.921 4~~ to

~~525.93~~ 25 the terms defined in this section have the meanings given them.

Sec. 5. Minnesota Statutes 1988, section 525.921, is amended by adding a subdivision to read:

Subd. 1a. [ANATOMICAL GIFT.] "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death.

Sec. 6. Minnesota Statutes 1988, section 525.921, is amended by adding a subdivision to read:

Subd. 3a. [DOCUMENT OF GIFT.] "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle operator's or chauffeur's license, a will, or other writing used to make an anatomical gift.

Sec. 7. Minnesota Statutes 1988, section 525.921, subdivision 4, is amended to read:

Subd. 4. [DONOR.] "Donor" means an individual who makes a anatomical gift of all or part of the individual's body.

Sec. 8. Minnesota Statutes 1988, section 525.921, is amended by adding a subdivision to read:

Subd. 4a. [ENUCLEATOR.] "Enucleator" means an individual who has completed a course in eye enucleation conducted and certified by the department of ophthalmology of any accredited college of medicine, and holds a valid certificate of competence for completing the course.

Sec. 9. Minnesota Statutes 1988, section 525.921, subdivision 5, is amended to read:

Subd. 5. [HOSPITAL.] "Hospital" means a hospital facility licensed, accredited, or approved as a hospital under the laws of any state; includes or a facility operated as a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws of a state.

Sec. 10. Minnesota Statutes 1988, section 525.921, subdivision 8, is amended to read:

Subd. 8. [PHYSICIAN OR SURGEON.] "Physician" or "surgeon" means a physician or surgeon an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

Sec. 11. Minnesota Statutes 1988, section 525.921, is amended by adding a subdivision to read:

Subd. 8a. [PROCUREMENT ORGANIZATION.] "Procurement organization" means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts.

Sec. 12. Minnesota Statutes 1988, section 525.921, is amended by adding a subdivision to read:

Subd. 10. [TECHNICIAN.] "Technician" means an individual who is appropriately trained to remove or process a part.

Sec. 13. [525.9211] [MAKING, AMENDING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL.]

(a) An individual who is at least 18 years of age, or a minor with the written consent of a parent or legal guardian, may (i) make an anatomical gift for any of the purposes stated in section 17, paragraph (a), (ii) limit an anatomical gift to one or more of those purposes, or (iii) refuse to make an anatomical gift.

(b) An anatomical gift may be made by a will or by a document of gift signed by the donor. If the donor cannot sign, the document of gift must be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(c) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift must comply with paragraph (b). Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

(e) An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(f) A donor may amend or revoke an anatomical gift, not made by will, only by:

- (1) a signed statement;
- (2) an oral statement made in the presence of two individuals;
- (3) any form of communication during a terminal illness or injury addressed to a health care professional or member of the clergy; or
- (4) the delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(g) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in paragraph (f).

(h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(i) An individual may refuse to make an anatomical gift of the individual's body or part by (i) a writing signed in the same manner as a document of gift, or (ii) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(j) In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under section 14 or on a removal or release of other parts under section 15.

(k) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to paragraph (i).

Sec. 14. [525.9212] [MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS, BY OTHERS.]

(a) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent has made a refusal to make that anatomical gift that is unrevoked at the time of death:

- (1) the spouse of the decedent;
- (2) an adult son or daughter of the decedent;
- (3) either parent of the decedent;

(4) an adult brother or sister of the decedent;

(5) a grandparent of the decedent; and

(6) a guardian of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by a person listed in paragraph (a) if:

(1) a person in a prior class is available at the time of death to make an anatomical gift;

(2) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(3) the person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under paragraph (a) must be made by (i) a document of gift signed by the person, or (ii) the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under paragraph (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make a decision as to an anatomical gift under paragraph (a) is not an objection to the making of an anatomical gift.

Sec. 15. [525.9213] [AUTHORIZATION BY CORONER OR MEDICAL EXAMINER OR LOCAL PUBLIC HEALTH OFFICIAL.]

(a) The coroner or medical examiner may release and permit the removal of a part from a body within that official's custody, for transplantation or therapy, if:

(1) the official has received a request for the part from a hospital, physician, surgeon, or procurement organization;

(2) the official has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and inform persons listed in section 14, paragraph (a), of their option to make, or object to making, an anatomical gift;

(3) the official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in section 14, paragraph (a);

(4) the removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator;

(5) the removal will not interfere with any autopsy or investigation; and

(6) the removal will be in accordance with accepted medical standards.

(b) If the body is not within the custody of the coroner or medical examiner, the local public health officer may release and permit the removal of any part from a body in the local public health officer's custody for transplantation or therapy if the requirements of paragraph (a) are met.

(c) An official releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

Sec. 16. [525.9214] [ROUTINE INQUIRY AND REQUIRED REQUEST; SEARCH AND NOTIFICATION.]

(a) If, at or near the time of death of a patient, there is no documentation in the medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss with the patient or a relative of the patient the option to make or refuse to make an anatomical gift and may request the making of an anatomical gift pursuant to section 13 or 14. The request must be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in section 17. An entry must be made in the medical record of the patient, stating the name of the individual making the request, and of the name, response, and relationship to the patient of the person to whom the request was made.

(b) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death;

(2) a hospital or emergency care facility, upon the admission or presentation of an individual at or near the time of death, if there is not immediately available any other source of that information; and

(3) a medical examiner or coroner upon receipt of a body.

(c) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (b), clause (1), and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents and the document or other evidence must be sent to the hospital.

(d) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to section 14, paragraph (a), or a release and removal of a part has been permitted pursuant to section 15, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(e) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability.

Sec. 17. [525.9215] [PERSONS WHO MAY BECOME DONEES; PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.]

(a) The following persons may become donees of anatomical gifts for the purposes stated:

(1) a hospital, nonprofit organization in medical education and research, physician, surgeon, or procurement organization for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science;

(2) an accredited medical or dental school, college, or university for education, research, advancement of medical or dental science;

(3) an approved chiropractic college for education; or

(4) a designated individual for transplantation or therapy needed by that individual.

(b) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital or procurement organization.

(c) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under section 14, paragraph (a), the donee may not accept the anatomical gift.

Sec. 18. [525.9216] [DELIVERY OF DOCUMENT OF GIFT.]

(a) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

(b) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

Sec. 19. [525.9217] [RIGHTS AND DUTIES AT DEATH.]

(a) Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under section 22, paragraph (b). A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.

(b) The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to section 13, paragraph (d).

(c) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

Sec. 20. [525.9218] [COORDINATION OF PROCUREMENT AND USE.]

The organ procurement organizations, after consultation with hospitals, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

Sec. 21. [525.9219] [SALE OR PURCHASE OF PARTS PROHIBITED.]

(a) A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

(b) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

(c) A person who violates this section is guilty of a felony and upon conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding five years, or both.

Sec. 22. [525.9220] [EXAMINATION, AUTOPSY, LIABILITY.]

(a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) The provisions of sections 4 to 25 are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with sections 4 to 25 or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to section 5 or 6 and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

Sec. 23. [525.9221] [TRANSITIONAL PROVISIONS.]

Sections 4 to 25 apply to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after the effective date of sections 4 to 25.

Sec. 24. [525.9222] [UNIFORMITY OF APPLICATION AND CONSTRUCTION.]

Sections 4 to 25 shall be applied and construed to effectuate their general purpose to make uniform the law with respect to the subject of sections 4 to 25 among states enacting it.

Sec. 25. [525.9223] [SHORT TITLE.]

Sections 4 to 25 may be cited as the "uniform anatomical gift act (1987)."

Sec. 26. [REPEALER.]

Minnesota Statutes 1988, sections 525.921, subdivision 2; 525.922; 525.923; 525.924; 525.925; 525.926; 525.927; 525.928; 525.929; 525.93; and 525.94, as amended by Laws 1989, chapter 209, article 1, section 42, are repealed."

Amend the title as follows:

Page 1, line 5, delete "and" and after "390.36;" insert "and 525.921, subdivisions 1, 4, 5, 8, and by adding subdivisions;"

Page 1, line 7, before "to" insert ", subdivision 2; and 525.922"

Page 1, line 8, delete "525.93" and insert "525.94, as amended"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1439, A bill for an act relating to creditors remedies; regulating executions and garnishments; amending Minnesota Statutes 1988, section 550.142; proposing coding for new law in Minnesota Statutes, chapters 550 and 557; proposing coding for new law as Minnesota Statutes, chapter 551; repealing Minnesota Statutes 1988, sections 550.041; 550.05; 550.14; 550.141; 571.41; 571.42; 571.43; 571.44; 571.45; 571.46; 571.471; 571.495; 571.50; 571.51; 571.52; 571.53; 571.54; 571.55; 571.56; 571.57; 571.58; 571.59; 571.60; 571.61; 571.62; 571.63; 571.64; 571.65; 571.66; 571.67; 571.68; and 571.69.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SHERIFF'S LEVY ON PROPERTY, MONEY, OR
INDEBTEDNESS

Section 1. [550.051] [TERM OF WRIT OF EXECUTION; INVENTORY; SATISFACTION.]

Subdivision 1. [TIME PERIODS.] The writ of execution expires 180 days after its issuance by the court administrator. A levy that is served with a writ of execution that has expired is void. If the officer having the writ levies upon property or earnings before the expiration of 180 days, the officer may retain the writ until the officer sells the property or completes the levy upon earnings in the manner prescribed by law. Upon a demand of the judgment creditor or the creditor's attorney within 180 days, the officer shall pay to the judgment creditor or the judgment creditor's attorney all money collected upon execution after deducting the officer's fees. Upon expiration of the writ or full satisfaction of the judgment, if earlier, the officer shall make a full inventory of the property levied on and return it with the execution.

Subd. 2. [SATISFACTION.] In case of satisfaction, either partial or in full, the officer shall return the writ to the court administrator originally issuing it and return a duplicate copy of it to the court administrator of the officer's own county, if execution is upon judgment transcribed from another county. The court administrator to whom a duplicate is returned shall enter the record of the satisfaction upon the judgment docket and note in the margin that the entry is made upon "duplicate return." If the writ of execution is being returned when the judgment has been wholly satisfied, the writ shall be filed with the court administrator within ten days after the final payment or within 30 days if the payment is by check or other noncertified funds. If the writ of execution is being returned partially satisfied, the officer shall include a statement setting forth the dates and amounts of payments made upon the judgment after the most recent partial satisfaction filed, if any.

Sec. 2. [550.135] [SHERIFF'S LEVY ON OTHER PERSONAL PROPERTY, MONEY, OR INDEBTEDNESS.]

Subdivision 1. [SCOPE OF GENERAL AND SPECIFIC PROVISIONS.] General provisions relating to the sheriff's levy upon personal property not covered elsewhere in this chapter and upon money or indebtedness are set forth in this section. Specific provisions relating to a sheriff's levy upon earnings are set forth in sections 550.136 and 550.142. Specific provisions relating to a sheriff's levy upon funds at a financial institution are set forth in section 550.143. Summary execution of judgment debts by an attorney for the judgment creditor is governed by chapter 551.

Subd. 2. [OTHER PERSONAL PROPERTY.] Other personal property shall be levied on by leaving a copy of the writ of execution and a notice specifying the property levied on, with the person holding it; or, if a debt, with the judgment debtor; or, if stock or interest in stock of a corporation, with its president, secretary, treasurer, cashier, officer, or managing agent.

Subd. 3. [MONEY OR INDEBTEDNESS.] The sheriff may levy upon money or other indebtedness owed by a third party to the judgment debtor. The sheriff may serve a copy of the writ of execution through a registered or certified letter or by personal service to the third party. Upon receipt, unless governed by section 550.136 or 550.143, the third party shall remit to the sheriff as much of the amount due under section 550.04 as the third party's own debt equals.

Subd. 4. [PROPERTY NOT ATTACHABLE.] The following property is not subject to attachment by a writ of execution served pursuant to this chapter:

(1) any indebtedness or money due to the judgment debtor, unless at the time of the service of the writ of execution the same is due absolutely or does not depend upon any contingency;

(2) any judgment owing by the third party to the judgment debtor, if the third party or the third party's property is liable on an execution levy upon the judgment;

(3) any debt owing by the third party to the judgment debtor for which any negotiable instrument has been issued or endorsed by the third party;

(4) any indebtedness or money due to the judgment debtor where the judgment debtor is a bank, savings bank, trust company, credit union, savings and loan association, or industrial loan and thrift company with deposit liabilities;

(5) any indebtedness or money due to the judgment debtor with a cumulative value of less than \$10; and

(6) any disposable earnings, indebtedness, or money that is exempt under Minnesota or federal law.

Subd. 5. [THIRD PARTY FEE.] If the levy is upon earnings or upon funds at a financial institution, the third party shall be paid a \$15 fee at the time of the service of the writ of execution. Failure to pay the fee renders the levy void, and the third party shall take no action. The \$15 shall not be paid where the funds being levied on are being retained pursuant to a garnishment previously served in compliance with chapter 571. This fee may be recovered by the

judgment creditor as an allowable cost. The judgment creditor shall provide the \$15 fee to the sheriff to be paid to the third party. If a third party is required to appear and submit to oral examination, the third party shall be tendered, in advance of the examination, fees and mileage for attendance at the rate allowed by law to a witness. These fees may be recovered by the judgment creditor as an allowable disbursement. In extraordinary cases, the third party may be allowed additional sums the court considers reasonable for attorney fees and other necessary expenses. The court shall then determine which party bears the burden of this expense.

Subd. 6. [THIRD PARTY DISCLOSURE AND REMITTANCE.] Within 15 days after receipt of the writ of execution, unless governed by section 550.136 or 550.143, the third party shall make the required disclosure and remittance to the sheriff. The remittance shall be as much of the amount due under section 550.04 as the third party's own debt equals.

Subd. 7. [ORAL DISCLOSURE.] Before or after the service of a written disclosure by a third party under subdivision 6, upon a showing by affidavit upon information and belief that an oral examination of the third party would provide a complete disclosure of relevant facts, any party to the execution proceedings may obtain an ex parte order requiring the third party, or a representative of the third party designated by name or by title, to appear for oral examination before the court or a referee appointed by the court. Notice of the examination shall be given to all parties.

Subd. 8. [SUPPLEMENTAL COMPLAINT.] If a third party holds property, money, earnings, or other indebtedness by a title that is void as to the judgment debtor's creditors, the property may be levied on although the judgment debtor would be barred from maintaining an action to recover the property, money, earnings, or other indebtedness. In this and all other cases where the third party denies liability, the judgment creditor may move the court at any time before the third party is discharged, on notice to both the judgment debtor and the third party for an order making the third party a party to the supplemental action and granting the judgment creditor leave to file a supplemental complaint against the third party and the judgment debtor. The supplemental complaint shall set forth the facts upon which the judgment creditor claims to charge the third party. If probable cause is shown, the motion shall be granted. The supplemental complaint shall be served upon the third party and the judgment debtor and any other parties. The parties served shall answer or respond pursuant to the Minnesota Rules of Civil Procedure for the District Courts, and if they fail to do so, judgment by default may be entered against them.

Subd. 9. [JUDGMENT AGAINST THIRD PARTY UPON FAILURE TO DISCLOSE OR REMIT.] Judgment may be entered against a third party who has been served with a writ of execution and fails

to disclose or remit the levied funds as required in this chapter. Upon order to show cause served on the third party, and notice of motion supported by affidavit of facts and affidavit of service upon the judgment debtor, the court may render judgment against the third party for an amount not exceeding 110 percent of the amount claimed in the writ of execution. The court upon good cause shown may remove the default and permit the third party to disclose or remit on just terms.

Subd. 10. [FORMS.] No judgment creditor shall use a form that contains alterations or changes from the statutory forms that mislead judgment debtors as to their rights and the execution procedure generally. If a court finds that a judgment creditor has used a misleading form, the judgment debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from additional proceedings, and an amount not to exceed \$100. All forms must be clearly legible and printed in not less than the equivalent of 10-point type. A form that uses both sides of a sheet must clearly indicate on the front side that there is additional information on the back side of the sheet.

Subd. 11. [THIRD PARTY GOOD FAITH REQUIREMENT.] The third party is not liable to the judgment debtor, judgment creditor, or other person for wrongful retention if the third party retains or remits disposable earnings, indebtedness, or money of the judgment debtor or any other person, pending the third party's disclosure or consistent with the disclosure the third party makes, if the third party has a good faith belief that the property retained or remitted is subject to the writ of execution. In addition, the third party may, at any time before or after disclosure, proceed under Rule 67 of the Minnesota Rules of Civil Procedure for the District Courts to make deposit into court. No third party is liable for damages if the third party complies with the provisions of this chapter.

Subd. 12. [BAD FAITH CLAIM.] If, in a proceeding brought under section 550.143, subdivision 10, or a similar proceeding under this chapter to determine a claim of exemption, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded actual damages, costs, reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to that party's attorney for fees, the attorney's fee award shall be made directly to the attorney and if not paid, an appropriate judgment in favor of the attorney shall be entered. Any action by a judgment

creditor made in bad faith and in violation of this chapter renders the execution levy void and the judgment creditor liable to the judgment debtor named in the execution levy in the amount of \$100, actual damages, and reasonable attorney's fees and costs.

Subd. 13. [DISCHARGE OF A THIRD PARTY.] Subject to subdivisions 6 and 14, the third party, after disclosure, shall be discharged of any further obligation to the judgment creditor when one of the following conditions is met:

(a) The third party discloses that the third party is not indebted to the judgment debtor or does not possess any property, money, or earnings belonging to the judgment debtor that is attachable as defined in this chapter. The disclosure is conclusive against the judgment creditor and discharges the third party from any further obligation to the judgment creditor other than to retain and remit all nonexempt disposable earnings, indebtedness, or money of the judgment debtor that was disclosed.

(b) The third party discloses that the third party is indebted to the judgment debtor as indicated on the execution disclosure form. The disclosure is conclusive against the judgment creditor and discharges the third party from any further obligation to the judgment creditor other than to retain and remit all nonexempt disposable earnings, indebtedness, or money of the judgment debtor that was disclosed.

(c) The court may, upon motion of an interested person, discharge the third party as to any disposable earnings, money, property, or indebtedness in excess of the amount that may be required to satisfy the judgment creditor's claim.

Subd. 14. [EXCEPTIONS TO DISCHARGE OF A THIRD PARTY.] The third party is not discharged if:

(a) Within 20 days of the service of the third party's disclosure, an interested person serves a motion relating to the execution levy. The hearing on the motion must be scheduled to be heard within 30 days of the service of the motion.

(b) The judgment creditor moves the court for leave to file a supplemental complaint against the third party, as provided for in subdivision 8, and the court upon proper showing, vacates the discharge of the third party.

Subd. 15. [JOINDER AND INTERVENTION BY PERSONS IN INTEREST.] If it appears that a person, who is not a party to the action, has or claims an interest in any of the disposable earnings, other indebtedness, or money, the court shall permit that person to intervene or join in the execution proceeding under this chapter. If

that person does not appear, the court may summon that person to appear or order the claim barred. The person so appearing or summoned shall be joined as a party and be bound by the judgment.

Subd. 16. [APPEAL.] A party to an execution proceeding aggrieved by an order or final judgment may appeal as in other civil cases.

Sec. 3. [550.136] [SHERIFF'S LEVY OF EARNINGS.]

Subdivision 1. [PROCEDURE.] When earnings are levied upon by the sheriff, this section must be complied with, in addition to the general provisions specified in section 550.135.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them:

(a) "earnings" means:

(1) compensation paid or payable to an employee for personal service whether denominated as wages, salary, commissions, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program; or

(2) compensation paid or payable to the producer for the sale of agricultural products; livestock or livestock products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2;

(b) "disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld;

(c) "employee" means an individual who performs services subject to the right of the employer to control both what is done and how it is done; and

(d) "employer" means a person for whom an individual performs services as an employee.

Subd. 3. [LIMITATION ON LEVY ON EARNINGS.] Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to an execution levy may not exceed the lesser of:

(1) 25 percent of the judgment debtor's disposable earnings; or

(2) the amount by which the judgment debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the levy may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child;

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child; or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received).

No court may make, execute, or enforce an order or any process in violation of this section.

Subd. 4. [MULTIPLE LEVIES ON EARNINGS.] Except as otherwise provided in this chapter or section 518.611, subdivision 6, the priority of multiple earnings execution levies is determined by the order in which the execution levies were served on the employer. If the employer is served with two or more writs of execution at the same time on the same day, the writ of execution issued pursuant to the first judgment entered has priority. If two or more execution levies are served on the same day and are based on judgments entered on the same day, then the employer shall select the priority of the earnings levies. However, in all cases, the execution levies shall be effective no longer than 70 days from the date of the service of the writ of execution.

Subd. 5. [EARNINGS ATTACHABLE.] Subject to the exemptions provided by sections 550.37 and 571.922, and any other applicable statute, the service of a writ of execution under this chapter attaches all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor

before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the writ of execution. "Paydays" means the days upon which the third party pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular paydays, paydays means the 15th day and the last day of each month. If the levy attaches less than \$10, the third party shall not retain and remit the sum.

Subd. 6. [EARNINGS EXEMPTION NOTICE.] Before the first levy on earnings under this chapter, the judgment creditor shall serve upon the judgment debtor no less than ten days before the service of the writ of execution, a notice that the writ of execution may be served on the judgment debtor's employer. The notice must: (1) be substantially in the form set forth below; (2) be served personally, in the manner of a summons and complaint, or by first class mail to the last known address of the judgment debtor; (3) inform the judgment debtor that an execution levy may be served on the judgment debtor's employer in ten days, and that the judgment debtor may, within that time, cause to be served on the judgment creditor a signed statement under penalties of perjury asserting an entitlement to an exemption from execution; (4) inform the judgment debtor of the earnings exemptions contained in section 550.37, subdivision 14; and (5) advise the judgment debtor of the relief set forth in this chapter to which the debtor may be entitled if a judgment creditor in bad faith disregards a valid claim and the fee, costs, and penalty that may be assessed against a judgment debtor who in bad faith falsely claims an exemption or in bad faith takes action to frustrate the execution process. The notice requirement of this subdivision does not apply to a levy on earnings being retained by an employer pursuant to a garnishment previously served in compliance with chapter 571.

The ten-day notice informing a judgment debtor that a writ of execution may be used to levy the earnings of an individual must be substantially in the following form:

STATE OF MINNESOTA
COUNTY OF
..... (Judgment Creditor)
against

DISTRICT COURT
..... JUDICIAL DISTRICT

..... (Judgment Debtor)
and

EXECUTION EXEMPTION
NOTICE AND NOTICE OF
INTENT TO LEVY ON
EARNINGS WITHIN TEN
DAYS

..... (Third Party)

THE STATE OF MINNESOTATO THE ABOVE-NAMED JUDGMENT DEBTOR

PLEASE TAKE NOTICE that a levy may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Your earnings are completely exempt from execution levy if you are now a recipient of relief based on need, if you have been a recipient of relief within the last six months, or if you have been an inmate of a correctional institution in the last six months.

Relief based on need includes Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.

If you wish to claim an exemption, you should fill out the appropriate form below, sign it, and send it to the judgment creditor's attorney.

You may wish to contact the attorney for the judgment creditor in order to arrange for a settlement of the debt or contact an attorney to advise you about exemptions or other rights.

PENALTIES

(1) Be advised that even if you claim an exemption, an execution levy may still be served on your employer. If your earnings are levied on after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the judgment creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100.

(2) HOWEVER, BE WARNED if you claim an exemption, the judgment creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs and reasonable attorney's fees plus an amount not to exceed \$100.

(3) If after receipt of this notice, you in bad faith take action to frustrate the execution levy, thus requiring the judgment creditor to petition the court to resolve the problem, you will be liable to the judgment creditor for costs and reasonable attorney's fees plus an amount not to exceed \$100.

DATED:

(Attorney for Judgment Creditor)AddressTelephone**JUDGMENT DEBTOR'S EXEMPTION CLAIM NOTICE**

I hereby claim that my earnings are exempt from execution because:

(1) I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received.)

ProgramCase Number (if known)County

(2) I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.)

ProgramCase Number (if known)County

(3) I have been an inmate of a correctional institution with the last six months. (Specify the correctional institution and location.)

Correctional InstitutionLocation

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above-named judgment creditor or the judgment creditor's attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institution within the last six months. I have mailed or delivered a copy of this form to the judgment creditor or judgment creditor's attorney.

DebtorAddress

Subd. 7. [ADDITIONAL NOTICES.] If the execution levy has not been served within one year after service of the exemption notice, the judgment creditor or its attorney shall serve another notice upon the judgment debtor before serving the execution levy on the judgment debtor's employer. If more than one year has passed since

the service of the judgment creditor's most recent execution levy, the judgment creditor shall, no less than ten days before service of a subsequent execution levy, serve notice that another execution levy may be served.

Subd. 8. [PROCEEDINGS IF NO EXEMPTION STATEMENT IS RECEIVED.] If no statement of exemption is received by the judgment creditor's attorney (or the creditor if not represented by an attorney) on an earnings levy within ten days after the service of the notice, the judgment creditor may proceed with the execution levy. Failure of the judgment debtor to serve a statement does not constitute a waiver of any right the judgment debtor may have to an exemption. If the statement of exemption is received by the judgment creditor, the judgment creditor may still cause a levy to be served subject to sanctions provided in section 550.143, subdivision 10.

Subd. 9. [EXECUTION EARNINGS DISCLOSURE FORM AND WORKSHEET.] The judgment creditor shall provide to the sheriff for service upon the judgment debtor's employer an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA COUNTY OF (Judgment Creditor) against (Judgment Debtor) and (Third Party)	DISTRICT COURT JUDICIAL DISTRICT FILE NO.
----------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------

EARNINGS
EXECUTION
DISCLOSURE

DEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the

ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTIONS:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

.....
Yes

.....
No

(2) Does the judgment debtor earn more than \$. . . per week? (this amount is the federal minimum wage per week)

.....
Yes

.....
No

INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to either questions 1 or 2 is "No," then you must sign the affirmation below and return this disclosure to the sheriff within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answers to both questions 1 and 2 are "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 3 through 11 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column I on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the sheriff and deliver a copy of the disclosure and worksheet to the judgment debtor within ten days after the last payday that falls within the 70-day period. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made

within ten days after the last payday for which earnings were attached.

For steps 3 through 11, "columns" refers to columns on the Earnings Disclosure Worksheet.

(3) COLUMN A. Enter the date of judgment debtor's payday.

(4) COLUMN B. Enter judgment debtor's gross earnings for each payday.

(5) COLUMN C. Enter judgment debtor's disposable earnings for each payday.

(6) COLUMN D. Enter 25 percent of disposable earnings. (Multiply column C by .25.)

(7) COLUMN E. Enter here 40 times the hourly federal minimum wage (\$. . .) times the number of work weeks included in each payday. (Note: if a payday includes days in excess of whole work weeks, the additional days should be counted as a fraction of a work week equal to the number of work days in excess of a whole work week divided by the number of work days in a normal work week.)

(8) COLUMN F. Subtract the amount in column E from the amount in column C, and enter here.

(9) COLUMN G. Enter here the lesser of the amount in column D and the amount in column F.

(10) COLUMN H. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest which would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you, or any assignment of wages, that was incurred or made by the judgment debtor within ten days prior to your receipt of the execution levy is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column H if there are no claims by you or others which would reduce the amount of earnings owing to the judgment debtor.

(11) COLUMN I. Subtract the amount in column H from the amount in column G and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

AFFIRMATION

I, (person signing Affirmation) am the
third party/employer or I am authorized by the third party/employer
to complete this earnings disclosure, and have done so truthfully
and to the best of my knowledge.

Dated:
Signature
Title
Telephone Number

EARNINGS DISCLOSURE WORKSHEET

Debtor's Name

A Payday Date	B Gross Earnings \$	C Disposable Earnings \$
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

D 25% of Column C	E 40 X Min. Wage	F Column C minus Column E
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

<u>G</u> <u>Lesser of</u> <u>Column D</u> <u>and</u> <u>Column F</u>	<u>H</u> <u>Setoff, Lien,</u> <u>Adverse</u> <u>Interest, or</u> <u>Other Claims</u>	<u>I</u> <u>Column G</u> <u>minus</u> <u>Column H</u>
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

TOTAL OF COLUMN I \$

*If you entered any amount in column H for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

.....
.....
.....

AFFIRMATION

I, (person signing Affirmation) am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

.....
Signature

Dated: (..)
Title Phone Number

Subd. 10. [EXECUTION EARNINGS DISCLOSURE FORM AND WORKSHEET FOR CHILD SUPPORT JUDGMENTS.] The judgment creditor shall provide to the sheriff for service upon a child support judgment debtor's employer an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA

COUNTY OF

DISTRICT COURT

JUDICIAL DISTRICT

FILE NO.

.....(Judgment Creditor)

against

.....(Judgment Debtor)

and

.....(Third Party)

EARNINGS

EXECUTION

DISCLOSURE

DEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers' compensation, or unemployment compensation.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

.....
Yes.....
NoINSTRUCTIONS FOR COMPLETING THE EARNINGS
DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the sheriff within 20

days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the sheriff and deliver a copy of the disclosure and worksheet to the judgment debtor within ten days after the last payday that falls within the 70-day period. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 2. through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of judgment debtor's payday.

(3) COLUMN B. Enter judgment debtor's gross earnings for each payday.

(4) COLUMN C. Enter judgment debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

(a) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child;

(b) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(c) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child; or

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) COLUMN E. Subtract the amount in column D from the amount in column C, and enter here.

(7) COLUMN F. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you, or any assignment of wages, that was incurred or made by the judgment debtor within ten days prior to your receipt of the execution levy is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column F if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) COLUMN G. Subtract the amount in column F from the amount in column E and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

AFFIRMATION

I,, (person signing Affirmation) am the third party/employer or I am authorized by the third party/employer to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:

Signature

Title

Telephone Number

EARNINGS DISCLOSURE WORKSHEET

Debtor's Name

A
Payday
Date

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

B
Gross
Earnings

- \$
-
-
-
-
-
-
-
-
-

C
Disposable
Earnings

- \$
-
-
-
-
-
-
-
-
-

D
Either 50, 55,
60, or 65% of
Column C

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

E
Column C
minus
Column D

-
-
-
-
-
-
-
-
-
-

F
Setoff, Lien,
Adverse
Interest, or
Other Claims

-
-
-
-
-
-
-
-
-
-

G
Column E
minus
Column F

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

-
-
-
-
-
-
-
-
-
-

TOTAL OF COLUMN G \$

*If you entered any amount in column F for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

.....

.....

.....

AFFIRMATION

I, (person signing Affirmation) am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

.....
Signature

Dated:

.....
Title

(...)
Phone Number

Subd. 11. [POSTEXECUTION NOTICE TO JUDGMENT DEBTOR.] The judgment creditor shall serve by mail upon the judgment debtor not later than five days after service is made on the judgment debtor's employer, a copy of the writ of execution and copies of all other papers served on the judgment debtor's employer.

Subd. 12. [THIRD PARTY DISCLOSURE AND REMITTANCE OBLIGATION.] If there are no attachable earnings, the third party shall serve the execution earnings disclosure form upon the sheriff within 20 days after service of the writ of execution. However, if the judgment debtor has attachable earnings, the third party shall serve the execution earnings disclosure form and remit to the sheriff the attached earnings within ten days of the last payday to occur within the 70 days after the date of the service of the execution. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, the disclosure and remittance should be made within ten days after the last payday for which earnings were attached. The amount of the third party's execution earnings disclosure form and remittance need not exceed 110 percent of the amount of the judgment creditor's judgment that remains unpaid, after subtracting the total of setoffs, defenses, exemption, or other adverse interests. If the disclosure is by a corporation, it shall be made by an officer or a managing agent having knowledge of the facts.

Subd. 13. [PENALTY FOR RETALIATION OR DISCHARGE.] (a) An employer shall not discharge or otherwise discipline an employee as a result of an earnings levy authorized by this chapter.

(b) If an employer violates this section, a court may order the reinstatement of an aggrieved party who demonstrates a violation of this section, and other relief the court considers appropriate. The aggrieved party may bring a civil action within 90 days of the date of the prohibited action. If an employer-employee relationship existed before the violation of this section, the employee shall recover twice the wages lost as a result of this violation.

(c) The rights guaranteed by this section are not subject to abridgment and may not be altered by employment contract.

Sec. 4. Minnesota Statutes 1988, section 550.142, is amended to read:

550.142 [PUBLIC EMPLOYEES; WAGES, EXECUTION LEVY.]

The salary or wages earnings of any public employee or officer may be levied upon ~~and disposed of on execution~~ pursuant to sections 550.135 and 550.136. Where the ~~person~~ judgment debtor is an officer, the writ shall be served upon the auditor, treasurer, or clerk of the subdivision or department of which the ~~person~~ judgment debtor is an officer. Where the ~~person~~ judgment debtor is an employee other than an officer, the writ shall be served upon the person in charge of the office or department in which the employee works.

When payment has been made pursuant to levy, a copy of the writ of execution with certificate of satisfaction shall be delivered to the treasurer as a voucher for such payment.

Sec. 5. [550.143] [LEVY ON FUNDS AT A FINANCIAL INSTITUTION.]

Subdivision 1. [PROCEDURE.] When the sheriff is levying upon funds at a financial institution, this section must be complied with, in addition to the general provisions set forth in section 550.135.

Subd. 2. [DISCLOSURE FORM.] Along with the writ of execution and the exemption notice described in subdivision 3, the sheriff shall serve upon the financial institution an execution disclosure form which must be substantially in the following form:

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

JUDICIAL DISTRICT

..... (Judgment Creditor)

against

FINANCIAL INSTITUTIONS

..... (Judgment Debtor)

EXECUTION

and

DISCLOSURE

..... (Third Party)

On the day of, 19.., the time of service of execution herein, there was due and owing the judgment debtor from the third party the following:

(1) Money. Enter on the line below any amounts due and owing the judgment debtor, except earnings, from the third party.

(2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the third party claims against the amount set forth on line (1). State the facts by which such setoff, defense, lien, or claim is claimed. (Any indebtedness to a third party incurred by the judgment debtor within ten days prior to the receipt of the first execution levy on a debt is void as to the judgment creditor.)

(3) Exemption. Enter on the line below any amounts or property claimed by the judgment debtor to be exempt from execution.

(4) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property.

(5) Enter on the line below the total of lines (2), (3), and (4).

(6) Enter on the line below the difference obtained (never less than zero when line (5) is subtracted from the amount on line (1)).

(7) Enter on the line below 110 percent of the amount of the judgment creditor's claim which remains unpaid.

.....

(8) Enter on the line below the lessor of line (6) and line (7). You are hereby instructed to remit this amount only if it is \$10 or more.

.....

AFFIRMATION

I, (person signing Affirmation) am the third party or I am authorized by the third party to complete this nonearnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated: Signature

..... Title

..... Telephone Number

Subd. 3. [EXEMPTION NOTICE.] If the levy is on funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, the judgment creditor or its attorney shall provide the sheriff with two copies of an exemption notice, which must be substantially in the form set forth below. The sheriff shall serve both copies of the exemption notice on the financial institution, along with the writ of execution. Failure of the sheriff to serve the exemption notices renders the levy void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds that have previously been garnished in compliance with section 571.71, the judgment creditor is not required to serve additional exemption notices. In that event, the execution levy shall only be effective as to the funds that were subject to the prior garnishment. Upon receipt of the writ of execution and exemption notices, the financial institution shall retain as much of the amount due under section 550.04 as the financial institution has on deposit owing to the judgment debtor, but not more than 110 percent of the amount remaining due on the judgment.

STATE OF MINNESOTA
 COUNTY OF
 (Judgment Creditor)
 (Judgment Debtor)

DISTRICT COURT
 JUDICIAL DISTRICT

TO: Debtor

EXEMPTION NOTICE

An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on

..... (Bank or other financial institution where you have an account.)

Your account balance is \$

The amount being held is \$

However, all or a portion of the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) relief based on need. This includes: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);

(3) unemployment compensation, workers' compensation, or veterans' benefits;

(4) an accident, disability, or retirement pension or annuity;

(5) life insurance proceeds;

(6) the earnings of your minor child; or

(7) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car.)

The following funds are also exempt:

(8) all earnings of a person in category (1);

(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;

(10) 75 percent of every debtor's after tax earnings; and

(11) all of a judgment debtor's after tax earnings below 40 times the federal minimum wage.

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first-in, first-out method is used. This means money deposited first is spent first.) The money being sought by the judgment creditor is being held in your account to give you a chance to claim an exemption.

TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the judgment creditor's attorney. In the event that there is no attorney for the judgment creditor, then the notice shall be sent directly to the judgment creditor. The address for the judgment creditor's attorney or the judgment creditor is set forth below. Both copies must be mailed or delivered on the same day.

If the financial institution does not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the sheriff or the judgment creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be held until it is decided.

IF YOU CLAIM AN EXEMPTION:

(1) nonexempt money can be turned over to the judgment creditor or sheriff;

(2) the financial institution will keep holding the money claimed to be exempt; and

(3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

IF THE JUDGMENT CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:

the institution will hold the money until a court decides if your exemption claim is valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting the exemption WITHIN TEN DAYS after the objection is mailed or given to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.

MOTION TO DETERMINE EXEMPTION:

At any time after your funds have been held, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the clerk of the above court.

PENALTIES:

If you claim an exemption in bad faith, or if the judgment creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

.....
.....
.....
.....
Name and address of (Attorney
for) Judgment Creditor

EXEMPTION:

(a) Amount of exemption claim.

// I claim ALL the funds being held are exempt.

// I claim SOME of the funds being held are exempt.

The exempt amount is \$

(b) Basis for exemption.

Of the 11 categories listed above, I am in category number
..... (If more than one category applies, you may fill in as many
as apply.) The source of the exempt funds is the following:

.....
.....
.....
(If the source is a type of relief based on need, list the case number
and county:

case number:

county:

I hereby authorize any agency that has distributed relief to me or
any correctional institution in which I was an inmate to disclose to
the above named creditor or its attorney only whether or not I am or

have been a recipient of relief based on need or an inmate of a correctional institute within the last six months.

I have mailed or delivered a copy of the exemption notice to the judgment creditor or judgment creditor's attorney if represented.

.....
DEBTOR

DATED:

.....
DEBTOR ADDRESS

Subd. 4. [EFFECT OF EXEMPTION NOTICE.] Within two business days after receipt of the writ of execution and exemption notices, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The financial institution shall serve the notice by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the judgment debtor, the funds remain subject to the execution levy and shall be remitted to the sheriff within seven days. If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the debtor containing the exemption notices. In the event that there is no attorney for the judgment creditor, then the notice must be sent directly to the judgment creditor. Failure of the judgment debtor to deliver the executed exemption notice does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the debtor remain subject to the execution levy. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the judgment creditor interposes an objection to the exemption.

Subd. 5. [OBJECTION TO EXEMPTION CLAIM.] Objection shall be interposed by mailing or delivering one copy of the written objection to the financial institution and one copy of the written objection to the judgment debtor along with a copy of the judgment debtor's claimed exemption form. Both copies of an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section. The written objection must be substantially in the form specified in subdivision 7.

Subd. 6. [DUTIES OF FINANCIAL INSTITUTION IF OBJECTION IS MADE TO EXEMPTION CLAIM.] Upon receipt of a written objection from the judgment creditor or its attorney within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a request for hearing and notice of hearing from the judgment debtor asserting exemption rights within ten days after receipt of a written objection to the exemption, the funds remain subject to the execution levy as if no claim of exemption had been made and shall be remitted to the sheriff within seven days. If a request for hearing and notice of hearing to determine the validity of a claim of exemption is received by the financial institution within the period provided, it shall retain the funds claimed to be exempt until otherwise ordered by the court.

Subd. 7. [NOTICE OF OBJECTION.] (a) The written objection to the judgment debtor's claim of exemption must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	JUDICIAL DISTRICT
..... (Judgment Creditor)	OBJECTION TO
..... (Judgment Debtor)	EXEMPTION CLAIM
..... (Garnishee) (Third Party)	

The judgment creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):

.....

Because of this objection, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you should do so within ten days of your receipt of this objection. You may request a hearing by completing the attached form and filing it with the court administrator.

1. The court administrator's office shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing.

2. Upon the filing of a Request for Hearing, the clerk shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time and place to the adverse party and to the financial institution by first class mail.

3. If it is possible that the financial institution might not receive the request mailed from the court administrator within ten days, then you may want to personally deliver a copy of the request to the financial institution after you have filed your request with the court.

4. An order stating whether your funds are exempt shall be issued by the court within three days of the date of the hearing.

If you do not file a Request for Hearing within ten days of the date you receive this objection, your financial institution may turn your funds over to your creditor.

If you file a Request for Hearing and your financial institution receives it within ten days of the date it received this objection, your financial institution will retain your funds claimed to be exempt until otherwise ordered by the court.

.....
Judgment Creditor or Attorney

Subd. 8. [REQUEST FOR HEARING AND NOTICE FOR HEARING.] The request for hearing accompanying the objection notice must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	JUDICIAL DISTRICT
..... (Judgment Creditor)	REQUEST FOR HEARING
..... (Judgment Debtor)	AND
..... (Third Party)	NOTICE FOR HEARING

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of
..... (Judgment Debtor) at the (Financial Institution).

I believe the property being held is exempt because

Dated:

.....
(JUDGMENT DEBTOR)

.....
(ADDRESS)

HEARING DATE: TIME:
HEARING PLACE:

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim and objection. Failure to do so could delay the court's decision.)

Subd. 9. [RELEASE OF FUNDS.] At any time during the proce-

dure specified in this section, the judgment debtor or the judgment creditor may, by a writing dated after the service of the execution, direct the sheriff to release the funds in question to the other party. Upon receipt of a release, the sheriff shall release the funds as directed.

Subd. 10. [SUBSEQUENT PROCEEDINGS; BAD FAITH CLAIMS.] If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and, if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective October 1, 1989, and apply to executions begun on or after that date.

ARTICLE 2

ATTORNEY'S SUMMARY EXECUTIONS

Section 1. [551.01] [ATTORNEY'S SUMMARY EXECUTION OF JUDGMENT DEBTS; WHEN AUTHORIZED.]

An attorney for a judgment creditor may execute on a money judgment by levying on indebtedness owed to the judgment debtor by a third party, pursuant to this chapter. The attorney for the judgment creditor must obtain a writ of execution issued under section 550.04 before the attorney can execute pursuant to this chapter. No more than \$5,000 may be recovered by a single execution levy pursuant to this section.

Sec. 2. [551.02] [SCOPE OF GENERAL AND SPECIFIC PROVISIONS.]

General provisions and definitions relating to attorney's summary execution, as authorized in this chapter, are set forth in sections 551.03 and 551.04. Specific provisions relating to attorney's summary execution on funds at a financial institution are set forth in section 551.05. Specific provisions relating to attorney's summary execution of earnings are set forth in section 551.06. When an attorney is levying against either funds at a financial institution or earnings, the specific provisions of section 551.05 or 551.06 must be complied with in addition to the general provisions set forth in sections 551.03 and 551.04. Provisions contained in the statutory forms are incorporated in this chapter and have the same force of law as any other provisions in this chapter.

Sec. 3. [551.03] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. [JUDGMENT CREDITOR.] "Judgment creditor" means a party who has a judgment for the recovery of money in the civil action whether that party is the plaintiff, defendant, or other party in the civil action and who is serving the execution levy.

Subd. 3. [JUDGMENT DEBTOR.] "Judgment debtor" means a party against whom the judgment creditor has a judgment for the recovery of money in the civil action whether that party is the plaintiff, defendant, or other party in the civil action.

Subd. 4. [THIRD PARTY.] "Third party" means the person or entity upon whom the execution levy is served.

Subd. 5. [CLAIM.] "Claim" means the unpaid balance of the creditor's judgment against the judgment debtor, including all lawful interest and costs incurred.

Sec. 4. [551.04] [GENERAL PROVISIONS.]

Subdivision 1. [RULES OF CIVIL PROCEDURE.] Unless this chapter specifically provides otherwise, the Minnesota Rules of Civil Procedure for the District Courts shall apply in all proceedings under this chapter.

Subd. 2. [PROPERTY ATTACHABLE.] Subject to the exemptions provided by subdivision 3 and section 550.37, and any other applicable statute, the service of a writ of execution under this chapter attaches:

(a) All unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the writ of execution. "Payday" means the day upon which the third party pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular paydays, payday means the 15th day and the last day of each month.

(b) All other nonexempt indebtedness or money due or belonging to the judgment debtor and owing by the third party or in the possession or under the control of the third party at the time of service of the writ of execution, whether or not the same, has become payable. The third party shall not be compelled to pay or deliver the same before the time specified by any agreement unless the agreement was fraudulently contracted to defeat an execution levy or other collection remedy.

Subd. 3. [PROPERTY NOT ATTACHABLE.] The following property is not subject to attachment by a writ of execution served pursuant to this chapter:

(1) any indebtedness or money due to the judgment debtor, unless at the time of the service of the writ of execution the same is due absolutely or does not depend upon any contingency;

(2) any judgment owing by the third party to the judgment debtor, if the third party or the third party's property is liable on an execution levy upon the judgment;

(3) any debt owing by the third party to the judgment debtor for which any negotiable instrument has been issued or endorsed by the third party;

(4) any indebtedness or money due to the judgment debtor where the judgment debtor is a bank, savings bank, trust company, credit union, savings and loan association, or industrial loan and thrift company with deposit liabilities;

(5) any indebtedness or money due to the judgment debtor with a cumulative value of less than \$10; and

(6) any disposable earnings, indebtedness, or money that is exempt under Minnesota or federal law.

Subd. 4. [SERVICE OF THIRD PARTY LEVY; NOTICE AND DISCLOSURE FORMS.] When levying upon money or earnings owed to the judgment debtor by a third party, the attorney for the judgment creditor shall serve a copy of the writ of execution upon

the third party either by registered or certified mail, or by personal service. Along with a copy of the writ of execution, the attorney shall serve upon the third party a notice of third party levy and disclosure form that must be substantially in the form set forth below. If the levy is upon earnings, the attorney shall serve upon the third party the notice of third party levy and disclosure form as set forth in section 551.06, subdivision 9.

STATE OF MINNESOTA

DISTRICT COURT

County of

JUDICIAL DISTRICT

File No.

..... (Judgment Creditor)

against

..... (Judgment Debtor)

and

..... (Third Party)

NOTICE OF THIRD PARTY
LEVY AND DISCLOSURE
(OTHER THAN EARNINGS)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, chapter 551, the undersigned, as attorney for the judgment creditor, hereby makes demand and levies execution upon all money due and owing by you (up to \$5,000) to the judgment debtor for the amount of the judgment specified below. A copy of the writ of execution issued by the court is enclosed. The unpaid judgment balance is \$

In responding to this levy, you are to complete the attached disclosure form and mail it to the undersigned attorney for the judgment creditor, together with your check payable to the above-named judgment creditor, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits set forth in chapter 551.

If you are a financial institution and the judgment debtor is a natural person, two exemption notices are also enclosed pursuant to Minnesota Statutes, section 551.02. Only natural persons are entitled to exemptions under this statute.

Attorney for the Judgment Creditor
Address

(.....)
Phone number

DISCLOSURE

On the day of, 19.., the time of service of the execution levy herein, there was due and owing the judgment debtor from the third party the following:

(1) Money. Enter on the line below any amounts due and owing the judgment debtor, except earnings, from the third party.

.....

(2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the third party claims against the amount set forth on line (1). State the facts by which such setoff, defense, lien, or claim is claimed. (Any indebtedness to a third party incurred by the judgment debtor within ten days prior to the receipt of the first execution levy on a debt is void as to the judgment creditor.)

.....

(3) Exemption. Enter on the line below any amounts or property claimed by the judgment debtor to be exempt from execution.

.....

(4) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property.

.....

(5) Enter on the line below the total of lines (2), (3), and (4).

.....

(6) Enter on the line below the difference obtained (never less than zero when line (5) is subtracted from the amount on line (1).)

.....

(7) Enter on the line below 100 percent of the amount of the judgment creditor's claim which remains unpaid.

.....

(8) Enter on the line below the lessor of line (6) and line (7). You are hereby instructed to remit this amount only if it is \$10 or more.

.....

AFFIRMATION

I, (person signing Affirmation) am the

third party or I am authorized by the third party to complete this nonearnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:
Signature
Title
Telephone Number

Subd. 5. [THIRD PARTY FEES.] If the levy is upon earnings or upon funds at a financial institution, the third party shall be paid a \$15 fee at the time of the service of the writ of execution. Failure to pay the fee renders the levy void, and the third party shall take no action. The \$15 shall not be paid where the funds being levied on are being held pursuant to a garnishment previously served in compliance with chapter 571. This fee may be recovered by the judgment creditor as an allowable disbursement. If a third party is required to appear and submit to oral examination, the third party shall be tendered, in advance of the examination, fees and mileage for attendance at the rate allowed by law to a witness. These fees may be recovered by the judgment creditor as an allowable disbursement. In extraordinary cases, the third party may be allowed additional sums the court considers reasonable for attorney's fees and other necessary expenses. The court shall then determine which party bears the burden of this expense.

Subd. 6. [THIRD PARTY DISCLOSURE AND REMITTANCE.] Within 15 days after receipt of the writ of execution, unless governed by section 551.05 or 551.06, the third party shall disclose and remit to the judgment creditor's attorney as much of the amount due under section 550.04, but not more than \$5,000, as the third party's own debt equals to the judgment debtor. The attorney for the judgment creditor shall proceed in all other respects like the sheriff making a similar execution levy. No more than \$5,000 may be recovered by a single execution levy pursuant to this section.

Subd. 7. [ORAL DISCLOSURE.] Before or after the service of a written disclosure by a third party under subdivision 6, upon a showing by affidavit upon information and belief that an oral examination of the third party would provide a complete disclosure of relevant facts, any party to the execution proceedings may obtain an ex parte order requiring the third party, or a representative of the third party designated by name or by title, to appear for oral examination before the court or a referee appointed by the court. Notice of the examination must be given to all parties.

Subd. 8. [SUPPLEMENTAL COMPLAINT.] If a third party holds property, money, earnings, or other indebtedness by a title that is void as to the judgment debtor's creditors, the property may be

levied on although the judgment debtor would be barred from maintaining an action to recover the property, money, earnings, or other indebtedness. In this and all other cases where the third party denies liability, the judgment creditor may move the court at any time before the third party is discharged, on notice to both the judgment debtor and the third party for an order making the third party a party to the supplemental action and granting the judgment creditor leave to file a supplemental complaint against the third party and the judgment debtor. The supplemental complaint shall set forth the facts upon which the judgment creditor claims to charge the third party. If probable cause is shown, the motion shall be granted. The supplemental complaint shall be served upon the third party and the judgment debtor and any other parties. The parties served shall answer or respond pursuant to the Minnesota Rules of Civil Procedure for the District Courts, and if they fail to do so, judgment by default may be entered against them.

Subd. 9. [JUDGMENT AGAINST THIRD PARTY UPON FAILURE TO DISCLOSE OR REMIT.] Judgment may be entered against a third party who has been served with a writ of execution and fails to disclose or remit the levied funds as required in this chapter. Upon order to show cause served on the third party and notice of motion supported by affidavit of facts and affidavit of service upon both the judgment debtor and third party, the court may render judgment against the third party for an amount not exceeding 100 percent of the amount claimed in the execution or \$5,000, whichever is less. Judgment against the third party pursuant to this section shall not bar the judgment creditor from further remedies under this chapter as a result of any subsequent defaults by the third party. The court upon good cause shown may remove the default and permit the third party to disclose or remit on just terms.

Subd. 10. [COSTS; SATISFACTION.] Except as provided for in subdivision 5, neither the judgment creditor nor its attorney shall be allowed costs from any party other than the judgment creditor for a levy in accordance with this section. Upon expiration, the attorney making the execution shall endorse on the writ partial satisfaction by amount or the total satisfaction and return the original writ of execution to the court administrator of that court, pursuant to section 550.051, subdivision 2, for filing without charge.

Subd. 11. [FORMS.] No judgment creditor shall use a form that contains alterations or changes from the statutory forms that mislead judgment debtors as to their rights and the execution procedure generally. If a court finds that a judgment creditor has used a misleading form, the judgment debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from additional proceedings, and an amount not to exceed \$100. All forms must be clearly legible and printed in not less than the equivalent of 10-point type. A form that uses both sides of a sheet must clearly

indicate on the front side that there is additional information on the back side of the sheet.

Subd. 12. [THIRD PARTY GOOD FAITH REQUIREMENT.] The third party is not liable to the judgment debtor, judgment creditor, or other person for wrongful retention if the third party retains or remits disposable earnings, indebtedness, or money of the judgment debtor or any other person, pending the third party's disclosure or consistent with the disclosure the third party makes, if the third party has a good faith belief that the property retained or remitted is subject to the execution. In addition, the third party may, at any time before or after disclosure, proceed under Rule 67 of the Minnesota Rules of Civil Procedure for the District Courts to make deposit into court. No third party is liable for damages if the third party complies with the provisions of this chapter.

Subd. 13. [BAD FAITH CLAIM.] If, in a proceeding brought under section 551.05, subdivision 8, or a similar proceeding under this chapter to determine a claim of exemption, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, reasonable attorney's fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from the additional proceedings, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney's fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to that party's attorney for fees, the attorney's fee award shall be made directly to the attorney, and if not paid, an appropriate judgment in favor of the attorney shall be entered. Any action by a judgment creditor made in bad faith and in violation of this chapter renders the execution levy void and the judgment creditor liable to the judgment debtor named in the execution levy in the amount of \$100, actual damages, and reasonable attorney's fees and costs.

Subd. 14. [DISCHARGE OF A THIRD PARTY.] Subject to subdivisions 6 and 15, the third party, after disclosure, shall be discharged of any further obligation to the judgment creditor earnings when one of the following conditions is met:

(a) The third party discloses that the third party is not indebted to the judgment debtor or does not possess any earnings, property, money, or indebtedness belonging to the judgment debtor that is attachable as defined in subdivision 2. The disclosure is conclusive against the judgment creditor and discharges the third party from any further obligation to the judgment creditor other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor which was disclosed.

(b) The third party discloses that the third party is indebted to the judgment debtor as indicated on the execution disclosure form. The disclosure is conclusive against the judgment creditor and discharges the third party from any further obligation to the judgment creditor other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor that was disclosed.

(c) The court may, upon motion of an interested person, discharge the third party as to any disposable earnings, money, property, or indebtedness in excess of the amount that may be required to satisfy the judgment creditor's claim.

Subd. 15. [EXCEPTIONS TO DISCHARGE OF A THIRD PARTY.] The third party is not discharged if:

(a) Within 20 days of the service of the third party's disclosure, an interested person serves a motion relating to the execution levy. The hearing on the motion must be scheduled to be heard within 30 days of the service of the motion.

(b) The judgment creditor moves the court for leave to file a supplemental complaint against the third party, as provided for in subdivision 8, and the court upon proper showing vacates the discharge of the third party.

Subd. 16. [JOINDER AND INTERVENTION BY PERSONS IN INTEREST.] If it appears that a person, who is not a party to the action, has or claims an interest in any of the disposable earnings, other indebtedness, or money, the court shall permit that person to intervene or join in the execution proceeding under this chapter. If that person does not appear, the court may summon that person to appear or order the claim barred. The person so appearing or summoned shall be joined as a party and be bound by the judgment.

Subd. 17. [APPEAL.] A party to an execution proceeding aggrieved by an order or final judgment may appeal as in other civil cases.

Sec. 5. [551.05] [ATTORNEY'S SUMMARY EXECUTION UPON FUNDS AT A FINANCIAL INSTITUTION.]

When levying upon funds at a financial institution, this section must be complied with, in addition to the general provisions specified in section 551.04.

Subdivision 1. [EXEMPTION NOTICE.] If the writ of execution is being used by the attorney to levy funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, the attorney for the judgment creditor

shall serve with the writ of execution two copies of an exemption notice. The notice must be substantially in the form set forth below. Failure of the attorney for the judgment creditor to send the exemption notice renders the execution levy void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds that have previously been garnished in compliance with section 571.71, the attorney for judgment creditor is not required to serve an additional exemption notice. In that event, the execution levy shall only be effective as to the funds that were subject to the prior garnishment. Upon receipt of the writ of execution and exemption notices, the financial institution shall retain as much of the amount due under section 550.04 as the financial institution has on deposit owing to the judgment debtor, but not more than 100 percent of the amount remaining due on the judgment, or \$5,000, whichever is less.

The notice informing a judgment debtor that an execution levy has been used to attach funds of the judgment debtor to satisfy a claim, must be substantially in the following form:

STATE OF MINNESOTA

DISTRICT COURT

County of

..... JUDICIAL DISTRICT

.....(Judgment Creditor)

.....(Judgment Debtor)

TO: Judgment Debtor

EXEMPTION NOTICE

An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on
.....(Bank or other financial institution where you have an account.)

Your account balance is \$

The amount being held is \$

However, all or a portion of the funds, in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) relief based on need. This includes: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);

(3) unemployment compensation, workers' compensation, or veterans' benefits;

(4) an accident, disability, or retirement pension or annuity;

(5) life insurance proceeds;

(6) the earnings of your minor child; or

(7) money from a claim for damage or destruction of exempt or property (such as household goods, farm tools, business equipment, a mobile home, or a car.)

The following funds are also exempt:

(8) all earnings of a person in category (1);

(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;

(10) 75 percent of every judgment debtor's after tax earnings; or

(11) all of a judgment debtor's after tax earnings below 40 times the federal minimum wage.

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first-in, first-out method is used. This means money deposited first is spent first.) The money being sought by the judgment creditor is being held in your account to give you a chance to claim an exemption.

TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the judgment creditor's attorney. The address for the judgment creditor's attorney is set forth below. Both copies must be mailed or delivered on the same day.

If they do not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the attorney for the judgment creditor. If you

// I claim ALL the funds being held are exempt.

// I claim SOME of the funds being held are exempt.

The exempt amount is \$

(b) Basis for exemption.

Of the 11 categories listed above, I am in category number
..... (If more than one category applies, you may fill in as many
as apply.) The source of the exempt funds is the following:

.....
.....
.....

(If the source is a type of relief based on need, list the case number
and county:

case number:

county:)

I hereby authorize any agency that has distributed relief to me or
any correctional institution in which I was an inmate to disclose to
the above named judgment creditor's attorney only whether or not I
am or have been a recipient of relief based on need or an inmate of
a correctional institute within the last six months.

I have mailed or delivered a copy of the exemption notice to the
judgment creditor's attorney.

.....
DEBTOR

DATED:

.....
DEBTOR ADDRESS

Subd. 2. [EFFECT OF EXEMPTION NOTICE.] Within two busi-
ness days after receipt of the execution levy and exemption notices,
the financial institution shall serve upon the judgment debtor two
copies of the exemption notice. The financial institution shall serve
the notice by first class mail to the last known address of the
judgment debtor. If no claim of exemption is received by the
financial institution within 14 days after the exemption notices are
mailed to the judgment debtor, the funds remain subject to the
execution levy and shall be remitted to the judgment creditor's
attorney within seven days. If the judgment debtor elects to claim an

exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to deliver the executed exemption notice does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the judgment debtor remain subject to the execution levy. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the attorney for the judgment creditor interposes an objection to the exemption.

Subd. 3. [OBJECTION TO EXEMPTION CLAIM.] Objection shall be interposed by mailing or delivering one copy of the written objection to the financial institution and one copy of the written objection to the judgment debtor along with a copy of the judgment debtor's claimed exemption form. Both copies of an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section. The written objection must be substantially in the form specified in subdivision 5.

Subd. 4. [DUTIES OF FINANCIAL INSTITUTION IF OBJECTION IS MADE TO EXEMPTION CLAIM.] Upon receipt of a written objection from the judgment creditor within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a request for hearing and notice of hearing from the judgment debtor asserting exemption rights within ten days after receipt of a written objection to the exemption, the funds remain subject to the execution levy as if no claim of exemption had been made and shall be remitted to the judgment creditor's attorney within seven days. If a request for hearing and notice of hearing to determine the validity of a claim of exemption is received by the financial institution within the period provided, it shall retain the funds claimed to be exempt until otherwise ordered by the court.

Subd. 5. [NOTICE OF OBJECTION.] (a) The written objection to the judgment debtor's claim of exemption must be in substantially the following form:

STATE OF MINNESOTA

County of
.....(Judgment Creditor)
.....(Judgment Debtor)
.....(Garnishee) (Third Party)

DISTRICT COURT

.....JUDICIAL DISTRICT
OBJECTION TO
EXEMPTION CLAIM

The judgment creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):
.....
.....
.....

Because of this objection, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you should do so within ten days of your receipt of this objection. You may request a hearing by completing the attached form and filing it with the court administrator.

1. The court administrator's office shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing.

2. Upon the filing of a Request for Hearing, the clerk shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time and place to the adverse party and to the financial institution by first class mail.

3. If it is possible that the financial institution might not receive the request mailed from the court administrator within ten days, then you may want to personally deliver a copy of the request to the financial institution after you have filed your request with the court.

4. An order stating whether your funds are exempt shall be issued by the court within three days of the date of the hearing.

If you do not file a Request for Hearing within ten days of the date you receive this objection, your financial institution may turn your funds over to your judgment creditor.

If you file a Request for Hearing and your financial institution receives it within ten days of the date it received this objection, your

financial institution will retain your funds claimed to be exempt until otherwise ordered by the court.

Attorney for Judgment Creditor

Subd. 6. [REQUEST FOR HEARING AND NOTICE FOR HEARING.] The request for hearing accompanying the objection notice must be in substantially the following form:

STATE OF MINNESOTA

DISTRICT COURT

County of

JUDICIAL DISTRICT

..... (Judgment Creditor)

REQUEST FOR HEARING

..... (Judgment Debtor)

AND NOTICE FOR

..... (Garnishee) (Third Party)

HEARING

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of
..... (Judgment Debtor) at the (Financial Institution).

I believe the property being held is exempt because

.....
.....

Dated: (JUDGMENT DEBTOR)

..... (ADDRESS)

HEARING DATE: TIME:

HEARING PLACE:

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim and objection. Failure to do so could delay the court's decision.)

Subd. 7. [RELEASE OF FUNDS.] At any time during the procedure specified in this section, the judgment debtor or the attorney for the judgment creditor may, by a writing dated after the service of the writ of execution, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Subd. 8. [SUBSEQUENT PROCEEDINGS; BAD FAITH CLAIMS.] If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings,

and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

Sec. 6. [551.06] [ATTORNEY'S SUMMARY EXECUTION UPON EARNINGS.]

Subdivision 1. [PROCEDURE.] When earnings are levied upon this section must be complied with, in addition to the general provisions specified in section 551.04.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them:

(a) "earnings" means:

(1) compensation paid or payable to an employee for personal service whether denominated as wages, salary, commissions, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program; or

(2) compensation paid or payable to the producer for the sale of agricultural products; livestock or livestock products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2;

(b) "disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld;

(c) "employee" means an individual who performs services subject to the right of the employer to control both what is done and how it is done; and

(d) "employer" means a person for whom an individual performs services as an employee.

Subd. 3. [LIMITATION ON LEVY ON EARNINGS.] Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to an execution levy may not exceed the lesser of:

(1) 25 percent of the judgment debtor's disposable earnings; or

(2) the amount by which the judgment debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the levy may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child;

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child; or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received).

No court may make, execute, or enforce an order or any process in violation of this section.

Subd. 4. [MULTIPLE LEVIES ON EARNINGS.] Except as otherwise provided in this chapter or section 518.611, subdivision 6, the priority of multiple earnings execution levies is determined by the order in which the execution levies were served on the employer. If the employer is served with two or more writs of execution at the same time on the same day, the writ of execution issued pursuant to the first judgment entered has priority. If two or more execution levies are served on the same day, and are based on judgments

entered on the same day, then the employer shall select the priority of the earnings levies. However, in all cases, the execution levies shall be effective no longer than 70 days from the date of the service of the writ of execution.

Subd. 5. [EARNINGS ATTACHABLE.] Subject to the exemptions provided by sections 550.37 and 551.06, subdivision 3, and any other applicable statute, the service of a writ of execution under this chapter attaches all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the writ of execution. "Paydays" means the days upon which the third party pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular paydays, paydays means the 15th day and the last day of each month. If the levy attaches less than \$10, the third party shall not retain and remit the sum.

Subd. 6. [EARNINGS EXEMPTION NOTICE.] Before the first levy on earnings, the attorney for the judgment creditor shall serve upon the judgment debtor no less than ten days before the service of the writ of execution, a notice that the writ of execution may be served on the judgment debtor's employer. The notice must: (1) be substantially in the form set forth below; (2) be served personally, in the manner of a summons and complaint, or by first class mail to the last known address of the judgment debtor; (3) inform the judgment debtor that an execution levy may be served on the judgment debtor's employer in ten days, and that the judgment debtor may, within that time, cause to be served on the judgment creditor's attorney a signed statement under penalties of perjury asserting an entitlement to an exemption from execution; (4) inform the judgment debtor of the earnings exemptions contained in section 550.37, subdivision 14; and (5) advise the judgment debtor of the relief set forth in this chapter to which the judgment debtor may be entitled if a judgment creditor in bad faith disregards a valid claim and the fee, costs, and penalty that may be assessed against a judgment debtor who in bad faith falsely claims an exemption or in bad faith takes action to frustrate the execution process. The notice requirement of this subdivision does not apply to a levy on earnings being held by an employer pursuant to a garnishment summons served in compliance with chapter 571.

The ten-day notice informing a judgment debtor that a writ of execution may be used to levy the earnings of an individual must be substantially in the following form:

STATE OF MINNESOTACOUNTY OF (Judgment Creditor)againstDISTRICT COURT..... JUDICIAL DISTRICT..... (Judgment Debtor)and..... (Third Party)EXECUTION EXEMPTION
NOTICE AND NOTICE OF
INTENT TO LEVY ON
EARNINGS WITHIN TEN
DAYSTHE STATE OF MINNESOTATO THE ABOVE-NAMED JUDGMENT DEBTOR

PLEASE TAKE NOTICE that a levy may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Your earnings are completely exempt from execution levy if you are now a recipient of relief based on need, if you have been a recipient of relief within the last six months, or if you have been an inmate of a correctional institution in the last six months.

Relief based on need includes Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.

If you wish to claim an exemption, you should fill out the appropriate form below, sign it, and send it to the judgment creditor's attorney.

You may wish to contact the attorney for the judgment creditor in order to arrange for a settlement of the debt or contact an attorney to advise you about exemptions or other rights.

PENALTIES

(1) Be advised that even if you claim an exemption, an execution levy may still be served on your employer. If your earnings are levied on after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the judgment creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100.

(2) HOWEVER, BE WARNED if you claim an exemption, the

judgment creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs and reasonable attorney's fees plus an amount not to exceed \$100.

(3) If after receipt of this notice, you in bad faith take action to frustrate the execution levy, thus requiring the judgment creditor to petition the court to resolve the problem, you will be liable to the judgment creditor for costs and reasonable attorney's fees plus an amount not to exceed \$100.

DATED:

(Attorney for Judgment Creditor)

Address

Telephone

JUDGMENT DEBTOR'S EXEMPTION CLAIM NOTICE

I hereby claim that my earnings are exempt from execution because:

(1) I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received.)

Program

Case Number (if known)

County

(2) I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.)

Program

Case Number (if known)

County

(3) I have been an inmate of a correctional institution with the last six months. (Specify the correctional institution and location.)

Correctional Institution

Location

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above-named judgment creditor or the judgment creditor's attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institution within the last six months. I have mailed or delivered a copy of this form to the creditor or creditor's attorney.

DATE: _____

Judgment Debtor

Address

Subd. 7. [ADDITIONAL NOTICES.] If the execution levy has not been served within one year after service of the exemption notice, the judgment creditor's attorney shall serve another notice upon the judgment debtor before serving the execution levy on the judgment debtor's employer. If more than one year has passed since the service of the judgment creditor's most recent execution levy, the judgment creditor shall, no less than ten days before service of a subsequent execution levy, serve notice that another execution levy may be served.

Subd. 8. [PROCEEDINGS IF NO EXEMPTION STATEMENT IS RECEIVED.] If no statement of exemption is received by the attorney for the judgment creditor on an earnings levy within ten days from the service of the notice, the attorney for the judgment creditor may proceed with the execution levy. Failure of the judgment debtor to serve a statement does not constitute a waiver of any right the judgment debtor may have to an exemption. If the statement of exemption is received by the attorney for the judgment creditor, the attorney may still cause a levy to be served subject to sanctions provided in section 551.05, subdivision 8.

Subd. 9. [NOTICE OF LEVY ON EARNINGS, DISCLOSURE, AND WORKSHEET.] The attorney for the judgment creditor shall serve upon the judgment debtor's employer a notice of levy on earnings and an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA
COUNTY OF
..... (Judgment Creditor)
against
..... (Judgment Debtor)
and
..... (Third Party)

DISTRICT COURT
JUDICIAL DISTRICT
FILE NO.
NOTICE OF LEVY ON
EARNINGS AND
DISCLOSURE

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, sections 551.04 and 551.06, the undersigned, as attorney for the judgment creditor, hereby makes demand and levies execution upon all earnings due and owing by you (up to \$5,000) to the judgment debtor for the amount of the judgment specified below. A copy of the writ of execution issued by the court is enclosed. The unpaid judgment balance is \$

This levy attaches all unpaid nonexempt disposable earnings owing or to be owed by you and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the service of this levy.

In responding to this levy, you are to complete the attached disclosure form and worksheet and mail it to the undersigned attorney for the judgment creditor, together with your check payable to the above-named judgment creditor, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits set forth in the aforementioned statutes.

.....
Attorney for the Judgment Creditor

.....
Address

.....
.....
.....
.....
Phone Number

DISCLOSURE

DEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTIONS:

1. Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

Yes No

2. Does the judgment debtor earn more than \$. . . per week? (This amount is the federal minimum wage per week.)

Yes No

INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to either questions 1 or 2 is "No," then you must sign the affirmation on page 2 and return this disclosure to the judgment creditor's attorney within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answers to both questions 1 and 2 are "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 3 through 11 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column I on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this Earnings Disclosure Form and the Earnings Disclosure Worksheet to the judgment creditor's attorney and deliver a copy to the judgment debtor within ten days after the last payday that falls within the 70-day period.

If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 3 through 11, "columns" refers to columns on the Earnings Disclosure Worksheet.

3. COLUMN A. Enter the date of judgment debtor's pay-day.
4. COLUMN B. Enter judgment debtor's gross earnings for each payday.
5. COLUMN C. Enter judgment debtor's disposable earnings for each payday.
6. COLUMN D. Enter 25 percent of disposable earnings. (Multiply Column C by .25.)
7. COLUMN E. Enter here 40 times the hourly federal minimum wage (\$. . .) times the number of work weeks included in each payday. (Note: If a pay period includes days in excess of whole work weeks, the additional days should be counted as a fraction of a work week equal to the number of work days in excess of a whole work week divided by the number of work days in a normal work week.)
8. COLUMN F. Subtract the amount in Column E from the amount in Column C, and enter here.
9. COLUMN G. Enter here the lesser of the amount in Column D and the amount in Column F.
10. COLUMN H. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest which would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you, or any assignment of wages, that was incurred or made by the judgment debtor within ten days before your receipt of the execution levy is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in Column H if there are no claims by you or others which would reduce the amount of earnings owing to the judgment debtor.

11. COLUMN I. Subtract the amount in Column H from the amount in Column G and enter here. This is the amount of earnings that you must retain for the payday for which the calculations were made. The total of all amounts entered in Column I is the amount to be remitted to the attorney for the judgment creditor.

AFFIRMATION

I, (person signing Affirmation) am the third party/employer or I am authorized by the third party/employer to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:
Signature
Title
Telephone Number

EARNINGS DISCLOSURE WORKSHEET

.....
Judgment Debtor's Name

<u>A</u> <u>Payday</u> <u>Date</u>	<u>B</u> <u>Gross</u> <u>Earnings</u>	<u>C</u> <u>Disposable</u> <u>Earnings</u>
1.	\$	\$
2.
3.
4.
5.
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10.

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Column C

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and
Column F

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Adverse
Interest, or
Other Claims

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Column H

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TOTAL OF COLUMN I \$

*If you entered any amount in Column H for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of these persons, and the nature of their claim, if known.

.....
.....
.....

AFFIRMATION

I, (person signing Affirmation) am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

Dated: Title
 ()
 Signature Phone Number

Subd. 10. [NOTICE OF LEVY ON EARNINGS, DISCLOSURE, AND WORKSHEET FOR CHILD SUPPORT JUDGMENT.] The attorney for the judgment creditor shall serve upon the judgment debtor's employer a notice of levy on earnings and an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA DISTRICT COURT
 COUNTY OF JUDICIAL DISTRICT
 FILE NO.

..... (Judgment Creditor)
 against

NOTICE OF LEVY ON
 EARNINGS AND
 DISCLOSURE

..... (Judgment Debtor)
 and

..... (Third Party)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, sections 551.04 and 551.06, the undersigned, as attorney for the judgment creditor, hereby makes demand and levies execution upon all earnings due and owing by you (up to \$5,000) to the judgment debtor for the amount of the judgment specified below. A copy of the writ of execution issued by the court is enclosed. The unpaid judgment balance is \$

This levy attaches all unpaid nonexempt disposable earnings owing or to be owed by you and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the service of this levy.

In responding to this levy, you are to complete the attached disclosure form and worksheet and mail it to the undersigned attorney for the judgment creditor, together with your check payable to the above-named judgment creditor, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits set forth in the aforementioned statutes.

.....
 Attorney for the Judgment Creditor

.....
 Address

.....
 ()
 Phone Number

DISCLOSUREDEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers' compensation, or unemployment compensation.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

.....
Yes

.....
No

INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the judgment creditor's attorney within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through

8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the judgment creditor's attorney and deliver a copy of the disclosure and worksheet to the judgment debtor within ten days after the last payday that falls within the 70-day period. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of judgment debtor's payday.

(3) COLUMN B. Enter judgment debtor's gross earnings for each payday.

(4) COLUMN C. Enter judgment debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

(a) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child;

(b) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(c) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child; or

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) COLUMN E. Subtract the amount in column D from the amount in column C, and enter here.

(7) COLUMN F. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you, or any assignment of wages, that was incurred or made by the judgment debtor within ten days prior to your receipt of the execution levy is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column F if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) COLUMN G. Subtract the amount in column F from the amount in column E and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

AFFIRMATION

I,, (person signing Affirmation) am the third party/employer or I am authorized by the third party/employer to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:

Signature

Title

Telephone Number

EARNINGS DISCLOSURE WORKSHEET

Debtor's Name

<u>A</u>	<u>B</u>	<u>C</u>
<u>Payday</u>	<u>Gross</u>	<u>Disposable</u>
<u>Date</u>	<u>Earnings</u>	<u>Earnings</u>
<u>1.</u>	<u>\$</u>	<u>\$</u>
<u>2.</u>	<u>.....</u>	<u>.....</u>
<u>3.</u>	<u>.....</u>	<u>.....</u>
<u>4.</u>	<u>.....</u>	<u>.....</u>
<u>5.</u>	<u>.....</u>	<u>.....</u>
<u>6.</u>	<u>.....</u>	<u>.....</u>
<u>7.</u>	<u>.....</u>	<u>.....</u>
<u>8.</u>	<u>.....</u>	<u>.....</u>
<u>9.</u>	<u>.....</u>	<u>.....</u>
<u>10.</u>	<u>.....</u>	<u>.....</u>

D
Either 50, 55,
60, or 65% of
Column C

E
Column C
minus
Column D

F
Setoff, Lien,
Adverse
Interest, or
Other Claims

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

G
Column E
minus
Column F

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

TOTAL OF COLUMN G \$

*If you entered any amount in column F for any payday(s), you
must describe below either your claims, or the claims of others. For
amounts claimed by others, you must both state the names and
addresses of such persons, and the nature of their claim, if known.

.....
.....
.....

AFFIRMATION

I, (person signing Affirmation) am the third
party or I am authorized by the third party to complete this earnings
disclosure worksheet, and have done so truthfully and to the best of
my knowledge.

.....
Signature

Dated:

.....
Title

()

.....
Phone Number

Subd. 11. [POSTEXECUTION NOTICE TO JUDGMENT DEBTOR.] The attorney for the judgment creditor shall serve by mail upon the judgment debtor not later than five days after service is made on the judgment debtor's employer, a copy of the writ of execution and copies of all other papers served on the judgment debtor's employer.

Subd. 12. [THIRD PARTY DISCLOSURE AND REMITTANCE OBLIGATION.] If there are no attachable earnings, the third party shall serve the execution earnings disclosure form upon the attorney for the judgment creditor within 20 days after service of the writ of execution. However, if the judgment debtor has attachable earnings, the third party shall serve the execution earnings disclosure form upon both the attorney for the judgment creditor and the judgment debtor and remit to the attorney for the judgment creditor the attached earnings within ten days of the last payday to occur within the 70 days after the date of the service of the writ of execution. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, the disclosure and remittance should be made within ten days after the last payday for which earnings were attached. The amount of the third party's execution earnings disclosure form and remittance need not exceed 100 percent of the amount of the judgment creditor's judgment that remains unpaid, after subtracting the total of setoffs, defenses, exemption, or other adverse interests. If the disclosure is by a corporation, it shall be made by an officer or a managing agent having knowledge of the facts.

Subd. 13. [PENALTY FOR RETALIATION FOR EXECUTION.]
(a) An employer shall not discharge or otherwise discipline an employee as a result of an earnings levy authorized by this chapter.

(b) If an employer violates this section, a court may order the reinstatement of an aggrieved party who demonstrates a violation of this section, and other relief the court considers appropriate. The aggrieved party may bring a civil action within 90 days of the date of the prohibited action. If an employer-employee relationship existed before the violation of this section, the employee shall recover twice the wages lost as a result of this violation.

(c) The rights guaranteed by this section are not subject to abridgment and may not be altered by employment contract.

Subd. 14. [PUBLIC EMPLOYEES, LEVY ON EARNINGS.] The salary or earnings of any public employee or officer may be levied

upon pursuant to this chapter. Where the person is an officer, the writ shall be served upon the auditor, treasurer, or clerk of the subdivision or department of which the person is an officer. Where the person is an employee other than an officer, the writ must be served upon the person in charge of the office or department in which the employee works.

When payment has been made pursuant to levy, a copy of the execution with certificate of satisfaction shall be delivered to the treasurer as a voucher for such payment.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective October 1, 1989, and apply to attorney's summary executions begun on or after that date.

ARTICLE 3 GARNISHMENTS

Section 1. [571.71] [GARNISHMENT: WHEN AUTHORIZED.]

As an ancillary proceeding to a civil action for the recovery of money, a creditor may issue a garnishment summons as provided in this chapter against any third party in the following instances:

(1) at the time the civil action is commenced or at any time after the commencement of the civil action, but before the entry of a judgment, if the court orders the issuance of the garnishment summons pursuant to section 571.93;

(2) at any time 40 days or more after service of the summons and complaint upon the debtor in the civil action when a judgment by default could have, but has not, been entered pursuant to Rule 55.01(a) of the Minnesota Rules of Civil Procedure for the District Courts. No filing of a pleading or other documents by the creditor is required to issue a garnishment summons under this clause; however, the creditor must comply with the service requirement of section 571.72, subdivision 4; or

(3) at any time after entry of a money judgment in the civil action.

Sec. 2. [571.711] [SCOPE OF GENERAL AND SPECIFIC PROVISIONS.]

General provisions and definitions relating to all garnishment proceedings, as authorized in this chapter, are set forth in sections 571.71 to 571.90. Specific provisions relating to garnishments involving financial institutions are set forth in sections 571.911 to 571.915. Specific provisions relating to the garnishment of earnings

are set forth in sections 571.92 to 571.927. When a garnishment summons is issued against either earnings or funds in a financial institution, the applicable provisions cited in this chapter must be complied with in addition to the general provisions and definitions relating to all garnishment proceedings. Provisions contained in the statutory forms are incorporated in this chapter and have the same force of law as any other provision in this chapter.

Sec. 3. [571.712] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. (a) "Creditor" means the party who has a claim for the recovery of money in the civil action whether that party is the plaintiff, defendant, or other party in the civil action and who is issuing or requesting the issuance of a garnishment summons.

(b) "Debtor" means a party against whom the creditor has a claim for the recovery of money in the civil action whether that party is the plaintiff, defendant, or other party in the civil action.

(c) "Garnishee" means the third party upon whom the garnishment summons is served.

(d) "Claim" means the unpaid balance of the creditor's judgment against the debtor or, in a prejudgment garnishment proceeding, the unpaid balance of the creditor's claim against the debtor and all lawful interest and costs and disbursements paid or incurred in the civil action or in the garnishment proceedings.

Subd. 3. [DESIGNATION OF PARTIES.] Each pleading or other document in the ancillary proceeding of garnishment must designate each party as creditor or debtor or garnishee.

Sec. 4. [571.72] [GENERAL GARNISHMENT PROVISIONS.]

Subdivision 1. [RULES OF CIVIL PROCEDURE.] Unless this chapter specifically provides otherwise, the Rules of Civil Procedure for the District Courts shall apply in all proceedings under this chapter.

Subd. 2. [SERVICE OF A GARNISHMENT SUMMONS.] To enforce a claim asserted in a civil action venued in a court of record, a garnishment summons may be issued by a creditor and served upon the garnishee in the same manner as other summons in that court of record, except that service may not be made by publication. Service of a garnishment summons on the garnishee may also be made by certified mail, return receipt requested. The effective date of service by certified mail is the time of receipt by the garnishee. A

single garnishment summons may be addressed to two or more garnishees but must state whether each is summoned separately or jointly.

The garnishment summons must state:

(1) the full name of the debtor, the debtor's last known mailing address, and the amount of the claim that remains unpaid;

(2) the date of the entry of judgment against the debtor or that the debtor is in default pursuant to Rule 55.01 of the Minnesota Rules of Civil Procedure for the District Courts. Where there is a pre-judgment garnishment pursuant to section 571.93, the garnishment summons must include a copy of the court order;

(3) if the garnishment is on any indebtedness, money, or property other than earnings, the garnishee shall serve upon the creditor and upon the debtor within 20 days after service of the garnishment summons, a written disclosure, of the garnishee's indebtedness, money, or other property owing to the debtor and answers to all written interrogatories that are served with the garnishment summons. The garnishment summons shall also state that if the garnishment is on earnings and the debtor has garnishable earnings, the garnishee shall serve the disclosure within ten days of the last payday to occur within the 70 days after the date of service of the garnishment summons;

(4) that the creditor shall not require disclosure of the disposable earnings, indebtedness, money, or property of debtor in the garnishee's possession or under the garnishee's control in excess of 110 percent of the amount of the claim that remains unpaid;

(5) that the garnishee shall retain disposable earnings, indebtedness, money, or property of the debtor in the garnishee's possession or under the garnishee's control not in excess of 110 percent of the amount of the claim that remains unpaid, until the creditor causes a writ of execution to be served upon the garnishee, until the debtor authorizes release to the creditor, upon court order, or by operation of law;

(6) that after the expiration of the period of time specified in section 571.79 from the date of service of the garnishment summons, the garnishee's retention obligation automatically expires;

(7) that an assignment of wages made by the debtor or indebtedness to the garnishee incurred by the debtor within ten days before the service of the first garnishment summons on a debt is void.

Subd. 3. [REPRESENTATION BY AN ATTORNEY.] Whenever a creditor is represented by an attorney, a responsive pleading or

document from the garnishee or debtor under this chapter must be served on the creditor's attorney.

Subd. 4. [SERVICE OF GARNISHMENT SUMMONS ON DEBTOR.] A copy of the garnishment summons and copies of all other papers served on the garnishee must be served by mail at the last known mailing address of the debtor not later than five days after the service is made upon the garnishee. The first time a garnishment summons is served on the debtor pursuant to section 571.71, clause (2), the creditor shall also serve a copy of the affidavit of service of the original summons and complaint. Service of the garnishment documents on the debtor is effective upon mailing.

Subd. 5. [GARNISHMENT DISCLOSURE FORM.] The creditor shall serve with the garnishment summons the applicable garnishment disclosure form substantially in the form set forth in section 571.75. The creditor may also serve written interrogatories with the garnishment summons.

Subd. 6. [BAD FAITH CLAIM.] If, in a proceeding brought under section 571.91, or a similar proceeding under this chapter to determine a claim of exemption, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the creditor shall be awarded actual damages, costs, reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the creditor disregarded the claim of exemption in bad faith, the debtor shall be awarded actual damages, costs, reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to that party's attorney for fees, the attorney's fee award shall be made directly to the attorney and if not paid an appropriate judgment in favor of the attorney shall be entered.

Subd. 7. [FORMS.] No creditor shall use a form that contains alterations or changes from the statutory forms that mislead debtors as to their rights and the garnishment procedure generally. If a court finds that a creditor has used a misleading form, the debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from additional proceedings, and an amount not to exceed \$100. All forms must be clearly legible and printed in not less than the equivalent of 10-point type. A form that uses both sides of a sheet must clearly indicate on the front side that there is additional information on the back side of the sheet.

Subd. 8. [EXEMPTION NOTICE.] In every garnishment where the debtor is a natural person, the debtor shall be provided with a garnishment exemption notice. If the creditor is garnishing earn-

ings, the earnings exemption notice provided in section 571.924 must be served ten or more days before the service of the first garnishment summons. If the creditor is garnishing funds in a financial institution, the exemption notice provided in section 571.912 must be served with the garnishment summons. In all other cases, the exemption notice must be in the following form and served on the debtor with a copy of the garnishment summons.

STATE OF MINNESOTA

COUNTY OF

.....(Creditor)

against

.....(Debtor)

and

.....(Garnishee)

DISTRICT COURT

JUDICIAL DISTRICT

EXEMPTION NOTICE

A Garnishment Summons is being served upon you. Some of your property may be exempt and cannot be garnished. The following is a list of some of the more common exemptions. It is not complete and is subject to section 550.37 of the Minnesota Statutes and other state and federal laws. The dollar amounts contained in this list are subject to the provisions of section 550.37, subdivision 4a, at the time of garnishment. If you have questions about an exemption, you should obtain legal advice.

(1) a homestead or the proceeds from the sale of a homestead;

(2) household furniture, appliances, phonographs, radios, and televisions up to a total current value of \$5,850;

(3) a manufactured (mobile) home used as your home;

(4) one motor vehicle currently worth less than \$2,600 after deducting any security interest;

(5) farm machinery used by an individual principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$13,000;

(6) relief based on need. This includes:

(i) Aid to Families with Dependent Children (AFDC);

(ii) AFDC-Emergency Assistance (AFDC-EA);

(iii) Medical Assistance (MA);

(iv) General Assistance (GA);

(v) General Assistance Medical Care (GAMC);

- (vi) Emergency General Assistance (EGA);
- (vii) Work Readiness, Minnesota Supplemental AID (MSA);
- (viii) MSA-Emergency Assistance (MSA-EA);
- (ix) Supplemental Security Income (SSI); and
- (x) Energy Assistance;
- (7) social security benefits;
- (8) unemployment compensation, workers' compensation, or veteran's benefits;
- (9) an accident, disability, or retirement pension or annuity;
- (10) life insurance proceeds;
- (11) earnings of your minor child; and
- (12) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a manufactured (mobile) home, or a car.)

Subd. 9. [MOTION TO DETERMINE OBJECTIONS.] Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption and may make any order necessary to protect the rights of those interested.

Sec. 5. [571.73] [PROPERTY ATTACHABLE BY GARNISHMENT; GOOD FAITH REQUIREMENT.]

Subdivision 1. [RETENTION OBLIGATION.] Except as provided in subdivision 4 and section 571.79, service of the garnishment summons upon the garnishee shall obligate the garnishee to retain possession and control of the disposable earnings, indebtedness, money, and property of the debtor specified in subdivision 3, except that the garnishee shall not retain possession and control of disposable earnings, indebtedness, money, or property of the debtor in the garnishee's possession or under the garnishee's control in excess of 110 percent of the amount claimed by the creditor in the garnishment summons.

Subd. 2. [GARNISHEE GOOD FAITH REQUIREMENT.] The garnishee is not liable to the debtor, creditor, or other person for wrongful retention if the garnishee retains disposable earnings, indebtedness, money, or property of the debtor or any other person, pending the garnishee's disclosure or consistent with the disclosure the garnishee makes, if the garnishee has a good faith belief that the

property retained is subject to the garnishment summons. In addition, the garnishee may, at any time before or after disclosure, proceed under Rule 67 of the Minnesota Rules of Civil Procedure for the District Courts to make deposit into court. No garnishee is liable for damages if the garnishee complies with the provisions of this chapter.

Subd. 3. [PROPERTY ATTACHABLE.] Subject to the exemptions provided by sections 550.37 and 571.922 and any other applicable statute, the service of a garnishment summons under this chapter attaches:

(1) all unpaid nonexempt disposable earnings owed or to be owed by the garnishee and earned or to be earned by the debtor within the pay period in which the garnishment summons is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the garnishment summons. "Payday" means the day upon which the garnishee pays earnings to the debtor in the ordinary course of business. If the debtor has no regular paydays, "payday" means the 15th day and the last day of each month;

(2) all other nonexempt indebtedness, money or other property due or belonging to the debtor and owing by the garnishee or in the possession or under the control of the garnishee at the time of service of the garnishment summons, whether or not the same has become payable. The garnishee shall not be compelled to pay or deliver the same before the time specified by any agreement unless the agreement was fraudulently contracted to defeat a garnishment or other collection remedy; and

(3) all other nonexempt intangible or tangible personal property of the debtor in the possession or under the control of the garnishee at the time of service of the garnishment summons, including property of any kind due from or in the hands of an executor, administrator, personal representative, receiver, or trustee, and all written evidences of indebtedness whether or not negotiable or not yet underdue or overdue.

Subd. 4. [PROPERTY NOT ATTACHABLE.] The following property is not subject to attachment by garnishment:

(1) any indebtedness, money, or other property due to the debtor, unless at the time of the garnishment summons the same is due absolutely or does not depend upon any contingency;

(2) any judgment in favor of the debtor against the garnishee, if the garnishee or the garnishee's property is liable on an execution levy upon the judgment;

(3) any debt owed by the garnishee to the debtor for which any negotiable instrument has been issued or endorsed by the garnishee;

(4) any indebtedness, money, or other property due to the debtor where the debtor is a bank, savings bank, trust company, credit union, savings and loan association, or industrial loan and thrift companies with deposit liabilities;

(5) any indebtedness, money, or other property due to the debtor with a cumulative value of less than \$10; and

(6) any disposable earnings, indebtedness, money, or property that is exempt under Minnesota or federal law.

Sec. 6. [571.74] [GARNISHMENT SUMMONS AND NOTICE TO DEBTOR.]

The garnishment summons and notice to debtor must be substantially in the following form. The notice to debtor must be in no smaller than 14-point type.

GARNISHMENT SUMMONS

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

..... (Debtor's Address)

..... (Garnishee)

UNPAID BALANCE

GARNISHMENT SUMMONS

The State of Minnesota

To the Garnishee named above:

You are hereby summoned and required to serve upon the creditor's attorney (or the creditor if not represented by an attorney) and on the debtor within 20 days after service of this garnishment summons upon you, a written disclosure, of the indebtedness, money, or other property that you owe to the debtor and answers to all written interrogatories that are served with the garnishment summons. However, if the garnishment is on earnings and the debtor has garnishable earnings, you shall serve the completed disclosure form on the creditor's attorney, or the creditor if not represented by an attorney, within ten days of the last payday to occur within the 70 days after the date of the service of this garnishment summons. "Payday" means the day which you pay earnings in the ordinary course of business. If the debtor has no

regular paydays, "payday" means the 15th day and the last day of each month.

Your disclosure need not exceed 110 percent of the amount of the creditor's claim that remains unpaid.

You shall retain garnishable earnings, other indebtedness, money, or other property in your possession in an amount not to exceed 110 percent of the creditor's claim until such time as the creditor causes a writ of execution to be served upon you, until the debtor authorizes you in writing to release the property to the creditor, or until the expiration of days from the date of service of this garnishment summons upon you, at which time you shall return the disposable earnings, other indebtedness, money, or other property to the debtor.

EARNINGS

In the event you are summoned as a garnishee because you owe "earnings" (as defined on the Earnings Garnishment Disclosure form attached to this Garnishment Summons, if applicable) to the debtor, then you are required to serve upon the creditor's attorney, or the creditor if not represented by an attorney, a written earnings disclosure form within the time limit set forth above.

In the case of earnings you are further required to retain in your possession all unpaid nonexempt disposable earnings owed or to be owed by you and earned or to be earned to the debtor within the pay period in which this garnishment summons is served and within all subsequent pay periods whose paydays (defined above) occur within the 70 days after the date of service of this garnishment summons.

Any assignment of earnings made by the debtor to any party, or any indebtedness to you incurred by the debtor within the ten days before the receipt of the first garnishment on a debt is void as to the creditor.

You are prohibited by law from discharging or disciplining the debtor because the debtor's earnings have been subject to garnishment.

This Garnishment Summons includes:

(check applicable box)

..... Earnings garnishment
..... (see attached Earnings Disclosure Form)
..... Nonearnings garnishment
..... (see attached Nonearnings Disclosure Form)

..... Both Earnings and Nonearnings garnishment
(see both attached Earning and Nonearnings
Disclosure Form)

NOTICE TO DEBTOR

A Garnishment Summons, Earnings Garnishment Disclosure
form, Nonwage Garnishment Disclosure form, Garnishment Ex-
emption Notices and/or written Interrogatories (strike out if not
applicable), copies of which are hereby served on you were served
upon the Garnishee by delivering copies to the Garnishee. The
Garnishee was paid \$5.

Dated:

Attorney for Creditor
(or creditor)

Address

Telephone

Attorney I.D. No.

Sec. 7. [571.75] [GARNISHEE DISCLOSURE.]

Subdivision 1. [GARNISHEE TO DISCLOSE.] The garnishee
shall serve on both the creditor and the debtor, within 20 days after
service of the garnishment summons, a written disclosure of the
garnishee's indebtedness, money, or other property owing to the
debtor. However, if the garnishment is on earnings and the debtor
has garnishable earnings, the garnishee shall serve the disclosure
and earnings disclosure worksheet within ten days after the last
payday to occur within the 70 days after the date of the service of
this garnishment summons. "Payday" means the day upon which
the garnishee pays earnings to the debtor in the ordinary course of
business. If the debtor has no regular paydays, "payday" means the
15th day and the last day of each month. The amount of the
garnishee's disclosure need not exceed 110 percent of the amount of
the creditor's claim that remains unpaid, after subtracting the total
of setoffs, defenses, exemptions, ownership claims, or other inter-
ests. The answers to the garnishment disclosure form may be served
personally or by first class mail. If the disclosure is by a corporation,
it shall be made by an officer, managing agent, or other authorized
person having knowledge of the facts.

Subd. 2. [CONTENTS OF DISCLOSURE.] The disclosure must
state:

(a) If an earnings garnishment disclosure, the amount of disposable earnings earned by the debtor within the debtor's pay periods as specified in section 571.921.

(b) If a nonearnings garnishment disclosure, a description of any personal property or any instrument or papers relating to this property belonging to the judgment debtor or in which the debtor is interested or other indebtedness of the garnishee to the debtor.

(c) If the garnishee asserts any setoff, defense, claim, or lien on disposable earnings, other indebtedness, money, or property, the garnishee shall disclose the amount and the facts concerning the same.

(d) Whether the debtor asserts any exemption, or any other objection, known to the garnishee against the right of the creditor to garnish the disposable earnings, other indebtedness, money, or property disclosed.

(e) If other persons assert claims to any disposable earnings, other indebtedness, money, or property disclosed, the garnishee shall disclose the names and addresses of these claimants and, so far as known by the garnishee, the nature of their claims.

(f) The garnishment disclosure forms and earnings disclosure worksheet must be the same or substantially similar to the following forms. If the garnishment affects earnings of the debtor, the creditor shall use the earnings garnishment disclosure form. If the garnishment affects any indebtedness, money, or property of the debtor, other than earnings, the creditor shall use the nonearnings garnishment disclosure form. Nothing contained in this paragraph limits the simultaneous use of the earnings and nonearnings garnishment disclosure forms.

EARNINGS DISCLOSURE FORM AND WORKSHEET

STATE OF MINNESOTA

COUNTY OF
 (Creditor)
 (Debtor)
 (Garnishee)

DISTRICT COURT

JUDICIAL DISTRICT

GARNISHMENT
 EARNINGS DISCLOSURE

DEFINITIONS

"EARNINGS": For the purpose of garnishment, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a

family farm, a family farm corporation or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of garnishment, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the debtor has no regular payday, payday(s) means the fifteenth and the last day of each month.

THE GARNISHEE MUST ANSWER THE FOLLOWING QUESTIONS:

1. Do you now owe, or within 70 days from the date the garnishment summons was served on you, will you or do you expect to owe money to the debtor for earnings?

Yes No

2. Does the debtor earn more than \$ per week? (This amount is the federal minimum wage per week.)

Yes No

INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to either questions 1 or 2 is "No," then you must sign the affirmation on Page 2 and return this disclosure to the creditor's attorney (or the creditor if not represented by an attorney) within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answers to both questions 1 and 2 are "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the garnishment summons was served on you, YOU MUST calculate the amount of earnings to be retained by completing Steps 3 through 11, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE

CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in Column I on the Earnings Disclosure Worksheet.

You must return this Earnings Disclosure Form and the Earnings Disclosure Worksheet to the creditor's attorney (or the creditor if not represented by an attorney) and deliver a copy to the debtor within ten days after the last payday that falls within the 70-day period.

If the claim is wholly satisfied or if the debtor's employment ends before the expiration of the 70-day period, your disclosure should be made within ten days after the last payday for which earnings were attached.

For Steps 3 through 11, "Columns" refers to columns on the Earnings Disclosure Worksheet.

3. COLUMN A. Enter the date of debtor's payday.
4. COLUMN B. Enter debtor's gross earnings for each payday.
5. COLUMN C. Enter debtor's disposable earnings for each payday.
6. COLUMN D. Enter 25 percent of disposable earnings. (Multiply Column C by .25.)
7. COLUMN E. Enter here 40 times the hourly federal minimum wage (\$. . .) times the number of work weeks included in each payday. (Note: If a pay period includes days in excess of whole work weeks, the additional days should be counted as a fraction of a work week equal to the number of work days in excess of a whole work week divided by the number of work days in a normal work week.)
8. COLUMN F. Subtract the amount in Column E from the amount in Column C, and enter here.
9. COLUMN G. Enter here the lesser of the amount in Column D and the amount in Column F.

10. COLUMN H.

Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest which would reduce the amount of earnings owing to the debtor. (Note: Any indebtedness to you, or any assignment of wages, that was incurred or made by the debtor within ten days before your receipt of the garnishment summons is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in Column H if there are no claims by you or others which would reduce the amount of earnings owing to the debtor.

11. COLUMN I.

Subtract the amount in Column H from the amount in Column G and enter here. This is the amount of earnings that you must retain for the payday for which the calculations were made.

AFFIRMATION

I, (person signing Affirmation) am the garnishee or I am authorized by the garnishee to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:

Signature

Title

Telephone Number

EARNINGS DISCLOSURE WORKSHEET

.....

Debtor's Name

A
Payday
Date

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

B
Gross
Earnings

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

C
Disposable
Earnings

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

D
25% of
Column C

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

E
40 X Min.
Wage

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

F
Column C
minus
Column E

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

G
Lesser of
Column D
and
Column F

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

H
setoff, Lien,
Adverse
Interest, or
Other Claims

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

I
Column G
minus
Column H

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

TOTAL OF COLUMN I \$

*If you entered any amount in Column H for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others you must both state the names and addresses of these persons, and the nature of their claim, if known.

.....

.....

.....

AFFIRMATION

I, (person signing Affirmation) am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

Dated:

Signature

Title

Telephone Number (...)

EARNINGS DISCLOSURE FORM AND WORKSHEET FOR CHILD SUPPORT DEBTOR

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

..... (Garnishee)

GARNISHMENT
EARNINGS DISCLOSURE

DEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers' compensation, or unemployment compensation.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of

amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE GARNISHEE MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the debtor for earnings?

.....
Yes

.....
No

INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the creditor's attorney (or the creditor if not represented by an attorney) within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the garnishment summons was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE. Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet. You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the creditor's attorney (or the creditor if not represented by an attorney) and deliver a copy to the debtor within ten days after the last payday that falls within the 70-day period. If the claim is wholly satisfied or if the debtor's employment ends before the expiration of the 70-day period, your disclosure should be made

within ten days after the last payday for which earnings were attached. For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of debtor's payday.

(3) COLUMN B. Enter debtor's gross earnings for each payday.

(4) COLUMN C. Enter debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

(a) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child;

(b) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(c) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child; or

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) COLUMN E. Subtract the amount in column D from the amount in column C, and enter here.

(7) COLUMN F. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the debtor. (Note: Any indebtedness to you, or any assignment of wages, that was incurred or made by the debtor within ten days prior to your receipt of the execution levy is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column F if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) COLUMN G. Subtract the amount in column F from the amount in column E and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

AFFIRMATION

I,, (person signing Affirmation) am the garnishee or I am authorized by the garnishee to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:
Signature
Title
Telephone Number

EARNINGS DISCLOSURE WORKSHEET

Debtor's Name

<u>A</u> <u>Payday</u> <u>Date</u>	<u>B</u> <u>Gross</u> <u>Earnings</u>	<u>C</u> <u>Disposable</u> <u>Earnings</u>
<u>1.</u>	<u>.....</u>	<u>.....</u>
<u>2.</u>	<u>.....</u>	<u>.....</u>
<u>3.</u>	<u>.....</u>	<u>.....</u>
<u>4.</u>	<u>.....</u>	<u>.....</u>
<u>5.</u>	<u>.....</u>	<u>.....</u>
<u>6.</u>	<u>.....</u>	<u>.....</u>
<u>7.</u>	<u>.....</u>	<u>.....</u>
<u>8.</u>	<u>.....</u>	<u>.....</u>
<u>9.</u>	<u>.....</u>	<u>.....</u>
<u>10.</u>	<u>.....</u>	<u>.....</u>
<u>D</u> <u>Either 50, 55,</u> <u>60, or 65% of</u> <u>Column C</u>	<u>E</u> <u>Column C</u> <u>minus</u> <u>Column D</u>	<u>F</u> <u>Setoff, Lien,</u> <u>Adverse</u> <u>Interest, or</u> <u>Other Claims</u>
<u>1.</u>	<u>.....</u>	<u>.....</u>
<u>2.</u>	<u>.....</u>	<u>.....</u>
<u>3.</u>	<u>.....</u>	<u>.....</u>
<u>4.</u>	<u>.....</u>	<u>.....</u>
<u>5.</u>	<u>.....</u>	<u>.....</u>
<u>6.</u>	<u>.....</u>	<u>.....</u>

7. ....	.....	.....
8. ....	.....	.....
9. ....	.....	.....
10. ....	.....	.....

G
Column E
 minus
Column F

1. ....	.....
2. ....	.....
3. ....	.....
4. ....	.....
5. ....	.....
6. ....	.....
7. ....	.....
8. ....	.....
9. ....	.....
10. ....	.....

TOTAL OF COLUMN G \$

*If you entered any amount in column F for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

.....

AFFIRMATION

I (person signing Affirmation) am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

.....
Signature

Dated:

.....
Title

(...)

.....
Phone Number

NONEARNINGS DISCLOSURE FORM

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

JUDICIAL DISTRICT

.....(Creditor)

against

.....(Debtor)

NONEARNINGS DISCLOSURE

and

.....(Garnishee)

On the . . . day of . . . , 19 . . . , the time of service of garnishment summons herein, there was due and owing the debtor from the garnishee the following:

(1) Money. Enter on the line below any amounts due and owing the debtor, except earnings, from the garnishee.

.....

(2) Property. Describe on the line below any personal property, instruments, or papers belonging to the debtor and in the possession of the garnishee.

.....

(3) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the garnishee claims against the amount set forth on lines (1) and (2) above. State the facts by which the setoff, defense, lien, or claim is claimed. (Any indebtedness to a garnishee incurred by the debtor within ten days before the receipt of the first garnishment on a debt is void as to the creditor.)

.....

(4) Exemption. Enter on the line below any amounts or property claimed by the debtor to be exempt from execution.

.....

(5) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the debtor's property.

.....

(6) Enter on the line below the total of lines (4), (5), and (6).

.....

(7) Enter on the line below the difference obtained (never less than zero) when line (6) is subtracted from the sum of lines (1) and (2).

.....

(8) Enter on the line below 110 percent of the amount of the creditor's claim which remains unpaid.

.....

(9) Enter on the line below the lessor of line (8) and line (9). Retain this amount only if it is \$10 or more.

.....

AFFIRMATION

I, (person signing Affirmation) am the garnishee or I am authorized by the garnishee to complete this nonearnings garnishment disclosure, and have done so truthfully and to the best of my knowledge.

Dated:

.....
Signature

.....
Title

.....
Telephone Number

Subd. 3. [ORAL DISCLOSURE.] Before or after the service of a written disclosure by a garnishee under subdivision 1, upon a showing by affidavit upon information and belief that an oral examination of the garnishee would provide a complete disclosure of relevant facts, any party to the garnishment proceedings may obtain an ex parte order requiring the garnishee, or a representative of the garnishee designated by name or by title, to appear for oral examination before the court or a referee appointed by the court. Notice of the examination must be given to all parties.

Subd. 4. [SUPPLEMENTAL COMPLAINT] If a garnishee holds property, money, or other indebtedness by a title that is void as to the debtor's creditors, the property may be garnished although the debtor would be barred from maintaining an action to recover the property, money, or indebtedness. In this and all other cases where the garnishee denies liability, the creditor may move the court at any time before the garnishee is discharged, on notice to both the debtor and the garnishee for an order making the garnishee a party to the civil action and granting the creditor leave to file a supplemental complaint against the garnishee and the debtor. The sup-

plemental complaint shall set forth the facts upon which the creditor claims to charge the garnishee. If probable cause is shown, the motion shall be granted. The supplemental complaint shall be served upon the garnishee and the debtor and any other parties. The parties served shall answer or respond pursuant to the Minnesota Rules of Civil Procedure for the District Courts, and if they fail to do so, judgment by default may be rendered against them pursuant to section 571.82.

Sec. 8. [571.76] [GARNISHEE FEES.]

A garnishee shall be paid a \$15 fee by the creditor at the time of service of a garnishment summons. Failure to pay the fee renders the garnishment void, and the garnishee shall take no action. If a garnishee is required to appear and submit to oral examination the garnishee shall be tendered, in advance of the examination, fees and mileage for attendance at the rate allowed by law to a witness. These fees may be recovered by the creditor as an allowable disbursement. In extraordinary cases, the garnishee may be allowed additional sums the court considers reasonable for attorneys fees and other necessary expenses. The court shall then determine which party bears the burden of this expense. If specific articles of personal property are garnished, the garnishee is not required to deliver the property to any person until payment of the garnishee's reasonable charges for storage.

Sec. 9. [571.77] [SALARY OF PUBLIC SERVANTS.]

The salary or wages of an official or employee of a county, town, city, or school district, or any department of these bodies, is subject to garnishment. The garnishment summons shall be served upon the auditor, treasurer, or clerk of the body, or head of the department of the body of which that person is an official or employee. The disclosure shall be made by the officer or person so served, or by some person designated by that person having knowledge of the facts. If payment is made by the county, town, city, or school district, or any department of these bodies pursuant to a judgment against it as garnishee, a certified copy of the judgment with a certificate of satisfaction to the extent of the payment endorsed on it shall be delivered to the treasurer as a voucher for the payment.

Sec. 10. [571.78] [DUTIES OF A GARNISHEE.]

A garnishee shall:

(1) complete the garnishment disclosure form and return it to the creditor, and serve a copy on the debtor as required by section 571.75;

(2) retain nonexempt disposable earnings, indebtedness, money,

or other property belonging to the debtor up to 110 percent of the amount claimed in the garnishment summons, as required by section 571.73, except as limited by section 571.922;

(3)(a) remit and deliver the garnished nonexempt disposable earnings, indebtedness, money, or other property to the creditor upon levy, written authorization of the debtor, court order, or operation of law. However, the garnishee shall not be compelled to deliver the nonexempt earnings, indebtedness, money, or other property at any time or place other than as stipulated in the contract between the garnishee and the debtor; or

(b) return the garnished nonexempt disposable earnings, indebtedness, money, or other property to the debtor when the garnishment retention period expires as set forth in section 571.79.

Sec. 11. [571.79] [DISCHARGE OF A GARNISHEE.]

Subject to sections 571.78 and 571.80, the garnishee, after disclosure, shall be discharged of any further obligation to the creditor when one of the following conditions are met:

(a) The garnishee discloses that the garnishee is not indebted to the debtor or does not possess any money or other property belonging to the debtor that is attachable as defined in section 571.73, subdivision 3. The disclosure is conclusive against the creditor and discharges the garnishee from any further obligation to the creditor other than to retain all nonexempt disposable earnings, indebtedness, money, and property of the debtor which was disclosed.

(b) The garnishee discloses that the garnishee is indebted to the debtor as indicated on the garnishment disclosure form. The disclosure is conclusive against the creditor and discharges the garnishee from any further obligation to the creditor other than to retain all nonexempt disposable earnings, indebtedness, money and property of the debtor that was disclosed.

(c) If the garnishee was served with a garnishment summons before entry of judgment against the debtor by the creditor in the civil action, 270 days after the garnishment summons is served the garnishee is discharged and the garnishee shall return any disposable earnings, indebtedness, money and property to the debtor.

(d) If the garnishee was served with a garnishment summons after entry of judgment against the debtor by the creditor in the civil action, 180 days after the garnishment summons is served the garnishee is discharged and the garnishee shall return any disposable earnings, other indebtedness, money and property to the debtor.

(e) If the garnished indebtedness, money, or other property is destroyed without any negligence of the garnishee, the garnishee is discharged of any liability to the creditor for nondelivery of the garnished indebtedness, money and other property.

(f) The court may, upon motion of an interested person, discharge the garnishee as to any disposable earnings, other indebtedness, money, and property in excess of the amount that may be required to satisfy the creditor's claim.

Sec. 12. [571.80] [EXCEPTIONS TO DISCHARGE OF A GARNISHEE.]

The garnishee is not discharged if:

(a) Within 20 days of the service of the garnishee's disclosure, an interested person serves a motion relating to the garnishment. The hearing on the motion must be scheduled to be heard within 30 days of the service of the motion.

(b) The creditor moves the court for leave to file a supplemental complaint against the garnishee, as provided for in section 571.75, subdivision 4, and the court upon proper showing, vacates the discharge of the garnishee.

Sec. 13. [571.81] [GARNISHMENT LIEN; PRIORITIES OF CREDITORS.]

Subdivision 1. [GARNISHMENT LIEN.] From the time of service of a garnishment summons upon a garnishee, either before or after judgment, the creditor has a perfected lien upon all disposable earnings, indebtedness, money, or other property of the debtor that is attached by garnishment pursuant to section 571.73, subdivision 3.

Subd. 2. [PRIORITIES OF CREDITORS.] Except as provided in this subdivision or in section 518.611, subdivision 6, a perfected lien by garnishment is subordinate to a preexisting voluntary or involuntary transfer, setoff, security interest, lien, or other encumbrance that is perfected, but a lien perfected by garnishment is superior to such interests subsequently perfected. Priorities of creditors relating to multiple wage garnishments are set forth in section 571.923. An assignment of earnings made by the debtor or an indebtedness to the garnishee incurred by the debtor within ten days before the receipt of the first garnishment summons on a debt is void as to the creditor.

Subd. 3. [CONTINUITY OF GARNISHMENT LIEN.] When a lien by garnishment is perfected in disposable earnings, indebtedness, money or property, neither that lien nor the date and priority of that

lien is lost for any purpose when the creditor: (1) obtains the debtor's assignment of the same to the creditor; (2) levies execution upon the same or against the garnishee whether or not a release of garnishment accompanies the levy; or (3) obtains a court-ordered sale of the same.

Sec. 14. [571.82] [JUDGMENT AGAINST GARNISHEE.]

Subdivision 1. [JUDGMENT UPON FAILURE TO DISCLOSE.] If a garnishee fails to serve a disclosure as required in this chapter, the court may render judgment against the garnishee, upon motion by the creditor, for an amount not exceeding the creditor's claim against the debtor or 110 percent of the amount claimed in the garnishment summons, whichever is less. The motion shall be supported by an affidavit of the facts and shall be served upon both the debtor and the garnishee. The court upon good cause shown may remove the default and permit the garnishee to disclose on just terms.

Subd. 2. [LIMITATION OF LIABILITY.] Judgment against a garnishee shall be rendered, if at all, for the amount due to the debtor, or as much as may be necessary to satisfy the creditor's claim against the debtor, with costs taxed and allowed in the proceeding against the garnishee but not to exceed 110 percent of the amount claimed in the garnishment summons. This judgment discharges the garnishee from all claims of all parties named in the process in and to the property or money paid, delivered, or accounted for by the garnishee by force of the judgment.

Sec. 15. [571.83] [JOINDER AND INTERVENTION BY PERSONS IN INTEREST.]

If it appears that a person, who is not a party to the action, has or claims an interest in any of the disposable earnings, other indebtedness, money, or other property, the court shall permit that person to intervene or join in the garnishment proceeding. If that person does not appear, the court may summon that person to appear or order the claim barred. The person so appearing or summoned shall be joined as a party and be bound by the judgment.

Sec. 16. [571.84] [VALUATION AND DISPOSITION OF PROPERTY IN HANDS OF THE GARNISHEE.]

On motion of a person in interest the court may: (1) determine the value of property of the debtor in the hands of the garnishee; (2) make an order relative to the keeping, delivery, or sale of the property that is necessary to protect the rights of those interested; or (3) require the property to be delivered to a receiver or other person appointed by the court. If the garnishee refuses or neglects to comply with an order of the court, the garnishee may be held in contempt of

court, and is also liable to the creditor for the value of the property, less the amount of a lien.

Sec. 17. [571.85] [LIEN OF GARNISHEE.]

If it appears that the garnishee has a security interest or lien on the indebtedness or property, the creditor, on motion, may be permitted to pay the amount of the lien or security interest, and the amount that is paid shall be repaid to the creditor, with interest, out of the proceeds from the sale of the indebtedness or property. The garnishee may sell the property to satisfy the lien, if a sale is authorized by the contract between the debtor and garnishee, at any time before the payment or tender.

Sec. 18. [571.86] [DISCHARGE NOT A BAR.]

If a person summoned as a garnishee is discharged pursuant to section 571.79, or released by the creditor, the discharge is no bar to an action brought against the garnishee by the debtor or other claimants.

Sec. 19. [571.87] [TRANSFER TO ANOTHER COURT.]

In case of a change in venue or removal to a United States District Court, whether before or after full disclosure, the garnishment proceeding must be changed to the county or court to which the action is transferred. Written notice of the transfer, specifying the court to which the transfer is made shall be served by the creditor on the garnishee. The transfer carries with it all pending proceedings and any disclosure made in those proceedings.

Sec. 20. [571.88] [APPEAL.]

A party to a garnishment proceeding aggrieved by an order or final judgment may appeal as in other civil cases.

Sec. 21. [571.90] [PENALTY IN CERTAIN GARNISHMENT PROCEEDINGS.]

A creditor who serves or causes to be served a garnishment summons before entry of judgment in the main action, except when garnishment before entry of judgment is permitted under this chapter, is liable to the debtor named in the garnishment proceedings in the amount of \$100, plus actual damages, plus reasonable attorney's fees and costs. Any action by a creditor made in bad faith and in violation of this chapter renders the garnishment void and the creditor liable to the debtor named in the garnishment in the amount of \$100, actual damages, and reasonable attorney's fees and costs.

Sec. 22. [571.91] [GARNISHMENT OF FUNDS AT A FINANCIAL INSTITUTION.]

Sections 571.911 to 571.915 relate to the garnishment of funds at a financial institution.

Sec. 23. [571.911] [EXEMPTION NOTICE; DUTY OF FINANCIAL INSTITUTION.]

If the garnishment summons is used to garnish funds of a debtor who is a natural person and if the funds to be garnished are held on deposit at a financial institution, the creditor shall serve with the garnishee summons two copies of an exemption notice. The notice must be substantially in the form set forth in section 571.912. Failure of the creditor to send the exemption notice renders the garnishment void, and the financial institution shall take no action. Upon receipt of the garnishment summons and exemption notices, the financial institution shall retain as much of the amount under section 571.73 as the financial institution has on deposit owing to the debtor, but not more than 110 percent of the creditor's claim.

Sec. 24. [571.912] [FORM OF EXEMPTION NOTICE.]

The notice informing a debtor that an order for attachment, garnishment summons, or levy by execution has been used to attach funds of the debtor to satisfy a claim must be substantially in the following form:

STATE OF MINNESOTA

COUNTY OF

..... (Creditor)

..... (Debtor)

TO: Debtor

DISTRICT COURT

..... JUDICIAL DISTRICT

EXEMPTION NOTICE

An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on (Bank or other financial institution) where you have an account.

Your account balance is \$

The amount being held is \$

However, all or a portion of the funds, in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) relief based on need. This includes: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-

EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);

(3) unemployment compensation, workers' compensation, or veterans' benefits;

(4) an accident, disability, or retirement pension or annuity;

(5) life insurance proceeds;

(6) the earnings of your minor child; or

(7) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car.)

The following funds are also exempt:

(8) all earnings of a person in category (1);

(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;

(10) 75 percent of every debtor's after tax earnings; and

(11) all of a debtor's after tax earnings below 40 times the federal minimum wage.

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first-in, first-out method is used. This means money deposited first is spent first.) The money being sought by the creditor is being held in your account to give you a chance to claim an exemption.

TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the creditor's attorney. In the event that there is no attorney for the creditor, then such notice shall be sent directly to the creditor. The address for the creditor's attorney or the creditor is set forth below. Both copies must be mailed or delivered on the same day.

If they do not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the sheriff or the creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be held until it is decided.

IF YOU CLAIM AN EXEMPTION:

- (1) nonexempt money can be turned over to the creditor or sheriff;
- (2) the financial institution will keep holding the money claimed to be exempt; and
- (3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

IF THE CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:

the institution will hold the money until a court decides if your exemption claim is valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting the exemption WITHIN TEN DAYS after the objection is mailed or given to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.

MOTION TO DETERMINE EXEMPTION:

At any time after your funds have been held, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the clerk of the above court.

PENALTIES:

If you claim an exemption in bad faith, or if the creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

.....
.....
.....
.....
Name and address of (Attorney
for) Judgment Creditor

EXEMPTION:

(If you claim an exemption complete the following):

(a) Amount of exemption claim.

// I claim ALL the funds being held are exempt.

// I claim SOME of the funds being held are exempt.

The exempt amount is \$

(b) Basis for exemption.

Of the eleven categories listed above, I am in category number
..... (If more than one category applies, you may fill in as
many as apply.) The source of the exempt funds is the following:

.....
.....
.....
(If the source is a type of relief based on need, list the case number
and county:

case number:

county:

I hereby authorize any agency that has distributed relief to me or
any correctional institution in which I was an inmate to disclose to
the above named creditor or its attorney only whether or not I am or
have been a recipient of relief based on need or an inmate of a
correctional institute within the last six months.

I have mailed or delivered a copy of the exemption notice to the
creditor's attorney.

DATED:

DEBTOR

DEBTOR ADDRESS

Sec. 25. [571.913] [EFFECT OF EXEMPTION NOTICE.]

Within two business days after receipt of the garnishment summons and exemption notices, the financial institution shall serve upon the debtor two copies of the exemption notice. The financial institution shall serve the notice by first class mail to the last known address of the debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the debtor, the funds remain subject to the garnishment summons. If the debtor elects to claim an exemption, the debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the creditor within 14 days of the date postmarked on the correspondence mailed to the debtor containing the exemption notices. In the event that there is no attorney for the creditor, then the notice must be sent directly to the creditor. Failure of the debtor to deliver the executed exemption notice does not constitute a waiver of a claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the debtor remain subject to the garnishment summons. All money claimed to be exempt shall be released to the debtor upon the expiration of seven days after the date postmarked the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the creditor interposes an objection to the exemption.

Sec. 26. [571.914] [OBJECTION TO EXEMPTION CLAIM.]

Subdivision 1. [OBJECTIONS.] An objection shall be interposed by mailing or delivering one copy of the written objection to the financial institution and one copy of the written objection to the debtor. A Request for Hearing and Notice of Hearing form must accompany each copy of the written objection.

Both copies of an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

The written objection, and Request for Hearing and Notice of Hearing, must be substantially in the forms set out in subdivisions 2 and 3.

The court shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing. Upon the filing of a Request for Hearing, the clerk shall schedule the matter for hearing no later than five business days from the date of filing. The court administrator shall immediately send a completed copy of the request, including the

hearing date, time, and place to the adverse party and to the financial institution by first class mail.

An order stating whether the debtor's funds are exempt shall be issued by the court within three days of the date of the hearing.

Subd. 2. [NOTICE OF OBJECTION.] (a) The written objection to the debtor must be in substantially the following form:

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

..... (Garnishee)

CREDITOR'S OBJECTION
TO EXEMPTION CLAIM

The creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):

Because of this objection, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you should do so within ten days of your receipt of this objection. You may request a hearing by completing the attached form and filing it with the court administrator.

1. The court shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing.

2. Upon the filing of a Request for Hearing, the clerk shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time and place to the adverse party and to the financial institution by first class mail.

3. If it is possible that the financial institution might not receive the request mailed from the court administrator within ten days, then you may want to personally deliver a copy of the request to the financial institution after you have filed your request with the court.

4. An order stating whether your funds are exempt shall be issued by the court within three days of the date of the hearing.

If you do not file a Request for Hearing within ten days of the date you receive this objection, your financial institution may turn your funds over to your creditor.

If you file a Request for Hearing and your financial institution receives it within ten days of the date it received this objection, your financial institution will retain your funds claimed to be exempt until otherwise ordered by the court, or until the garnishment lapses pursuant to Minnesota Statutes, section 571.79.

(CREDITOR OR CREDITOR'S ATTORNEY.)

Subd. 3. [REQUEST FOR HEARING AND NOTICE FOR HEARING.] The request for hearing accompanying the objection notice must be in substantially the following form:

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

JUDICIAL DISTRICT

.....(Creditor)

.....(Debtor)

REQUEST FOR HEARING
AND NOTICE FOR HEARING

.....(Garnishee)

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of
..... (Debtor) at the (Financial Institution).

I believe the property being held is exempt because

Dated:

(DEBTOR)

(ADDRESS)

HEARING DATE:

TIME:

HEARING PLACE:

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim. Failure to do so could delay the court's decision.)

Subd. 4. [DUTIES OF FINANCIAL INSTITUTION IF OBJECTION IS MADE TO EXEMPTION CLAIM.] Upon receipt of a written objection from the creditor within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a request for hearing from the debtor asserting exemption rights within ten days after receipt of the written objection to the exemption, the funds

remain subject to the garnishment summons as if no claim of exemption had been made. If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided, the financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court, or until the garnishment lapses pursuant to section 571.79.

Sec. 27. [571.915] [RELEASE OF FUNDS.]

At any time the debtor or the creditor may, by a writing dated after the service of the garnishment summons, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Sec. 28. [571.92] [GARNISHMENT OF EARNINGS.]

Sections 571.921 to 571.926 relate to the garnishment of earnings.

Sec. 29. [571.921] [DEFINITIONS.]

For purposes of sections 571.921 to 571.926, the following terms have the meanings given them:

(a) "earnings" means:

(1) compensation paid or payable to an employee for personal service whether denominated as wages, salary, commissions, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program; or

(2) compensation paid or payable to the producer for the sale of agricultural products; livestock or livestock products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2;

(b) "disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld;

(c) "employee" means an individual who performs services subject to the right of the employer to control both what is done and how it is done; and

(d) "employer" means a person for whom an individual performs services as an employee.

Sec. 30. [571.922] [LIMITATION ON WAGE GARNISHMENT.]

Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to garnishment may not exceed the lesser of:

(1) 25 percent of the debtor's disposable earnings; or

(2) the amount by which the debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the garnishment may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child;

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the garnishment summons is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child; or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the garnishment summons is received).

No court may make, execute, or enforce an order or any process in violation of this section.

Sec. 31. [571.923] [MULTIPLE EARNINGS GARNISHMENTS.]

Except as otherwise provided in this chapter or section 518.611, subdivision 6, the priority of multiple earnings garnishments shall be determined by the order in which the garnishment summonses were served on the employer. If the employer is served with two or more garnishment summonses at the same time on the same day,

the garnishment summons issued pursuant to the first judgment entered has priority. If two or more garnishment summonses are served on the same day and are based on judgments entered on the same day or if there are two or more garnishment summonses based on prejudgment garnishment pursuant to section 571.93, then the employer shall select the priority of the earnings garnishments. However, in all cases garnishments shall be effective no longer than 70 days from the date of the service of the garnishment summons.

Sec. 32. [571.924] [GARNISHMENT EXEMPTION NOTICE.]

Subdivision 1. [REQUIREMENT.] The creditor shall serve upon the debtor, no less than ten days before the service of the garnishment summons, a notice that a summons may be issued. The notice shall: (1) be substantially in the form set out in section 571.925; (2) be served personally, in the manner of a summons and complaint, or by first class mail to the last known address of the debtor; (3) inform the debtor that a garnishment summons may be served on the debtor's employer after ten days, and that the debtor may, within that time, cause to be served on the creditor a signed statement under penalties of perjury asserting an entitlement to an exemption from garnishment; (4) inform the debtor of the earnings garnishment exemptions contained in section 550.37, subdivision 14; and (5) advise the debtor of the relief set forth in this chapter to which the debtor may be entitled if a creditor in bad faith disregards a valid claim and the fee, costs, and penalty that may be assessed against a debtor who in bad faith falsely claims an exemption or in bad faith takes action to frustrate the garnishment process.

Subd. 2. [ADDITIONAL NOTICES.] If the garnishment summons has not been served within one year after service of the notice, the creditor shall serve another notice upon the debtor before serving the garnishment summons on the debtor's employer. If more than one year has passed since the service of the creditor's most recent garnishment summons, the creditor shall, no less than ten days before service of another garnishment summons, serve notice that another garnishment summons may be served.

Sec. 33. [571.925] [FORM OF NOTICE.]

The ten-day notice informing a debtor that a garnishment summons may be used to garnish the earnings of an individual must be substantially in the following form:

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

JUDICIAL DISTRICT

.....(Creditor)

against

.....(Debtor)

and

.....(Garnishee)

GARNISHMENT EXEMPTIONNOTICE AND NOTICE OFINTENT TO GARNISH EARNINGSWITHIN TEN DAYSTHE STATE OF MINNESOTATO THE ABOVE NAMED DEBTOR

PLEASE TAKE NOTICE that a garnishment summons or levy may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Some or all of your earnings are exempt from garnishment. If your earnings are garnished, your employer must show you how the amount that is garnished from your earnings was calculated. You have the right to request a hearing if you claim the garnishment is incorrect.

Your earnings are completely exempt from garnishment if you are now a recipient of relief based on need, if you have been a recipient of relief within the last six months, or if you have been an inmate of a correctional institution in the last six months.

Relief based on need includes Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.

If you wish to claim an exemption, you should fill out the appropriate form below, sign it, and send it to the creditor's attorney and the garnishee.

You may wish to contact the attorney for the creditor in order to arrange for a settlement of the debt or contact an attorney to advise you about exemptions or other rights.

PENALTIES

(1) Be advised that even if you claim an exemption, a garnishment summons may still be served on your employer. If your earnings are garnished after you claim an exemption, you may petition the

court for a determination of your exemption. If the court finds that the creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100.

(2) HOWEVER, BE WARNED if you claim an exemption, the creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs and reasonable attorney's fees plus an amount not to exceed \$100.

(3) If after receipt of this notice, you in bad faith take action to frustrate the garnishment, thus requiring the creditor to petition the court to resolve the problem, you will be liable to the creditor for costs and reasonable attorney's fees plus an amount not to exceed \$100.

DATED:

.....
(Attorney for) Creditor

.....
Address

.....
Telephone

DEBTOR'S EXEMPTION CLAIM NOTICE

I hereby claim that my earnings are exempt from garnishment because:

(1) I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received.)

.....
Program Case Number (if known) County

(2) I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.)

.....
Program Case Number (if known) County

(3) I have been an inmate of a correctional institution with the last six months. (Specify the correctional institution and location.)

.....
Correctional Institution Location

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above-named creditor or his attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institution within the last six months. I have mailed or delivered a copy of this form to the creditor or creditor's attorney.

.....
Date

.....
Debtor

.....
Address

Sec. 34. [571.926] [PROCEEDINGS IF NO EXEMPTION STATEMENT IS RECEIVED.]

If no statement of exemption is received by the creditor on an earnings garnishment within ten days from the service of the notice, the creditor may proceed with the garnishment. Failure of the debtor to serve a statement does not constitute a waiver of any right the debtor may have to an exemption. If the statement of exemption is received by the creditor, the creditor may still cause a garnishment summons to be issued subject to sanctions provided in section 571.72, subdivision 6.

Sec. 35. [571.927] [PENALTY FOR RETALIATION FOR GARNISHMENT.]

Subdivision 1. [PROHIBITION.] An employer shall not discharge or otherwise discipline an employee as a result of an earnings garnishment authorized by this chapter.

Subd. 2. [REMEDY.] If an employer violates this section, a court may order the reinstatement of an aggrieved party who demonstrates a violation of this section, and other relief the court considers appropriate. The aggrieved party may bring a civil action within 90 days of the date of the prohibited action. If an employer-employee relationship existed before the violation of this section, the employee shall recover twice the wages lost as a result of this violation.

Subd. 3. [NONWAIVER.] The rights guaranteed by this section may not be waived or altered by employment contract.

Sec. 36. [571.93] [GARNISHMENT BEFORE JUDGMENT OR DEFAULT.]

Subdivision 1. [GROUNDS.] The court may order the issuance of a garnishment summons before judgment or default in the civil action, if a summons and complaint, or copies of these documents, are filed with the appropriate court, and if, upon application to the court, it appears that any of the following grounds exist:

(1) the debtor has assigned, secreted, or disposed of, or is about to assign, secrete, or dispose of, any of the debtor's nonexempt property, with intent to delay or defraud any of debtor's creditors;

(2) the debtor has removed, or is about to remove, any of the debtor's nonexempt property from this state, with intent to delay or defraud any of debtor's creditors;

(3) the debtor has converted or is about to convert any of the debtor's nonexempt property into money or credits, for the purpose of placing the property beyond the reach of any of debtor's creditors;

(4) the debtor has committed an intentional fraud giving rise to the claim upon which the civil action is brought;

(5) the debtor has committed any act or omission, for which the debtor has been convicted of a felony, giving rise to the claim upon which the civil action is brought; or

(6) the purpose of the garnishment is to establish quasi in rem jurisdiction and

(i) debtor is a resident individual having left the state with intent to defraud creditors, or to avoid service; or

(ii) a judgment had previously been obtained in another state consistent with due process; or

(iii) the claim in the civil action is directly related to and arises from the property sought to be attached; or

(iv) no forum is available to obtain a personal judgment against the debtor in the United States or elsewhere; or

(7) the creditor has been unable to serve upon the debtor the summons and complaint in the civil action because the debtor has been inaccessible due to residence and employment in a building where access is restricted.

Subd. 2. [NOTICE AND HEARING REQUIREMENTS.] If the garnishment is before notice and hearing, the requirements of section 571.931 must be met. If the garnishment is after notice and hearing, the requirements of section 571.932 must be met.

Sec. 37. [571.931] [PREJUDGMENT GARNISHMENT BEFORE NOTICE AND HEARING.]

Subdivision 1. [WRITTEN APPLICATION.] A creditor seeking a prejudgment garnishment order in extraordinary circumstances to secure property before the hearing specified in section 571.932 shall

proceed by written application. The application must be accompanied by affidavits or by oral testimony, or both, setting forth in detail:

- (1) the basis and the amount of the claim in the civil action;
- (2) the facts which constitute the conditions for prejudgment garnishment as specified in section 571.93, subdivision 1; and
- (3) a good faith estimate, based on facts known to the creditor, of any harm that would be suffered by the debtor if a prejudgment garnishment order is entered without notice and hearing.

Subd. 2. [CONDITIONS.] A prejudgment garnishment order may be issued before the hearing specified in subdivision 4 only if the following conditions are met:

(1) the creditor has made a good faith effort to inform the debtor of the application for a prejudgment garnishment order or that informing the debtor would endanger the ability of the creditor to recover upon a judgment subsequently awarded;

(2) the creditor has demonstrated the probability of success on the merits;

(3) the creditor has demonstrated the existence of one or more of the grounds specified in section 571.93, subdivision 1; and

(4) due to extraordinary circumstances, the creditor's interests cannot be protected pending a hearing by an appropriate order of the court, other than by directing a prehearing seizure of property.

Subd. 3. [ORDER.] All prejudgment garnishment orders must:

(1) state the names and addresses of all persons whose affidavits were submitted to the court and of all witnesses who gave oral testimony;

(2) contain specific findings of fact, based upon competent evidence presented either in the form of affidavits or oral testimony, supporting the conclusion that each of the conditions in subdivision 1 have been met;

(3) be narrowly drafted to minimize any harm to the debtor as a result of the seizure of the debtor's property; and

(4) provide for the bond required by section 571.932, subdivision 6.

Subd. 4. [SUBSEQUENT HEARING.] If the court issues a prejudgment garnishment order, the order must establish a date for a

hearing at which the debtor may be heard. The subsequent hearing must be conducted at the earliest practicable time. At the hearing, the burden of proof is on the creditor to establish the grounds justifying the prejudgment garnishment order.

Subd. 5. [STANDARDS AT SUBSEQUENT HEARING.] The hearing held pursuant to subdivision 4 must be conducted in accordance with the standards established in section 571.932. In addition, if the court finds that the motion for a prejudgment garnishment order was made in bad faith, the court shall award debtor the actual damages, costs, and reasonable attorney's fees, suffered by reason of the prejudgment garnishment.

Subd. 6. [NOTICE.] The debtor shall be served with a copy of the prejudgment garnishment order issued pursuant to this section together with a copy of all pleadings and other documents not previously served, including any affidavits upon which the claimant intends to rely at the subsequent hearing and a transcript of any oral testimony given at the prejudgment garnishment hearing upon which the creditor intends to rely and a notice of hearing. Service must be in the manner prescribed for personal service of a summons unless that service is impracticable or would be ineffective and the court prescribes an alternative method of service calculated to provide actual notice to the debtor.

The notice of hearing served upon the debtor must be signed by the creditor or the attorney for the creditor and must be accompanied by an exemption notice. The notice of hearing must be accompanied by an exemption notice, and both notices must provide, at a minimum, the following information in substantially the following language:

NOTICE OF HEARING

TO: (the debtor)

The (insert the name of court) Court has ordered the prejudgment garnishment of some of your property in the possession or control of a third party. Some of your property may be exempt from seizure. See the exemption notice below.

The Court issued this Order based upon the claim of (insert name of creditor) that (insert name of creditor) is entitled to a court order for garnishment of your property to secure your payment of any money judgment that (insert name of creditor) may later be obtained against you and that immediate action was necessary.

You have the legal right to challenge (insert name of creditor) claims at a court hearing before a judge. The hearing will be held at the (insert place) on (insert date) at (insert time). You may attend

the court hearing alone or with an attorney. After you have presented your side of the matter, the court will decide what should be done with your property until the lawsuit against you is finally decided.

IF YOU DO NOT ATTEND THIS HEARING, THE COURT MAY ORDER GARNISHMENT OF YOUR PROPERTY.

EXEMPTION NOTICE

Some of your property may be exempt and cannot be garnished. The following is a list of some of the more common exemptions. It is not complete and is subject to section 550.37, and other state and federal laws. If you have questions about an exemption, you should obtain competent legal advice.

- (1) A homestead or the proceeds from the sale of a homestead.
- (2) Household furniture, appliances, phonographs, radios, and televisions up to a total current value of \$4,500 at the time of attachment.
- (3) A manufactured (mobile) home used as your home.
- (4) One motor vehicle currently worth less than \$2,000 after deducting any security interests.
- (5) Farm machinery used by someone principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$10,000.
- (6) Relief based on need. This includes: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.
- (7) Social Security benefits.
- (8) Unemployment compensation, workers' compensation, or veterans' benefits.
- (9) An accident, disability or retirement pension or annuity.
- (10) Life insurance proceeds.
- (11) The earnings of your minor child.

(12) Money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a manufactured (mobile) home, or a car.)

Sec. 38. [571.932] [PREJUDGMENT GARNISHMENT AFTER NOTICE AND HEARING.]

Subdivision 1. [MOTION.] A creditor seeking to obtain an order of garnishment in other than extraordinary circumstances shall proceed by motion. The motion must be accompanied by an affidavit setting forth in detail:

(1) the basis and amount of the claim in the civil action; and

(2) the facts that constitute one or more of the grounds for garnishment as specified in section 571.93, subdivision 1.

Subd. 2. [SERVICE.] The creditor's motion to obtain an order of garnishment together with the creditor's affidavit and notice of hearing must be served in the manner prescribed for service of a summons in a civil action in district court unless that service is impracticable or would be ineffective and the court prescribes an alternative method of service calculated to provide actual notice to the debtor. If the debtor has already appeared in the action, the motion must be served in the manner prescribed for service of pleadings subsequent to the summons. The date of the hearing must be fixed in accordance with Rule 6 of the Minnesota Rules of Civil Procedure for the District Courts, unless a different date is fixed by order of the court.

The notice of hearing served upon the debtor shall be signed by the creditor or the attorney for the creditor and shall provide, at a minimum, the following information in substantially the following language:

NOTICE OF HEARING

TO: (the debtor)

A hearing will be held (insert place) on (insert date) at (insert time) to determine whether nonexempt property belonging to you will be garnished to secure a judgment that may be entered against you.

You may attend the court hearing alone or with an attorney. After you have presented your side of the matter, the court will decide whether your property should be garnished until the lawsuit which has been commenced against you is finally decided.

If the court directs the issuance of a garnishment summons while the lawsuit is pending, you may still keep the property until the lawsuit is decided if you file a bond in an amount set by the court.

IF YOU DO NOT ATTEND THIS HEARING, THE COURT MAY ORDER YOUR NONEXEMPT PROPERTY TO BE GARNISHED.

EXEMPTION NOTICE

Some of your property may be exempt and cannot be garnished. The following is a list of some of the more common exemptions. It is not complete and is subject to section 550.37, and other state and federal laws. The dollar amounts contained in this list are subject to the provisions of section 550.37, subdivision 4a, at the time of the garnishment. If you have questions about an exemption, you should obtain competent legal advice.

- (1) A homestead or the proceeds from the sale of a homestead.
- (2) Household furniture, appliances, phonographs, radios, and televisions up to a total current value of \$5,850.
- (3) A manufactured (mobile) home used as your home.
- (4) One motor vehicle currently worth less than \$2,600 after deducting any security interests.
- (5) Farm machinery used by an individual principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$13,000.
- (6) Relief based on need. This includes: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.
- (7) Social Security benefits.
- (8) Unemployment compensation, workers' compensation, or veterans' benefits.
- (9) An accident, disability or retirement pension or annuity.
- (10) Life insurance proceeds.
- (11) The earnings of your minor child.

(12) Money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a manufactured (mobile) home, or a car.)

Subd. 3. [STANDARDS FOR ORDER.] An order for prejudgment garnishment may be issued only if the creditor has demonstrated the probability of success on the merits, and the creditor has stated facts that show the existence of at least one of the grounds stated in section 571.93, subdivision 1. However, even if those standards are met, the order may not be issued if:

(1) the circumstances do not constitute a risk to collectibility of any judgment that may be entered; or

(2)(i) the debtor has raised a defense to the merits of the creditor's claim or has raised a counterclaim in an amount equal to or greater than the claim and the defense or counterclaim is not frivolous; and

(ii) the interests of the debtor cannot be adequately protected by a bond filed by the creditor pursuant to section 571.932, subdivision 6, if property is garnished; and

(iii) the harm suffered by the debtor as a result of garnishment would be greater than the harm that would be suffered by the creditor if property is not attached.

Subd. 4. [PROTECTION OF CREDITOR.] If the creditor makes the showing prescribed by subdivision 3 but the court nevertheless determines that an order of garnishment should not be issued for the reasons set forth in subdivision 3, clause (2), the court shall enter a further order protecting the rights of the creditor to the extent possible. The order may require that the debtor post a bond in an amount set by the court, that the debtor make the property available for inspection from time to time, that the debtor be restrained from certain activities, including, but not limited to, selling, disposing, or otherwise encumbering property, or any other provision the court considers appropriate.

Subd. 5. [STAY OF ORDER.] An order permitting prejudgment garnishment of property may be stayed up to three days to allow the debtor time to post a bond.

Subd. 6. [BONDING REQUIREMENT.] (a) Before issuing an order of garnishment, the court shall require the creditor to post a bond in the penal sum of at least \$500, conditioned that if judgment be given for the debtor or if the order is vacated, the creditor will pay all costs that may be awarded against the creditor and all damages caused by the garnishment. Damages may be awarded in a sum in excess of the bond only if, before the issuance of the order establishing the amount of the bond, the debtor specifically notified the

creditor and the court of the likelihood that the debtor would suffer the specific damages, or the court finds that the creditor acted in bad faith in bringing or pursuing the garnishment proceeding. In establishing the amount of the bond, the court shall consider the value and nature of the property garnished, the method of retention or storage of the property, the potential harm to the debtor or any party, and other factors that the court considers appropriate. Nothing in this section modifies or restricts the application of section 549.20 or 549.21.

(b) The court may at any time modify the amount of the bond upon its own motion or upon the motion of a party based on the value of the property garnished, the nature of the property attached, the methods of retention or storage of the property, the potential harm to the debtor or a party, or other factor that the court considers appropriate.

(c) In lieu of filing a bond, either the creditor or the debtor may satisfy the bonding requirements by depositing cash, an irrevocable letter of credit, a cashier's check, or a certified check with the court.

Subd. 7. [REQUIREMENTS OF ORDER.] An order for prejudgment garnishment after notice and hearing must:

- (1) contain the findings required by section 571.932, subdivision 3;
- (2) state with particularity the facts upon which the findings are made;
- (3) state that a debtor who attended the hearing was offered an opportunity to identify exempt property, without waiver of the right to claim exemption in property not identified at the hearing;
- (4) direct the issuance of a garnishment summons; and
- (5) specify the amount of the bond.

Sec. 39. [REPEALER.]

Minnesota Statutes 1988, sections 550.041; 550.05; 550.14; 550.141; 571.41; 571.42; 571.43; 571.44; 571.45; 571.46; 571.471; 571.495; 571.50; 571.51; 571.52; 571.53; 571.54; 571.55; 571.56; 571.57; 571.58; 571.59; 571.60; 571.61; 571.62; 571.63; 571.64; 571.65; 571.66; 571.67; 571.68; and 571.69, are repealed.

Sec. 40. [EFFECTIVE DATE.]

Sections 1 to 39 are effective October 1, 1989, and apply to garnishments begun on or after that date.

ARTICLE 4

Section 1. Minnesota Statutes 1988, section 270A.03, subdivision 2, is amended to read:

Subd. 2. "Claimant agency" means any state agency, as defined by section 14.02, subdivision 2, the regents of the University of Minnesota, any district court of the state, any county, any public agency responsible for child support enforcement, and any public agency responsible for the collection of court-ordered restitution, and any person, corporation, or association who is a judgment creditor who has docketed a judgment in district court.

Sec. 2. Minnesota Statutes 1988, section 270A.03, subdivision 4, is amended to read:

Subd. 4. "Debtor" means a natural person obligated on a debt to a claimant agency or having a delinquent account with a public agency responsible for child support enforcement; except that in the case of a judgment debtor, a debtor is a person, corporation, or association against whom a judgment has been docketed in district court.

Sec. 3. Minnesota Statutes 1988, section 270A.03, subdivision 5, is amended to read:

Subd. 5. Except in the case of a judgment, "debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 and restitution. A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment. A debt does not include (1) any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant, or (2) any legal obligation to pay a claimant agency for medical care, including hospitalization if the debtor would have qualified for a low income credit equal to tax liability pursuant to Minnesota Statutes 1984, section 290.06, subdivision 3d, clause (1), at the time when the medical care was rendered, provided that, for purposes of this subdivision, the income amounts in that section shall be adjusted for inflation for debts incurred in calendar years 1987 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 290.06, subdivision 2d, for the expansion of the tax rate brackets.

In the case of a judgment, debt means a judgment in an amount between \$25 and \$4,000 that has been docketed in district court.

Sec. 4. Minnesota Statutes 1988, section 270A.04, subdivision 3, is amended to read:

Subd. 3. For each debt submitted, the claimant agency shall provide the commissioner with the name and social security number of the debtor and any other identifying information required by rules promulgated by the commissioner; except that a judgment creditor need not provide the debtor's social security number.

Sec. 5. Minnesota Statutes 1988, section 270A.07, subdivision 2, is amended to read:

Subd. 2. [SETOFF PROCEDURES.] (a) The commissioner, upon receipt of notification, shall initiate procedures to detect any refunds otherwise payable to the debtor. When the commissioner determines that a refund is due to a debtor whose debt was submitted by a claimant agency, the commissioner shall remit the refund or the amount claimed, whichever is less, to the agency. In transferring or remitting moneys to the claimant agency, the commissioner shall provide information indicating the amount applied against each debtor's obligation and, except in the case of a judgment creditor, the debtor's address listed on the tax return.

(b) The commissioner shall remit to the debtor the amount of any refund due in excess of the debt submitted for setoff by the claimant agency. Notice of the amount setoff and address of the claimant agency shall accompany any disbursement to the debtor of the balance of a refund.

Sec. 6. Minnesota Statutes 1989 Supplement, section 270A.11, is amended to read:

270A.11 [DATA PRIVACY.]

Private and confidential data on individuals may be exchanged among the department, the claimant agency, and the debtor as necessary to accomplish and effectuate the intent of sections 270A.01 to 270A.12, as provided by section 13.05, subdivision 4, clause (b). The department may disclose to the claimant agency only the debtor's name, address, social security number and the amount of the refund; except that in the case of a judgment creditor, the department may disclose only the amount of the refund due the creditor. Any person employed by, or formerly employed by, a claimant agency who discloses any such information for any other purpose, shall be subject to the civil and criminal penalties of section 270B.18."

Delete the title and insert:

"A bill for an act relating to creditors remedies; regulating

executions and garnishments; amending Minnesota Statutes 1988, sections 270A.03, subdivisions 2, 4, and 5; 270A.04, subdivision 3; 270A.07, subdivision 2; and 550.142; Minnesota Statutes 1989 Supplement, section 270A.11; proposing coding for new law in Minnesota Statutes, chapters 550 and 557; proposing coding for new law as Minnesota Statutes, chapter 551; repealing Minnesota Statutes 1988, sections 550.041; 550.05; 550.14; 550.141; 571.41; 571.42; 571.43; 571.44; 571.45; 571.46; 571.471; 571.495; 571.50; 571.51; 571.52; 571.53; 571.54; 571.55; 571.56; 571.57; 571.58; 571.59; 571.60; 571.61; 571.62; 571.63; 571.64; 571.65; 571.66; 571.67; 571.68; and 571.69."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1561, A bill for an act relating to human rights; requiring bias crime curriculum; proposing coding for new law in Minnesota Statutes, chapter 363.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [8.34] [BIAS-MOTIVATED CRIME PROSECUTION TRAINING.]

Subdivision 1. [DEFINITION.] For the purposes of this section, "prosecuting attorney" means a political subdivision's elected or appointed county and city attorneys and any of that attorney's assistants who have criminal prosecution responsibility for bias-motivated crimes.

Subd. 2. [BIAS-MOTIVATED CRIMES COURSE.] By December 31, 1990, the attorney general's office in cooperation with the peace officers standards and training board, the Minnesota County Attorneys Association, and the department of human rights shall create a course of no less than six hours dealing with the prosecution of bias-motivated crimes. The course shall include training on the devastating impact of such crimes on society and on victims. The attorney general shall present this course at least once a year until December 31, 1993.

Subd. 3. [PROSECUTORS MUST MAKE REASONABLE EFFORTS TO ATTEND.] All prosecuting attorneys as defined in subdivision 1 who assumed their responsibilities before July 1, 1990, shall make reasonable efforts to attend the bias-motivated

crimes prosecution course described in subdivision 2 no later than December 31, 1992. All prosecuting attorneys who assume their responsibilities after July 1, 1990 and before December 31, 1993, shall make reasonable efforts to attend the course as soon as possible after their assignment, appointment, or election.

Subd. 4. [RECORDS OF ATTENDANCE.] The head of every agency that employs prosecuting attorneys shall maintain records of the number of prosecuting attorneys who have attended the bias-motivated crimes prosecution course and the number of those who have not. The agency head shall report annually to the attorney general on these attendance and nonattendance figures."

Delete the title and insert:

"A bill for an act relating to crimes; requiring prosecutor training in bias-motivated crimes; proposing coding for new law in Minnesota Statutes, chapter 8."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1843, A bill for an act relating to controlled substances; allowing prosecution in any county of controlled substance offenses involving sales of amounts aggregated over a 90-day period; providing that cocaine base is weighed as a mixture for purposes of first, second, and third degree controlled substance crimes; prohibiting the importing of controlled substances into the state; requiring the reporting of transactions involving substances that are precursors to controlled substances; defining controlled substances for purposes of reporting prenatal exposure to controlled substances; requiring adoption of day-fine systems by each judicial district; creating pilot programs to require drug and alcohol testing as a condition of probation; creating pilot programs to provide chemical dependency treatment services in juvenile and adult jails and correctional facilities; creating pilot programs to require chemical dependency assessments for drug offenders; appropriating money; amending Minnesota Statutes 1988, sections 609.135, by adding a subdivision; and 631.40; Minnesota Statutes 1989 Supplement, sections 152.021; 152.022; 152.023, subdivision 2; 152.028, subdivision 2, and by adding a subdivision; 626.556, subdivision 2; 626.5561, subdivisions 3, 4, and by adding a subdivision; and 626.5562, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 152 and 299A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CONTROLLED SUBSTANCE PROVISIONS

Section 1. Minnesota Statutes 1989 Supplement, section 152.021, is amended to read:

152.021 [CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.]

Subdivision 1. [SALE CRIMES.] A person is guilty of controlled substance crime in the first degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures ~~containing ten grams or more of a total weight of ten grams or more containing~~ cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 200 or more dosage units; or

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ~~100~~ 50 kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 2. [POSSESSION CRIMES.] A person is guilty of a controlled substance crime in the first degree if:

(1) the person unlawfully possesses one or more mixtures ~~containing 25 grams or more of a total weight of 25 grams or more containing~~ cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled

substance is packaged in dosage units, equaling 500 or more dosage units; or

(4) the person unlawfully possesses one or more mixtures of a total weight of 100 kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 3. [PENALTY.] (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than \$1,000,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than four years nor more than 40 years or to payment of a fine of not more than \$1,000,000, or both.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

Sec. 2. Minnesota Statutes 1989 Supplement, section 152.022, is amended to read:

152.022 [CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.]

Subdivision 1. [SALE CRIMES.] A person is guilty of controlled substance crime in the second degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures ~~containing three grams or more of a total weight or three grams or more containing cocaine base;~~

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ~~50~~ 25 kilograms or more containing marijuana or Tetrahydrocannabinols;
or

(5) the person unlawfully sells any amount of a schedule I or II narcotic drug; and:

(i) the person unlawfully sells the substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(ii) the sale occurred in a school zone or a park zone.

(6) the person unlawfully sells any amount of a scheduled I or II narcotic drug in a school zone or a park zone.

Subd. 2. [POSSESSION CRIMES.] A person is guilty of controlled substance crime in the second degree if:

(1) the person unlawfully possesses one or more mixtures ~~containing six grams or more of a total weight of six grams or more containing cocaine base;~~

(2) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 100 or more dosage units; or

(4) the person unlawfully possesses one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 3. [PENALTY.] (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$500,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than three years nor more than 40 years or to payment of a fine of not more than \$500,000, or both.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

Sec. 3. Minnesota Statutes 1989 Supplement, section 152.023, subdivision 1, is amended to read:

Subdivision 1. [SALE CRIMES.] A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully sells one or more mixtures containing a narcotic drug;

(2) the person unlawfully sells one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units;

(3) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule I, II, or III, except a schedule I or II narcotic drug, marijuana or Tetrahydrocannabinols, to a person under the age of 18; or

(4) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing a controlled substance listed in schedule I, II, or III, except a schedule I or II narcotic drug, marijuana or Tetrahydrocannabinols; or

(5) the person unlawfully sells one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 4. Minnesota Statutes 1989 Supplement, section 152.023, subdivision 2, is amended to read:

Subd. 2. [POSSESSION CRIMES.] A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully possesses one or more mixtures ~~containing three grams or more of a~~ total weight of three grams or more containing cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures containing a narcotic drug with the intent to sell it;

(4) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units; or

(5) the person unlawfully possesses any amount of a schedule I or II narcotic drug in a school zone or a park zone; or

(6) the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 5. Minnesota Statutes 1989 Supplement, section 152.025, subdivision 2, is amended to read:

Subd. 2. [POSSESSION AND OTHER CRIMES.] A person is guilty of controlled substance crime in the fifth degree if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person unlawfully possesses one or more mixtures containing marijuana or Tetrahydrocannabinols with the intent to sell it, except a small amount of marijuana for no remuneration; or

(3) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

Sec. 6. [152.0261] [IMPORTING CONTROLLED SUBSTANCES ACROSS STATE BORDERS.]

Subdivision 1. [FELONY.] A person who crosses a state or international border into Minnesota while in possession of an amount of a controlled substance that constitutes a first degree controlled substance crime under section 152.021, subdivision 2, is guilty of importing controlled substances and may be sentenced as provided in subdivision 3.

Subd. 2. [JURISDICTION.] A violation of subdivision 1 may be charged, indicted, and tried in any county, but not more than one county, into or through which the actor has brought the controlled substance.

Subd. 3. [PENALTY.] A person convicted of violating this section is guilty of a felony and may be sentenced to imprisonment for not more than 35 years or to payment of a fine of not more than \$1,250,000, or both.

Sec. 7. Minnesota Statutes 1989 Supplement, section 152.028, subdivision 2, is amended to read:

Subd. 2. [PASSENGER AUTOMOBILES.] The presence of a controlled substance in a passenger automobile permits the factfinder to infer knowing possession of the controlled substance by the

driver or person in control of the automobile when the controlled substance was in the automobile. This inference may only be made if the defendant is charged with violating section 152.021, 152.022, or 152.023, or section 6. The inference does not apply:

(1) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;

(2) to any person in the automobile if one of them legally possesses a controlled substance; or

(3) when the controlled substance is concealed on the person of one of the occupants.

Sec. 8. Minnesota Statutes 1989 Supplement, section 152.028, is amended by adding a subdivision to read:

Subd. 3. [AIRLINE PASSENGER BAGGAGE.] The presence of a controlled substance in baggage received at an airport in Minnesota permits the factfinder to infer knowing possession of the controlled substance by the airline passenger to whom the baggage was checked.

Sec. 9. [152.0971] [TERMS.]

Subdivision 1. [TERMS.] For purposes of sections 9 to 13, the following terms have the meanings given.

Subd. 2. [FURNISH.] "Furnish" means to sell, transfer, deliver, send, or supply a precursor substance by any other means.

Subd. 3. [SUPPLIER.] A "supplier" is a manufacturer, wholesaler, retailer, or any other person who furnishes a precursor substance to another person in this state.

Sec. 10. [152.0972] [PRECURSORS OF CONTROLLED SUBSTANCES.]

Subdivision 1. [PRECURSOR SUBSTANCES.] The following precursors of controlled substances are "precursor substances":

(1) phenyl-2-propanone;

(2) methamphetamine;

(3) ethylamine;

(4) d-lysergic acid;

- (5) ergotamine tartrate;
- (6) diethyl malonate;
- (7) malonic acid;
- (8) ethyl malonate;
- (9) barbituric acid;
- (10) piperidine;
- (11) n-acetylanthranilic acid;
- (12) pyrrolidine;
- (13) phenylacetic acid;
- (14) anthranilic acid;
- (15) morpholine;
- (16) ephedrine;
- (17) pseudoephedrine;
- (18) norpseudoephedrine;
- (19) phenylpropanolamine;
- (20) propionic anhydride;
- (21) isosafrole;
- (22) safrole;
- (23) piperal;
- (24) thionylchloride;
- (25) benzyl cyanide;
- (26) ergonovine maleate;
- (27) n-methylephedrine;
- (28) n-ethylpseudoephedrine;

(29) n-methypseudoephedrine;

(30) n-ethylpseudoephedrine;

(31) chloroephedrine;

(32) chloropseudophedrine; and

(33) any substance added to this list by rule adopted by the state board of pharmacy.

Subd. 2. [ADOPTION OF RULES.] The state board of pharmacy may adopt rules under chapter 14 that add a substance to this section if the substance is a precursor to a controlled substance or delete a substance from this section. A rule adding or deleting a substance is effective only until December 31 of the year following the calendar year during which the rule was adopted.

Sec. 11. [152.0973] [REPORT OF TRANSACTION.]

Subdivision 1. [PREDELIVERY NOTICE.] A supplier who furnishes a precursor substance to a person in this state shall, not less than 21 days before delivery of the substance, submit a report of the transaction, which includes the identification information specified in subdivision 3, to the bureau of criminal apprehension.

Subd. 2. [REGULAR REPORTS.] The bureau may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the supplier and the purchaser involving the same substance if the superintendent of the bureau of criminal apprehension determines that:

(1) a pattern of regular supply of the precursor substance exists between the supplier and the purchaser of the substance; or

(2) the purchaser has established a record of utilization of the precursor substance for lawful purposes.

Subd. 3. [PROPER IDENTIFICATION.] A report submitted by a supplier under this section must include:

(1) a copy of a driver's license or state identification card that contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number;

(2) the motor vehicle license number of any motor vehicle owned or operated by the purchaser;

(3) a letter of authorization from the business for which the precursor substance is being furnished, including the business license number and address of the business, a full description of how the precursor substance is to be used, and the signature of the purchaser;

(4) the signature of the supplier as a witness to the signature and identification of the purchaser;

(5) the type and quantity of the precursor substance; and

(6) the method of delivery used.

Subd. 4. [RETENTION OF RECORDS.] A supplier shall retain a copy of the report filed under this section for five years.

Sec. 12. [152.0974] [EXCEPTIONS.]

Sections 9 to 13 do not apply to:

(1) a pharmacist or other authorized person who sells or furnishes a precursor substance on the prescription of a physician, dentist, podiatrist, or veterinarian;

(2) a physician, dentist, podiatrist, or veterinarian who administers or furnishes a precursor substance to patients;

(3) a manufacturer or wholesaler licensed by the state board of pharmacy who sells, transfers, or otherwise furnishes a precursor substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian; or

(4) a sale, transfer, furnishing, or receipt of any drug that contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and is lawfully sold, transferred, or furnished over the counter without a prescription under the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301, et seq., or regulations adopted under that act.

Sec. 13. [152.0975] [PENALTY.]

Subdivision 1. [MISDEMEANOR.] A person who does not submit a report as required by section 11 is guilty of a misdemeanor.

Subd. 2. [GROSS MISDEMEANOR.] (a) A person who knowingly submits a report with false or fictitious information is guilty of a gross misdemeanor.

(b) A person who is convicted of violating subdivision 1 and has previously been convicted of a violation of subdivision 1 is guilty of

a gross misdemeanor. The subsequent conviction must be for an offense that occurred after the earlier conviction.

Sec. 14. [299A.331] [DARE ADVISORY COUNCIL.]

Subdivision 1. [MEMBERSHIP.] The advisory council on drug abuse resistance education consists of:

- (1) the attorney general who shall serve as chair;
- (2) the commissioner of public safety;
- (3) the commissioner of education;
- (4) three representatives of law enforcement appointed by the commissioner of public safety;
- (5) three representatives of teachers appointed by the commissioner of education;
- (6) a representative of the DARE officers association; and
- (7) seven citizens appointed by the attorney general.

Subd. 2. [DUTIES.] The council shall:

- (1) advise the bureau of criminal apprehension in establishing a drug abuse resistance education training program for peace officers;
- (2) promote the drug abuse resistance education program throughout the state;
- (3) monitor the drug abuse resistance education officer training program in conjunction with the bureau of criminal apprehension;
- (4) provide coordination and assistance to local communities who wish to implement drug abuse resistance education programs in their local school systems;
- (5) encourage parental and community involvement in drug abuse resistance education programs;
- (6) develop a private/public partnership to provide for continuation and funding for the drug abuse resistance education program; and
- (7) receive funds from public and private sources for use in the drug abuse resistance education program.

Sec. 15. Minnesota Statutes 1988, section 609.135, is amended by adding a subdivision to read:

Subd. 8. [CONTROLLED SUBSTANCE CONVICTIONS.] (a) A court may order periodic drug testing as a condition of probation if:

(1) the court convicts a person for a felony violation of chapter 152, or the court convicts a person for a felony violation of chapter 609 and the court finds that the convicted person has a history of chemical dependency; and

(2) the court stays the imposition or execution of the sentence.

(b) The periodic drug testing must determine whether the offender has used a controlled substance or alcohol. The testing must be done at the direction of the probation officer assigned to the case, and must be unannounced.

(c) The probation officer shall report to the court if an offender refuses the test or if an offender's test detects the presence of a controlled substance or alcohol. On receiving notice of refusal or failure, the court may revoke the stay under section 609.14, subdivision 2.

Sec. 16. Minnesota Statutes 1988, section 631.40, is amended to read:

**631.40 [JUDGMENT ON CONVICTION; JUDGMENT ROLL
DEFINED NOTICE TO LICENSING BOARDS.]**

Subdivision 1. [JUDGMENT ROLL.] When judgment upon a conviction is rendered, the court administrator shall enter the judgment upon the minutes, stating briefly the offense for which the conviction was had. The court administrator shall then immediately attach together and file the papers specified in clauses (1) to (5). The judgment roll consists of the papers specified in clauses (1) to (5):

(1) a copy of the minutes of challenge made by the defendant to the panel of the grand jury, or to an individual grand juror, and the proceedings and decisions on the challenges;

(2) the indictment or complaint and a copy of the minutes of the plea or motion to dismiss or to grant appropriate relief;

(3) a copy of the minutes of a challenge made to the panel of the trial jury or to an individual juror, and the proceedings and decision on the challenge;

(4) a copy of the minutes of the trial; and

- (5) a copy of the minutes of the judgment.

Subd. 2. [CONTROLLED SUBSTANCE CONVICTIONS.] When a court convicts a person of a felony under chapter 152, the court shall order that the presentence investigation include information about any business or professional licenses held by the offender. If the offender holds a business or professional license, the court administrator shall send a certified copy of the conviction to the appropriate licensing board.

Sec. 17. [CHEMICAL DEPENDENCY TREATMENT IN LOCAL PROGRAMS; PILOT PROGRAMS.]

The commissioner of corrections shall develop pilot programs to provide chemical dependency treatment through services in local correctional and treatment programs. The pilot programs shall:

- (1) increase the availability of chemical dependency treatment services for adult and juvenile offenders;
- (2) provide for professional evaluation of the need for treatment and aftercare of individual offenders;
- (3) coordinate with local chemical dependency resources; and
- (4) facilitate the provision of aftercare services for chemically dependent persons after their release.

Sec. 18. [DAY-FINES.]

Subdivision 1. [MODEL SYSTEM.] By June 1, 1991, the sentencing guidelines commission shall develop a model day-fine system. Each judicial district must adopt either the model system or its own day-fine system by January 1, 1992.

Subd. 2. [COMPONENTS.] A day-fine system adopted under this section must provide for a two-step sentencing procedure for those receiving a fine as part of a probationary felony sentence. In the first step, the court determines how many punishment points a person will receive, taking into account the severity of the offense and the criminal history of the offender. The second step is to multiply the punishment points by a factor that accounts for the offender's financial circumstances. The goal of the system is to provide a fine that is proportional to the seriousness of the offense and largely equal in impact among offenders with different financial circumstances. The system may provide for community service in lieu of fines for offenders whose means are so limited that the payment of a fine would be unlikely.

Sec. 19. [INCARCERATION OF DRUG DEALERS.]

The legislature finds that persons convicted of a felony offense for selling controlled substances should be incarcerated in a jail or correctional facility. The legislature strongly advises that courts make full use of the sentences provided under state law and the sentencing guidelines for persons convicted of selling controlled substances.

Sec. 20. [SUPREME COURT STUDIES.]

Subdivision 1. [JOINDER STUDY.] The supreme court shall study the feasibility of amending rule 17.03 of the Minnesota Rules of Criminal Procedure to facilitate the joint trial of certain defendants being prosecuted for possession of a controlled substance where separate trials do not serve the interests of justice. The court shall consider whether the amendment of rule 17.03 would have an unfair impact on particular economic classes or ethnic groups or otherwise create unfair categories of defendants.

Subd. 2. [CASH BAIL STUDY.] The supreme court shall study the feasibility of amending the Minnesota Rules of Criminal Procedure to provide a hearing when a defendant pays a large bail amount in cash to allow the court to determine whether the funds are the proceeds of the unlawful sale of controlled substances.

Sec. 21. [PROBATIONARY DRUG TESTING; PILOT PROGRAMS.]

The commissioner of corrections shall develop pilot programs to evaluate the value of mandating testing for drugs and alcohol as a condition of probation. One pilot program must be in a metropolitan area jurisdiction and one must be in a nonmetropolitan area jurisdiction. The programs must require courts to order testing for drugs and alcohol as a condition of probation for offenders described in section 15. The programs shall comply with the criteria outlined in section 15, paragraphs (b) and (c).

Sec. 22. [CHEMICAL DEPENDENCY ASSESSMENTS; PILOT PROGRAMS.]

The commissioner of corrections shall create pilot programs in two or more jurisdictions to conduct chemical dependency assessments of all persons convicted of and juveniles adjudicated for felony violations of Minnesota Statutes, chapter 152, and persons convicted of and juveniles adjudicated for selected Minnesota Statutes, chapter 609, felonies. The assessment shall evaluate the offender's need for chemical dependency treatment services and recommend a program to meet the offender's needs. The assessor qualifications and assessment and placement criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under Minnesota Statutes, chapter 254B, are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of

Minnesota Rules, parts 9530.6600 to 9530.6655, and parts 9530.7000 to 9530.7030.

Sec. 23. [EFFECTIVE DATE.]

Sections 1 to 8, 13, and 16 are effective August 1, 1990, and apply to crimes committed on or after that date.

ARTICLE 2

INTENSIVE COMMUNITY SUPERVISION

Section 1. Minnesota Statutes 1988, section 244.05, is amended by adding a subdivision to read:

Subd. 6. [INTENSIVE COMMUNITY SUPERVISION.] The commissioner may order that an inmate be placed on intensive community supervision, as described in sections 4 and 5, for all or part of the inmate's supervised release term. If the inmate violates the conditions of the intensive community supervision, the commissioner shall impose sanctions as provided in subdivision 3 and section 4.

Sec. 2. [244.12] [INTENSIVE COMMUNITY SUPERVISION.]

Subdivision 1. [GENERALLY.] The commissioner may order that an offender who meets the eligibility requirements of subdivision 2 be placed on intensive community supervision, as described in sections 4 and 5, for all or part of the offender's prison sentence or supervised release term.

Subd. 2. [ELIGIBILITY.] The commissioner must limit the intensive community supervision program to the following persons:

- (1) inmates who are serving a supervised release term;
- (2) offenders who are committed to the commissioner's custody following revocation of a stayed sentence;
- (3) offenders who are committed to the commissioner's custody for a prison sentence of 27 months or less, who did not receive a dispositional departure under the sentence guidelines, and who have already served a period of incarceration as a result of the offense for which they are committed;
- (4) offenders who were not committed to the commissioner's custody under a statutory mandatory minimum sentence; and
- (5) offenders who were not committed to the commissioner's

custody following a conviction for murder, manslaughter, or criminal vehicular operation resulting in death.

Sec. 3. [244.13] [INTENSIVE COMMUNITY SUPERVISION; ESTABLISHMENT OF PROGRAMS.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of corrections shall establish programs for those designated by the commissioner to serve all or part of a prison sentence or a supervised release term on intensive community supervision. The commissioner shall locate the programs so that at least one-half of the money appropriated for the programs in each year is used for programs in community corrections act counties.

Subd. 2. [TRAINING.] The commissioner shall develop specialized training programs for probation officers assigned to the intensive community supervision program. The probation officer caseload shall not exceed the ratio of 30 offenders to two probation officers.

Subd. 3. [EVALUATION.] The commissioner shall develop a system for gathering and analyzing information concerning the value and effectiveness of the intensive community supervision programs and shall compile a report to the chairs of the senate and house judiciary committees by January 1 of each odd-numbered year.

Sec. 4. [244.14] [INTENSIVE COMMUNITY SUPERVISION; BASIC ELEMENTS.]

Subdivision 1. [REQUIREMENTS.] This section governs the intensive community supervision programs established under section 3. The commissioner shall operate the programs in conformance with this section. The commissioner shall administer the programs to further the following goals:

- (1) to punish the offender;
- (2) to protect the safety of the public;
- (3) to facilitate employment of the offender during the intensive community supervision and afterward; and
- (4) to require the payment of restitution ordered by the court to compensate the victims of the offender's crime.

Subd. 2. [GOOD TIME NOT AVAILABLE.] An offender serving a prison sentence on intensive community supervision does not earn good time, notwithstanding section 244.04.

Subd. 3. [SANCTIONS.] The commissioner shall impose severe and meaningful sanctions for violating the conditions of an intensive community supervision program. The commissioner shall provide for revocation of intensive community supervision of an offender who:

- (1) fails to follow the rules of the program;
- (2) commits any misdemeanor, gross misdemeanor, or felony offense; or
- (3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances. The revocation of intensive community supervision is governed by the procedures in the commissioner's rules adopted under section 244.05, subdivision 2.

An offender whose intensive community supervision is revoked shall be imprisoned for a time period equal to the offender's original term of imprisonment, but in no case for longer than the time remaining in the offender's sentence. "Original term of imprisonment" means a time period equal to two-thirds of the prison sentence originally executed by the sentencing court.

Subd. 4. [ALL PHASES.] Throughout all phases of an intensive community supervision program, the offender shall submit at any time to an unannounced search of the offender's person, vehicle, or premises by a probation officer. If the offender received a restitution order as part of the sentence, the offender shall make weekly payments as scheduled by the probation officer, until the full amount is paid.

Sec. 5. [244.15] [INTENSIVE COMMUNITY SUPERVISION; PHASES I TO IV.]

Subdivision 1. [DURATION.] Phase I of an intensive community supervision program is six months, or one-half the presumptive imprisonment sentence under the sentencing guidelines, whichever is less. Phase II lasts for at least four months. Phase III lasts for at least two months. Phase IV continues indefinitely.

Subd. 2. [RANDOM DRUG TESTING.] (a) During phase I, the offender will be subjected to weekly urinalysis and breath tests to detect the presence of controlled substances or alcohol. The tests will be random and unannounced.

(b) During phase II, the tests will be done twice monthly.

(c) During phases III and IV, the tests will be done at random at the frequency determined by the probation officer.

Subd. 3. [HOUSE ARREST.] (a) During phase I, the offender will be under house arrest in a residence approved by the offender's probation officer and may not move to another residence without permission. "House arrest" means that the offender's movements will be severely restricted and continually monitored by the assigned probation officer.

(b) During phase II, modified house arrest is imposed.

(c) During phases III and IV, the offender is subjected to a daily curfew instead of house arrest.

Subd. 4. [FACE-TO-FACE CONTACTS.] (a) During phase I, the assigned probation officer shall have at least four face-to-face contacts with the offender each week.

(b) During phase II, two face-to-face contacts a week are required.

(c) During phase III, one face-to-face contact a week is required.

(d) During phase IV, two face-to-face contacts a month are required.

Subd. 5. [WORK REQUIRED.] During phases I, II, III, and IV, the offender must spend at least 40 hours a week performing approved work, undertaking constructive activity designed to obtain employment, or attending a treatment or education program as directed by the commissioner.

Subd. 6. [ELECTRONIC SURVEILLANCE.] During any phase, the offender may be placed on electronic surveillance if the probation officer so directs.

Subd. 7. [OTHER REQUIREMENTS.] The commissioner may include any other conditions in the various phases of the intensive community supervision program that the commissioner finds necessary and appropriate.

ARTICLE 3

MATERNAL AND CHILD HEALTH PROVISIONS

Section 1. Minnesota Statutes 1988, section 145.88, is amended to read:

145.88 [PURPOSE.]

The legislature finds that it is in the public interest to assure:

(a) Statewide planning and coordination of maternal and child health services through the acquisition and analysis of population-based health data, provision of technical support and training, and coordination of the various public and private maternal and child health efforts; and

(b) Support for targeted maternal and child health services in communities with significant populations of high risk, low income families through a grants process.

Federal money received by the Minnesota department of health, pursuant to United States Code, title 42, sections 701 to 709, shall be expended to:

(1) assure access to quality maternal and child health services for mothers and children, especially those of low income and with limited availability to health services and those children at risk of physical, neurological, emotional, and developmental problems arising from chemical abuse by a mother during pregnancy;

(2) reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children;

(3) reduce the need for inpatient and long-term care services and to otherwise promote the health of mothers and children, especially by providing preventive and primary care services for low income mothers and children and prenatal, delivery and postpartum care for low income mothers;

(4) provide rehabilitative services for blind and disabled children under age 16 receiving benefits under Title XVI of the Social Security Act; and

(5) provide and locate medical, surgical, corrective and other service for children who are crippled or who are suffering from conditions that lead to crippling.

Sec. 2. Minnesota Statutes 1989 Supplement, section 145.882, subdivision 7, is amended to read:

Subd. 7. [USE OF BLOCK GRANT MONEY.] (a) Maternal and child health block grant money allocated to a community health board or community health services area under this section must be used for qualified programs for high risk and low income individuals. Block grant money must be used for programs that:

(1) specifically address the highest risk populations, particularly low income and minority groups with a high rate of infant mortality and children with low birth weight, by providing services, including pre-pregnancy family planning services, calculated to produce mea-

surable decreases in infant mortality rates, instances of children with low birth weight, and medical complications associated with pregnancy and childbirth, including infant mortality, low birth rates, and medical complications arising from chemical abuse by a mother during pregnancy;

(2) specifically target pregnant women whose age, medical condition, ~~or~~ maternal history, or chemical abuse substantially increases the likelihood of complications associated with pregnancy and childbirth or the birth of a child with an illness, disability, or special medical needs;

(3) specifically address the health needs of young children who have or are likely to have a chronic disease or disability or special medical needs, including physical, neurological, emotional, and developmental problems that arise from chemical abuse by a mother during pregnancy;

(4) provide family planning and preventive medical care for specifically identified target populations, such as minority and low income teenagers, in a manner calculated to decrease the occurrence of inappropriate pregnancy and minimize the risk of complications associated with pregnancy and childbirth; or

(5) specifically address the frequency and severity of childhood injuries in high risk target populations by providing services calculated to produce measurable decreases in mortality and morbidity. However, money may be used for this purpose only if the community health board's application includes program components for the purposes in clauses (1) to (4) in the proposed geographic service area and the total expenditure for injury-related programs under this clause does not exceed ten percent of the total allocation under subdivision 3.

(b) Maternal and child health block grant money may be used for purposes other than the purposes listed in this subdivision only under the following conditions:

(1) the community health board or community health services area can demonstrate that existing programs fully address the needs of the highest risk target populations described in this subdivision; or

(2) the money is used to continue projects that received funding before creation of the maternal and child health block grant in 1981.

(c) Projects that received funding before creation of the maternal and child health block grant in 1981, must be allocated at least the amount of maternal and child health special project grant funds received in 1989, unless (1) the local board of health provides

equivalent alternative funding for the project from another source; or (2) the local board of health demonstrates that the need for the specific services provided by the project has significantly decreased as a result of changes in the demographic characteristics of the population, or other factors that have a major impact on the demand for services. If the amount of federal funding to the state for the maternal and child health block grant is decreased, these projects must receive a proportional decrease as required in subdivision 1. Increases in allocation amounts to local boards of health under subdivision 4 may be used to increase funding levels for these projects.

Sec. 3. Minnesota Statutes 1989 Supplement, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that there is a duty to report if a lack of medical care may cause imminent and serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, or medical care, a duty to provide that care. "Neglect" includes prenatal

exposure to a controlled substance, as defined in section 626.5561 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. Neglect also means "medical neglect" as defined in section 260.015, subdivision 2a, clause (5).

(d) "Physical abuse" means any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

Sec. 4. Minnesota Statutes 1989 Supplement, section 626.5561, subdivision 1, is amended to read:

Subdivision 1. [REPORTS REQUIRED.] A person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. An oral

report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter.

Sec. 5. Minnesota Statutes 1989 Supplement, section 626.5561, subdivision 3, is amended to read:

Subd. 3. [RELATED PROVISIONS.] Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, 7, 8, and 11.

Sec. 6. Minnesota Statutes 1989 Supplement, section 626.5561, subdivision 4, is amended to read:

Subd. 4. [CONTROLLED SUBSTANCES.] For purposes of this section and section 626.5562, "controlled substance" means a controlled substance classified in schedule I, II, or III under chapter 152 listed in section 253B.02, subdivision 2.

Sec. 7. Minnesota Statutes 1989 Supplement, section 626.5561, is amended by adding a subdivision to read:

Subd. 5. [IMMUNITY.] (a) A person making a voluntary or mandated report under subdivision 1 or assisting in an assessment under subdivision 2 is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith.

(b) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

Sec. 8. Minnesota Statutes 1989 Supplement, section 626.5562, subdivision 1, is amended to read:

Subdivision 1. [TEST; REPORT.] A physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. If the test results are positive, the physician shall report the results under section 626.5561. A negative test result does not eliminate the obligation to report under section 626.5561, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

Sec. 9. Minnesota Statutes 1989 Supplement, section 626.5562, subdivision 2, is amended to read:

Subd. 2. [NEWBORNS.] A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose ~~prior to the birth during the pregnancy~~. If the test results are positive, the physician shall report the results as neglect under section 626.556. A negative test result does not eliminate the obligation to report under section 626.556 if other medical evidence of prenatal exposure to a controlled substance is present.

Sec. 10. Minnesota Statutes 1989 Supplement, section 626.5562, subdivision 4, is amended to read:

Subd. 4. [IMMUNITY FROM LIABILITY.] Any physician or other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice.

ARTICLE 4

ALCOHOL-RELATED PROVISIONS

Section 1. Minnesota Statutes 1988, section 169.121, subdivision 3a, is amended to read:

Subd. 3a. [HABITUAL OFFENDER PENALTIES.] (a) If a person has been convicted under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them, and if the person is then convicted of violating this section or an ordinance in conformity with it ~~(1)~~ once within five years after the first conviction or ~~(2)~~ two or more times within ten years after the first conviction, the person must be sentenced:

(1) to a minimum of 30 days imprisonment; or

(2) to a minimum of ten days imprisonment and to eight hours of community work service for each day less than 30 days but more than ten days that the person is ordered to serve in jail.

A judge may not sentence the person to home detention in lieu of the minimum ten-day jail term. Notwithstanding section 609.135, the above sentence must be executed, unless the court departs from the mandatory minimum sentence under paragraph (b) or (c).

(b) Prior to sentencing the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the prosecutor's motion and if it finds that substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum term of imprisonment established by this subdivision.

(c) The court may, on its own motion, sentence the defendant without regard to the mandatory minimum term of imprisonment established by this subdivision if it finds that substantial mitigating factors exist and if its sentencing departure is accompanied by a statement on the record of the reasons for it.

(d) When any portion of the sentence required by this subdivision is not executed, the court should impose a sentence that is proportional to the extent of the offender's prior criminal and moving traffic violation record.

Sec. 2. Minnesota Statutes 1989 Supplement, section 169.121, subdivision 3b, is amended to read:

Subd. 3b. [HABITUAL OFFENDERS; CHEMICAL USE TREATMENT.] If a person has been convicted under subdivision 1, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them, and if the person is then convicted of violating subdivision 1, section 169.129, or an ordinance in conformity with either of them (1) once within five years after the first conviction or (2) two or more times within ten years after the first conviction, the court must order the person to submit to the level of care recommended in the alcohol and chemical use assessment required under section 169.126.

If a person is convicted under section 169.121, subdivision 1a, the court shall order the person to submit to the level of care recommended in the alcohol and chemical use assessment required under section 169.126.

Sec. 3. Minnesota Statutes 1988, section 169.121, subdivision 5, is amended to read:

Subd. 5. Except as otherwise provided in subdivision 3b, when a court sentences a person convicted of violating this section, section 169.129, or an ordinance in conformity with either of them, the court

may stay imposition or execution of any sentence authorized by subdivision 3 or 4, except the revocation of the driver's license, on the condition that the convicted person submit to the level of care recommended in the alcohol and chemical use assessment report required under section 169.126. If the court does not order a level of care in accordance with the assessment report recommendation as a condition of a stay of imposition or execution, it shall state on the record its reasons for not following the assessment report recommendation. A stay of imposition or execution shall be in the manner provided in section 609.135. The court shall report to the commissioner of public safety any stay of imposition or execution of sentence granted under the provisions of this section.

Sec. 4. Minnesota Statutes 1988, section 169.124, subdivision 1, is amended to read:

Subdivision 1. [COUNTY BOARD.] The county board of every county shall establish an alcohol safety program designed to provide an alcohol problem screening and chemical use assessment of persons convicted of an offense enumerated in section 169.126, subdivision 1.

Sec. 5. Minnesota Statutes 1988, section 169.124, subdivision 2, is amended to read:

Subd. 2. [ASSESSMENT REIMBURSEMENT RULES.] The alcohol problem assessment shall be conducted under the direction of the court and by such persons or agencies as the court deems qualified to provide the alcohol problem assessment and assessment report as described in section 169.126. The alcohol problem assessment may be conducted by court services probation officers having the required knowledge and skills in the assessment of alcohol problems; by alcoholism counselors; by persons conducting court sponsored driver improvement clinics if in the judgment of the court such persons have the required knowledge and skills in the assessment of alcohol problems; by appropriate staff members of public or private alcohol treatment programs and agencies or mental health clinics; by court approved volunteer workers such as members of alcoholics anonymous; or by such other qualified persons as the court may direct. The commissioner of public safety shall provide the courts with information and assistance in establishing alcohol problem assessment programs suited to the needs of the area served by each court. The commissioner shall consult with the alcohol and other drug abuse section in the department of human services and with local community mental health boards in providing such information and assistance to the courts. The commissioner of public safety shall promulgate rules and standards under chapter 14, consistent with this subdivision, for reimbursement under the provisions of subdivision 3.

Sec. 6. Minnesota Statutes 1988, section 169.126, subdivision 1, is amended to read:

Subdivision 1. [SCREENING ASSESSMENT REQUIREMENT.] An alcohol ~~problem screening~~ screening and chemical use assessment shall be conducted and a ~~screening~~ assessment report submitted to the court by the county agency administering the alcohol safety program when:

(a) The defendant is convicted of an offense described in section 169.121 or 169.129; or

(b) The defendant is arrested for committing an offense described in section 169.121 or 169.129 but is convicted of another offense arising out of the circumstances surrounding the arrest.

Sec. 7. Minnesota Statutes 1989 Supplement, section 169.126, subdivision 4, is amended to read:

Subd. 4. [ALCOHOL AND CHEMICAL USE ASSESSMENT.] ~~(a) Except as otherwise provided in paragraph (d), when an alcohol problem screening shows that the defendant has an identifiable chemical use problem;~~ The court shall require the defendant to undergo a comprehensive alcohol and chemical use assessment conducted by an assessor qualified designated by the court to the commissioner of public safety as meeting the training and qualification requirements under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. Notwithstanding section 13.82, the assessor shall have access to any police reports, laboratory test results, and other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. An assessor providing ~~a~~ an alcohol and chemical use assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An appointment for the defendant to undergo the alcohol and chemical use assessment shall be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The comprehensive alcohol and chemical use assessment must be completed no later than three weeks after the defendant's court appearance. If the assessment is not performed within this time limit, the county where the defendant is to be sentenced shall perform the assessment. The county of financial responsibility shall be determined under chapter 256G.

Subd. 4a. [REPORT.] (a) The assessment report shall contain an

evaluation of the convicted defendant concerning the defendant's prior traffic record, characteristics and history of alcohol and chemical use problems, and amenability to rehabilitation through the alcohol safety program. The report shall be classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The alcohol and chemical use assessment report must (1) include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3, (2) contain recommendations for other appropriate remedial action or care, that may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a combination of them, or (3) the report must specifically explain why no level of care or action was recommended.

(c) The state shall reimburse the county for the entire cost of each alcohol and chemical use assessment and report at a rate established by the department of human services public safety up to a maximum of \$100 \$. . . in each case. The county may not be reimbursed for the cost of any alcohol and chemical use assessment or report not completed within the time limit provided in this subdivision 4. Reimbursement to the county must be made from the general fund.

(d) If the preliminary alcohol problem screening is conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3, consists of a comprehensive chemical use assessment of the defendant, and complies with the chemical use assessment report requirements of paragraph (b); it is a chemical use assessment for the purposes of this section and the court may not require the defendant to undergo a second chemical use assessment under paragraph (a). The state shall reimburse counties for the cost of alcohol problem screenings that qualify as chemical use assessments under this paragraph in the manner provided in paragraph (c) in lieu of the reimbursement provisions of section 169.124, subdivision 3.

Sec. 8. Minnesota Statutes 1988, section 169.126, subdivision 4b, is amended to read:

Subd. 4b. [EVALUATION.] The commissioner of public safety shall, with the assistance of the department of human services and the state planning agency, monitor and evaluate the implementation and effects of the alcohol safety programs required in sections 169.124 to 169.126 and shall submit a written report to the legislature by January 1, 1989, containing the commissioner's findings and recommendations.

Sec. 9. Minnesota Statutes 1988, section 169.126, subdivision 6, is amended to read:

Subd. 6. [APPLICABILITY.] This section shall not apply to persons who are not residents of the state of Minnesota at the time of the offense and at the time of the alcohol ~~problem screening and chemical use assessment~~.

Sec. 10. Minnesota Statutes 1988, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. [LOCAL AGENCY DUTIES.] (a) Every local agency shall assess the needs of each person requesting chemical dependency services according to the criteria established under section 254A.03, subdivision 1. Whenever treatment is denied, the local agency shall report the results of the assessment to the department of human services in the manner specified by the commissioner.

(b) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service or who has been sentenced according to section 609.10, subdivision 2. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.01 to 14.69.

(b) (c) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

(e) (d) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

Sec. 11. Minnesota Statutes 1988, section 260.151, subdivision 1, is amended to read:

Subdivision 1. Upon request of the court the county welfare board or probation officer shall investigate the personal and family history

and environment of any minor coming within the jurisdiction of the court under section 260.111 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

The court shall have a chemical use assessment conducted when a child is: (1) found to be delinquent for violating a provision of chapter 152; or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications and the assessment criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655, and parts 9530.7000 to 9530.7030. The commissioner of public safety shall reimburse the court for the cost of the chemical use assessment, up to a maximum of \$100.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent, in order that the condition of the minor be given due consideration in the disposition of the case. Adoption investigations shall be conducted in accordance with the laws relating to adoptions. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Sec. 12. Minnesota Statutes 1989 Supplement, section 260.193, subdivision 8, is amended to read:

Subd. 8. If the juvenile court finds that the child is a juvenile major highway or water traffic offender, it may make any one or more of the following dispositions of the case:

(a) Reprimand the child and counsel with the child and the parents;

(b) Continue the case for a reasonable period under such conditions governing the child's use and operation of any motor vehicles or boat as the court may set;

(c) Require the child to attend a driver improvement school if one is available within the county;

(d) Recommend to the department of public safety suspension of the child's driver's license as provided in section 171.16;

(e) If the child is found to have committed two moving highway traffic violations or to have contributed to a highway accident involving death, injury, or physical damage in excess of \$100, the court may recommend to the commissioner of public safety or to the licensing authority of another state the cancellation of the child's license until the child reaches the age of 18 years, and the commissioner of public safety is hereby authorized to cancel the license without hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety, or to the licensing authority of another state, that the child's license be returned, and the commissioner of public safety is authorized to return the license;

(f) Place the child under the supervision of a probation officer in the child's own home under conditions prescribed by the court including reasonable rules relating to operation and use of motor vehicles or boats directed to the correction of the child's driving habits;

(g) Require the child to pay a fine of up to \$700. The court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(h) If the court finds that the child committed an offense described in section 169.121, the court shall order that an alcohol problem screening and chemical use assessment be conducted and a screening report submitted to the court in the manner prescribed in section 169.126. Except as otherwise provided in section 169.126, subdivision 4, paragraph (d). If the alcohol problem screening assessment shows that the child has an identifiable chemical use problem, the court shall require the child to undergo a comprehensive chemical use assessment in accordance with section 169.126, subdivision 4. If the chemical use assessment recommends meets the level of care criteria for placement according to section 254A.03, subdivision 3, the report must recommend a level of care for the child. The court may require that level of care in its disposition order. In addition, the court may require any child ordered to undergo a an alcohol and chemical use assessment to pay a chemical dependency assessment charge of \$75. The court shall forward the assessment charge to the commissioner of finance to be credited to the general fund. The state shall reimburse counties for the total cost of the alcohol and chemical use assessment in the manner provided in section 169.126, subdivision 4 4a.

Sec. 13. Minnesota Statutes 1988, section 340A.503, subdivision 1, is amended to read:

Subdivision 1. [CONSUMPTION.] It is unlawful for any:

(1) retail intoxicating liquor or nonintoxicating liquor licensee or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises; or

(2) person under the age of 21 years to consume any alcoholic beverages ~~unless in the household of the person's parent or guardian and with the consent of the parent or guardian. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.~~

Sec. 14. Minnesota Statutes 1989 Supplement, section 340A.503, subdivision 2, is amended to read:

Subd. 2. [PURCHASING.] It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age; ~~except that a parent or guardian of a person under the age of 21 years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian;~~

(2) under the age of 21 years to purchase or attempt to purchase any alcoholic beverage; or

(3) to induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of clause (1) that the defendant is the parent or guardian of the person under 21 years of age and that the defendant gave or furnished the alcoholic beverage to that person solely for consumption in the defendant's household.

Sec. 15. Minnesota Statutes 1988, section 340A.503, subdivision 3, is amended to read:

Subd. 3. [POSSESSION.] It is unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian is ~~prima facie evidence~~ creates a rebuttable

presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

Sec. 16. Minnesota Statutes 1988, section 609.10, is amended to read:

609.10 [SENTENCES AVAILABLE.]

Subdivision 1. [GENERALLY.] Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) to life imprisonment; or
- (2) to imprisonment for a fixed term of years set by the court; or
- (3) to both imprisonment for a fixed term of years and payment of a fine; or
- (4) to payment of a fine without imprisonment or to imprisonment for a fixed term of years if the fine is not paid; or
- (5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both.

Subd. 2. [CHEMICAL DEPENDENCY TREATMENT FOR CERTAIN OFFENDERS.] (a) Notwithstanding any law or rule to the contrary, when the defendant is convicted of a felony, the court may order the treatment of the defendant for chemical dependency if the presentence investigation performed under section 609.115, subdivision 1, indicates that alcohol or controlled substance abuse was a contributing factor to the commission of the crime, and if a local agency, as defined in section 254B.01, subdivision 5, determines that the defendant is in need of the treatment. If the defendant is convicted of violating section 609.21 or is convicted of a felony-level violation of section 169.09, the presentence investigation report must contain a chemical use assessment conducted by a qualified assessor and a determination by the local agency as to whether treatment is needed. If the local agency does not find that the defendant is in need of treatment, the court may still order chemical dependency treatment of the defendant if an assessor designated by the court and qualified under rules adopted by the commissioner under section 254B.03, subdivision 3, or credentialed by the Institute for Chemical Dependency Professionals determines that the defendant is chemically dependent or chemically abusive. In any case, the local agency shall determine the appropriate level of care and authorize payment under chapter 254B.

(b) In those cases where the local agency has not found the defendant to be in need of treatment, but where the court-designated assessor has found the defendant to be chemically dependent or abusive, the court-designated assessor must provide written findings to the local agency and to the commissioner of human services before the local agency authorizes any payment for treatment under chapter 254B.

Sec. 18. [REPEALER.]

Minnesota Statutes 1988, sections 169.124, subdivision 3; and 169.126, subdivisions 2 and 3; and Minnesota Statutes 1989 Supplement, section 169.126, subdivision 4a, are repealed.

Sec. 17. [EFFECTIVE DATE.]

Sections 13 to 15 are effective August 1, 1990, and apply to offenses committed on or after that date.

ARTICLE 5

MISCELLANEOUS PROVISIONS

Section 1. Minnesota Statutes 1988, section 90.301, subdivision 6, is amended to read:

Subd. 6. [TICKET FOR THEFT VIOLATIONS.] The commissioner may design and issue a ticket in the form, and having the effect, of a summons and complaint, for use in cases of theft of state timber or other state property, where the value of the property is within the limits established by section 609.52, subdivision 3, clause (7). The ticket shall provide for the name and address of the person charged with the violation, the offense charged, the time and place the person is to appear before a court, and any other necessary information.

Sec. 2. Minnesota Statutes 1988, section 256.98, subdivision 1, is amended to read:

Subdivision 1. [WRONGFULLY OBTAINING ASSISTANCE.] A person who obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent device, assistance to which the person is not entitled or assistance greater than that to which the person is entitled, or who knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the local agency with intent to defeat the purposes of sections 256.12, 256.72 to 256.871, and chapter 256B, or all of these sections is guilty of theft and shall be

sentenced pursuant to section 609.52, subdivision 3, ~~clauses (2), (3), (6), and (7).~~

Sec. 3. Minnesota Statutes 1988, section 256B.35, subdivision 5, is amended to read:

Subd. 5. The nursing home may transfer the personal allowance to someone other than the recipient only when the recipient or the recipient's guardian or conservator designates that person in writing to receive or expend funds on behalf of the recipient and that person certifies in writing that the allowance is spent for the well-being of the recipient. Persons, other than the recipient, in possession of the personal allowance, may use the allowance only for the well-being of the recipient. Any person, other than the recipient, who, with intent to defraud, uses the personal needs allowance for purposes other than the well-being of the recipient shall be guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, ~~clauses (2), (3), and (7).~~ To prosecute under this subdivision, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general, may institute a criminal action. A nursing home that transfers personal needs allowance funds to a person other than the recipient in good faith and in compliance with this section shall not be held liable under this subdivision.

Sec. 4. Minnesota Statutes 1988, section 268.18, subdivision 3, is amended to read:

Subd. 3. [FALSE REPRESENTATIONS; CONCEALMENT OF FACTS; PENALTY.] (a) Whoever obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent device, benefits to which the person is not entitled or benefits greater than that to which the person is entitled under this chapter, or under the employment security law of any state or of the federal government or of a foreign government, either personally or for any other person, shall be guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, ~~clauses (2), (3), (6), and (7).~~ The amount of the benefits incorrectly paid shall be the difference between the amount of benefits actually received and the amount which the person would have been entitled under state and federal law had the department been informed of all material facts.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under this chapter or

under the employment security law of any state or of the federal government, or who willfully fails or refuses to make any such contributions or other payment at the time required shall be guilty of a gross misdemeanor unless the benefit underpayment, contribution, or other payment involved exceeds \$250, in which event the person is guilty of a felony.

(c) Any person who willfully fails to produce or permit the inspection or copying of books, papers, records, or memoranda as required or when requested under section 268.12, subdivision 8, or to furnish any required reports other than contribution reports shall be guilty of a gross misdemeanor.

Sec. 5. Minnesota Statutes 1988, section 473.608, subdivision 17, is amended to read:

Subd. 17. [ORDINANCES.] (1) It may adopt and enforce rules, regulations, and ordinances it deems necessary for the purposes of sections 473.601 to 473.679, including those relating to the internal operation of the corporation and to the management and operation of airports owned or operated by it, subject to sections 473.601 to 473.679. Any person violating any rule, regulation or ordinance is guilty of a misdemeanor.

(2) The prosecution may be before a county or municipal court having jurisdiction over the place where the violation occurs. Every sheriff, constable, police officers, and other peace officer shall arrest offenders. The fines collected shall be paid into the treasury of the corporation. The portion of the fines necessary to cover all costs and disbursements incurred in processing and prosecuting the violations in the court shall be transferred to the court administrator. The corporation shall reimburse the prosecuting authority for the costs of prosecuting violations of the corporation's rules, regulations and ordinances, and violations of state law occurring on property owned by the corporation. All persons committed shall be received into any penal institution in the county in which the offense was committed. All persons shall take notice of the rules, regulations, and ordinances without pleading or proof.

(3) A public hearing need not be held on rules, regulations and ordinances relating to the internal operation of the commission or to the management or operation of airports owned or operated by it unless the rule, regulation or ordinance affects substantial rights.

(4) When necessary, the corporation may adopt and enforce without a public hearing all other rules, regulations or ordinances, but it shall hold a public hearing within 30 days after their adoption. Prior to the hearing, the corporation shall give at least 15 days notice by publication in appropriate legal newspapers of general circulation in the metropolitan area and mail a copy of them to all interested parties who have registered their names with the corpo-

ration for that purpose. If the rules, regulations, or ordinances are not deemed immediately necessary, the corporation shall hold a public hearing on them after giving the required notice. The rules, regulations, or ordinances shall not be adopted and enforced until after the hearing.

(5) Notice of the adoption of rules, regulations and ordinances shall, as soon as possible after adoption, be published in appropriate legal newspapers of general circulation in the metropolitan area. Proof of publication and a copy of the rule, regulation, or ordinance shall be filed with the secretary of state. They shall then be in full force and effect.

(6) Any person substantially interested or affected in rights as to person or property by a rule, regulation or ordinance adopted by the corporation, may petition the corporation for reconsideration, amendment, modification, or waiver of it. The petition shall set forth a clear statement of the facts and grounds upon which it is based. The corporation shall grant the petitioner a public hearing within 30 days after the filing of the petition.

Sec. 6. Minnesota Statutes 1988, section 609.135, subdivision 1, is amended to read:

Subdivision 1. [TERMS AND CONDITIONS.] Except when a sentence of life imprisonment is required by law, or when a mandatory minimum term of imprisonment is required by section 609.11, any court may stay imposition or execution of sentence and (a) may order ~~noninstitutional~~ intermediate sanctions without placing the defendant on probation, or (b) may place the defendant on probation with or without supervision and on the terms the court prescribes, including ~~noninstitutional~~ intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. No ~~noninstitutional~~ intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them. For purposes of this subdivision, subdivision 6, and section 609.14, the term "~~noninstitutional~~ intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, and work in lieu of or to work off fines.

A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169.121.

Sec. 7. Minnesota Statutes 1988, section 609.135, subdivision 6, is amended to read:

Subd. 6. [PREFERENCE FOR NONINSTITUTIONAL INTERMEDIATE SANCTIONS.] A court staying imposition or execution of a sentence that does not include a term of incarceration as a condition of the stay shall order ~~noninstitutional~~ other intermediate sanctions where practicable.

Sec. 8. Minnesota Statutes 1988, section 609.14, is amended to read:

609.14 [REVOCATION OF STAY.]

Subdivision 1. [GROUNDS.] When it appears that the defendant has violated any of the conditions of probation or ~~noninstitutional intermediate~~ sanction, or has otherwise been guilty of misconduct which warrants the imposing or execution of sentence, the court may without notice revoke the stay thereof and probation and direct that the defendant be taken into immediate custody.

Subd. 2. The defendant shall thereupon be notified in writing and in such manner as the court directs of the grounds alleged to exist for revocation of the stay of imposition or execution of sentence. If such grounds are brought in issue by the defendant, a summary hearing shall be held thereon at which the defendant is entitled to be heard and to be represented by counsel.

Subd. 3. [SENTENCE.] If any of such grounds are found to exist the court may:

(1) If imposition of sentence was previously stayed, again stay sentence or impose sentence and stay the execution thereof, and in either event place the defendant on probation or order ~~noninstitutional intermediate~~ sanctions pursuant to section 609.135, or impose sentence and order execution thereof; or

(2) If sentence was previously imposed and execution thereof stayed, continue such stay and place the defendant on probation or order ~~noninstitutional intermediate~~ sanctions in accordance with the provisions of section 609.135, or order execution of the sentence previously imposed.

Subd. 4. If none of such grounds are found to exist, the defendant shall be restored to liberty under the previous order of the court.

ARTICLE 6
APPROPRIATIONS

Section 1. [APPROPRIATIONS.]

(a) \$650,000 is appropriated from the general fund to the commissioner of corrections as a match to federal funds to create programs to provide intensive community supervision.

(b) \$34,000 is appropriated from the general fund to the commissioner of public safety as a match to federal funds for the drug abuse resistance education training center.

(c) \$225,000 is appropriated from the general fund to the commissioner of public safety as a match to federal funds to expand the community-based crime and drug prevention programs through the office of drug policy.

(d) \$500,000 is appropriated to the commissioner of corrections as a match to federal funds for the expansion of sentencing to service and work release correctional programs and/or the development of intermediate sentencing alternatives.

(e) \$500,000 is appropriated to the commissioner of corrections as a match to federal funds to develop pilot programs to provide chemical dependency treatment for adults and juveniles through services in local correctional and treatment programs.

(f) \$500,000 is appropriated to the commissioner of corrections for the expansion of chemical dependency treatment programs in state adult and juvenile correctional institutions.

(g) \$18,750 is appropriated to the commissioner of corrections as a match to federal funds for the development of pilot drug testing programs to be used as a condition of probation for defendants with drug related histories.

(h) \$31,250 is appropriated to the commissioner of corrections as a match to federal funds for the development of pilot programs in local jurisdictions for the purpose of conducting chemical dependency assessments for drug offenders and selected other felony offenders.

(i) \$200,000 is appropriated to the commissioner of corrections for the expansion of programs for victims of domestic assault and abuse due to drugs and alcohol.

(j) \$50,000 is appropriated to the bureau of criminal apprehension for implementation of article 1, sections 9 to 13.

(k) \$350,000 in state funds is appropriated to the commissioner of public safety for contracting with providers for expanded drug prevention support services for high-risk target groups and communities.

(l) \$50,000 is appropriated from the general fund to the commissioner of public safety to be used to reimburse juvenile courts for chemical use assessments as provided in article 4, section 11."

Delete the title and insert:

"A bill for an act relating to crime; changing the scope of certain controlled substance offenses; allowing prosecution in any county of controlled substance offenses involving sales of amounts aggregated over a 90-day period; providing that cocaine base is weighed as a mixture for purposes of first, second, and third degree controlled substance crimes; prohibiting the importing of controlled substances into the state; requiring the reporting of transactions involving substances that are precursors to controlled substances; defining controlled substances for purposes of reporting prenatal exposure to controlled substances; clarifying these reporting provisions; providing for maternal and child health services in chemical abuse situations; clarifying habitual DWI offender sanctions; requiring adoption of day-fine systems by each judicial district; creating intensive community supervision programs for certain prison inmates and offenders; creating pilot programs to require drug and alcohol testing as a condition of probation; creating pilot programs to provide chemical dependency treatment services in juvenile and adult jails and correctional facilities; creating pilot programs to require chemical dependency assessments for drug offenders; requiring a chemical use assessment to be conducted when a child is found delinquent of a drug offense; requiring chemical dependency treatment for certain offenders; providing an affirmative defense for certain liquor offenses; authorizing the court to order intermediate sanctions as a condition of probation; defining intermediate sanctions; appropriating money; amending Minnesota Statutes 1988, sections 90.301, subdivision 6; 145.88; 169.121, subdivisions 3a and 5; 169.124, subdivisions 1 and 2; 169.126, subdivisions 1, 4b, and 6; 244.05, by adding a subdivision; 254B.03, subdivision 1; 256.98, subdivision 1; 256B.35, subdivision 5; 260.151, subdivision 1; 268.18, subdivision 3; 340A.503, subdivisions 1 and 3; 473.608, subdivision 17; 609.10; 609.135, subdivisions 1, 6, and by adding a subdivision; 609.14; and 631.40; Minnesota Statutes 1989 Supplement, sections 145.882, subdivision 7; 152.021; 152.022; 152.023, subdivisions 1 and 2; 152.025, subdivision 2; 152.028, subdivision 2, and by adding a subdivision; 169.121, subdivision 3b; 169.126, subdivision 4; 260.193, subdivision 8; 340A.503, subdivision 2; 626.556, subdivision 2; 626.5561, subdivisions 1, 3, 4, and by adding a subdivision; and 626.5562, subdivisions 1, 2, and 4; proposing coding for new law in Minnesota Statutes, chapters 152; 244; and 299A; repealing

Minnesota Statutes 1988, sections 169.124, subdivision 3; 169.126, subdivisions 2 and 3; Minnesota Statutes 1989 Supplement, 169.126, subdivision 4a."

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

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1854, A bill for an act relating to real estate; validating certain cancellation of contracts; providing for the effect of dissolution on joint tenancy; permitting the filing of summaries of dissolution judgments in real estate filings; amending Minnesota Statutes 1988, section 500.19, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 518 and 559; repealing Minnesota Statutes 1988, section 580.031.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [315.121] [RELIGIOUS CORPORATIONS, CERTAIN CONVEYANCES VALIDATED.]

All conveyances executed by any religious corporation organized under this chapter, conveying real property within this state that were recorded prior to July 1, 1984, in the office of the county recorder or registrar of titles of the county in which the real estate conveyed is located, and the record of the conveyance, are legalized, validated, and confirmed, even though the corporate records do not disclose that the execution of the conveyance was authorized by the congregation of the religious corporation in the manner provided by law, or the record of the authorization has not been recorded in the office of the county recorder or registrar of titles of the county in which the real estate conveyed is located.

Sec. 2. Minnesota Statutes 1988, section 500.19, subdivision 5, is amended to read:

Subd. 5. [SEVERANCE OF ESTATES IN JOINT TENANCY.] A severance of a joint tenancy interest in real estate by a joint tenant shall be legally effective only if (1) the instrument of severance is recorded in the office of the county recorder or the registrar of titles in the county where the real estate is situated; or (2) the instrument of severance is executed by all of the joint tenants; or (3) the severance is ordered by a court of competent jurisdiction; or (4) a severance is effected pursuant to bankruptcy of a joint tenant.

A decree of dissolution of a marriage severs all joint tenancy interests in real estate between the parties to the marriage, except to the extent the decree declares that the parties continue to hold an interest in real estate as joint tenants.

Sec. 3. Minnesota Statutes Second 1989 Supplement, section 508A.82, is amended to read:

508A.82 [REGISTRAR'S FEES.]

The fees to be paid to the registrar shall be as follows:

(1) of the fees provided herein, five percent of the fees collected under clauses (3), (4), (11), (13), (14), (15), and (17), for filing or memorializing shall be paid to the state treasurer and credited to the general fund;

(2) for registering each original CPT, and issuing a duplicate of it, \$20;

(3) for registering each instrument transferring the fee simple title for which a new CPT is issued and for the issuance and registration of the new CPT, \$20;

(4) for the entry of each memorial on a certificate and endorsements upon duplicate CPTs, \$10;

(5) for issuing each mortgagee's or lessee's duplicate, \$10;

(6) for issuing each residue CPT, \$20;

(7) for exchange CPTs, \$10 for each CPT canceled and \$10 for each new CPT issued;

(8) for each certificate showing condition of the register, \$10;

(9) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;

(10) for a noncertified copy of any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(11) for filing two copies of any plat in the office of the registrar, \$30;

(12) for any other service under sections 508A.01 to 508A.85, the fee the court shall determine;

(13) for issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is paid in the same manner as the compensation of other county employees, \$50, plus \$10 to memorialize;

(14) for issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is not paid by the county or pursuant to an order of the court, \$10;

(15) for filing a condominium plat or an amendment to it in accordance with chapter 515, §30;

(16) for a copy of a condominium plat filed pursuant to chapters 515 and 515A, the fee shall be \$1 for each page of the plat with a minimum fee of \$10;

(17) for filing a condominium declaration and condominium plat or an amendment to it in accordance with chapter 515A, \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium plat or an amendment to it;

(18) in counties in which the compensation of the examiner of titles is paid in the same manner as the compensation of other county employees, for each parcel of land contained in the application for a CPT, as the number of parcels is determined by the examiner, \$50 a fee which is reasonable and which reflects the actual cost to the county, established by the board of county commissioners of the county in which the land is located;

(19) for filing a registered land survey in triplicate in accordance with section 508A.47, subdivision 4, §30;

(20) for furnishing a certified copy of a registered land survey in accordance with section 508A.47, subdivision 4, §10.

Sec. 4. Minnesota Statutes 1988 Supplement, section 514.12, subdivision 3, is amended to read:

Subd. 3. [ONE-YEAR LIMITATION.] No lien shall be enforced in any case unless the holder thereof shall assert the same, either by filing a complaint or answer with the court administrator, within one year after the date of the last item of the claim as set forth in the recorded lien statement; and, no person shall be bound by any judgment in such action unless made a party thereto within the year; and, as to a bona fide purchaser, mortgagee, or encumbrancer without notice, the absence from the record of a notice of lis pendens

of an action after the expiration of the year in which the lien could be so asserted shall be conclusive evidence that the lien may no longer be enforced and, in the case of registered land, the registrar of titles shall refrain from carrying forward to new certificates of title the memorials of lien statements when no such notice of lis pendens has been registered within the period; ~~nor shall any person be bound by the judgment in such action unless made a party thereto within the year.~~

Sec. 5. [518.191] [SUMMARY REAL ESTATE DISPOSITION JUDGMENT.]

Subdivision 1. [ABBREVIATED JUDGMENT AND DECREE.] If real estate is described in a judgment and decree of dissolution, the court may direct either of the parties or their legal counsel to prepare and submit to the court a proposed summary real estate disposition judgment. Upon approval by the court and filing of the summary real estate disposition judgment with the court administrator, the court administrator shall provide to any party upon request certified copies of the summary real estate disposition judgment.

Subd. 2. [REQUIRED INFORMATION.] A summary real estate disposition judgment must contain the following information: (1) the full caption and file number of the case and the title "Summary Real Estate Disposition Judgment"; (2) the dates of the parties' marriage and of the entry of the judgment and decree of dissolution; (3) the names of the parties' attorneys or if either or both appeared pro-se; (4) the name of the judge and referee, if any, who signed the order for judgment and decree; (5) whether the judgment and decree resulted from a stipulation, a default, or a trial and the appearances at the default or trial; (6) whether either party changed the party's name through the judgment and decree; (7) the legal description of each parcel of real estate; (8) the name or names of the persons awarded an interest in each parcel of real estate and a description of the interest awarded; (9) liens, mortgages, encumbrances, or other interests in the real estate described in the judgment and decree; and (10) triggering or contingent events set forth in the judgment and decree affecting the disposition of each parcel of real estate.

Subd. 3. [COURT ORDER.] An order or provision in a judgment and decree that provides that the judgment and decree must be recorded in the office of the county recorder or filed in the office of the registrar of titles means, if a summary real estate disposition judgment has been approved by the court, that the summary real estate disposition judgment, rather than the judgment and decree, must be recorded in the office of the county recorder or filed in the office of the registrar of titles.

Subd. 4. [TRANSFER OF PROPERTY.] The summary real estate disposition judgment operates as a conveyance and transfer of each

interest in the real estate in the manner and to the extent described in the summary real estate disposition judgment.

Subd. 5. [CONFLICT.] If a conflict exists between the judgment and decree and the summary real estate disposition judgment, the summary real estate disposition judgment recorded in the office of the county recorder or filed in the office of the registrar of titles controls as to the interest acquired in real estate by any subsequent purchaser in good faith and for a valuable consideration, who is in possession of the interest or whose interest is recorded with the county recorder or registrar of titles, before the recording of the judgment and decree in the same office.

Sec. 6. [559.215] [CONTRACTS OF SALE; VALIDATING TERMINATIONS OF CONTRACT OF SALE.]

Every termination of a contract for the conveyance of real property or an interest in real property where service of notice of default is published for the first time or is served on the purchaser, or the purchaser's personal representative or assigns before the date in section 7 is legal and valid as against the following objections:

(1) that prior to the service of notice of termination, no mortgage registration tax was paid on the contract, or an insufficient registration tax was paid on the contract;

(2) that the notice:

(i) did not correctly state the amount of attorney fees;

(ii) failed to state or incorrectly stated the names of one or more of the sellers, or the sellers' successors or assigns, or incorrectly described the interest or representative capacity of the person giving the notice;

(iii) was printed or typed in an incorrect type size; or

(iv) incorrectly stated the number of days after service that the contract will terminate, provided that the number of days stated is not less than 30 days;

(3) that the cancellation was commenced by less than all sellers; or

(4) that in the case of a termination by publication the notice was not served on all persons in possession of the real estate, provided it was served on at least one of those persons.

Sec. 7. [559.216] [EFFECTIVE DATES.]

The following dates apply to section 6:

(1) as to clause (2)(iv) and clause (3), August 1, 1985; and

(2) as to the general provisions of section 6, May 1, 1989.

Sec. 8. [REPEALER.]

Minnesota Statutes 1988, section 580.031, is repealed retroactive to May 1, 1989.

Sec. 9. [EFFECTIVE DATES.]

Sections 1 and 6 do not affect any action or proceeding pending on their effective date or that is commenced before February 1, 1991, involving the validity of the termination or conveyance.

Section 8 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to real estate; validating certain cancellation of contracts; validating certain conveyances by religious corporations; allowing county boards to set certain fees charged by the examiner of titles; providing for the effect of dissolution on joint tenancy; permitting the filing of summaries of dissolution judgments in real estate filings; clarifying provisions on certain liens by reordering clauses; amending Minnesota Statutes 1988, section 500.19, subdivision 5; and 514.12, subdivision 3; Minnesota Statutes Second 1989 Supplement, section 508A.82; proposing coding for new law in Minnesota Statutes, chapters 315, 518, and 559; repealing Minnesota Statutes 1988, section 580.031."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1855, A bill for an act relating to children; regulating child custody and visitation in dissolution and other proceedings; amending Minnesota Statutes 1988, sections 257.025; 257.541, subdivision 2; 518.003, subdivision 3, and by adding a subdivision; 518.156; 518.619; and 518.64, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 144.224, is amended to read:

144.224 [REPORTS OF DISSOLUTION AND ANNULMENT OF MARRIAGE.]

Each month the court administrator shall forward to the commissioner of health the statistical report forms collected pursuant to section 518.147 during the preceding month. The report form shall include only the following information:

(a) name, date of birth, birthplace, residence, race, and educational attainment of the husband and wife;

(b) county of decree;

(c) date and type of decree;

(d) place and date of marriage;

(e) date of separation;

(f) number and ages of children of marriage;

(g) amount and status of maintenance and child support;

(h) custody of children, including whether joint legal or physical custody was awarded;

(i) income of the parties;

(j) length of separation and length of marriage; and

(k) number of previous marriages and reasons for ending the previous marriages (death, dissolution, or annulment).

The commissioner may publish data collected under this section in summary form only. The statistical report form shall contain a statement that neither the report form, nor information contained in the form, shall be admissible in evidence in this or any subsequent proceeding.

Sec. 2. Minnesota Statutes 1988, section 257.025, is amended to read:

257.025 [CUSTODY DISPUTES.]

In any proceeding where two or more parties seek custody of a child the court shall determine the best interests of the child by considering and evaluating consider and evaluate all relevant factors in determining "the best interests of the child," including the following factors:

(a) The love, affection and other emotional ties existing between the competing parties and the child;

(b) The capacity and disposition of competing parties to give the child love, affection and guidance and continuation of the educating and raising of the child in its religion, creed, if any, or culture;

(c) The capacity and disposition of competing parties to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs;

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(e) The permanence, as a family unit, of the existing or proposed custodial home;

(f) The mental and physical health of the competing parties;

(g) The home, school and community record of the child;

(h) The cultural background of the child;

(i) The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(j) Any other factor considered by the court to be relevant to a particular child custody dispute.

(1) the wishes of the party or parties as to custody;

(2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(3) the child's primary caretaker;

(4) the intimacy of the relationship between each party and the child;

(5) the interaction and interrelationship of the child with a party or parties, siblings, and any other person who may significantly affect the child's best interests;

(6) the child's adjustment to home, school, and community;

(7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(8) the permanence, as a family unit, of the existing or proposed custodial home;

(9) the mental and physical health of all individuals involved;

(10) the capacity and disposition of the parties to give the child love, affection and guidance, and to continue educating and raising the child in the child's culture, religion or creed, if any;

(11) the child's cultural background; and

(12) the effect on the child of the actions of an abuser, if related to domestic abuse as defined in section 518B.01, that has occurred between the parents or the parties.

The court may not use one factor to the exclusion of all others. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

The fact that the parents of the child are not or were never married to each other shall not be determinative of the custody of the child.

The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

A person may seek custody of a child by filing a petition or motion pursuant to section 518.156.

The provisions of section 518.619, shall be applicable to this section.

Sec. 3. Minnesota Statutes 1988, section 257.541, subdivision 2, is amended to read:

Subd. 2. [FATHER'S RIGHT TO VISITATION.] (a) If paternity has been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the father's rights of visitation or custody are determined under sections 518.17 and 518.175.

(b) If paternity has not been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the biological father may petition for rights of visitation or custody in the paternity proceeding or in a separate proceeding under section 518.156.

Sec. 4. Minnesota Statutes 1988, section 518.003, subdivision 3, is amended to read:

Subd. 3. [CUSTODY.] Unless otherwise agreed by the parties:

(a) "Legal custody" means the right to determine the child's upbringing, including education, health care and religious training.

(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care and religious training.

(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.

(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties.

(e) Wherever used in this chapter, the term "custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.

(f) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights, but does not include a decision relating to child support or any other monetary obligation of any person.

(g) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution, divorce or separation, and includes child neglect and dependency, domestic abuse, and paternity proceedings.

Sec. 5. Minnesota Statutes 1988, section 518.003, is amended by adding a subdivision to read:

Subd. 4. "Mediation" is a process in which an impartial third party facilitates an agreement between two or more parties in a proceeding.

Sec. 6. Minnesota Statutes 1988, section 518.131, subdivision 1, is amended to read:

Subdivision 1. In a proceeding brought for custody, dissolution, or legal separation, or for disposition of property, maintenance, or child support following the dissolution of a marriage, either party may, by motion, request from the court and the court may grant a temporary order pending the final disposition of the proceeding to or for:

(a) Temporary custody and visitation rights of the minor children of the parties;

(b) Temporary maintenance of either spouse;

(c) Temporary child support for the children of the parties;

(d) Temporary costs and reasonable attorney fees;

(e) Award the temporary use and possession, exclusive or otherwise, of the family home, furniture, household goods, automobiles and other property of the parties;

(f) Restrain one or both parties from transferring, encumbering, concealing or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions and expenditures made after the order is served or communicated to the party restrained in open court;

(g) Restrain one or both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties;

(h) Restrain one or both parties from removing any minor child of the parties from the jurisdiction of the court;

(i) Exclude a party from the family home of the parties or from the home of the other party; and

(j) Require one or both of the parties to perform or to not perform such additional acts as will facilitate the just and speedy disposition of the proceeding, or will protect the parties or their children from physical or emotional harm.

Sec. 7. Minnesota Statutes 1988, section 518.131, subdivision 7, is amended to read:

Subd. 7. The court shall be guided by the factors set forth in sections 518.551 (concerning child support), 518.552 (concerning maintenance) and, 518.17 to 518.175 (concerning custody and visitation), and 518.14 (concerning costs and attorney fees) in making temporary orders and restraining orders.

Sec. 8. Minnesota Statutes 1988, section 518.14, is amended to read:

518.14 [COSTS AND DISBURSEMENTS AND ATTORNEY'S FEES.]

In a proceeding brought either for dissolution or legal separation under this chapter, the court, from time to time, after considering the financial resources of both parties, may require one party to pay a reasonable amount necessary to enable the other spouse to carry on or to contest the proceeding, and to pay attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement or after entry of judgment. The court may adjudge costs and disbursements against either party. The court shall award temporary attorney fees and costs to a party if the party will be unable to effectively pursue relief in family court without assistance and the opposing party has the ability to pay. The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay the same may be enforced as above provided or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award shall also survive the proceeding and may be enforced in the same manner as last above provided.

Sec. 9. Minnesota Statutes 1988, section 518.156, is amended to read:

518.156 [COMMENCEMENT OF CUSTODY PROCEEDING.]

Subdivision 1. In a court of this state which has jurisdiction to decide child custody matters, a child custody proceeding is commenced:

(a) By a parent

(1) By filing a petition for dissolution or legal separation; or

(2) Where a decree of dissolution or legal separation has been entered or where none is sought, by filing a petition or motion seeking custody or visitation of the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered; or

(b) By a person other than a parent, where a decree of dissolution or legal separation has been entered or where none is sought by

filing a petition or motion seeking custody or visitation of the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered.

Subd. 2. Written notice of a child custody or visitation proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

Sec. 10. Minnesota Statutes 1988, section 518.167, subdivision 2, is amended to read:

Subd. 2. [PREPARATION.] (a) In preparing a report concerning a child, the investigator may consult any person who may have information about the child and the potential custodial arrangements except for persons involved in mediation efforts between the parties. Mediation personnel may disclose to investigators and evaluators information collected during mediation only if agreed to in writing by all parties. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, school personnel, or other expert persons who have served the child in the past after obtaining the consent of the parents or the child's custodian or guardian.

(b) The report submitted by the investigator must consider and evaluate the factors in section 518.17, subdivision 1, and include a detailed analysis of all information considered for each factor. If joint custody is contemplated or sought, the report must consider and evaluate the factors in section 518.17, subdivision 2, state the position of each party and the investigator's recommendation and the reason for the recommendation, and reference established means for dispute resolution between the parties.

Sec. 11. Minnesota Statutes 1989 Supplement, section 518.17, subdivision 2, is amended to read:

Subd. 2. [FACTORS WHEN JOINT CUSTODY IS SOUGHT.] In addition to the factors listed in subdivision 1, where either joint legal or joint physical custody is contemplated or sought, the court shall consider the following relevant factors:

(a) The ability of parents to cooperate in the rearing of their children;

(b) Methods for resolving disputes regarding any major decision concerning the life of the child, and the parents' willingness to use those methods;

(c) Whether it would be detrimental to the child if one parent were to have sole authority over the child's upbringing; and

(d) Whether domestic abuse, as defined in section 518B.01, has occurred between the parents.

The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents.

Sec. 12. Minnesota Statutes 1989 Supplement, section 518.175, subdivision 1, is amended to read:

Subdivision 1. In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such rights of visitation on behalf of the child and noncustodial parent as will enable the child and the noncustodial parent to maintain a child to parent relationship that will be in the best interests of the child. If the person seeking visitation rights has been convicted of a crime described in subdivision 8, paragraph (d), the presumptions and standards of subdivision 8, paragraph (c), apply. In addition, if the court finds, after a hearing, that visitation is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court shall restrict visitation by the noncustodial parent as to time, place, duration, or supervision and may deny visitation entirely, as the circumstances warrant. The court shall consider the age of the child and the child's relationship with the noncustodial parent prior to the commencement of the proceeding. A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of visitation.

Sec. 13. Minnesota Statutes 1989 Supplement, section 518.175, subdivision 5, is amended to read:

Subd. 5. The court shall modify an order granting or denying visitation rights whenever modification would serve the best interests of the child, ~~but the court shall.~~ Except as provided in subdivision 8, the court may not restrict visitation rights unless it finds that:

(1) the visitation is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the noncustodial parent has chronically and unreasonably failed to comply with court-ordered visitation.

If the custodial parent makes specific allegations that visitation places the custodial parent or child in danger of harm, the court shall hold a hearing at the earliest possible time to determine the need to modify the order granting visitation rights. The court may require a third party, including the county welfare board, to supervise the visitation or may restrict a parent's visitation rights if necessary to protect the custodial parent or child from harm.

Sec. 14. Minnesota Statutes 1988, section 518.175, is amended by adding a subdivision to read:

Subd. 8. [SUSPENSION OF VISITATION.] (a) For purposes of this subdivision, "person with visitation rights" includes a noncustodial parent or other person with court-ordered visitation rights.

(b) If a person with visitation rights has been convicted of a crime listed in paragraph (d), the custodial parent or any other person who has been granted custody of the child under a court order may file an objection to visitation with the court. The custodial parent or other person having custody shall give written notice to the person with visitation rights of the objection and the person with visitation rights has 20 days from the notice to respond. If the person fails to respond within 20 days, the person's visitation rights are suspended until further order of the court. If the person responds and objects, a hearing must be held within 30 days of the response.

(c) The person with visitation rights who has been convicted of a crime listed in paragraph (d) has the burden at the hearing to prove that visitation by the person is in the best interests of the child. The court shall suspend the person's visitation rights unless it finds that visitation is in the best interests of the child. If the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2, the standard of proof is clear and convincing evidence.

(d) This subdivision applies to the following crimes or similar crimes under the laws of the United States or any other state:

(1) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(2) manslaughter in the first degree under section 609.20;

(3) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

(4) kidnapping under section 609.25;

(5) depriving another of custodial or parental rights under section 609.26;

(6) soliciting, inducing, or promoting prostitution involving a minor under section 609.322;

(7) receiving profit from prostitution involving a minor under section 609.323;

(8) criminal sexual conduct in the first degree under section 609.342;

(9) criminal sexual conduct in the second degree under section 609.343;

(10) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);

(11) solicitation of a child to engage in sexual conduct under section 609.352;

(12) incest under section 609.365;

(13) malicious punishment of a child under section 609.377; or

(14) neglect of a child under section 609.378.

(e) This subdivision does not prevent a court from restricting or denying visitation rights under this section even if the person has not been convicted of a crime listed in paragraph (d).

Sec. 15. Minnesota Statutes 1988, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may shall order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. Both parents are presumed to be obligors to the extent of their ability. The court shall approve a child support agreement of the parties if each party is represented by independent counsel; unless the agreement is not in the interest of justice. In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom.

The court shall ~~multiply~~ derive a specific dollar amount by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
\$400 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
\$401 - 500	14%	17%	20%	22%	24%	26%	28%
\$501 - 550	15%	18%	21%	24%	26%	28%	30%
\$551 - 600	16%	19%	22%	25%	28%	30%	32%
\$601 - 650	17%	21%	24%	27%	29%	32%	34%
\$651 - 700	18%	22%	25%	28%	31%	34%	36%
\$701 - 750	19%	23%	27%	30%	33%	36%	38%
\$751 - 800	20%	24%	28%	31%	35%	38%	40%
\$801 - 850	21%	25%	29%	33%	36%	40%	42%
\$851 - 900	22%	27%	31%	34%	38%	41%	44%
\$901 - 950	23%	28%	32%	36%	40%	43%	46%
\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001- 4000	25%	30%	35%	39%	43%	47%	50%

Guidelines for support for an obligor with a monthly income of \$4,001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of \$4,000.

Net Income defined as:

Total monthly income less	*(i)	Federal Income Tax
	*(ii)	State Income Tax
	(iii)	Social Security Deductions
	(iv)	Reasonable Pension Deductions
*Standard Deductions apply- use of tax tables recommended	(v)	Union Dues
	(vi)	Cost of Dependent Insurance Coverage
	(vii)	Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses
	(viii)	A Child Support or Maintenance Order that is Currently Being Paid.

"Net income" does not include:

(1) the income of the obligor's spouse; or

(2) earnings, salary, overtime, bonus, commission, vacation, or profit sharing distributions if they:

(i) are not a regular and substantial part of annual salary; or

(ii) are earned by an obligor who is a full-time employee, from employment with an employer other than the employer for which the obligor is considered to be a full-time employee. The obligor shall have the burden of proof to demonstrate that any portion of the obligor's income is excluded under this clause.

(b) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support:

(1) all earnings, income, and resources of the parents, including real and personal property;

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) the amount of the aid to families with dependent children grant for the child or children;

(5) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it; and

(6) the parents' debts as provided in paragraph (c).

(c) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or ser-

vices purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

Any schedule prepared under paragraph (c), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

Where payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

(d) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(e) The above guidelines are binding in each case unless the court makes express findings of fact as to the reason for departure below or above the guidelines.

Sec. 16. Minnesota Statutes 1988, section 518.619, is amended to read:

518.619 [CONTESTED CUSTODY OR VISITATION; MEDIATION SERVICES.]

Subdivision 1. [MEDIATION PROCEEDING.] Except as provided in subdivision 2, if it appears on the face of the petition or other application for an order or modification of an order for the custody of a child that custody is contested, or that any issue pertinent to a custody or visitation determination, including visitation rights is unresolved, the matter may be set for mediation of the contested issue prior to or concurrent with, or subsequent to the setting of the matter for hearing. The purpose of the mediation proceeding is to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage is dissolved which is supportive of the child's best interests. The mediator shall use best efforts to effect a settlement of the custody or visitation dispute, but shall have no coercive authority.

Subd. 2. [EXCEPTION.] If the court determines that there is probable cause that one of the parties, or a child of a party, has been

physically or sexually abused by the other party, the court shall not require or refer the parties to mediation or any other process which requires parties to meet and confer without counsel, if any, present.

Subd. 3. [MEDIATOR APPOINTMENT.] In order to participate in a custody mediation, a mediator must be appointed by the family court. A mediator must be a member of the professional staff of a family court, probation department, mental health services agency, or a private mediation service. The mediator must be on a list of mediators approved by the court having jurisdiction of the matter, unless the parties stipulate to a mediator not on the list.

Subd. 4. [MEDIATOR QUALIFICATIONS.] A mediator who performs mediation in contested child custody matters shall meet the following minimum qualifications:

(a) knowledge of the court system and the procedures used in contested child custody matters;

(b) knowledge of other resources in the community to which the parties to contested child custody matters can be referred for assistance;

(c) knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, and child custody research; and

(d) a minimum of 40 hours of certified mediation training.

Subd. 5. [RECORDS; PRIVATE DATA.] Mediation proceedings shall be conducted in private. All records of a mediation proceeding shall be private and not available as evidence in an action for marriage dissolution and related proceedings on any issue in controversy in the dissolution.

Subd. 6. [MEDIATOR RECOMMENDATIONS.] When the parties have not reached agreement as a result of the mediation proceeding, the mediator may recommend to the court that an investigation be conducted under section 518.167, or that other action be taken to assist the parties to resolve the controversy before hearing on the issues. The mediator may conduct the investigation. The mediator may not recommend that mutual restraining orders be issued in appropriate cases, pending determination of the controversy, to protect the well-being of the children involved in the controversy.

Subd. 7. [MEDIATION AGREEMENT.] An agreement reached by the parties as a result of mediation shall be discussed by the parties with their attorneys, if any, and the approved agreement may then be included in the marital dissolution decree or other stipulation submitted to the court. An agreement reached by the parties as a

result of mediation shall not be presented to the court nor made enforceable unless the parties and their counsel, if any, consent to its presentation to the court, and the court adopts the agreement.

Subd. 8. [RULES.] Each court shall adopt rules to implement this section, and shall compile and maintain a list of mediators.

Sec. 17. Minnesota Statutes 1989 Supplement, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] The terms of a decree respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair. On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court shall take into consideration the needs of the children and shall not consider the financial circumstances of each party's spouse, if any. On a motion for modification of support, the court shall take into consideration the needs of any child of the support obligor born or adopted after entry of the decree of dissolution of the parties' marriage. A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party. However, modification may be applied to an earlier period if the court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party or other compelling reason and that the party seeking modification, when no longer precluded, promptly served a motion. Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24."

Delete the title and insert:

"A bill for an act relating to family law; modifying dissolution

statistical report requirements; regulating child custody and visitation in dissolution and other proceedings; modifying standards for joint legal custody; providing for the award of temporary attorney fees; providing standards for visitation rights when a noncustodial parent has been convicted of certain crimes; providing funding for legal representation in family law matters; amending Minnesota Statutes 1988, sections 144.224; 257.025; 257.541, subdivision 2; 518.003, subdivision 3, and by adding a subdivision; 518.131, subdivisions 1 and 7; 518.14; 518.156; 518.167, subdivision 2; 518.175, by adding a subdivision; 518.551, subdivision 5; and 518.619; Minnesota Statutes 1989 Supplement, sections 518.17, subdivision 2; 518.175, subdivisions 1 and 5; and 518.64, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1861, A bill for an act relating to game and fish; requiring the commissioner of natural resources to adopt an order regulating the sale and use of blowguns; proposing coding for new law in Minnesota Statutes, chapter 97B.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1884, A bill for an act relating to domestic abuse; improving prosecutorial procedures in domestic abuse cases; requiring the commissioner of public safety to study the feasibility and costs of a statewide computerized data base on domestic abuse; appropriating money; amending Minnesota Statutes 1988, section 611A.0315, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 611A and 629.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 518B.01, subdivision 6, is amended to read:

Subd. 6. [RELIEF BY THE COURT.] (a) Upon notice and hearing, the court may provide relief as follows:

(1) restrain the abusing party from committing acts of domestic abuse;

(2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court's deliberation under this subdivision shall in no way delay the issuance of an order for protection granting other reliefs provided for in Laws 1985, chapter 195;

(4) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;

(5) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(6) order the abusing party to participate in treatment or counseling services;

(7) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(8) exclude the abusing party from the place of employment of the petitioner or otherwise limit the abusing party's access to the petitioner at the petitioner's place of employment; and

(9) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

(b) Any relief granted by the order for protection shall be for a

fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

Sec. 2. Minnesota Statutes 1988, section 518B.01, subdivision 7, is amended to read:

Subd. 7. [TEMPORARY ORDER.] (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte temporary order for protection, pending a full hearing, and granting relief as the court deems proper, including an order:

(1) restraining the abusing party from committing acts of domestic abuse;

(2) excluding any party from the dwelling they share or from the residence of the other except by further order of the court; and

(3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting the abusing party's access to the petitioner at the petitioner's place of employment.

(b) An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days, except for good cause as provided under paragraph (c). A full hearing, as provided by this section, shall be set for not later than seven days from the issuance of the temporary order. The respondent shall be served forthwith a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(c) When service is made by published notice, as provided under subdivision 5, the petitioner may apply for an extension of the period of the ex parte order at the same time the petitioner files the affidavit required under that subdivision. The court may extend the ex parte temporary order for an additional period not to exceed 14 days. The respondent shall be served forthwith a copy of the modified

ex parte order along with a copy of the notice of the new date set for the hearing.

Sec. 3. Minnesota Statutes 1988, section 518B.01, subdivision 14, is amended to read:

Subd. 14. [VIOLATION OF AN ORDER FOR PROTECTION.] (a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor.

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section restraining the person or excluding the person from the residence, if the existence of the order can be verified by the officer. The arrest must be made even if the violation of the order did not take place in the presence of the peace officer.

(c) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

(d) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(e) Upon the filing of an affidavit by the petitioner or any peace officer, alleging that the respondent has violated any order for protection granted pursuant to this section, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. The court also may refer the violation of the order for

protection to the appropriate prosecuting authority for possible prosecution under paragraph (a).

(e) (f) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by clause (b).

Sec. 4. [611A.0311] [DOMESTIC ABUSE PROSECUTIONS; PLAN AND PROCEDURES.]

Subdivision 1. [DEFINITIONS.] (a) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.

(b) "Domestic abuse case" means a prosecution for: (1) a crime that involves domestic abuse; (2) violation of a condition of release following an arrest for a crime that involves domestic abuse; or (3) violation of a domestic abuse order for protection.

Subd. 2. [CONTENTS OF PLAN.] The commissioner of public safety shall select five city attorneys and five county attorneys whose jurisdictions have higher than a 50 percent dismissal rate for domestic abuse cases and direct them to develop and implement a written plan to expedite and improve the efficiency and just disposition of domestic abuse cases brought to the prosecuting authority. Domestic abuse advocates and other interested members of the public shall have an opportunity to assist in the development of the model plan and in the development or adaptation of the plans in each of the jurisdictions selected for the pilot program. Once a model plan is developed and available it may be used or adapted by any city or county attorney whether or not they are participating in the pilot program. The model plan shall state goals and contain policies and procedures to address the following matters:

(a) The plan must provide for (1) early assignment of a trial prosecutor who has the responsibility, whenever feasible, of handling the domestic abuse case through disposition or, where applicable, through probation revocation; and (2) early contact between the trial prosecutor and the victim.

(b) The plan must contain procedures to facilitate the earliest possible contact between the prosecutor's office and the victim for the purpose of acquainting the victim with the criminal justice process, the use of subpoenas, the victim's role as a witness in the prosecution, and the domestic abuse or victim services that are available.

(c) The plan must contain procedures to coordinate the trial

prosecutor's efforts with those of the domestic abuse advocate or victim advocate, when available, and to facilitate the early provision of advocacy services to the victim.

(d) The plan must describe the methods that will be used to identify, gather, and preserve evidence in addition to the victim's in-court testimony that will enhance the ability to prosecute a case when a victim is reluctant to assist including, but not limited to, physical evidence of the victim's injury, evidence relating to the scene of the crime, eyewitness testimony, and statements of the victim made at or near the time of the injury.

(e) The plan must contain procedures for educating local law enforcement agencies about the contents of the plan and their role in assisting with its implementation.

(f) The plan must encourage the issuance of subpoenas to victims and witnesses, when appropriate.

(g) The plan must include procedures for annual review of the plan to evaluate whether it is meeting its goals effectively and whether improvements are needed.

(h) The plan must include a timetable for implementation.

Subd. 3. [COPY FILED WITH DEPARTMENT OF PUBLIC SAFETY.] A copy of the written plan must be filed with the department of public safety on or before November 15, 1990. The city and county attorneys selected for the pilot program under subdivision 2 shall file a status report on the pilot program by January 1, 1992. The status report must contain information on the number of prosecutions and dismissals of domestic abuse cases in the prosecutor's office. The written plan and the status reports are classified as public data.

Sec. 5. Minnesota Statutes 1988, section 611A.0315, subdivision 1, is amended to read:

Subdivision 1. [NOTICE OF DECISION NOT TO PROSECUTE.]

(a) A prosecutor shall make every reasonable effort to notify a domestic assault victim that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.

(b) Whenever a prosecutor dismisses criminal charges against a person accused of domestic assault, a record shall be made of the

specific reasons for the dismissal. If the dismissal is due to the unavailability of the witness, the prosecutor shall indicate the specific reason why the witness is unavailable.

Sec. 6. [DOMESTIC ABUSE; PLAN FOR STATEWIDE COMPUTER DATA SYSTEM.]

The commissioner of public safety, in consultation with the department of corrections and the state court administrator, shall evaluate the feasibility and costs of establishing a statewide computerized data system containing the following information on domestic assault crimes and domestic abuse orders for protection:

(1) identifying information on individuals arrested for, charged with, or convicted of domestic assault, as defined in Minnesota Statutes, section 611A.0315, and the names and birthdates of their victims or alleged victims;

(2) prior arrests and convictions of individuals described in clause (1) for homicide, assault, criminal sexual conduct, criminal damage to property, kidnapping, terroristic threats, trespass, obscene or harassing telephone calls, interference with privacy, harassment by means of the mail, or violations of an order for protection;

(3) pretrial release conditions applicable to individuals charged with domestic assault;

(4) probation and supervised release conditions applicable to individuals convicted of domestic assault;

(5) identifying information on respondents who are or were subject to an order for protection issued under Minnesota Statutes, chapter 518B, and the name and birthdate of the petitioner and other individuals protected under the order; and

(6) the terms and conditions of these orders for protection.

The evaluation shall include consideration of the risk to victims of creating a database that contains identifying information on victims.

The commissioner shall report to the legislature on or before February 1, 1991, on the results of the evaluation."

Delete the title and insert:

"A bill for an act relating to domestic abuse; authorizing courts to exclude a respondent from the place of employment of a petitioner in an order for protection; clarifying the probable cause arrest provi-

sion for violations of orders for protection; authorizing bonds to ensure compliance with orders for protection; authorizing referrals to prosecuting authorities for violations of orders for protection; improving prosecutorial procedures in domestic abuse cases; requiring the commissioner of public safety to study the feasibility and costs of a statewide computerized database on domestic abuse; amending Minnesota Statutes 1988, sections 518B.01, subdivisions 6, 7, and 14; and 611A.0315, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 611A."

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Insurance to which was referred:

H. F. No. 1902, A bill for an act relating to insurance; property and casualty; requiring compensation to certain agents upon termination; proposing coding for new law in Minnesota Statutes, chapter 60A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [60A.176] [INVOLUNTARY TERMINATION OF AN AGENT BY THE INSURER.]

(a) For purposes of this section, the following terms have the meanings given them:

(1) "Agency" means an agency contractual relationship that has been in effect five years or more.

(2) "Agent" means an agent who is not an employee of the insurer and who writes 80 percent or more of the agent's business through one insurer or its subsidiaries.

(3) "Insurer" means an insurance company writing property or casualty loss insurance in this state through agents.

(b) Every insurer shall establish a termination review process for any agent involuntarily terminated by the company. This review process is available for use at the option of the agent. The review process shall be completed within 15 days of the request or before the date of termination, whichever is later.

(c) In the event of a voluntary or involuntary termination, the agent is entitled to a hearing conducted by the department of commerce.

In the event of a company initiated termination of an agent's agreement, the written notice of termination shall advise the agent of the agent's right of appeal to the commissioner of commerce.

Upon receipt of an agent's request for a hearing, the commerce department shall establish a hearing date within 30 days of the request or longer with the approval of the agent and the insurer. A three-member board of review shall be selected from a list of ten agents and ten insurer representatives appointed by the commissioner. One member shall be selected by the agent, one by the insurer, and one by the commissioner. The agent and the insurer shall be notified in writing of the date, time, and place of the hearing. An insurer is immune from any civil liability to the agent for any disclosure made at the hearing. This immunity does not extend to disclosures made in bad faith or with knowledge of their falseness.

The agent selected for the board of review shall not be a relative of the agent nor shall the agent or insurer member of the board be presently or formerly associated with any insurer represented by the agent.

Upon completion of the hearing, the board of review shall determine if the termination of the agent's agreement is justified. If in the opinion of the board of review the involuntary termination is not justified, and in the absence of a reasonable contractual financial provision for termination as determined by the commissioner, the commissioner shall determine an appropriate level of compensation to the agent.

If in the opinion of the board of review the resignation was not voluntary and the insurer would not have been justified in terminating the agent's agreement, and in the absence of a reasonable contractual financial provision for termination as determined by the commissioner, the commissioner shall determine an appropriate level of compensation to the agent.

(d) Any determination by the commissioner may be appealed to district court by either party for a trial de novo. However, if the insurer appeals and the agent prevails, the insurer is responsible for the agent's legal fees as approved by the court. A person who intimidates or coerces a member of the board of review is subject to a civil penalty imposed by the commissioner of commerce in an amount not to exceed \$25,000.

(e) This section does not apply to an agent whose license has expired, is revoked, or is currently under suspension.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Amend the title as follows:

Page 1, delete line 3

Page 1, line 4, delete "termination" and insert "regulating terminations of agents; prescribing a penalty"

With the recommendation that when so amended the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1907, A bill for an act relating to human services; requiring increases in rates for wages of employees of intermediate care facilities for persons with mental retardation, semi-independent living services, home and community-based waived services, developmental achievement centers, and mental health residential programs; requiring a fair wage plan; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 252.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [252.285] [WAGE ADJUSTMENTS.]

Subdivision 1. [ICF/MR PER DIEM INCREASE.] The commissioner shall increase per diems for each intermediate care facility for persons with mental retardation and related conditions by a wage adjustment figured by multiplying the total wages, payroll taxes, and fringe benefits for personnel below top management by five percent beginning October 1, 1990, through September 30, 1991. All increased revenue received by facilities as a result of this calculation must be used for wages and related costs of personnel in positions below top management.

Subd. 2. [DEVELOPMENTAL ACHIEVEMENT CENTERS PER DIEM INCREASE.] In establishing, operating, or contracting for the provision of developmental achievement centers under section 252.24, a county board shall contract at rates to reflect increased wages figured by multiplying the total wages, payroll taxes, and

fringe benefits for personnel below top management times five percent for fiscal year 1991. All increased revenue received by facilities as a result of this calculation must be used for wages and related costs of personnel in positions below top management.

County boards shall submit a plan to the commissioner to implement increased wages according to this subdivision by September 15, 1990. If the county fails to submit a plan, the state may direct the county regarding implementation of this subdivision.

Subd. 3. [MENTAL HEALTH RESIDENTIAL PROGRAMS.] In establishing, operating, or contracting for the provision of programs licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, a county board shall contract at rates to reflect increased wages figured by multiplying the total wages, payroll taxes, and fringe benefits for personnel below administration times five percent for fiscal year 1991. All increased revenue received by programs as a result of this calculation must be used for wages and related costs of personnel in positions below administration.

(a) Increases to program grants under Minnesota Rules, parts 9535.2000 to 9535.3000, shall be made to counties upon their submission of the total increase in program costs for residential programs according to this subdivision.

(b) Increases to Minnesota supplemental assistance negotiated rates shall be made upon submission by counties of the increases in negotiated rate contracts for board and lodging made according to this subdivision.

Sec. 2. [252.53] [TASK FORCE ON COMPENSATION.]

The commissioner of human services shall establish a task force on the compensation and training of employees in the developmental disabilities field. The purpose of the task force is to address staff turnover, recruitment, and training in order to have a significant number of qualified people working in programs for people with developmental disabilities. Programs include intermediate care facilities for persons with mental retardation, semi-independent living services, day training and habilitation, waived services, supported employment, and rehabilitation facilities. Members of the task force shall be appointed by the commissioner. Task force membership shall consist of at least one representative from the department of human services, the department of employee relations, the department of jobs and training, advocates, and the department of health, direct care staff from unionized and non-unionized facilities, providers, collective bargaining representatives, and representatives from institutions of post-secondary education, metro and greater Minnesota counties, and the governor's council on developmental disabilities. The task force shall

submit a report to the commissioner by November 1, 1990, that includes recommendations on the following:

(1) entry and promotional level wage ranges for various job classifications which reduce wage and benefit inequities between community and state-operated facilities and services;

(2) implementation of wage and benefit increases over a four-year period to ensure that wages and benefits are brought up to a level competitive within the community marketplace;

(3) mechanisms to link wage increases to initial training, continuing education, and competency;

(4) recruitment and retention of qualified staff; and

(5) the impact of making adjustments pursuant to complying with United States Code, title 29, section 157 (Supp. 1988), and sections 179.16 and 179A.12.

By January 15, 1991, the commissioner shall submit the report and recommended legislation to implement the report to the chairs of the house and senate health and human services committees.

Sec. 3. [APPROPRIATION.]

\$ is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 1991, for increased per diems under section 1.

\$ is appropriated from the general fund to the commissioner of human services for the fiscal year ending June 30, 1991, to establish the task force on compensation under section 2."

Delete the title and insert:

"A bill for an act relating to human services; requiring increases in rates for wages of employees of intermediate care facilities for persons with mental retardation or related conditions, developmental achievement centers, and mental health residential programs; establishing a task force on compensation; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 252."

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

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 1916, A bill for an act relating to elections; requiring the designation of a local government election for election of county, municipal, and school district officers, and officers of all other political subdivisions except certain towns; requiring that certain questions be voted on only at the local government election for the political subdivision; requiring uniform and coordinated election precincts and polling places for municipalities and school districts; superseding certain inconsistent general and special laws and home rule charter provisions; appropriating money; amending Minnesota Statutes 1988, sections 40.05, subdivisions 1, 3, and 4; 40.06, subdivision 1; 122.23, subdivisions 12 and 17; 122.25, subdivision 2; 123.12, subdivision 1; 123.33, subdivision 1; 123.34, subdivision 1; 123.351, subdivisions 1 and 3; 123.51; 124.43, subdivision 3b; 200.02, by adding a subdivision; 201.071, subdivisions 1, 3, and 8; 203B.06, subdivision 3; 204B.14, by adding a subdivision; 204B.16, subdivision 1; 204B.18, subdivision 2, and by adding a subdivision; 204C.10, subdivision 1; 204D.02, subdivisions 1 and 2; 204D.11, subdivision 5; 204D.16; 205.02, subdivision 2; 205.10, subdivision 1; 205.13, subdivisions 1 and 6; 205.185, subdivisions 2, 3, and by adding a subdivision; 205A.02; 205A.05, subdivision 1; 205A.06, subdivision 5; 365.51, subdivision 3; 367.03; 375.03; 375.101, by adding a subdivision; 375.20; 375A.12, subdivision 4; 382.01; 383A.06, subdivision 2; 397.06; 397.07; 398.04; 410.12, subdivision 4; 410.21; 412.02, subdivision 2; 412.571, subdivision 5; 426.19, subdivision 2; 447.32, subdivisions 1 and 2; 447.48; 469.0724; 469.190, subdivision 5; and 475.58, subdivision 1a; Minnesota Statutes 1989 Supplement, sections 122.23, subdivision 18; 124.82, subdivision 3; 128.01, subdivision 3; 129B.73, subdivision 4; 136D.741, subdivision 4; 375.18, subdivision 3; 412.021, subdivision 2; and 471.191, subdivision 2; Minnesota Statutes Second 1989 Supplement, sections 275.58, subdivision 1; and 373.40, subdivision 2; proposing coding for new law in chapter 205; repealing Minnesota Statutes 1988, sections 123.015; 123.11, subdivisions 2, 3, 4, 5, and 6; 123.32, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 11, 22, 24, 25, 26, and 27; 200.015; 201.095; 204D.28, subdivision 5; 205.02; 205.065, subdivisions 2, 3, 4, 5, 6, and 7; 205.07; 205.10; 205.121; 205.175; 205.18, subdivision 1; 205.20; 206.76; 375.101, subdivisions 1 and 2; and 447.32, subdivisions 3 and 4; Minnesota Statutes 1989 Supplement, sections 205.065, subdivision 1; and 205.18, subdivision 2.

Reported the same back with the following amendments:

Page 2, line 9, delete "DAY"

Page 3, line 15, after "questions" insert "involving adopting or amending a city charter"

Page 3, line 16, delete the colon and insert a period

Page 3, delete lines 17 to 24

Page 10, line 10, after "and" insert "the"

Page 10, line 11, delete "elections" and insert "election"

Page 18, after line 16, insert:

"Sec. 18. Minnesota Statutes 1988, section 206.58, subdivision 1, is amended to read:

Subdivision 1. [MUNICIPALITIES.] The governing body of a municipality, at a regular meeting or at a special meeting called for the purpose, may provide for the use of lever voting machines or, by the affirmative vote of two-thirds of its members, may provide for the use of an electronic voting system, in one or more precincts and at all elections in the precincts. The governing body shall disseminate information to the public about the use of a new voting system at least 60 days prior to the election and shall provide for instruction of voters with a demonstration voting machine or device in a public place for the six weeks immediately prior to the first election at which the new voting system will be used.

If a machine is designed in a way that does not allow voting on all candidates and issues pursuant to this chapter, the machines may be used to the extent compliance with this chapter is possible and paper ballots complying with election laws shall be used for all other offices and issues. In all other circumstances where a voting machine or system is used in a polling place, all offices and issues to be voted on in that polling place shall appear on the ballot cards or ballot strips used for the machines or systems. No machine or system shall be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57.

Sec. 19. Minnesota Statutes 1988, section 206.61, is amended by adding a subdivision to read:

Subd. 4a. [ORDER OF OFFICES AND QUESTIONS.] The offices and questions to be voted on in an election shall be listed in the following order: federal and state offices, as provided in the rules of the secretary of state; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; other district offices and questions; and judicial offices.

Page 19, line 24, reinstate "at the" and "place of holding the state general"

Page 19, line 25, reinstate "election,"

Page 30, line 17, delete "URBAN" and insert "CERTAIN"

Page 31, delete section 19 and insert:

"Sec. 19. Minnesota Statutes 1988, section 375.09, is amended to read:

375.09 [MAY NOT HOLD OTHER OFFICE; BRIBERY; VIOLATION; MALFEASANCE.]

No county commissioner shall hold another elected office during tenure as commissioner ~~nor be employed by the county~~. No commissioner shall receive any money or other valuable thing as a condition of voting or inducement to vote for any contract or other thing under consideration by the board. Every election and every contract or payment voted for or made contrary to this section is void. Any violation of this section is a malfeasance in office.

Sec. 20. [375.093] [EMPLOYEES; ELECTION AS COMMISSIONERS.]

A county employee who is elected to be a county commissioner shall take a leave of absence from the employee's position with the county. The county shall grant the leave for the time of actual and continuous service as county commissioner. At the termination of the elective service, the employee shall be reinstated in the classified or other position held by the employee at the time of taking office as commissioner or in a position of the same class and grade or level. Reinstatement shall be with seniority for the time served as commissioner and without loss of other seniority.

Page 34, after line 2, insert:

"Sec. 25. Minnesota Statutes 1988, section 410.12, subdivision 4, is amended to read:

Subd. 4. [ELECTION.] Amendments shall be submitted to the qualified voters at a municipal general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment."

Pages 37 to 49, delete article 5

Page 49, line 7, delete "6" and insert "5"

Page 49, after line 26, insert:

"The governing body of each political subdivision subject to article 1, section 2, subdivisions 2 and 3, shall designate in ordinance or resolution adopted by December 1, 1992, either the odd-numbered or even-numbered year for its local government election."

Page 54, line 11, delete "375.101, subdivisions 1 and 2,"

Page 54, line 14, delete "6" and insert "5"

Page 54, line 17, insert "and"

Page 54, line 18, delete "; and article 5, sections 2 and 3,"

Re-number the sections in sequence

Correct internal references

Delete the title and insert:

"A bill for an act relating to elections; requiring the designation of a local government election for election of county, municipal, and school district officers, and officers of all other political subdivisions except certain towns; requiring uniform and coordinated election precincts and polling places for municipalities and school districts; changing certain requirements for municipal elections and county officeholders; superseding certain inconsistent general and special laws and home rule charter provisions; appropriating money; amending Minnesota Statutes 1988, sections 40.05, subdivisions 1, 3, and 4; 40.06, subdivision 1; 122.23, subdivisions 12 and 17; 122.25, subdivision 2; 123.12, subdivision 1; 123.33, subdivision 1; 123.34, subdivision 1; 123.351, subdivisions 1 and 3; 123.51; 200.02, by adding a subdivision; 201.071, subdivisions 1, 3, and 8; 203B.06, subdivision 3; 204B.14, by adding a subdivision; 204B.16, subdivision 1; 204B.18, subdivision 2, and by adding a subdivision; 204C.10, subdivision 1; 204D.02, subdivisions 1 and 2; 204D.11, subdivision 5; 204D.16; 205.02, subdivision 2; 205.13, subdivisions 1 and 6; 205.185, subdivisions 2, 3, and by adding a subdivision; 205A.02; 205A.06, subdivision 5; 206.58, subdivision 1; 206.61, by adding a subdivision; 365.51, subdivision 3; 367.03; 375.03; 375.09; 382.01; 397.06; 397.07; 398.04; 410.12, subdivision 4; 410.21; 412.02, subdivision 2; 412.571, subdivision 5; and 447.32, subdivisions 1 and 2; Minnesota Statutes 1989 Supplement, sections 122.23, subdivision 18; 128.01, subdivision 3; and 412.021, subdivision 2; proposing

coding for new law in chapters 205 and 375; repealing Minnesota Statutes 1988, sections 123.015; 123.11, subdivisions 2, 3, 4, 5, and 6; 123.32, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 11, 22, 24, 25, 26, and 27; 200.015; 201.095; 204D.28, subdivision 5; 205.02; 205.065, subdivisions 2, 3, 4, 5, 6, and 7; 205.07; 205.10; 205.121; 205.175; 205.18, subdivision 1; 205.20; 206.76; and 447.32, subdivisions 3 and 4; Minnesota Statutes 1989 Supplement, sections 205.065, subdivision 1; and 205.18, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 1929, A bill for an act relating to education; deleting the four-year or equivalent limitation on post-secondary child care grants; amending Minnesota Statutes 1989 Supplement, section 136A.125, subdivision 2.

Reported the same back with the following amendments:

Page 1, line 23, before the semicolon insert "has not earned the minimum number of credits necessary for a baccalaureate degree in the applicant's field of study, and has not received more than eight semesters, 12 quarters, or the equivalent of child care grants"

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

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1979, A bill for an act relating to controlled substances; increasing the excise tax on cigarettes, beer, wine, and alcoholic beverages; creating the local government drug council; providing for grants to local governments for drug treatment and criminal justice; amending Minnesota Statutes 1988, sections 297.02, subdivision 1; and 297C.02, subdivisions 1, 2, and 3; Minnesota Statutes 1989 Supplement, sections 299A.29, subdivision 3, and by adding a subdivision; 299A.30; 299A.32, subdivisions 1 and 2; 299A.34; 299A.35, subdivision 1; 299A.36; and 299A.40, subdivisions 3 and 4; proposing coding for new law in Minnesota Statutes, chapter 299A; repealing Minnesota Statutes 1989 Supplement, section 299A.35, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 290.06, is amended by adding a subdivision to read:

Subd. 23. [CREDIT FOR PROVIDERS OF SHELTER TO ABUSED OR NEGLECTED CHILDREN.] An individual who is not the parent or legal foster parent of a child may take a credit against the tax due under this chapter equal to \$250 per month for each month that the child resides with the individual under a court order issued under chapter 260. If the amount of the credit that an individual may claim under this subdivision exceeds the individual's tax liability under this chapter, the excess amount of the credit shall be refunded to the individual by the commissioner.

Sec. 2. Minnesota Statutes 1988, section 290.06, is amended by adding a subdivision to read:

Subd. 24. [CREDIT FOR EMPLOYERS' FAMILY PROGRAMS.] A taxpayer may take a credit against the tax due under this chapter equal to the cost incurred by the taxpayer for providing a course or program on prenatal care or early childhood family education for employees of the taxpayer. The credit is available only for costs incurred during the first 12 consecutive months during which the taxpayer made the service available to employees. The credit may not exceed a total of \$2,500 in one or two taxable years. An employer who provides these services to employees prior to March 1, 1990, is not eligible for a credit under this subdivision. As used in this subdivision, "early childhood family education" means a program described in section 121.882.

Sec. 3. Minnesota Statutes 1988, section 297.02, subdivision 1, is amended to read:

Subdivision 1. [RATES.] A tax is hereby imposed upon the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, ~~19~~ 20 mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, ~~38~~ 40 mills on each such cigarette.

Sec. 4. Minnesota Statutes 1988, section 297C.02, subdivision 1, is amended to read:

Subdivision 1. [DISTILLED SPIRITS AND WINE.] There is imposed on all distilled spirits and wine manufactured, imported, sold, or possessed in this state the following excise tax:

	Standard	Metric
(a) Distilled spirits, liqueurs, cordials, and specialties regardless of alcohol content (excluding ethyl alcohol)	\$5.03 per gallon	\$1.33 per liter
(b) Wine containing 14 percent or less alcohol by volume	<u>\$1.51</u> per gallon	<u>\$1.40</u> per liter
(c) Wine containing more than 14 percent but not more than 21 percent alcohol by volume	<u>\$3.79</u> per gallon	<u>\$1.00</u> per liter
(d) Wine containing more than 21 percent but not more than 24 percent alcohol by volume	\$1.82 per gallon	\$1.48 per liter
(e) Wine containing more than 24 percent alcohol by volume	\$3.52 per gallon	\$1.93 per liter
(f) Natural and artificial sparkling wines containing alcohol	<u>\$3.79</u> per gallon	<u>\$1.00</u> per liter

The metric tax is imposed on all products taxable under this subdivision when the net contents are stated in metric units of measure.

In computing the tax on a package of distilled spirits or wine a proportional tax at a like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a fractional part of a gallon less than 1/16 of a gallon is the same as for 1/16 of a gallon.

The tax on miniatures of two fluid ounces or less or 50 milliliters or less is 14 15 cents.

The commissioner of revenue may establish by rule a date and procedure for the conversion of excise tax computation and reporting from rates expressed in gallons to rates expressed in metric volumes. The official conversion factor is one liter equals 0.264172 United States gallons.

Sec. 5. Minnesota Statutes 1989 Supplement, section 299A.29, is amended by adding a subdivision to read:

Subd. 2a. [ALCOHOL.] "Alcohol" means alcoholic beverages as defined in section 340A.101, subdivision 2.

Sec. 6. Minnesota Statutes 1989 Supplement, section 299A.30, is amended to read:

299A.30 [OFFICE OF DRUG AND ALCOHOL ABUSE POLICY.]

Subdivision 1. [OFFICE; ASSISTANT COMMISSIONER.] The office of drug and alcohol abuse policy is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees in the unclassified service. The assistant commissioner shall coordinate the activities of drug and alcohol program agencies and serve as staff to the drug and alcohol abuse prevention resource council.

Subd. 2. [DUTIES.] (a) The assistant commissioner shall gather and make available information on demand reduction and supply reduction throughout the state, foster cooperation among drug and alcohol program agencies, and assist agencies and public officials in training and other programs designed to improve the effectiveness of demand reduction and supply reduction.

(b) The assistant commissioner shall coordinate the distribution of funds received by the state of Minnesota through the federal Anti-Drug Abuse Act. ~~The assistant commissioner may obtain technical assistance from the state planning agency to perform this function.~~ The assistant commissioner shall recommend to the commissioner recipients of grants under sections 299A.33 and 299A.34 to 299A.40, after consultation with the drug and alcohol abuse prevention resource council.

(c) The assistant commissioner shall:

(1) after consultation with all drug program appropriate agencies operating in the state, develop a state drug strategy encompassing the efforts of those agencies and taking into account all money available for demand reduction and supply reduction, from any source;

(2) submit the strategy to the governor and the legislature by January 15 of each year, along with a summary of demand reduction and supply reduction during the preceding calendar year;

(3) assist appropriate professional and occupational organizations, including organizations of law enforcement officers, prosecutors, and

educators, in developing and operating informational and training programs to reduce and prevent alcohol abuse and to improve the effectiveness of drug demand reduction and supply reduction; and

(4) provide information and assistance to drug and alcohol program agencies, both directly and by functioning as a clearinghouse for information from other drug and alcohol program agencies.

Sec. 7. Minnesota Statutes 1989 Supplement, section 299A.31, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; MEMBERSHIP.] A drug and alcohol abuse prevention resource council consisting of 18 members is established. The commissioners of public safety, education, health, human services, and the state planning agency, and the attorney general shall each appoint one member from among their employees. The speaker of the house of representatives and the subcommittee on committees of the senate shall each appoint a legislative member. The governor shall appoint an additional ten members who shall demonstrate knowledge in the area of drug and alcohol abuse prevention or treatment, shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following groups: parents, educators, clergy, local government, racial and ethnic minority communities, professional providers of drug and alcohol abuse prevention and treatment services, volunteers in private, nonprofit drug and alcohol prevention and treatment programs, the nonprofit foundation community, and the business community, and the criminal justice community. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.

Sec. 8. Minnesota Statutes 1989 Supplement, section 299A.32, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE OF THE COUNCIL.] The general purpose of the drug and alcohol abuse prevention resource council is to foster the coordination and development of a statewide drug and alcohol abuse prevention, education, treatment, and criminal justice policy.

Sec. 9. Minnesota Statutes 1989 Supplement, section 299A.32, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC DUTIES AND RESPONSIBILITIES.] In furtherance of the general purpose specified in subdivision 1, the council has the following duties and responsibilities:

(1) it shall develop a coordinated, statewide drug and alcohol abuse prevention policy with particular attention to programs that

are geared to reducing the demand for drugs and the abuse of alcohol;

(2) it shall develop a mission statement that defines the roles and relationships of agencies operating within the continuum of chemical health care;

(3) it shall develop guidelines for drug and alcohol abuse prevention program development and operation based on its research and program evaluation activities;

(4) it shall assist local governments and groups in planning, organizing, and establishing comprehensive, community-based drug abuse prevention programs and services;

(5) it shall coordinate and provide technical assistance to organizations and individuals seeking public or private funding for drug abuse prevention programs, and to government and private agencies seeking to grant funds for these purposes;

(6) it shall assist providers of drug abuse prevention services in implementing, monitoring, and evaluating new and existing programs and services;

(7) it shall provide information on and analysis of the relative public and private costs of drug abuse prevention, enforcement, intervention, and treatment efforts; and

(8) it shall advise the assistant commissioner of the office of drug and alcohol abuse policy in awarding grants for programs including those created by sections 299A.33 to 299A.40, and in other duties.

Sec. 10. [299A.321] [ANTI-DRUG AND ANTI-ALCOHOL ABUSE PROGRAMS; GRANTS.]

Subdivision 1. [DISBURSEMENT.] The commissioner, with the assistance and advice of the drug and alcohol abuse prevention resource council, may award grants under sections 299A.33, 299A.34, 299A.35, and 299A.40 and section 11.

Subd. 2. [GRANTS.] A grant awarded under this section may require a match not to exceed 25 percent. Grants may be awarded for up to five years. Money received under this section may not be used to compensate for a decrease in previously existing funding levels.

Subd. 3. [GRANT PROCEDURE.] An applicant may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in the application:

- (1) a description of each program for which funding is sought;
- (2) the amount of funding to be provided to the program;
- (3) the geographical area to be served by the program; and

(4) for criminal justice grants, statistical information about the number of arrests in the geographical area for violent crimes, for alcohol-related crimes under Minnesota Statutes, chapter 169, and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; and any provision of chapter 152 that is punishable by a maximum term of imprisonment greater than ten years.

For criminal justice grants, the commissioner shall give priority to funding programs in the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), and that demonstrate substantial involvement by members of the community served by the program.

Sec. 11. [299A.332] [DRUG AND ALCOHOL TREATMENT GRANTS.]

Subdivision 1. [GRANTS.] (a) The commissioner shall develop grant programs to provide funds to drug and alcohol treatment facilities, programs, and services that:

(1) provide court-ordered treatment services to persons who are convicted of a crime and are determined through a chemical use assessment under section 169.126 or a similar procedure to be in need of drug and alcohol treatment services; and

(2) provide drug and alcohol treatment services to persons ordered to receive it as an outcome of a criminal justice diversion program, civil proceeding, or child protection order, but who are indigent or otherwise unable to afford the treatment.

(b) The commissioner shall establish eligibility criteria and reporting requirements for grant recipients.

Sec. 12. Minnesota Statutes 1989 Supplement, section 299A.34, is amended to read:

299A.34 [LAW ENFORCEMENT AND COMMUNITY AND CRIMINAL JUSTICE GRANTS.]

Subdivision 1. [GRANT PROGRAMS.] (a) The commissioner shall develop grant programs to:

(1) assist ~~law enforcement~~ criminal justice agencies in purchasing equipment, ~~provide undercover buy money,~~ and pay other personnel and nonpersonnel costs; and

(2) assist community and neighborhood organizations in efforts to prevent or reduce criminal activities in their areas, particularly activities involving youth and the use and sale of drugs.

Eligible criminal justice agencies include prosecutors, county sheriffs, police departments, public defender offices, district courts, and community corrections agencies.

(b) The commissioner shall ~~by rule prescribe~~ establish criteria for eligibility and the award of grants and reporting requirements for recipients.

Subd. 2. [SELECTION AND MONITORING.] The drug and alcohol abuse prevention resource council shall assist in the selection and monitoring of grant recipients.

Sec. 13. Minnesota Statutes 1989 Supplement, section 299A.35, subdivision 1, is amended to read:

Subdivision 1. [PROGRAMS.] The commissioner shall, in consultation with the drug and alcohol abuse prevention resource council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control efforts. Examples of qualifying programs include, but are not limited to, the following:

(1) programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or mental disabilities;

(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;

(3) neighborhood block clubs and innovative community-based crime watch programs; ~~and~~

(4) other community-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program; and

(5) programs designed to alleviate the impact of abuse of alcohol and controlled substances on the community, including programs to aid the victims of domestic violence and other offenses to which the abuse of alcohol and controlled substances is a contributing factor.

Sec. 14. Minnesota Statutes 1989 Supplement, section 299A.36, is amended to read:

299A.36 [OTHER DUTIES.]

The assistant commissioner assigned to the office of drug and alcohol abuse policy, in consultation with the drug and alcohol abuse prevention resource council, shall:

(1) provide information and assistance upon request to school preassessment teams established under section 126.034 and school and community advisory teams established under section 126.035;

(2) provide information and assistance upon request to the state board of pharmacy with respect to the board's enforcement of chapter 152;

(3) cooperate with and provide information and assistance upon request to the alcohol and other drug abuse section in the department of human services;

(4) assist in coordinating the policy of the office with that of the narcotic enforcement unit in the bureau of criminal apprehension; and

(5) coordinate the activities of the regional drug task forces, provide assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.

Sec. 15. Minnesota Statutes 1989 Supplement, section 299A.37, is amended to read:

299A.37 [COOPERATION OF OTHER AGENCIES.]

State agencies, and agencies and governing bodies of political subdivisions, shall cooperate with the assistant commissioner assigned to the office of drug and alcohol abuse policy and shall provide any public information requested by the assistant commissioner assigned to the office of drug and alcohol abuse policy.

Sec. 16. Minnesota Statutes 1989 Supplement, section 299A.40, subdivision 3, is amended to read:

Subd. 3. [GRANTS FOR DEMONSTRATION PROGRAM.] The assistant commissioner of the office of drug and alcohol abuse policy may award a grant to a county, multicounty organization, or city, as described in subdivision 1, for establishing and operating a multidisciplinary chemical abuse prevention team. The assistant commissioner may approve up to five applications for grants under this subdivision shall consult with the drug and alcohol abuse prevention resource council before awarding grants. The grant funds must be used to establish a multidisciplinary chemical abuse prevention team to carry out the duties in subdivision 2.

Sec. 17. [PILOT PROJECT FOR SERVICES TO PREVENT CHILD ABUSE.]

The commissioner of human services is authorized to fund a pilot project designed to measure the effectiveness of early intervention and targeted family services in preventing child abuse. The pilot project must be designed to offer a full range of innovative in-home and family treatment services to selected families, determined by the county agency to be at risk for child abuse. The county shall monitor and evaluate the program outcomes for the families participating in the program and shall report those outcomes to the commissioner. The commissioner shall report to the legislature before January 15, 1992, on the design and effectiveness of the project program and shall include recommendations for legislation as appropriate.

Sec. 18. [ANTI-DRUG AND ANTI-ALCOHOL ABUSE PROGRAMS.]

The purpose of the increases in excise taxes in sections 3 and 4 is to provide funding for the anti-drug and anti-alcohol abuse programs authorized by sections 299A.30 to 299A.40 and for the child abuse prevention and family planning services authorized by sections 17 and 19.

Sec. 19. [APPROPRIATIONS.]

(a) \$ is appropriated from the general fund to the commissioner of human services to be available for the fiscal year ending June 30, 1991, for purposes of section 17.

(b) Additional funds, in the amount of \$, are appropriated from the general fund to the commissioner of health, for the biennium ending June 30, 1991, to be used for family planning grants under Minnesota Statutes, section 145.925. The supplemental funds authorized by this paragraph shall be targeted to provide support services to persons who are at risk for unplanned pregnancies and who, because of dependency on alcohol or other drugs, are seen to be at risk of creating abusive family settings.

(c) \$ is appropriated from the general fund to the commissioner of public safety for the anti-drug and anti-alcohol abuse programs authorized by sections 299A.30 to 299A.40.

Sec. 20. [REPEALER.]

Minnesota Statutes 1989 Supplement, section 299A.35, subdivision 2, is repealed."

Correct the internal cross references

Delete the title and insert:

"A bill for an act relating to controlled substances; providing tax credits for legal foster parents and employers who provide early childhood family education programs for employees; increasing the excise tax on cigarettes, beer, wine, and alcoholic beverages; changing the name of the office of drug policy to the office of drug and alcohol abuse policy; requiring the drug and alcohol abuse prevention resource council to develop a drug and alcohol abuse prevention policy; authorizing grants for drug abuse resistance education programs, criminal justice agencies, community crime reduction programs, multidisciplinary chemical abuse prevention teams, and drug and alcohol treatment; authorizing a pilot project for services to prevent child abuse; appropriating money; amending Minnesota Statutes 1988, sections 290.06, by adding subdivisions; 297.02, subdivision 1; and 297C.02, subdivision 1; Minnesota Statutes 1989 Supplement, sections 299A.29, by adding a subdivision; 299A.30; 299A.31, subdivision 1; 299A.32, subdivisions 1 and 2; 299A.34; 299A.35, subdivision 1; 299A.36; 299A.37; and 299A.40, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 299A; repealing Minnesota Statutes 1989 Supplement, section 299A.35, subdivision 2."

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

The report was adopted.

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

H. F. No. 2000, A bill for an act relating to game and fish; restrictions on issuance of moose licenses; amending Minnesota Statutes 1988, section 97B.501.

Reported the same back with the following amendments:

Page 1, line 9, after the period delete "A"

Page 1, delete lines 10 and 11, and insert "Preference must be given by the commissioner to applicants who have previously applied for a moose license but were not selected."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 2005, A bill for an act relating to lawful gambling; defining lawful purposes for expenditures of gambling profits; establishing licensing qualifications for organizations and manufacturers; requiring organizations to report monthly on expenditures and contributions of gambling profits; authorizing the gambling control board to require recipients of contributions of gambling profits to register with the board; authorizing summary suspension of gambling licenses for failure to file tax returns; authorizing a limited number of video pull-tab devices and establishing standards and requirements for them; requiring inspection and testing of gambling equipment; requiring permits for gambling premises; requiring gambling managers to be licensed; requiring that employees of organizations conducting lawful gambling be registered with the board; expanding allowable uses for revenue from local gambling taxes and requiring board approval of these taxes; abolishing lawful gambling on July 1, 1993; amending Minnesota Statutes 1988, sections 349.12, subdivision 10, and by adding subdivisions; 349.16, as amended; 349.17, as amended; 349.18, as amended; 349.19, as amended; 349.212, subdivision 5; 349.2121, subdivisions 1 and 4a; 349.2123; 349.30, subdivision 2; 349.31; 349.32; 349.34; 349.35, subdivision 1; 349.36; 349.38; 349.39; 349.50, subdivision 8; 349.55; 609.75, subdivision 4; Minnesota Statutes 1989 Supplement, sections 299L.03, by adding a subdivision; 340A.410, subdivision 5; 349.12, subdivisions 12 and 15; 349.151, subdivision 4; 349.152, subdivision 2, and by adding subdivisions; 349.161, as amended; 349.162; 349.163, as amended; 349.164; 349.2121, subdivision 2; 349.2122; 349.213, subdivision 2; 609.75, subdivision 3; 609.761, subdivision 1; Minnesota Statutes Second 1989 Supplement, sections 349.12, subdivisions 11 and 19; and 349.212, subdivisions 1 and 4; Laws 1989, First Special Session chapter 1, article 13, section 27; proposing coding for new law in Minnesota Statutes, chapter 349; repealing Minnesota Statutes 1988, sections 349.11, as amended; 349.12, as amended; 349.13; 349.14; 349.15, as amended; 349.16, as amended; 349.161, as amended; 349.162, as amended; 349.163, as amended; 349.164, as amended; 349.17, as amended; 349.18, as amended; 349.19, as amended; 349.211; 349.212, as

amended; 349.2121, as amended; 349.2122, as amended; 349.2123; 349.2124; 349.2125, as amended; 349.2127, as amended; 349.213, as amended; 349.214, subdivisions 1, 1a, 3, and 4; 349.22, as amended; 349.23; Minnesota Statutes 1989 Supplement, sections 349.151; subdivisions 1, 2, 4, 4a, and 5; 349.152; 349.153; 349.20; 349.21; 349.215; 349.2151; 349.2152; 349.216; 349.217; 349.2171; 349.218; 349.219; Minnesota Statutes Second 1989 Supplement, section 349.214, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1989 Supplement, section 299L.03, is amended by adding a subdivision to read:

Subd. 9. [VIDEO GAMES OF CHANCE.] The commissioner shall exercise all powers and duties assigned to the commissioner relating to video games of chance under sections 349.50 to 349.60 through the division and director.

Sec. 2. [299L.06] [JURISDICTION.]

In any investigation or other enforcement activity where there is probable cause to believe that a criminal violation relating to gambling has occurred, the division shall be the primary investigation entity where enforcement rests.

Sec. 3. Minnesota Statutes 1989 Supplement, section 340A.410, subdivision 5, is amended to read:

Subd. 5. [GAMBLING PROHIBITED.] (a) No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein except as provided in this subdivision.

(b) ~~Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized under chapter 349.~~

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

Sec. 4. Minnesota Statutes 1988, section 349.12, subdivision 10, is amended to read:

Subd. 10. "Pull-tab" means a single folded or banded ticket or a

card with a face covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner. "Pull-tab" also includes a ticket sold in a gambling device known as a ticket jar, and includes plays on a video pull-tab device.

Sec. 5. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 10a. [VIDEO PULL-TAB DEVICE.] "Video pull-tab device" means an electronic video device that on the insertion of cash or a token simulates the game of pull-tabs.

Sec. 6. Minnesota Statutes Second 1989 Supplement, section 349.12, subdivision 11, is amended to read:

Subd. 11. (a) "Lawful purpose" means one or more of the following:

(1) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(2) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures;

(3) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people;

(4) payment of local taxes authorized under this chapter, and taxes imposed by the United States on receipts from lawful gambling;

(5) any expenditure by, or any contribution to, a hospital or nursing home exempt from taxation under section 501(c)(3) of the Internal Revenue Code;

(6) payment of reasonable costs incurred in complying with the performing of annual audits required under section 349.19, subdivision 9;

(7) payment of real estate taxes and assessments on licensed gambling premises wholly owned by the licensed organization; or

(8) if approved by the board, construction, improvement, expansion, maintenance, and repair of athletic fields and outdoor ice rinks

and their appurtenances, owned by the organization or a public agency.

(b) "Lawful purpose" does not include the erection, acquisition, improvement, expansion, repair, or maintenance of any real property or capital assets owned or leased by an organization, other than a hospital or nursing home exempt from taxation under section 501(c)(3) of the Internal Revenue Code, unless the board has first specifically authorized the expenditures after finding: (1) that the property or capital assets will be used exclusively for one or more of the purposes specified in paragraph (a), clauses (1) to (3); or (2) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; or (3) with respect to expenditures for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance. The board shall by rule adopt procedures and standards to administer this subdivision.

(1) any expenditure by or contribution to a 501(c)(3) organization, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 19;

(2) a contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;

(3) a contribution to an individual for treatment for delayed post-traumatic stress syndrome, or a contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to a scholarship fund for defraying the cost of education to individuals, where the funds are awarded through an open and fair selection process not controlled by the contributing organization;

(6) activities by a veterans organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community;

(7) recreational and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender, as evidenced by (i) provision of equipment and supplies, (ii) scheduling of activities, including games and practice times, (iii) supply and assignment of coaches or other adult supervisors, (iv) provision and availability of support facilities, and (v) whether the opportunity to participate reflects each gender's demonstrated interest in the activity;

(8) payment of local taxes authorized under this chapter, and taxes imposed by the United States on receipts from lawful gambling;

(9) payment of real estate taxes and assessments on licensed gambling premises wholly owned by the licensed organization paying the taxes;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency; or

(11) a contribution to or expenditure by a nonprofit organization, church or body of communicants, gathered in common membership for mutual support and edification in piety, worship, or religious observances.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made unin-

habitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; or (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced;

(4) an expenditure by an organization which is a contribution to a parent organization, foundation or affiliate of the contributing organization, if the parent organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value; or

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a).

Sec. 7. Minnesota Statutes 1989 Supplement, section 349.12, subdivision 12, is amended to read:

Subd. 12. [ORGANIZATION.] "Organization" means any fraternal, religious, veterans, or other nonprofit organization which has at least 15 active members, and either has been duly incorporated as a nonprofit organization for at least three years, or has been recognized by the Internal Revenue Service as exempt from income taxation for the most recent three years.

Sec. 8. Minnesota Statutes 1989 Supplement, section 349.12, subdivision 15, is amended to read:

Subd. 15. [GAMBLING EQUIPMENT.] "Gambling equipment" means: bingo cards or sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, pull-tab and/or tipboard dispensing machines, video pull-tab devices, paddlewheels, and tipboards.

Sec. 9. Minnesota Statutes Second 1989 Supplement, section 349.12, subdivision 19, is amended to read:

Subd. 19. [IDEAL GROSS.] "Ideal gross" means the total amount of receipts that would be received if every individual ticket in the

pull-tab or tipboard deal was sold at its face value. In the calculation of ideal gross and prizes, a free play ticket shall be valued at face value. In the case of video pull-tab devices "ideal gross" is the total amount of receipts that can be received by the read-only memory chip driving the device.

Sec. 10. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 30. [501(c)(3) ORGANIZATION.] "501(c)(3) organization" is an organization exempt from the payment of federal income taxes under section 501(c)(3) of the Internal Revenue Code.

Sec. 11. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 31. [AFFILIATE.] "Affiliate" is any person or entity directly or indirectly controlling, controlled by, or under common control or ownership with a licensee of the board or any officer or director of a licensee of the board.

Sec. 12. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 32. [PERSON.] "Person" is an individual, firm, association, partnership, corporation, trustee, or legal representative.

Sec. 13. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 33. [VIDEO PULL-TAB DEVICE WHOLESALER.] "Video pull-tab device wholesaler" is a person who purchases video pull-tab devices from a manufacturer and sells them to a distributor.

Sec. 14. Minnesota Statutes Second 1989 Supplement, section 349.15, is amended to read:

349.15 [USE OF GROSS PROFITS.]

(a) Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized at a regular meeting of the conducting organization. Provided that no more than 55 percent of the gross profit less the tax imposed under section 349.212, subdivision 1, from bingo, no more than 50 percent of the gross profit from raffles, paddlewheels, and tipboards, and no more than 50 percent of the gross profit less the taxes imposed by section 349.212, subdivisions 1, 4, and 6, from other forms of lawful gambling pull-tabs, may be expended for allowable expenses related to lawful gambling.

(b) The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross profits which may be expended for certain expenses.

(c) Allowable expenses also include reasonable costs of bank account service charges, and the reasonable costs of an audit required by the board, except an audit required under section 349.19, subdivision 9.

(d) Allowable expenses include reasonable legal fees and damages that relate to the conducting of lawful gambling, except for legal fees or damages incurred in defending the organization against the board, attorney general, United States attorney, commissioner of revenue, or a county or city attorney.

Sec. 15. Minnesota Statutes 1989 Supplement, section 349.151, subdivision 4, is amended to read:

Subd. 4. [POWERS AND DUTIES.] (a) Until July 1, 1993, the board has the following powers and duties:

(1) to regulate lawful gambling to ensure it is conducted in the public interest;

(2) to issue, revoke, and suspend licenses to organizations, distributors, bingo halls, and manufacturers under sections 349.16, 349.161, 349.163, and 349.164, and gambling managers;

(2) (3) to collect and deposit license, permit, and registration fees due under this chapter;

(3) (4) to receive reports required by this chapter and inspect the all premises, records, books, and other documents of organizations and suppliers, distributors, manufacturers, and bingo halls to insure compliance with all applicable laws and rules;

(4) (5) to make rules required authorized by this chapter;

(5) (6) to register gambling equipment and issue registration stamps under section 349.162;

(6) (7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;

(7) (8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;

(8) (9) to impose civil penalties of not more than \$500 per violation on organizations, distributors, and manufacturers, bingo halls, and gambling managers for failure to comply with any provision of sections 349.12 to 349.23 this chapter or any rule of the board;

(9) to notify city councils, county boards, and town boards before issuing or renewing licenses to organizations and bingo halls as specified under section 349.213; and

(10) to issue premises permits to organizations licensed to conduct lawful gambling;

(11) to delegate to the director the authority to issue licenses and premises permits under criteria established by the board;

(12) to suspend or revoke licenses and premises permits of organizations, distributors, manufacturers, bingo halls, or gambling managers for violations of law or board rule;

(13) to register recipients of net profits from lawful gambling and to revoke or suspend such registrations;

(14) to register employees of organizations licensed to conduct lawful gambling;

(15) to require fingerprints from those persons determined by board rule to be subject to fingerprinting; and

(16) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) Any organization, distributor, bingo hall operator, or manufacturer assessed a civil penalty may request a hearing before the board. Hearings conducted on appeals of imposition of penalties are not subject to the provisions of the administrative procedure act.

(c) All fees and penalties received by the board must be deposited in the general fund.

(d) On and after July 1, 1993, the board has only the following powers and duties:

(1) to impose civil penalties of up to \$500 per violation on organizations, distributors, manufacturers, bingo halls, and gambling managers who violate any provision of this chapter or any rule of the board before July 1, 1993; and

(2) to hear appeals of civil penalties imposed by the board before July 1, 1993.

Sec. 16. Minnesota Statutes 1989 Supplement, section 349.152, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF THE DIRECTOR.] The director has the following duties:

- (1) to carry out gambling policy established by the board;
- (2) to employ and supervise personnel of the board;
- (3) to advise and make recommendations to the board on rules;
- (4) to issue licenses and premises permits as authorized by the board;
- (5) to issue cease and desist orders;
- (6) to make recommendations to the board on license issuance, denial, suspension and revocation, and civil penalties the board imposes; and
- (7) to ensure that board rules, policy, and decisions are adequately and accurately conveyed to the board's licensees.

Sec. 17. Minnesota Statutes 1989 Supplement, section 349.152, is amended by adding a subdivision to read:

Subd. 3. [CEASE AND DESIST ORDERS.] Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule:

(a) The director has the power to issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the board after which and within 20 days of the date of the hearing the board shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(b) The board may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule and may refer the matter to the attorney general. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The court may not require the board to post a bond.

Sec. 18. Minnesota Statutes 1989 Supplement, section 349.152, is amended by adding a subdivision to read:

Subd. 4. [EXECUTIVE ASSISTANT.] The director may appoint an executive assistant to the director, who is in the unclassified service.

Sec. 19. [349.154] [EXPENDITURE OF NET PROFITS FROM LAWFUL GAMBLING.]

Subdivision 1. [STANDARDS FOR CERTAIN ORGANIZATIONS.] The board shall by rule prescribe standards that must be met by any licensed organization that is a 501(c)(3) organization. The standards must provide:

(1) operating standards for the organization, including a maximum percentage or percentages of the organization's total expenditures that may be expended for the organization's administration and operation; and

(2) standards for any expenditure by the organization of net profits from lawful gambling, including a requirement that the expenditure be related to the primary purpose of the organization.

Subd. 2. [NET PROFIT REPORTS.] (a) Each licensed organization must report monthly to the board on a form prescribed by the board each expenditure and contribution of net profits from lawful gambling. The reports must provide for each expenditure or contribution:

(1) the name, address, and telephone number of the recipient of the expenditure or contribution;

(2) the date the contribution was approved by the organization;

(3) the date, amount, and check number of the expenditure or contribution; and

(4) a brief description of how the expenditure or contribution meets one or more of the purposes in section 349.12, subdivision 11, paragraph (a).

(b) Each report required under paragraph (a) must be accompanied by an acknowledgment, on a form the board prescribes, of each contribution of net profits from lawful gambling included in the report. The acknowledgment must be signed by the recipient of the contribution, or, if the recipient is not an individual, or other authorized representative of the recipient, by an officer. The acknowledgment must include the name and address of the contributing organization and each item in paragraph (a), clauses (1) to (3).

(c) The board shall provide the commissioners of revenue and public safety copies of each report received under this subdivision.

Subd. 3. [REGISTRATION OF LAWFUL GAMBLING NET PROFIT RECIPIENTS.] The board may by rule require that any individual, organization, or other entity must be registered with the board to receive a contribution of net profits from lawful gambling. The rules may designate and define specific categories of recipients which are subject to registration. The board may suspend or revoke the registration of any recipient the board determines has made an unlawful expenditure of net profits from lawful gambling.

Sec. 20. Minnesota Statutes 1988, section 349.16, as amended by Laws 1989, chapter 334, article 2, sections 20 and 21, and Laws 1989, First Special Session chapter 1, article 13, section 8, is amended to read:

349.16 [ORGANIZATION LICENSES.]

Subdivision 1. [LICENSE REQUIRED.] An organization may conduct lawful gambling if it has a license to conduct lawful gambling and complies with this chapter.

Subd. 2. [ISSUANCE OF GAMBLING LICENSES.] Licenses authorizing organizations to conduct lawful gambling may be issued by the board to organizations meeting the following qualifications of section 349.14, if the board determines that the license is consistent with the purpose of sections 349.11 to 349.22:

(a) The organization must have been in existence for the most recent three years preceding the license application as a registered Minnesota nonprofit corporation or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code.

(b) The organization at the time of licensing must have at least 15 active members.

(c) The organization must not be in existence solely for the purpose of conducting gambling.

(d) The organization must not have as an officer or member of the governing body any person who has within the five years prior to the issuance of the license been convicted in a federal or state court of a felony or gross misdemeanor or who has ever been convicted of a crime involving gambling or who has had a license issued by the board or director revoked for a violation of law or board rule.

(e) The organization has identified in its license application the lawful purposes on which it proposes to expend net profits from lawful gambling.

(f) The organization has identified on its license application a gambling manager and certifies that the manager is qualified under this section.

(g) The organization must not, in the opinion of the board after consultation with the commissioner of revenue, be seeking licensing primarily for the purpose of evading or reducing the tax imposed by section 349.212, subdivision 6.

Subd. 3. [TERM OF LICENSE: SUSPENSION AND REVOCATION] (a) Licenses issued under this section are valid for one year and may be suspended by the board for a violation of law or board rule or revoked for what the board determines to be a ~~pattern of willful violations~~ violation of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

(b) The board may summarily suspend the license of an organization that is more than three months late in filing a tax return required under this chapter, and may keep the suspension in effect until all required returns are filed. The board must notify an organization at least 14 days before suspending the organization's license under this paragraph. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge's report must be issued within 20 days after the close of the hearing record. In all cases involving summary suspension, the board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61.

(c) When an organization's license is suspended or revoked under this subdivision, the board shall within three days notify all municipalities in which the organization's gambling premises are located, and all licensed distributors in the state.

Subd. 1a. [RESTRICTIONS ON LICENSE ISSUANCE.] On and after October 1, 1989, the board shall not issue an initial license to any organization if the board, in consultation with the department of revenue, determines that the organization is seeking licensing for

the primary purpose of evading or reducing the tax imposed by section 349.212, subdivision 6.

Subd. 2 4. [APPLICATION.] All applications for a license under this section must be on a form prescribed by the board. The board may require the applying organization to submit a copy of its articles of incorporation and other documents it deems necessary.

Subd. 5. [RENEWALS.] The board shall not renew a license issued under this section unless it determines that the organization is (1) in compliance with all laws and rules governing lawful gambling; and (2) is not delinquent in filing tax returns or paying taxes required under this chapter. The board may delegate to the director the authority to make determinations required under this subdivision.

Subd. 3 6. [FEES.] The board may issue four classes of organization licenses: a class A license authorizing all forms of lawful gambling; a class B license authorizing all forms of lawful gambling except bingo; a class C license authorizing bingo only; and a class D license authorizing raffles only. The annual license fee for each class of license is:

- (1) \$200 for a class A license;
- (2) \$125 for a class B license;
- (3) \$100 for a class C license; and

(4) \$75 for a class D license. board shall not charge a fee for an organization license.

Subd. 7. [PURCHASE OF GAMBLING EQUIPMENT.] An organization may purchase gambling equipment only from a person licensed as a distributor.

Subd. 4 8. [LOCAL INVESTIGATION FEE.] A statutory or home rule charter city or county notified under section 349.213, subdivision 2, may assess an investigation fee on organizations or bingo halls applying for or renewing a license to conduct lawful gambling or operate a bingo hall. An investigation fee may not exceed the following limits:

- (1) for cities of the first class, \$500;
- (2) for cities of the second class, \$250;
- (3) for all other cities, \$100; and
- (4) for counties, \$375.

Sec. 21. Minnesota Statutes 1989 Supplement, section 349.161, as amended by Laws 1989, First Special Session chapter 1, article 13, section 9, is amended to read:

349.161 [DISTRIBUTOR LICENSES.]

Subdivision 1. [PROHIBITED ACTS; LICENSES REQUIRED.]
No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state for gambling purposes, other than for lawful gambling exempt or excluded from licensing ~~under section 349.214~~, except to an organization licensed for lawful gambling;

(2) sell, offer for sale, or furnish gambling equipment to ~~an organization licensed~~ for lawful gambling without having obtained a distributor license under this section;

(3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter, or in the case of video pull-tab devices, purchased or obtained from a manufacturer or a video pull-tab device wholesaler; or

(4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.

~~No licensed organization may purchase gambling equipment from any person not licensed as a distributor under this section.~~

Nothing in this subdivision prohibits the otherwise lawful sale of video pull-tab devices to a distributor by a licensed video pull-tab device wholesaler.

Subd. 2. [LICENSE APPLICATION.] The board may issue licenses for the sale of gambling equipment to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes.

Subd. 3. [QUALIFICATIONS.] A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor a person, who:

(1) has been convicted of a felony ~~within the past five years;~~

(2) has ever been convicted of a felony involving fraud or misrepresentation or a crime involving gambling;

(3) has ever been convicted of (i) assault, (ii) any criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(4) is or has ever been engaged in an illegal business;

(4) (5) owes \$500 or more in delinquent taxes as defined in section 270.72;

(5) (6) has had a sales and use tax permit revoked by the commissioner of revenue within the last two years; or

(6) (7) after demand, has not filed tax returns required by the commissioner of revenue.

Subd. 4. [FEES.] The annual fee for a distributor's license is \$2,500.

Subd. 5. [PROHIBITION.] (a) No distributor, or employee of a distributor, may also be a wholesale distributor of alcoholic beverages or an employee of a wholesale distributor of alcoholic beverages.

(b) No distributor, ~~distributor's~~ or any representative, agent, affiliate, or employee of a distributor, may be involved directly in the operation ~~conduct~~ of lawful gambling ~~conducted~~ by an organization.

(c) No ~~manufacturer or distributor or person acting as a~~ any representative, agent, affiliate, or employee of a ~~manufacturer or distributor~~ may provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.

(d) No distributor, ~~distributor's~~ or any representative, agent, affiliate, or employee of a distributor may participate in any gambling activity at any gambling site or premises where gambling equipment purchased from that distributor is being used in the conduct of lawful gambling.

(e) No distributor, ~~distributor's~~ or any representative, agent, affiliate, or employee of a distributor may alter or modify any gambling equipment, except to add a "last ticket sold" prize sticker.

Subd. 6. [REVOCATION AND SUSPENSION.] A license under this section may be suspended by the board for a violation of law or board rule ~~or~~. A license under this section may be revoked for (1) failure to meet the qualifications in subdivision 3 at any time; or revoked (2) for what the board determines to be a pattern of a willful

~~violations~~ violation of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Subd. 7. [CRIMINAL HISTORY.] The board may request the assistance of the division of gambling enforcement in investigating the background of an applicant for a distributor's license and may reimburse the division of gambling enforcement for the costs thereof. The board has access to all criminal history data compiled by the division of gambling enforcement on licensees and applicants.

Subd. 8. [EMPLOYEES OF DISTRIBUTORS.] Licensed distributors shall provide the board upon request with the names and home addresses of all employees. Each distributor, employee of a distributor, or a person making sales of gambling equipment on behalf of a distributor must have in their possession a picture identification card approved by the board.

Subd. 9. [LEASES OF VIDEO PULL-TAB DEVICES.] For purposes of this section the terms "sell" and "sale" include the lease of a video pull-tab device or pull-tab dispensing machine by a distributor to a licensed organization.

Sec. 22. [349.1611] [VIDEO PULL-TAB DEVICE WHOLE-SALER.]

Subdivision 1. [LICENSE REQUIRED.] No person may engage in the business of purchasing video pull-tab devices from a manufacturer for sale to a distributor without having obtained a license from the board. The board may issue a license to persons who meet the qualifications of this section if the board determines that issuance of the license is consistent with the purposes of section 349.11 to 349.23. Applications must be on a form the board prescribes. Video pull-tab device wholesaler's licenses are valid for one year. The fee for a video pull-tab device wholesaler's license is \$2,500.

Subd. 2. [QUALIFICATIONS.] A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor, a person, who:

(1) has been convicted of a felony;

(2) has ever been convicted of a felony involving fraud or misrepresentation or a crime involving gambling;

(3) has ever been convicted of (i) assault, (ii) any criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(4) is or has ever been engaged in an illegal business;

(5) owes \$500 or more in delinquent taxes as defined in section 270.72;

(6) has had a sales and use tax permit revoked by the commissioner of revenue within the last two years; or

(7) after demand, has not filed tax returns required by the commissioner of revenue.

Subd. 3. [PROHIBITIONS.] All prohibitions applicable to distributors or manufacturers under section 349.161, subdivision 5, apply to video pull-tab device wholesalers.

Subd. 4. [REVOCATION; SUSPENSION.] A license under this section may be suspended by the board for a violation of law or board rule. A license under this section may be revoked for (1) failure to meet the qualifications in subdivision 2 at any time, or (2) for a willful violation of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Sec. 23. Minnesota Statutes 1989 Supplement, section 349.162, is amended to read:

349.162 [EQUIPMENT REGISTERED.]

Subdivision 1. [STAMP REQUIRED.] (a) A distributor may not sell, transfer, furnish, or otherwise provide to a person, organization, or distributor, and no person, organization, or distributor may purchase, borrow, accept, or acquire from a distributor gambling equipment unless the equipment has been registered with the board and has a registration stamp affixed. The board shall charge a fee of five cents for each stamp. Each stamp must bear a registration number assigned by the board. A distributor is entitled to a refund for unused stamps and replacement for stamps which are defective or canceled by the distributor.

(b) On and after January 1, 1991, no distributor, organization, or other person may sell a pull-tab which is not clearly marked "For Sale in Minnesota Only."

Subd. 2. [RECORDS REQUIRED.] A distributor must maintain a record of all gambling equipment which it sells to organizations. The record must include:

(1) the identity of the person or firm from whom the equipment was distributor purchased the equipment;

- (2) the registration number of the equipment;
- (3) the name ~~and~~, address and license or exempt permit number of the organization to which the sale was made;
- (4) the date of the sale;
- (5) the name of the person who ordered the equipment; ~~and~~
- (6) the name of the person who received the equipment;
- (7) the type of equipment;
- (8) the serial number of the equipment;
- (9) the name, form number, or other identifying information for each game; and
- (10) in the case of bingo cards sold on and after January 1, 1991, the individual number of each card.

The invoice for each sale must be retained for at least ~~two~~ three and one-half years after the sale is completed and a copy of each invoice is to be delivered to the board in the manner and time prescribed by the board. For purposes of this section, a sale is completed when the gambling equipment is physically delivered to the purchaser.

Each distributor must report monthly to the board, in a form the board prescribes, its sales of each type of gambling equipment. Employees of the division and the division of gambling enforcement may inspect the business premises, books, records, and other documents of a distributor at any reasonable time without notice and without a search warrant.

Subd. 3. [EXEMPTION.] For purposes of this section, bingo cards or sheets need not be stamped.

Subd. 4. [PROHIBITION.] (a) No person other than a licensed distributor may possess unaffixed registration stamps issued by the board.

(b) Unless otherwise provided in this chapter, no person may possess gambling equipment that has not been stamped and registered with the board.

(c) On and after January 1, 1991, no distributor may:

(1) sell a bingo card that does not bear an individual number; or

(2) sell a package of bingo cards that does not contain bingo cards in numerical order.

Subd. 5. [SALES FROM FACILITIES.] (a) All gambling equipment purchased or possessed by a licensed distributor for resale in Minnesota must, prior to the equipment's resale, be unloaded into a sales or storage facility located in Minnesota which the distributor owns or leases; and which has been registered, in advance and in writing, with the division of gambling enforcement as a sales or storage facility of the distributor's. All unregistered gambling equipment and all unaffixed registration stamps owned by, or in the possession of, a licensed distributor in the state of Minnesota shall be stored at a sales or storage facility which has been registered with the division of gambling enforcement. No gambling equipment may be moved from the facility unless the gambling equipment has been first registered with the board.

(b) All sales and storage facilities owned, leased, used, or operated by a licensed distributor may be entered upon and inspected by the employees of the division of gambling enforcement or the director's authorized representatives during reasonable and regular business hours. Obstruction of, or failure to permit, entry and inspection is cause for revocation or suspension of a distributor's licenses and permits issued under this chapter.

(c) Unregistered gambling equipment and unaffixed registration stamps found at any location in Minnesota other than a registered sales or storage facility are contraband under section 349.2125. This paragraph does not apply to unregistered gambling equipment being transported in interstate commerce between locations outside Minnesota, if the interstate shipment is verified by a bill of lading or other valid shipping document.

Subd. 6. [VIDEO PULL-TAB DEVICE MEMORY CHIPS.] For purposes of this section only, "gambling equipment" includes any memory chip used or intended to be used to drive a video pull-tab device.

Sec. 24. Minnesota Statutes 1989 Supplement, section 349.163, as amended by Laws 1989, First Special Session chapter 1, article 13, section 10, is amended to read:

349.163 [LICENSING OF MANUFACTURERS.]

Subdivision 1. [LICENSE REQUIRED.] No manufacturer of gambling equipment may sell any gambling equipment to any person unless the manufacturer has been issued a current and valid license by the board under objective this section and other criteria prescribed by the board by rule.

A manufacturer licensed under this section may not also be directly or indirectly licensed as a distributor under section 349.161 or as a video pull-tab wholesaler under section 22.

Subd. 1a. [QUALIFICATIONS.] A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor, a person, who:

- (1) has been convicted of a felony;
- (2) has ever been convicted of a felony involving fraud or misrepresentation or a crime involving gambling;
- (3) has ever been convicted of (i) assault, (ii) any criminal violation involving the use of a firearm, or (iii) making terroristic threats;
- (4) is or has ever been engaged in an illegal business;
- (5) owes \$500 or more in delinquent taxes as defined in section 270.72;
- (6) has had a sales and use tax permit revoked by the commissioner of revenue within the last two years; or
- (7) after demand, has not filed tax returns required by the commissioner of revenue.

Subd. 2. [LICENSE; FEE.] A license under this section is valid for one year. The annual fee for the license is \$2,500.

Subd. 3. [PROHIBITED SALES.] (a) A manufacturer may not:

- (1) sell gambling equipment to any person not licensed as a distributor unless the manufacturer is also a licensed distributor; or
- (2) sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type that is sold by that manufacturer for use in this state; or
- (3) on and after January 1, 1991, ship or cause to be shipped into this state a paper pull-tab that is not clearly marked with the words "For Sale in Minnesota Only."

(b) A manufacturer, affiliate of a manufacturer, or person acting as a representative, agent, or employee of a manufacturer may not

provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.

Subd. 4. [INSPECTION OF MANUFACTURERS.] Employees of the division and the division of gambling enforcement may inspect the books, records, inventory, and manufacturing operations of a licensed manufacturer without notice during the normal business hours of the manufacturer.

Subd. 5. [PULL-TAB AND TIPBOARD FLARES.] A manufacturer may not ship or cause to be shipped into this state any deal of pull-tabs or tipboards that does not have its own individual flare as required for that deal by rule of the board. No person other than a manufacturer may manufacture, alter, modify, or otherwise change a flare for a deal of pull-tabs or tipboards except as allowed by this chapter or board rules.

Subd. 6. [SAMPLES OF GAMBLING EQUIPMENT.] The board shall require each licensed manufacturer to submit samples to the board of each item of gambling equipment the manufacturer manufactures for sale in this state. The board shall inspect and test all such equipment as it deems necessary to determine the equipment's compliance with law and board rules. The board may request the assistance of the commissioner of public safety and the director of the state lottery division in performing such tests.

Subd. 7. [RECYCLED PAPER REQUIRED.] All pull-tabs sold in Minnesota by a licensed manufacturer on and after January 1, 1991, must be manufactured on recycled paper.

Sec. 25. Minnesota Statutes 1989 Supplement, section 349.164, is amended to read:

349.164 [BINGO HALL LICENSES.]

Subdivision 1. [LICENSE REQUIRED.] No person may lease a facility to more than one individual, corporation, partnership, or organization to conduct bingo without having obtained a current and valid bingo hall license under this section, unless the lessor is a licensed organization.

Subd. 2. [LICENSE APPLICATION.] The board may issue a bingo hall license to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes. The board may not issue or renew a bingo hall license unless the conditions of section 349.213, subdivision 2, have been satisfied.

Subd. 3. [QUALIFICATIONS.] A license may not be issued under

this section to a person, ~~or to a organization, corporation, firm, or partnership which is not the legal owner of the facility, or to a~~ person, organization, corporation, firm, or partnership which has as an officer, director, or other person in a supervisory or management position, who:

- (1) has been convicted of a felony within the past five years;
- (2) has ever been convicted of a felony involving fraud or misrepresentation or a crime involving gambling; ~~or~~
- (3) has every been convicted of (i) assault, (ii) any criminal violation involving the use of a firearm, or (iii) making terroristic threats;
- (4) owes delinquent taxes in excess of \$500 as defined in section 270.72; or
- (5) after demand, has not filed tax returns required by the commissioner of revenue.

Subd. 4. [FEES.] The annual fee for a bingo hall license is \$2,500.

Subd. 5. [CRIMINAL HISTORY.] The board may request the assistance of the division of gambling enforcement in investigating the background of an applicant for a bingo hall license and may reimburse the division of gambling enforcement for the costs. The board has access to all criminal history data compiled by the bureau of criminal apprehension and the division of gambling enforcement on licensees and applicants.

Subd. 6. [PROHIBITION PROHIBITED ACTS.] No bingo hall licensee, person holding a financial or managerial interest in a bingo hall, or an affiliate thereof may also:

- (1) be a licensed distributor or licensed manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163 or a wholesale distributor of alcoholic beverages;

Subd. 7. [RESTRICTIONS.] A bingo hall licensee or affiliate of the licensee ~~may not:~~

- (1) (2) provide any staff to conduct or assist in the conduct of bingo or any other form of lawful gambling during the bingo occasion on the premises;

- (2) (3) acquire, provide storage or inventory control, or report the use of any gambling equipment used by an organization that conducts bingo lawful gambling on the premises;

(3) (4) provide accounting services to an organization conducting bingo lawful gambling on the premises;

(4) (5) solicit, suggest, encourage, or make any expenditures of gross receipts of an organization from lawful gambling; or

(5) (6) charge any fee to a person at a bingo occasion, without which the person could not play a bingo game or participate in another form of lawful gambling on the premises;

(7) provide assistance or participate in the conduct of lawful gambling on the premises; or

(8) permit more than 21 bingo occasions to be conducted on the premises in any week.

Subd. 8 7. [LEASES.] All of the remuneration to be received from the organization for the conduct of lawful gambling must be stated in the lease. No amount may be paid by the organization or received by the operator of the bingo hall licensee based on the number of participants attending the bingo occasion or participating in lawful gambling on the premises, or based on the gross receipts or profit received by the organization. All provisions of section 349.18 apply to lawful gambling conducted in bingo halls.

Subd. 9 8. [REVOCATION AND SUSPENSION.] A license under this section may be suspended by the board for a violation of law or board rule or revoked for (1) failure to meet the qualifications in subdivision 3 at any time; or revoked for what the board determines to be (2) a pattern of willful violations violation of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Sec. 26. [349.165] [PREMISES PERMITS.]

Subdivision 1. [PREMISES PERMIT REQUIRED; APPLICATION.] No licensed organization may conduct any lawful gambling at any site unless it has first obtained from the board a premises permit for the site. The board shall prescribe a form for permit applications, and each application for a permit must be submitted on a separate form. The board may by rule limit the number of premises permits that may be issued to an organization.

Subd. 2. [CONTENTS OF APPLICATION.] Each application for a premises permit must contain:

(1) the name and address of the applying organization and of the organization's gambling manager;

(2) a description of the site for which the permit is sought,

including its address and, where applicable, its placement within another premises or establishment;

(3) if the site is leased, the name and address of the lessor and such information about the lease as the board requires, including all rents and other charges for the use of the site; and

(4) other information the board deems necessary to carry out its purposes.

An organization holding a premises permit must notify the board within ten days whenever any material change is made in the above information.

Subd. 3. [FEES.] The board may issue four classes of premises permits, corresponding to the classes of licenses authorized under section 349.16, subdivision 6. The annual fee for each class of permit is:

- (1) \$200 for a class A permit;
- (2) \$125 for a class B permit;
- (3) \$100 for a class C permit; and
- (4) \$75 for a class D permit.

Sec. 27. [349.166] [EXEMPTIONS; EXCLUSIONS.]

Subdivision 1. [EXCLUSIONS.] (a) Bingo may be conducted without a license and without complying with sections 349.17, subdivision 1, and 349.18, if it is conducted:

(1) in connection with a county fair, the state fair, or a civic celebration if it is not conducted for more than 12 consecutive days in a calendar year; or

(2) by an organization that conducts four or fewer bingo occasions in a calendar year.

No organization that holds a license to conduct lawful gambling under this chapter may conduct bingo under this subdivision.

(b) Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization without compliance with sections 349.11 to 349.213 if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing

project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, a manager is appointed to supervise the bingo, and the manager registers with the board. The gross receipts from bingo conducted under the limitations of this subdivision are exempt from taxation under chapter 297A.

(c) Raffles may be conducted by an organization without complying with sections 349.11 to 349.14 and 349.151 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed \$750.

Subd. 2. [EXEMPTIONS.] (a) Lawful gambling may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections 349.151 to 349.16; 349.167; 349.168; 349.18; 349.19; and 349.212 if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than \$50,000 in prizes for lawful gambling in a calendar year;

(3) the organization pays a fee of \$25 to the board, notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion, or 60 days for an occasion held in a city of the first class;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(c) If the organization fails to file a timely report as required by paragraph (b), clause (3) or (6), a \$250 penalty is imposed on the organization. Failure to file a timely report does not disqualify the organization as exempt under this paragraph if a report is subsequently filed and the penalty paid.

(d) Merchandise prizes must be valued at their fair market value.

(e) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.

(f) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 349.212, subdivision 4, paragraph (c), must return to the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

Subd. 3. [RAFFLES; CERTAIN ORGANIZATIONS.] The provisions of sections 349.21 and 349.211, subdivision 3, and the membership requirements of sections 349.14 and 349.20 do not apply to raffles conducted by an organization which directly or under contract to the state or a political subdivision delivers health or social services and which is a 501(c)(3) organization if the prizes awarded in the raffles are real or personal property donated by an individual, firm, or other organization. The person who accounts for the gross receipts, expenses, and profits of the raffles may be the same person who accounts for other funds of the organization.

Subd. 4. [TAXATION.] An organization's receipts from lawful gambling that is exempt from licensing under this section is not subject to the tax imposed by section 297A.02 or 349.212.

Sec. 28. [349.167] [GAMBLING MANAGERS.]

Subdivision 1. [GAMBLING MANAGER REQUIRED.] (a) All lawful gambling conducted by a licensed organization must be under the supervision of a gambling manager. A gambling manager designated by an organization to supervise lawful gambling is responsible for the gross receipts of the organization and for its conduct in compliance with all laws and rules. The organization must maintain, or require the person designated as a gambling manager to maintain, a fidelity bond in the sum or \$25,000 in favor of the organization and the state, conditioned on (1) the faithful performance of the manager's duties; and (2) the payment of all taxes due under this chapter on lawful expenditures of gross profits from lawful gambling. The terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation. In the case of conflicting claims against a bond a claim by the state has preference over a claim by the organization.

(b) A person may not act as a gambling manager for more than one organization.

(c) An organization may not conduct lawful gambling without having a gambling manager. The board must be notified in writing of a change in gambling managers. Notification must be made

within ten days of the date the gambling manager assumes the manager's duties.

(d) An organization may not have more than one gambling manager at any time.

Subd. 2. [GAMBLING MANAGERS; LICENSES.] No person may serve as a gambling manager for any organization unless the person possesses a valid gambling manager's license from the board. The board may issue a gambling manager's license to a person applying for the license who:

(1) has received training as required in subdivision 5;

(2) has not been convicted of a felony in a state or federal court;

(3) has not at any time within the five years prior to the license application committed any violation of law or board rule which resulted in the revocation of any license issued by the board;

(4) has never been convicted in a state or federal court of any criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling;

(5) has never been convicted of (i) assault, (ii) any criminal violation involving the use of a firearm, or (iii) making terroristic threats; and

(6) has not engaged in conduct the board determines is contrary to the public health, welfare, or safety or the integrity of lawful gambling.

A gambling manager's license is valid for one year unless suspended or revoked. The annual fee for a gambling manager's license is \$100.

Subd. 4. [SUSPENSION; REVOCATION.] The board may suspend or revoke, as provided in board rules, a gambling manager's license for a violation of law or board rule. A suspension or revocation is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Subd. 5. [TRAINING OF GAMBLING MANAGERS.] (a) The board shall by rule require all persons licensed as gambling managers to receive periodic training in laws and rules governing lawful gambling. The rules must contain the following requirements:

(1) each gambling manager must have received such training before being issued a new license;

(2) each gambling manager applying for a renewal of a license must have received training within the three years prior to the date of application for the renewal; and

(3) the training required by this subdivision may be provided by a person, firm, association, or organization authorized by the board to provide the training. Before authorizing a person, firm, association, or organization to provide training, the board must determine that:

(i) the provider and all of the provider's personnel conducting the training are qualified to do so;

(ii) the curriculum to be used fully and accurately covers all elements of lawful gambling law and rules that the board determines are necessary for a gambling manager to know and understand;

(iii) the fee to be charged for participants in the training sessions is fair and reasonable; and

(iv) the training provider has an adequate system for documenting completion of training.

The rules may provide for differing training requirements for gambling managers based on the class of license held by the gambling manager's organization.

The board or the director may provide the training required by this subdivision using employees of the division.

Subd. 6. [CRIMINAL HISTORY.] The board may request the assistance of the division of gambling enforcement in investigating the background of an applicant for a gambling manager's license and may reimburse the division of gambling enforcement for the costs thereof. The board has access to all criminal history data compiled by the division of gambling enforcement on licensees and applicants.

Sec. 29. [349.168] [GAMBLING EMPLOYEES.]

Subdivision 1. [REGISTRATION OF EMPLOYEES.] No person may receive compensation for participating in the conduct of lawful gambling as an employee of a licensed organization unless the person has first registered with the board on a form the board prescribes. The form must require that each person registering must provide (1) the person's name, address, and social security number; (2) a current photograph; (3) the name, address, and license number of the employing organization; and (4) a listing of all employment in the conduct of lawful gambling within the previous three years,

including the name and address of each employing organization and the circumstances under which the employment was terminated.

Subd. 2. [IDENTIFICATION OF EMPLOYEES.] The board shall issue to each person registering under subdivision 1 a registration number and identification card which must include the employee's photograph. Each person receiving compensation for the conduct of lawful gambling must wear the identification card provided by the board at all times while engaged in such employment.

Subd. 3. [COMPENSATION.] Compensation to persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, or the spouse or surviving spouse of an active member, except that the following persons may receive compensation without being active members: (1) sellers of pull-tabs, tipboards, raffle tickets, paddle-wheel tickets, and bingo paper; and (2) accountants performing auditing or bookkeeping services for the organization; and (3) attorneys providing legal services to the organization.

Subd. 4. [AMOUNTS PAID.] The amounts of compensation which may be paid under this section may be provided for in a schedule of compensation adopted by the board by rule. In adopting a schedule, the board must consider the nature of the participation and the types of lawful gambling participated in.

Subd. 5. [COMPENSATION RECORDS.] An organization paying compensation to persons for the conduct of lawful gambling must maintain a compensation record. The record must be retained for at least two years after the month in which the compensation is paid. The record must be an itemization of each payment made to each recipient of compensation and must include the amount of compensation paid and the full name, address, and membership status of each recipient.

Subd. 6. [COMPENSATION PAID BY CHECK.] Compensation paid by an organization in connection with lawful gambling must be in the form of a check drawn on the organization's gambling account, as specified in section 349.19, and paid directly to the employee of the organization.

Subd. 7. [PENALTY.] (a) An organization that makes payment of compensation, or causes compensation to be made, which violates the provisions of subdivision 4 shall be assessed a civil penalty not to exceed \$1,000 for each violation of subdivision 4. A second violation within 12 months of notification by the board to the organization of the first violation shall result in suspension of the organization's gambling license for a period of three months, in addition to any civil penalty assessed. A third violation within 12 months of the board's notification to the organization of the second

violation shall result in revocation of the organization's gambling license in addition to any civil penalty assessed.

(b) Upon each violation, the director shall notify the organization in writing of its violation and of the penalties under this subdivision for future violations. Notification is effective upon mailing.

(c) For purposes of this subdivision, a violation consists of a payroll period or compensation date that includes payments made in violation of subdivision 4.

Subd. 8. [PERCENTAGE OF GROSS PROFIT PAID.] A licensed organization may pay a percentage of the gross profit from raffle ticket sales to a nonprofit organization which sells raffle tickets for the licensed organization.

Sec. 30. Minnesota Statutes 1988, section 349.17, as amended by Laws 1989, chapter 334, article 2, section 26, is amended to read:

349.17 [CONDUCT OF BINGO.]

Subdivision 1. [BINGO OCCASIONS.] Not more than ~~six~~ seven bingo occasions each week may be conducted by an organization. At least 15 bingo games must be held at each occasion and a bingo occasion must continue for at least 1-½ hours but not more than four consecutive hours.

Subd. 2. [BINGO ON LEASED PREMISES.] (a) ~~A person or corporation, other than an organization, which leases any premises that it owns to two or more organizations for purposes including the conduct of bingo occasions, may not allow more than 18 bingo occasions to be conducted on the premises in any week.~~

~~(b) If an organization conducts bingo on premises it does not own, the organization must provide the board with the name of the owner and lessor of the premises, copies of all agreements between the organization and the owner or lessor, and the names of employees of the owner or lessor who will be responsible for the premises during the bingo occasion held by the organization.~~

~~(c) During any bingo occasion held conducted by an organization on premises it does not own, the organization shall be directly responsible for the:~~

- ~~(1) staffing of the bingo occasion;~~
- ~~(2) conducting of lawful gambling during the bingo occasion;~~
- ~~(3) acquiring, storage, inventory control, and reporting of all gambling equipment used by the organization; and~~

(4) receipt, accounting, and all expenditures of gross receipts from lawful gambling; and

(5) preparation of the bingo packets.

Subd. 2a. [DISTRIBUTOR LICENSE EXEMPTION FOR LESSOR.] As part of a lease agreement on a leased bingo premises, the lessor may furnish bingo equipment without being a licensed distributor. For purposes of this section, "furnish" does not include the right to sell or offer for sale.

Subd. 3. Each bingo winner must be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted.

Subd. 4. [CHECKERS.] One or more checkers must be engaged for each bingo occasion. The checker or checkers must record, on a form the board provides, the number of cards played in each game and the prizes awarded to recorded cards. The form must provide for the inclusion of the registration number of each card and must include a checker's certification that the figures recorded are correct to the best of the checker's knowledge.

Subd. 5. [BINGO CARD NUMBERING.] The board shall by rule require that all licensed organizations (1) conduct bingo only using liquid daubers on cards that bear an individual number recorded by the distributor; (2) sell all bingo cards only in the order of the numbers appearing on the cards; and (3) use each bingo card for no more than one bingo occasion. In lieu of the requirements of clauses (2) and (3), a licensed organization may electronically record the sale of each bingo card at each bingo occasion, using an electronic recording system approved by the board. In lieu of the requirements of clauses (1), (2), and (3), a licensed organization may conduct bingo using electronic remote units which simulate bingo games and which are programmed for a certain number of plays by a central computer, provided that all such electronic equipment is approved by the board.

Sec. 31. [349.172] [PULL-TABS; INFORMATION REQUIRED TO BE POSTED.]

An organization selling pull-tabs, other than plays on a video pull-tab device at any location must post for each deal of pull-tabs all major prizes that have been awarded for pull-tabs purchased from that deal and the name of the winner of each major prize. The information must be posted prominently at the point of sale of the deal. An easily legible pull-tab flare which lists prizes in that deal, and on which prizes are marked or crossed off as they are awarded, satisfies the requirement of this section that major prizes be posted, provided that a separate flare is posted for each deal of pull-tabs. An organization must post or mark off each major prize and post the

name of the prize winner immediately upon awarding the prize. A "major prize" in a deal of pull-tabs is any prize that is at least 50 times the face value of any pull-tab in the deal.

Sec. 32. [349.173] [VIDEO PULL-TAB DEVICES.]

Subdivision 1. [LICENSES.] (a) No organization may operate a video pull-tab device for which the board has not issued a license. An application for a video pull-tab device license must be on a form the board prescribes and must contain the following information:

(1) the name, address, and license number of the organization applying for the license;

(2) the name, address, and license number of the distributor that will be leasing the device to the applicant;

(3) the name and address of the premises on which the device is to be located;

(4) the serial number, the model number, and the name of the manufacturer or other identifying number of the device; and

(5) such other information as the board deems necessary to identify the device and insure its compliance with law and board rules.

(b) A license issued under this section is valid for one year. The board shall set and charge a fee for each license under this section in an amount sufficient to reimburse the board for its costs in administering and enforcing this section other than the costs recovered under subdivision 3.

(c) A license issued under this section must display all the information required in paragraph (a), clauses (1) to (5).

(d) The license must specify by name those persons whom the board has approved to have access to the device, and the extent of that access. The board may not approve any person to have such access who is not (1) an active member of the licensed organization applying for the license, or (2) a licensed distributor or an employee thereof. No person other than a licensed peace officer or an authorized employee of the board, the commissioner of revenue or the commissioner of public safety may obtain or attempt to obtain access to a device or to any of its parts or components unless that person is named and authorized on the license to have such access.

Subd. 2. [LICENSES; LIMITATIONS.] (a) The board may not have outstanding at any time more than 100 licenses issued under this section. The board shall, in issuing licenses under this section,

insure as nearly as practicable that the locations of the licenses are equally divided between locations where paper pull-tabs will also be sold and locations where paper pull-tabs will not be sold.

(b) All licenses issued under this section expire July 1, 1993.

Subd. 3. [INSPECTION OF DEVICES.] (a) The board may issue a video pull-tab device license only for a device it has determined is in compliance with all applicable law and rules. The board shall examine and if necessary conduct tests on each video pull-tab device for which a license is applied, and may examine and if necessary conduct tests on any component of such a video pull-tab device. The board may request the assistance of the commissioner of public safety or contract for the services of a consultant or testing laboratory in making examinations or conducting tests. The board shall require that the manufacturer of a video pull-tab device pay all costs of examining and testing the device or any of its components.

(b) No manufacturer, distributor, or video pull-tab device wholesaler may sell or lease any video pull-tab device unless the board has determined that the device and all its components are in compliance with all applicable laws and rules.

Subd. 4. [DISPLAY OF LICENSE.] An organization operating a video pull-tab device must prominently display the license on the device at all times when the device is available for play by the public. An organization may display a license only on the device for which it was issued.

Subd. 5. [SPECIFICATIONS.] (a) A video pull-tab device approved by the board must be driven by a sealed read-only memory chip displaying or having attached such information as the board deems necessary, which must include (1) identification of the manufacturer; (2) the number of plays for which the chip has been programmed; (3) the serial number of the chip; and (4) the words "For Sale in Minnesota Only." A chip must be secured within the device by a strip of security tape of a type approved by the board, capable of evidencing the removal of a chip from its memory board.

(b) A chip must be programmed for a specific number of plays and be incapable of offering any plays in excess of that number. The number of plays programmed onto any chip must be the number on which tax has been paid under section 349.212, subdivision 4. The chip must be programmed to accept only the same price for all plays on the chip. A chip must also have programmed onto it the percentage of plays which are winning plays and the percentage of total receipts on all plays which are returned to players as prizes, and may not be capable of having these percentages altered. Winning plays must be randomly distributed on each chip, and a chip must be designed and programmed in such a way that the location of winning chances cannot be determined in advance. A

chip on which all programmed plays have been exhausted must be replaced before the device may again be operated.

(c) A video pull-tab device must display, on the video screen or elsewhere, the price of each chance, the percentage of total chances on the chip that are winning chances, and the number of free games or credits awarded for each successful chance. If the information is displayed on the video screen it must be displayed at all times when the machine is operable but not being played.

(d) A video pull-tab device must contain a prize meter with a printer. The prize meter must be capable of dispensing to any player a voucher containing:

- (1) the name of the establishment where the device is located;
- (2) the organization operating the device;
- (3) the license number of the device;
- (4) a sequential number of the voucher and a separate encrypted validation number;
- (5) the time and date of the play; and
- (6) the value of any credits won.

The prize meter must print and retain inside the device a copy of each such voucher issued. The device must not be capable of returning anything to the player other than the voucher.

(e) A video pull-tab device must contain electronic accounting meters which must be maintained at all times, whether or not the game is being supplied with external power. The following information must be recorded and stored on a meter capable of maintaining totals of not less than eight digits:

- (1) total coins and bills inserted by players and their value;
- (2) total credits wagered;
- (3) total credits won; and
- (4) total credits paid out by printed ticket voucher.

The following information must be recorded and stored on a meter capable of maintaining totals of not less than six digits:

(1) number of times access was obtained to the compartment containing the memory chip;

(2) number of chances played on the memory chip; and

(3) number of cumulative credits representing credits won and money inserted by a player but not redeemed or played off.

Electronic accounting meters may be cleared only by an employee of the board, or by an authorized person in the presence of an employee of the board. The organization to which the device was leased must make a written record of the readings before and after clearing. The record must include the reason why the meter was cleared. A separate record must be made for each meter cleared. If the record is kept by an authorized person, a copy must be provided to the board.

(f) A video pull-tab device may not offer any game or gambling form other than the simulation of the game of pull-tabs.

(g) A video pull-tab device may not have any functions or parameters adjustable by or through any separate video display or input codes except for the adjustment of wholly cosmetic features.

(h) A video pull-tab device must contain a meter and printer which issues, on activation of a switch, an accounting ticket containing the following information:

(1) the name of the licensed organization;

(2) the location of the device;

(3) the license number and manufacturer's serial number of the device;

(4) the time and date of the printout;

(5) the registration number of the chip driving the device;

(6) the readings from the meter required under paragraph (e); and

(7) other information the board by rule requires.

No person may activate the switch required in this paragraph who is not authorized by the board to do so.

Subd. 6. [HARDWARE REQUIREMENTS:] (a) A video pull-tab device must have:

(1) a surge protector for all power fed to the device;

(2) a power switch located in an accessible place within the interior of the device, which controls the electrical current which powers the device;

(3) a separate secure compartment for holding coins or currency, with a key or combination different from that used for unlocking any other part of the device;

(4) a battery back-up or its equivalent, which allows the electronic meters of the device to maintain accurate readings for not less than 180 days after power is discontinued to the device, for all information regarding:

(i) current and total tallies for amount wagered and paid out;

(ii) records of access to the logic board compartment;

(iii) records of access to the cash and coin compartments; and

(iv) other information the board by rule requires.

(b) A video pull-tab device may not have:

(1) any hardware switch capable of altering the payment tables or payout percentages of the device; or

(2) a mechanism or program which will cause the electronic accounting meters to clear automatically.

(c) A video pull-tab device and all its components may not be capable of being adversely affected by static discharge, radio frequency interference, or other electromagnetic interference.

(d) All logic boards, memory chips, and other logic control components of a video pull-tab device must be located in a locked compartment which is separate from any other compartment. The key or combination of this compartment must be different from that used for unlocking any other part of the device.

(e) A video pull-tab device must not be capable of being activated by a credit card.

Subd. 7. [LOCATIONS.] (a) An organization may place a video pull-tab device for operation only in a location approved by the board, which location must be specified on the license. The board may approve locations that are authorized to sell alcoholic beverages at on-sale under chapter 340A. The board may not allow the placement of more than two video pull-tab devices in any location.

(b) All leases by which a licensed organization leases space in a location for the placement of a video pull-tab device are subject to the provisions of section 349.18.

(c) The board, the commissioner of revenue, and the commissioner of public safety may inspect at any time any location agreement made between a distributor and a licensed organization governing the terms of leasing a video pull-tab device.

(d) No video pull-tab device may stand at any place in a location where it cannot readily be observed by employees of the location or persons supervising the device on behalf of a licensed organization.

Subd. 8. [CONDUCT OF GAMBLING ON VIDEO PULL-TAB DEVICES.] No person receiving compensation for participating in the conduct of gambling on a video pull-tab device may gamble on such a device while so participating. No person receiving compensation for participating in the conduct of gambling on a video pull-tab device and no employee of the lessor of the premises on which the device is located may provide any information on the device that would give any player an unfair advantage in operating the device. No person under age 18 may wager on or receive a prize from a video pull-tab device.

Subd. 9. [PAYMENT OF PRIZES.] An organization may not pay any prize won on a video pull-tab device except on presentation by the winner of the ticket voucher printed by the device's prize meter. The provisions of law and board rules governing the retention of winning pull-tabs apply to ticket vouchers. An organization must upon presentation of a ticket voucher and making payment thereof immediately deface the voucher in a manner that prevents its reuse.

Subd. 10. [LIMITATION OF PRIZES.] A video pull-tab device may not:

- (1) charge any price for a single chance of more than \$2; or
- (2) award any single prize of more than \$250.

Subd. 11. [RULES.] The board may by rule provide additional requirements for video pull-tab devices as it deems necessary to ensure their integrity and the full accounting for all play thereon. The rules may include:

- (1) authorization of persons who have access to any locked area of a video pull-tab device;
- (2) additional device specifications;

(3) methods of determining randomness of distributing prizes in a memory chip; and

(4) testing procedures for video pull-tab devices.

Sec. 33. [349.174] [PULL-TAB DISPENSING MACHINES.]

Subdivision 1. [MACHINES AUTHORIZED.] The board may authorize a licensed organization to sell pull-tabs by means of a dispensing device which dispenses pull-tabs on insertion of a coin or currency. The board must indicate on the license of each organization whether the organization is authorized to sell pull-tabs by means of a dispensing device. Each dispensing device installed and maintained by a licensed organization must be of a type approved by the board. The board shall approve for installation only those pull-tab dispensing devices that it determines provide adequate security, integrity, and accountability. The board may not approve for installation any dispensing machine which cannot hold at least 2,500 pull-tabs at any time.

Subd. 2. [MACHINE REQUIREMENTS.] Each pull-tab dispensing machine must have a meter which records (i) the total amounts of coin and currency inserted into the machine, and (ii) the total number of pull-tabs dispensed. The meter must be in a compartment which is separate from the compartment which holds the coins and currency inserted into the machine.

Subd. 3. [ACCESS TO MACHINES.] The board shall specify each person authorized to have access to a pull-tab dispensing machine and shall identify each such person on the license of the organization authorized to install the machine, and the extent of that access. No person may obtain or attempt to obtain access to a pull-tab dispensing machine or any part or component of a machine without being authorized by the board to have such access.

Subd. 4. [DISPLAY OF INFORMATION.] Each pull-tab dispensing machine installed by a licensed organization must conspicuously display the following information:

- (1) the name and license number of the installing organization;
- (2) the number of pull-tabs originally placed in the machine at the beginning of the current game;
- (3) the number and amount of all prizes in the game which are at least 50 times the price of each individual chance in the game; and
- (4) the prize payout percentage for that game.

Pull-tab dispensing machines are subject to the requirements of section 349.172.

Subd. 5. [LEASE OF MACHINES.] A licensed organization may lease a pull-tab dispensing machine only from a distributor licensed under section 349.161.

Subd. 6. [PERMITTED LOCATIONS.] The license of an organization authorized to install a pull-tab dispensing machine must specify the locations where the machines will be installed. The organization must have a premises permit for each such location. Not more than two machines may be installed on any premises.

Subd. 7. [LIMITATIONS.] The board may not (1) authorize more than 100 organizations at any time to operate a pull-tab dispensing machine, or (2) authorize any organization to operate more than two machines.

Subd. 8. [REPEAL.] This section is repealed July 1, 1993.

Sec. 34. Minnesota Statutes 1988, section 349.18, as amended by Laws 1989, chapter 334, article 2, sections 27 and 28, is amended to read:

349.18 [PREMISES USED FOR GAMBLING.]

Subdivision 1. [LEASE OR OWNERSHIP REQUIRED.] An organization may conduct lawful gambling only on premises it owns or leases. Leases must be for a period of one year and must be ~~in~~ writing on a form prescribed by the board. Copies of all leases must be made available to employees of the division and the division of gambling enforcement on request. A lease may not provide for payments determined directly or indirectly by the receipts or profits from lawful gambling. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

No person, distributor, manufacturer, lessor, or organization other than the licensed organization leasing the space may conduct any activity ~~in a~~ on the leased space premises during times when lawful gambling is being conducted ~~in the space on the premises~~.

Subd. 1a. [STORAGE OF GAMBLING EQUIPMENT.] (a) Gambling equipment owned by or in the possession of a licensed organization must be kept at a licensed gambling premises owned or operated by the organization, or at other storage sites within the state that the organization has notified the board are being used as gambling equipment storage sites. At each storage site or licensed

premises, the organization must have the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the site or premises. No gambling equipment owned by an organization may be kept at a distributor's office, warehouse, storage unit, or other place of the distributor's business.

(b) Gambling equipment, other than devices for selecting bingo numbers, owned by a licensed an organization must be secured and kept separate from gambling equipment owned by other persons, organizations, distributors, or manufacturers consistent with the organization's internal controls filed with the board.

(c) Gambling equipment kept in violation of this subdivision is contraband under section 349.2125.

(d) ~~A licensed~~ An organization may transport gambling equipment it owns or possesses between approved gambling equipment storage sites and to and from licensed distributors.

Subd. 2. [EXCEPTIONS.] (a) ~~A licensed~~ An organization may conduct raffles on a premise it does not own or lease.

(b) ~~A licensed~~ An organization may with the permission of the board, conduct bingo on premises it does not own or lease for up to six 12 consecutive days in a calendar year, in connection with a county fair, the state fair, or ~~even~~ a civic celebration.

(c) A licensed organization may, after compliance with section 349.213, conduct lawful gambling on premises other than the organization's licensed premise for one day per year for not more than 12 hours that day. A lease for that time period for the exempted premises must accompany the request to the board.

Subd. 3. [PROCEEDS FROM RENTAL.] ~~Rental proceeds from premises owned by a licensed an organization and leased or sub-leased to one or more other licensed organizations for the purposes of conducting lawful gambling shall not be reported as gambling proceeds under this chapter.~~

Subd. 4. [PROHIBITION.] An organization may not pay rent to itself or to any of its affiliates for use of space for conducting lawful gambling.

Sec. 35. Minnesota Statutes 1988, section 349.19, as amended by Laws 1989, chapter 334, article 2, sections 29, 30, 32, and 33, and Laws 1989, First Special Session chapter 1, article 13, section 11, is amended to read:

349.19 [RECORDS AND REPORTS.]

Subdivision 1. [REQUIRED RECORD OF RECEIPTS.] A licensed organization must keep a record of each occasion on which it conducts gambling, including each bingo occasion and each day on which other forms of lawful gambling are conducted. The record must include gross receipts, quantities of free plays if any, expenses, prizes, and profits gross profit. The board may by rule provide for the methods by which expenses are documented. Gross receipts for bingo include any amount received by the organization which has been paid by a person at the bingo occasion to play the game, without which the player could not play the game. In the case of bingo, gross receipts must be compared to the checkers' records for the occasion by a person who did not sell cards for the occasion. Separate records must be kept for bingo and all other forms of lawful gambling.

Subd. 2. [ACCOUNTS.] Gross receipts from lawful gambling by each organization at each licensed permitted premises must be segregated from all other revenues of the conducting organization and placed in a separate account. All expenditures for expenses, taxes, and lawful purposes must be made from such a separate account except in the case of expenditures previously approved by the organization's membership for emergencies as defined by board rule. The name and address of the bank and the account number for that separate account for that licensed premises, and the names of organization members authorized as signatories on the separate account must be provided to the board when the application is submitted. Changes in the information must be submitted to the board at least ten days before the change is made. Gambling receipts must be deposited into the gambling bank account within one business day three days of completion of the bingo occasion, deal, or game from which they are received, and deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game. The person who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Subd. 3. [EXPENDITURES.] All expenditures of gross profits from lawful gambling must be itemized as to payee, purpose, amount, and date of payment, and must be in compliance with section 349.154. Authorization of the expenditures must be recorded in the regular monthly meeting minutes of the licensed organization. All checks for expenditures of gross profits must be signed by at least two persons authorized by board rules to sign the checks.

Subd. 4. [DISCREPANCIES.] If at a bingo occasion a discrepancy of more than \$20 is found between the gross receipts as reported by the checkers and the gross receipts determined by adding the cash receipts, the discrepancy must be reported to the board within five days of the bingo occasion.

Subd. 5. [REPORTS.] A licensed organization must report to the board and to its membership monthly, or quarterly in the case of a

licensed organization which does not report more than \$1,000 in gross receipts from lawful gambling in any calendar quarter, on its gross receipts, expenses, profits, and expenditure of profits from lawful gambling. If the organization conducts both bingo and other forms of lawful gambling, the figures for both must be reported separately. In addition, a licensed organization must report to the board monthly on its purchases of gambling equipment and must include the type, quantity, and dollar amount from each supplier separately. The reports must be on a form the board prescribes. Submission of the report required by section 15 satisfies the requirement for reporting monthly to the board on expenditure of net profits.

Subd. 6. [PRESERVATION OF RECORDS.] Records required to be kept by this section must be preserved by a licensed organization for at least 3-½ years and may be inspected by the commissioner of revenue, the commissioner of gaming, or the commissioner of public safety at any reasonable time without notice or a search warrant.

Subd. 7. [TAX RECORDS.] The board may by rule require each licensed organization to provide copies of forms it files with the United States department of the treasury which are required for organizations exempt from income tax.

Subd. 8. [TERMINATION PLAN.] Upon termination of a license for any reason, a licensed organization must notify the board in writing within 15 calendar days of the license termination date of its plan for disposal of registered gambling equipment and distribution of remaining gambling proceeds. Before implementation, a plan must be approved by the board. The board may accept or reject a plan and order submission of a new plan or amend a proposed plan. The board may specify a time for submission of new or amended plans or for completion of an accepted plan.

Subd. 9. [ANNUAL AUDIT; FILING REQUIREMENT.] An organization licensed under this chapter must have an annual financial audit of its lawful gambling activities and funds performed by an independent auditor licensed by the state of Minnesota or performed by an independent accountant who has had prior approval of the board. The board shall by rule prescribe standards for the audit, which must provide for the reconciliation of the organization's gambling account or accounts with the organization's reports filed under subdivision 5 and section 19. A complete, true, and correct copy of the audit report must be filed with the board upon completion of the audit.

Subd. 10. [PULL-TAB RECORDS.] The board shall by rule require a licensed organization to require each winner of a pull-tab prize of \$50 or more to present identification in the form of a drivers license, Minnesota identification card, or other identification the board deems sufficient to allow the identification and tracing of the

winner. The rule must require the organization to retain winning pull-tabs of \$50 or more, and the identification of the winner of each such pull-tab, for 3-1/2 years.

Sec. 36. Minnesota Statutes Second 1989 Supplement, section 349.212, subdivision 1, is amended to read:

Subdivision 1. [IMPOSITION.] There is hereby imposed a tax on all lawful gambling, other than (1) pull-tabs purchased and placed into inventory after January 1, 1987, and (2) tipboards purchased and placed into inventory after June 30, 1988, and (3) operation of video pull-tab devices, at the rate of ten percent on the gross receipts as defined in section 349.12, subdivision 26, less prizes actually paid. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 4 8, or a tax authorized under section 349.212, subdivision 5.

The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling.

Sec. 37. Minnesota Statutes Second 1989 Supplement, section 349.212, subdivision 4, is amended to read:

Subd. 4. [PULL-TAB AND TIPBOARD TAX.] (a) There is imposed a tax on the sale of each deal of pull-tabs and tipboards sold by a licensed distributor, and each read-only memory chip intended to drive a video pull-tab device. The rate of the tax is two percent of the ideal gross of the pull-tab or tipboard deal or the chip. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the licensed distributor and on the sale of a chip intended to drive a video pull-tab device is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A if the tax imposed by this subdivision has been paid and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 4 8.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer, to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;

(2) sales to distributors licensed under this chapter;

(3) sales to distributors licensed under the laws of another state or of a Province of Canada, as long as all statutory and regulatory requirements are met in the other state or province; and

(4) sales of promotional tickets as defined in section 349.12.

(c) In the case of a memory chip intended to drive a video pull-tab device, the liability for the tax imposed by this section is incurred when the chip has been delivered by the manufacturer to the purchaser, to a common carrier, for delivery to the purchaser, or when received by the purchaser's representative at the manufacturer's place of business, regardless of the manufacturer's method of accounting.

(d) Pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.214 27, subdivision 2, paragraph (b), are exempt from the tax imposed by this subdivision. A distributor must require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to such an organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

Sec. 38. Minnesota Statutes 1988, section 349.212, subdivision 5, is amended to read:

Subd. 5. [LOCAL GAMBLING TAX.] (a) A statutory or home rule charter city which has one or more licensed organizations operating conducting lawful gambling, and a county which has one or more licensed organizations outside incorporated areas operating conducting lawful gambling, may with the prior approval of the board impose a local gambling tax on each licensed organization within the city's or county's jurisdiction. The tax may be imposed only if the amount to be received by the city or county is necessary to cover the costs incurred by the city or county to regulate lawful gambling. The board may approve a local gambling tax only if it determines that the revenue from the tax will be used exclusively for lawful gambling enforcement and regulation or other law enforcement purposes. The board may withdraw approval of a local gambling tax if it determines that the revenue from the tax is or will be used for any purpose other than lawful gambling enforcement and regulations or other law enforcement.

(b) The tax imposed by this subdivision may not exceed three percent of the gross receipts profit of a licensed organization from all lawful gambling less prizes actually paid out conducted by the organization. A city or county may not use money collected under this subdivision for any purpose other than for the purpose of

regulating lawful gambling. A tax imposed under this subdivision is in lieu of all other local taxes and local investigation fees on lawful gambling.

(c) Any city or county that imposes a tax under this subdivision shall annually by March 15 file a report with the board in a form prescribed by the board showing (1) the amount of revenue produced by the tax during the preceding calendar year, and (2) the use of the proceeds of the tax.

Sec. 39. Minnesota Statutes 1988, section 349.2121, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION AND ISSUANCE.] Every distributor licensed by the board who sells pull-tabs and tipboards to organizations authorized to sell pull-tabs and tipboards under this chapter, and every manufacturer who sells video pull-tab devices under this chapter, must file with the commissioner of revenue an application, on a form the commissioner prescribes, for a gambling tax identification number and gambling tax permit. The commissioner, when satisfied that the applicant has a valid license from the board, shall issue the applicant a permit and number. A permit is not assignable and is valid only for the distributor or video pull-tab device manufacturer in whose name it is issued.

Sec. 40. Minnesota Statutes 1989 Supplement, section 349.2121, subdivision 2, is amended to read:

Subd. 2. [RECORDS.] (a) A distributor shall keep at each licensed place of business complete and accurate records for that place of business, including itemized invoices of pull-tabs and tipboards held, purchased, manufactured, or brought in or caused to be brought in from without this state, and of all sales of pull-tabs and tipboards. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required of all pull-tab and tipboard deals on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of pull-tab and tipboard deals. Books, records, and other papers and documents required by this section must be kept for a period of at least 3-½ years after the date of the documents, or the date of the entries appearing in the records, unless the commissioner of revenue authorizes in writing their destruction or disposal at an earlier date. At any time during usual business hours, the commissioner of revenue, director of gambling enforcement, or any of their duly authorized agents or employees, may enter a place of business of a distributor or organization, any site from which pull-tabs or tipboards or other gambling equipment are being sold, or any site at which lawful gambling is being conducted, and inspect the premises and the records required to be kept under this section to determine whether or not all the provisions of this section are being fully complied with. If the commissioner of revenue, director of

gambling enforcement, or their duly authorized agents or employees are denied free access to or are hindered or interfered with in making an inspection of the distributor's place of business, the permit of the distributor may be revoked by the commissioner, and the license of the distributor may be revoked by the gambling control board.

(b) A distributor who replaces a memory chip used to drive a video pull-tab device after all chances on the chip have been played must retain the chip for 3-1/2 years from the date of its removal from the device. All provisions of law relating to the availability of a distributor's books and records apply to such chips.

Sec. 41. Minnesota Statutes 1988, section 349.2121, subdivision 4a, is amended to read:

Subd. 4a. [REFUND.] (a) If any deal of pull-tabs or tipboards registered with the board and upon which the tax imposed by section 349.212, subdivision 4, has been paid is returned unplayed to the distributor, or if any memory chip used to drive a video pull-tab device is returned to its manufacturer with unplayed chances, the commissioner of revenue shall allow a refund of the tax paid.

(b) In the case of a defective deal or defective memory chip registered with the board and upon which the taxes have been paid is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal or chip was returned and in what respect it was defective. The certification must be in a form prescribed by the commissioner and must contain additional information the commissioner requires.

(c) The commissioner may require that no refund under this subdivision be made unless the returned pull-tabs or tipboards, or the returned memory chip, have been set aside for inspection by the commissioner's employee.

(d) Reductions in previously paid taxes authorized by this subdivision shall be made at the time and in the manner prescribed by the commissioner.

Sec. 42. Minnesota Statutes 1989 Supplement, section 349.2122, is amended to read:

349.2122 [MANUFACTURERS; REPORTS TO THE COMMISSIONER OF REVENUE; PENALTY.]

A manufacturer licensed ~~with~~ by the board who sells pull-tabs and tipboards to a licensed distributor licensed by the board must file with the commissioner of revenue, on a form prescribed by the commissioner, a report of pull-tabs and tipboards sold to ~~licensed~~

distributors any person in the state, including the established governing body of Indian tribes recognized by the United States Department of the Interior. The report must be filed monthly on or before the 25th day of the month succeeding the month in which the sale was made. The commissioner of revenue may inspect the books, records, and inventory of a licensed manufacturer without notice during the normal business hours of the manufacturer. Any person violating this section shall be guilty of a misdemeanor.

Sec. 43. Minnesota Statutes 1988, section 349.2123, is amended to read:

349.2123 [CERTIFIED PHYSICAL INVENTORY.]

The board or commissioner of revenue may, upon request, require a licensed distributor to furnish a certified physical inventory of ~~the pull-tabs and tipboards~~ all gambling equipment in stock. The inventory must contain the information required by the board or the commissioner.

Sec. 44. Minnesota Statutes 1989 Supplement, section 349.213, subdivision 1, is amended to read:

Subdivision 1. [LOCAL REGULATION.] A statutory or home rule city or county has the authority to adopt more stringent regulation of any form of lawful gambling within its jurisdiction, including the prohibition of any form of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.214. The fee for a permit issued under this subdivision may not exceed \$100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct gambling by organizations or sales by distributors licensed by the board. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section 349.16, subdivision 4 8, or 349.212; provided, however, that an ordinance requirement that such organizations must contribute ten percent of their net profits derived from lawful gambling to a fund administered and regulated by the responsible local unit of government without cost to such fund, for disbursement by the responsible local unit of government of the receipts for lawful purposes, is not considered an expenditure to the city or county nor a tax under section 349.212, and is valid and lawful.

A statutory or home rule city or county may by ordinance require

that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance must define the city's or county's trade area and must specify the percentage of lawful purpose expenditures which must be expended within the trade area. A trade area defined by a city under this subdivision must include each city contiguous to the defining city.

Sec. 45. Minnesota Statutes 1989 Supplement, section 349.213, subdivision 2, is amended to read:

Subd. 2. [LOCAL APPROVAL.] Before issuing or renewing an organization license a premises permit or bingo hall license, the board must notify the city council of the statutory or home rule city in which the organization's premises or the bingo hall is located or, if the premises or hall is located outside a city, the county board of the county and the town board of the town where the premises or hall is located. The board may require organizations or bingo halls to notify the appropriate local government at the time of application. This required notification is sufficient to constitute the notice required by this subdivision. If the city council or county board adopts a resolution disapproving the license and so informs the board within 60 days of receiving notice of the application, the license may not be issued or renewed. The board may not issue or renew a premises permit or bingo hall license unless the organization submits a resolution from the city council or county board approving the premises permit or bingo hall license. The resolution must have been adopted within 60 days of the date of application for the new or renewed permit or license.

Sec. 46. Minnesota Statutes 1988, section 349.30, subdivision 2, is amended to read:

Subd. 2. "Gambling devices" means slot machines, roulette wheels, punchboards, and pin ball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash device" has the meaning given it in section 609.75, subdivision 4.

Sec. 47. Minnesota Statutes 1988, section 349.31, is amended to read:

349.31 [GAMBLING DEVICE; POSSESSION OF]

Subdivision 1. [INTENTIONAL POSSESSION; WILLFUL KEEPING.] The intentional possession or willful keeping of a gambling device on a licensed premises is cause for the suspension or revocation of any license under which the licensed business is carried on upon the premises where the gambling device is found, provided that possession of gambling equipment as defined in section 349.12,

subdivision 17, which is used for lawful gambling authorized by this chapter, and the manufacture of gambling devices for use in jurisdictions where use of the gambling device is legal as provided for by section 349.40 shall not be cause for revocation of a license.

Subd. 2. [SUSPENSION AND REVOCATION OF LICENSES.]

All licenses under which any licensed business is permitted to be carried on upon the licensed premises shall be suspended or revoked if the intentional possession or willful keeping of any such gambling devices upon the licensed premises is established, notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

Sec. 48. Minnesota Statutes 1988, section 349.32, is amended to read:

349.32 [ISSUING AUTHORITY TO REVOKE.]

The proceedings for suspension or revocation shall be had before the issuing authority, which shall have power to suspend or revoke the license or licenses involved, as hereinafter provided.

Sec. 49. Minnesota Statutes 1988, section 349.34, is amended to read:

349.34 [PROCEEDINGS BEFORE ISSUING AUTHORITY; ORDER TO SHOW CAUSE.]

Upon the receipt of such information from any of the peace officers referred to in section 349.33, if any issuing authority is of the opinion that cause exists for the suspension or revocation of any such license, then that authority shall issue an order to show cause directed to the licensee of the premises, stating the ground upon which the proceeding is based and requiring the licensee to appear and show cause at a time and place, within the county in which the licensed premises are located, not less than ten days after the date of the order, why the license should not be suspended or revoked. That order to show cause shall be served upon the licensee in the manner prescribed by law for the service of summons in a civil action, or by certified mail, not less than eight days before the date fixed for the hearing thereof. A copy of the order shall forthwith be mailed to the owner of the premises, as shown by the records in the office of the county recorder, at the owner's last known post office address. A copy of the order shall at the same time be mailed to any other issuing authority, of which the authority issuing the order to show cause has knowledge, by which other license to that licensee may have been issued, and any such other authority may participate in the suspension or revocation proceedings after notifying the licensee and the officer or authority holding the hearing of its intention so to do on or before the date of hearing, and after the hearing take such action as

it could have taken had it instituted the suspension or revocation proceedings in the first instance.

Sec. 50. Minnesota Statutes 1988, section 349.35, subdivision 1, is amended to read:

Subdivision 1. [REVOCATION; STAY; APPEAL.] If, upon the hearing of the order to show cause, it appears that the licensee intentionally possessed or willfully kept upon the licensed premises any gambling device, then the license or licenses under which the licensed business is operated on the licensed premises, shall be suspended or revoked. The order of suspension or revocation shall not be enforced during the period allowed by section 349.39 for taking an appeal.

Sec. 51. Minnesota Statutes 1988, section 349.36, is amended to read:

349.36 [DUTIES OF COUNTY ATTORNEY.]

The county attorney of the county in which the hearing is held, or the city attorney if the issuing authority is the city, shall attend the hearing, interrogate the witnesses, and advise the issuing authority. The county attorney shall also, and appear for the issuing authority on any appeal taken pursuant to the provisions of section 349.39.

Sec. 52. Minnesota Statutes 1988, section 349.38, is amended to read:

349.38 [PROPERTY OWNERS LIABILITY.]

When a license is suspended or revoked under the provisions of sections 349.30 to 349.39, the owner of the premises upon which any licensed business has been operated shall not be penalized by reason thereof unless it is established that the owner had knowledge of the existence of the gambling devices resulting in license suspension or revocation.

Sec. 53. Minnesota Statutes 1988, section 349.39, is amended to read:

349.39 [APPEAL TO DISTRICT COURT; STAY; CONTINUANCE UNDER BOND; HEARING UPON ONE YEAR LIMITATION ON PREMISES.]

Any licensee, or any owner of licensed premises, aggrieved by an order of an issuing authority suspending or revoking any license may appeal from that order to the district court of the county in which the licensee resides by serving a notice of the appeal upon the

issuing authority or the clerk thereof. The notice of appeal shall state that the person appealing takes an appeal to that district court from the order suspending or revoking the license or licenses, describing them and identifying the order appealed from. This notice shall be served within 15 days from the date of service of the order appealed from, and the same, with proof of service thereof, shall be filed with the court administrator of the district court of the proper county. The appeal shall stand for trial at the next term of the district court following the filing of the notice of appeal, without the service of any notice of trial, and shall be tried in the district court de novo. The trial shall be by jury if the appellant shall so demand. The licensee may continue to operate the licensed business or businesses until the final disposition of such appeal. If the district court upon the appeal shall determine that any license involved in the appeal should be suspended or revoked, it may, nevertheless, in its discretion permit the continuance of the licensed business under a bond in the amount and in the form and containing the conditions prescribed by the court. The district court on the appeal, or in a separate proceeding, may permit the issuance of a new license to a different licensee before the expiration of the period of one year specified in section 349.35, subdivision 2, upon such terms and conditions imposed by the court as will insure that no gambling device shall thereafter be maintained upon the licensed premises.

Sec. 54. Minnesota Statutes 1988, section 349.50, subdivision 8, is amended to read:

Subd. 8. [VIDEO GAME OF CHANCE.] "Video game of chance" means games or devices that simulate games commonly referred to as poker, blackjack, craps, hi-lo, roulette or other common gambling forms, though not offering any type of pecuniary award or gain to players. The term also includes any video game having one or more of the following characteristics:

(1) it is primarily a game of chance, and has no substantial elements of skill involved;

(2) it awards game credits or replays and contains a meter or device which records unplayed credits or replays ~~and contains a device that permits them to be canceled.~~

"Video game of chance" does not include a video pull-tab device as defined in section 5.

Sec. 55. Minnesota Statutes 1988, section 349.55, is amended to read:

349.55 [GAME SPECIFICATIONS.]

No payment may be made directly from any game or in connection with the operation of any device. Each game must contain a random character generator, and any internal meter must be nonresetable. Any game canceling replays or credits must cancel them no more than one at a time. A video game of chance may not contain or have attached to it any switch, lever, button, or other device capable of canceling replays or credits in any way other than by playing the game offered by the machine. A video game of chance must be programmed and must operate in such a way that all credits accumulated on a game must automatically cancel within 60 seconds of the completion of a play. No person may cancel replays or credits on a video game of chance in any way other than by playing the game offered by the machine. A video game of chance may not be restarted after cancellation of all accumulated credits except on insertion of a coin.

Sec. 56. [349.61] [REPEAL; TERMINATION OF LICENSES.]

Section 1 and sections 349.50 to 349.60 are repealed January 1, 1992. All licenses issued under sections 349.51 and 349.52 in effect on that date expire on that date. The commissioner of finance shall on that date transfer all money in the video gaming license account to the general fund.

Sec. 57. Minnesota Statutes 1989 Supplement, section 349A.02, subdivision 4, is amended to read:

Subd. 4. [EMPLOYEES; CLASSIFICATION.] The director may appoint other personnel as are necessary to operate the state lottery. Employees of the division who are not professional employees as defined in section 179A.03, subdivision 13, and employees whose primary responsibilities are in data processing and accounting, are in the classified service. All other employees of the division are in the unclassified service. For purposes of this subdivision, employees engaged in sales, marketing, and telemarketing are professional employees. At least one position in the division must be an attorney position and the director must employ in that position an attorney to perform legal services for the division.

Sec. 58. Minnesota Statutes 1989 Supplement, section 349A.02, subdivision 5, is amended to read:

Subd. 5. [COMPENSATION INCENTIVE PLAN.] The compensation of employees in the division is as provided in chapter 43A. The commissioner of employee relations director may, at the request of the director, develop and implement a plan for making incentive payments to employees of the division whose primary responsibilities are in marketing.

Sec. 59. Minnesota Statutes 1989 Supplement, section 349A.15, is amended to read:

349A.15 [REPORT.]

The director shall file an annual report with the governor and legislature which must include a complete statement of lottery revenues, administrative and operating costs, net proceeds transferred, and other financial transactions for the period the report covers. The report must specify the classification and salary of each employee of the division.

Sec. 60. Minnesota Statutes 1989 Supplement, section 609.75, subdivision 3, is amended to read:

Subd. 3. [WHAT ARE NOT BETS.] The following are not bets:

(1) A contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance.

(2) A contract for the purchase or sale at a future date of securities or other commodities.

(3) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest.

(4) ~~The game of bingo when conducted in compliance with sections 349.11 to 349.23.~~

(5) A private social bet not part of or incidental to organized, commercialized, or systematic gambling.

(6) ~~The operation of equipment or the conduct of a raffle under sections 349.11 to 349.22, by an organization licensed by the gambling control board or an organization exempt from licensing under section 349.214.~~

(7) (5) Pari-mutuel betting on horse racing when the betting is conducted under chapter 240.

(8) (6) The purchase and sale of state lottery tickets under chapter 349A.

Sec. 61. Minnesota Statutes 1988, section 609.75, subdivision 4, is amended to read:

Subd. 4. [GAMBLING DEVICE.] A gambling device is a contrivance which for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined princi-

pally by chance. "Gambling device" includes any video game of chance, as defined in section 349.50, subdivision 8, that is not in compliance with sections 349.50 to 349.60.

Sec. 62. Minnesota Statutes 1989 Supplement, section 609.761, subdivision 1, is amended to read:

Subdivision 1. [LAWFUL GAMBLING.] Notwithstanding sections 609.755 and 609.76, an organization may conduct lawful gambling as defined in section 349.12, if authorized under chapter 349, and a person may manufacture, sell, or offer for sale a gambling device to an organization authorized under chapter 349 to conduct lawful gambling, and pari-mutuel betting on horse racing may be conducted under chapter 240.

Sec. 63. Laws 1989, First Special Session chapter 1, article 13, section 27, is amended to read:

Sec. 27. [STATE TO BE SUPPLIER OF GAMBLING EQUIPMENT.]

Notwithstanding any other law to the contrary, After June 30, 1990 1993, the state of Minnesota will be the sole supplier of all gambling equipment under Minnesota Statutes, chapter 349. The commissioner of revenue shall no later than January 15, 1990 December 7, 1992, submit to the legislature a bill making all statutory changes required to implement this section including proposing the required staff and appropriation. The bill shall include provisions requiring the state to provide an adequate supply and variety of gambling equipment and to supply it efficiently. The commissioner of revenue shall provide copies of this bill to the chair of the house of representatives tax committee and to the chair of the senate committee on taxes and tax laws. Notwithstanding any contrary requirements of Minnesota Statutes, section 3C.035, subdivision 2, the revisor shall assess the commissioner of revenue for the actual cost of bill drafting services rendered to the department with respect to the bill required by this section.

Sec. 64. [GAMBLING BOARD ABOLISHED.]

Subdivision 1. [BOARD ABOLISHED.] The gambling control board, the division of gambling control in the department of gaming, and the position of director of the division of gambling control, are abolished December 31, 1993. The terms of all members of the board expire on that date. The attorney general is the successor agency to the board for the purpose of continuing any actions against the board pending on December 31, 1993, or any appeal of a civil penalty imposed by the board before July 1, 1993.

Subd. 2. [LICENSES.] All licenses issued by the gambling control

board in effect on July 1, 1993, expire on that date. The board shall pay from any funds appropriated for the purpose pro rata refunds for the unused portion of licenses that are in effect on July 1, 1993, provided that requests for refunds must be submitted to the board by October 1, 1993.

Subd. 3. [FUNDS.] All funds appropriated to the gambling control board and the division of gambling control shall revert to the general fund on January 1, 1994.

Sec. 65. [REPORTS.]

Subdivision 1. [LEGISLATIVE AUDITOR.] The legislative auditor shall study and report to the legislature by January 15, 1993, on:

- (1) the current statute of lawful gambling in Minnesota;
- (2) the incidence of abuses and illegal activities in lawful gambling;
- (3) the effectiveness of state regulation of lawful gambling; and
- (4) the probable consequences of the repeal of lawful gambling laws and the abolishment of the gambling control board.

Subd. 2. [GAMBLING CONTROL BOARD.] The gambling control board shall study and report to the legislature by January 15, 1993, on the use of video pull-tab devices in Minnesota. The study must include, among other subjects:

- (1) the volume of gambling on video pull-tab devices compared with paper pull-tabs;
- (2) the effectiveness of video pull-tabs in eliminating pull-tab cheating;
- (3) the effectiveness of state licensing and regulation of video pull-tab devices;
- (4) the effects of video pull-tab devices on the accountability of lawful gambling; and
- (5) recommendations for future legislative action regarding video pull-tab devices.

Sec. 66. [APPROPRIATION.]

Subdivision 1. [PUBLIC SAFETY.] (a) \$ is appropriated from the general fund to the commissioner of public safety for lawful

gambling enforcement. This appropriation is for the fiscal year ending June 30, 1991.

(b) The approved complement of the department of public safety is increased by .. positions.

Subd. 2. [LAWFUL GAMBLING CONTROL DIVISION.] (a) \$ is appropriated from the general fund to the director of the lawful gambling division, department of gaming. This appropriation is for the fiscal year ending June 30, 1991.

(b) The approved complement of the division of lawful gambling control is increased by .. positions.

Subd. 3. [ATTORNEY GENERAL.] (a) \$ is appropriated from the general fund to the attorney general for gambling enforcement activities. This appropriation is for the fiscal year ending June 30, 1991.

(b) The approved complement of the attorney general's office is increased by .. positions.

Subd. 4. [DEPARTMENT OF REVENUE.] (a) \$ is appropriated from the general fund to the commissioner of revenue for administration and enforcement of taxes on lawful gambling. This appropriation is for the fiscal year ending June 30, 1991.

(b) The approved complement of the department of revenue is increased by .. positions.

Sec. 67. [REPEALER.]

(a) Minnesota Statutes 1988, sections 349.14 and 349.214, subdivisions 1, 1a, 3, and 4; Minnesota Statutes 1989 Supplement, section 349.151, subdivision 4a; and Minnesota Statutes Second 1989 Supplement, section 349.214, subdivision 2, are repealed.

(b) Minnesota Statutes 1989 Supplement, sections 349.20 and 349.21, are repealed.

(c) Minnesota Statutes 1988, sections 349.11, as amended; 349.12, as amended; 349.13; 349.15, as amended; 349.16, as amended; 349.161, as amended; 349.162, as amended; 349.163, as amended; 349.164, as amended; 349.17, as amended; 349.18, as amended; 349.19, as amended; 349.211; 349.212, as amended; 349.2121, as amended; 349.2122, as amended; 349.2123; 349.2124; 349.2125, as amended; 349.2127, as amended; 349.213, as amended; 349.22, as amended; and 349.23; and sections 13, 16, 18, 20, 21, 22, 23, 25, and 26; Minnesota Statutes 1989 Supplement, section 349.153; and Minnesota Statutes Second 1989 Supplement, sections 349.215;

349.2151; 349.2152; 349.216; 349.217; 349.2171; 349.218; and 349.219, are repealed.

(d) Minnesota Statutes 1989 Supplement, sections 349.151, subdivisions 1, 2, 4, and 5; and 349.152, are repealed.

Sec. 68. [EFFECTIVE DATE.]

Sections 4, 5, 8, 9, 13, 22, 32, 36, 37, 39, 40, 41, and 63 are effective the day following final enactment. Sections 26, 28, 29, 55, 61, and 67, paragraph (b), are effective January 1, 1991. Sections 3, 60, 62, 64, and 67, paragraph (c), are effective July 1, 1993. Section 67, paragraph (d), is effective January 1, 1994.

Delete the title and insert:

"A bill for an act relating to lawful gambling; providing primary enforcement for criminal violations in the division of gambling enforcement; defining lawful purposes for expenditures of gambling profits; establishing licensing qualifications for organizations and manufacturers; requiring organizations to report monthly on expenditures and contributions of gambling profits; authorizing the gambling control board to require recipients of contributions of gambling profits to register with the board; authorizing summary suspension of gambling licenses for failure to file tax returns; authorizing a limited number of video pull-tab devices and establishing standards and requirements for them; regulating pull-tab dispensing machines; requiring inspection and testing of gambling equipment; requiring permits for gambling premises; requiring gambling managers to be licensed; requiring that employees of organizations conducting lawful gambling be registered with the board; expanding allowable uses for revenue from local gambling taxes and requiring board approval of these taxes; specifying authority to set salaries for state lottery employees; repealing video games of chance regulating provisions on January 1, 1992; abolishing lawful gambling on July 1, 1993; appropriating money; amending Minnesota Statutes 1988, sections 349.12, subdivision 10, and by adding subdivisions; 349.16, as amended; 349.17, as amended; 349.18, as amended; 349.19, as amended; 349.212, subdivision 5; 349.2121, subdivisions 1 and 4a; 349.2123; 349.30, subdivision 2; 349.31; 349.32; 349.34; 349.35, subdivision 1; 349.36; 349.38; 349.39; 349.50, subdivision 8; 349.55; and 609.75, subdivision 4; Minnesota Statutes 1989 Supplement, sections 299L.03, by adding a subdivision; 340A.410, subdivision 5; 349.12, subdivisions 12 and 15; 349.151, subdivision 4; 349.152, subdivision 2, and by adding subdivisions; 349.161, as amended; 349.162; 349.163, as amended; 349.164; 349.2121, subdivision 2; 349.2122; 349.213, subdivisions 1 and 2; 349A.02, subdivisions 4 and 5; 349A.15; 609.75, subdivision 3; and 609.761, subdivision 1; Minnesota Statutes Second 1989 Supplement, sections 349.12, subdivisions 11 and 19; 349.15; and 349.212, subdivisions 1 and 4; Laws

1989, First Special Session chapter 1, article 13, section 27; proposing coding for new law in Minnesota Statutes, chapters 299L and 349; repealing Minnesota Statutes 1988, sections 349.11, as amended; 349.12, as amended; 349.13; 349.14; 349.15, as amended; 349.16, as amended; 349.161, as amended; 349.162, as amended; 349.163, as amended; 349.164, as amended; 349.17, as amended; 349.18, as amended; 349.19, as amended; 349.211; 349.212, as amended; 349.2121, as amended; 349.2122, as amended; 349.2123; 349.2124; 349.2125, as amended; 349.2127, as amended; 349.213, as amended; 349.214, subdivisions 1, 1a, 3, and 4; 349.22, as amended; and 349.23; Minnesota Statutes 1989 Supplement, sections 349.151, subdivisions 1, 2, 4, 4a, and 5; 349.152; 349.153; 349.20; and 349.21; Minnesota Statutes Second 1989 Supplement, sections 349.214, subdivision 2; 349.215; 349.2151; 349.2152; 349.216; 349.217; 349.2171; 349.218; and 349.219."

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

The report was adopted.

Battaglia from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 2007, A bill for an act relating to environment and natural resources; amending provisions relating to water management organizations; providing legislative commission oversight of the metropolitan water management act; providing for appointment of metropolitan watershed district managers from residents within the district; authorizing management and financing of drainage systems under certain laws; exempting certain water planning and implementation costs in the metropolitan area from levy limits; clarifying water management purposes; authorizing counties to remove watershed district managers for just cause; authorizing a technical advisory committee; requiring watershed management organizations to prepare newsletters, annual reports, and audits; providing for preparation of watershed plans and implementation of plans; providing penalties for not implementing plans; authorizing and directing the board of water and soil resources to adopt rules; providing for appeal of plan failures; providing for requests for proposals for certain services; authorizing accumulation of levy proceeds; authorizing establishment of a special tax district in certain areas; requiring a draining system report; amending Minnesota Statutes 1988, sections 110B.28; 110B.30; 112.42, subdivision 3, and by adding a subdivision; 473.875; 473.876, by adding a subdivision; 473.877, subdivision 1; 473.878, subdivisions 1, 1a, 2, 3, 4, 8, and by adding subdivisions; 473.879, subdivision 2; 473.881; 473.882, subdivision 1; and 473.883, subdivisions 3 and 7; Minnesota Statutes 1989 Supplement, section 473.883, subdivision 6;

Minnesota Statutes Second 1989 Supplement, section 275.50, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 112 and 473.

Reported the same back with the following amendments:

Page 2, line 6, strike "commission" and insert "commissions"

Page 2, line 19, after "of" insert "sections 473.875 to 473.883 under"

Page 2, line 19, delete "paragraph"

Page 2, line 20, delete "(a),"

Page 2, lines 32 and 33, reinstate the stricken language

Page 2, line 34, reinstate the stricken language and delete the new language

Page 2, line 36, after the period insert "If the district is wholly within the metropolitan area, the county commissioners may appoint the managers from a list of persons nominated jointly or severally by the towns and municipalities within the district." and delete "be submitted"

Page 3, lines 1 to 12, reinstate the stricken language and delete the new language

Page 4, delete lines 19 to 24

Page 10, after line 5, insert:

"Sec. 6. [473.157] [WATER RESOURCES PLAN.]

To help achieve federal and state water quality standards, provide effective water pollution control, and help reduce unnecessary investments in advanced wastewater treatment, the council shall adopt a water resources plan that includes management objectives and target pollution loads for watersheds in the metropolitan area. The council shall recommend to the board of water and soil resources performance standards for watershed plans in the metropolitan area, including standards relating to the timing of plan revisions and proper water quality management."

Page 10, line 31, after "habitat" insert "and water recreational facilities"

Page 12, line 11, delete "including." and insert a period

Page 12, delete lines 12 and 13

Page 12, line 14, delete "(2) that" and insert "(c)" and delete "cannot" and insert "may not"

Page 12, after line 34, insert:

"Subd. 3. [REMOVAL.] The board of water and soil resources shall adopt rules prescribing standards and procedures for removing members of watershed management organization boards for just cause."

Renumber the subdivisions in sequence

Page 12, line 36, after "publish" insert "and distribute" and after "newsletter" insert "or other appropriate written communication" and delete "and distribute"

Page 13, line 1, delete the first "the newsletter" and after the second "newsletter" insert "or other communication"

Page 13, line 5, delete everything after "shall"

Page 13, line 6, delete "requests for" and insert "at least every two years solicit interest"

Page 14, lines 15 and 16, reinstate the stricken language

Page 14, lines 23 to 36, reinstate the stricken language

Page 15, line 1, reinstate the stricken language

Page 15, line 9, delete "under paragraph (b)"

Page 15, line 12, delete "the" and insert "state agencies may withhold from" and delete everything after "units"

Page 15, line 15, delete everything after "(2)" and insert "state agencies may withhold from local government units delegation of state water resource"

Page 15, line 17, delete "shall" and insert "may"

Page 15, after line 18, insert:

"The provisions of this paragraph apply until the board of water and soil resources determines that a plan is being implemented in accordance with its rules."

(d) Appeals from the board of water and soil resources determination are made in the same manner as appeals under section 110B.25, subdivision 5."

Page 17, line 21, after "establish" insert "standards and requirements for amendments to watershed plans. The rules must include"

Page 17, line 22, delete "second generation" and insert "the"

Page 17, line 28, delete "and"

Page 17, after line 28, insert:

"(3) standards for the content of capital improvement programs to implement watershed plans, including a requirement that capital improvement programs identify structural and nonstructural alternatives that would lessen capital expenditures; and"

Page 17, line 29, delete "(3)" and insert "(4)"

Page 17, after line 33, insert:

"Sec. 16. Minnesota Statutes 1988, section 473.878, subdivision 6, is amended to read:

Subd. 6. [REVIEW BY METROPOLITAN COUNCIL.] After completion of the review under subdivision 5, the plan and all comments received shall be submitted to the metropolitan council for review. Notwithstanding any provision to the contrary in sections 112.46 and 473.165, the council shall review the plan in the same manner and with the same authority and effect as provided for the council's review of the comprehensive plans of local government units under section 473.175. The council shall comment on the apparent conformity with metropolitan system plans of any anticipated amendments to local comprehensive plans. The council shall advise the board of water and soil resources on whether the plan conforms with the management objectives and target pollution loads stated in the council's water resources plan and shall recommend changes in the plan that would satisfy the council's plan. The council may mediate and attempt to resolve differences among local governmental agencies regarding the plan."

Page 18, line 11, delete the colon

Page 18, delete lines 12 to 16

Page 18, line 17, delete "(2)"

Page 18, line 29, delete "a watershed management organization's" and insert "an"

Page 18, line 30, delete "its" and insert "an" and delete "appeal to" and insert "request review by"

Page 18, line 31, delete everything after the period and insert "The board shall establish a procedure for resolving disputes and making a determination on whether the plan is being implemented."

Page 18, delete lines 32 and 33

Page 19, line 18, delete "473.8781" and insert "473.880"

Page 20, line 7, after the period insert "The standards apply to plan amendments made to conform to changes in the watershed plans that are adopted under the board rules required by section 15."

Page 23, delete line 10

Page 23, line 11, delete "metropolitan" and delete "to" and insert "in the metropolitan area shall"

Page 23, line 12, delete everything after "jurisdiction"

Page 23, line 13, delete "must" and insert a comma

Page 23, line 16, after the period insert "The board shall provide guidance and technical assistance to the drainage authorities in meeting this requirement."

Page 23, after line 16, insert:

"Sec. 29. [COOPERATION IN PLANNING.]

The council shall establish an advisory water quality management task force to assist the council in the plans and recommendations required by section 7. The council and the board shall coordinate agency activities and technical assistance to watershed management organizations and local governments to achieve the maximum benefit from staff resources.

Sec. 30. [APPLICATION.]

Sections 7 to 29 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 31. [APPROPRIATION.]

\$ is appropriated to the board of water and soil resources for the purpose of carrying out this act."

Renumber sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 24, after the semicolon insert "appropriating money;"

Page 1, line 26, delete ", and by adding"

Page 1, line 27, delete "a subdivision"

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

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 2016, A bill for an act relating to education; establishing an automobile safety awareness week; proposing coding for new law in Minnesota Statutes 1988, chapter 126.

Reported the same back with the following amendments:

Page 1, line 10, delete "In the"

Page 1, line 11, delete ", time must be devoted by teachers" and insert "are encouraged to devote time"

Page 1, line 17, after "transportation" insert "and the department of public safety"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 2023, A bill for an act relating to veterans; authorizing the veterans homes board to rent certain facilities; appropriating money; amending Minnesota Statutes 1989 Supplement, section 198.003.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 2041, A bill for an act relating to elections; clarifying language and changing procedures for voter registration, absentee voters, and polling place rosters; defining certain terms; changing certain time limits; amending Minnesota Statutes 1988, sections 200.02, by adding a subdivision; 201.022; 201.023; 201.054, subdivision 1; 201.061, subdivision 1; 201.071, subdivisions 3 and 4; 201.081; 201.091; 201.12, subdivision 2; 201.121, subdivisions 1 and 2; 201.171; 201.211; 201.221; 201.27, subdivision 1; 203B.09; 203B.12, subdivisions 2 and 3; 204B.28, subdivision 2; 204B.45, subdivision 2; 204C.10; 204C.12, subdivision 4; and 204C.27; Minnesota Statutes 1989 Supplement, section 203B.13, subdivision 3a; proposing coding for new law in Minnesota Statutes, chapter 201; and repealing Minnesota Statutes 1988, sections 201.061, subdivision 2; 201.071, subdivisions 5 and 6; and 201.091, subdivision 3.

Reported the same back with the following amendments:

Page 14, after line 6, insert:

"Sec. 18. Minnesota Statutes 1989 Supplement, section 202A.13, is amended to read:

202A.13 [COMMITTEES, CONVENTIONS.]

The rules of each major political party shall provide that for each congressional district and each county or legislative district a convention shall be held at least once every state general election year. Each major political party shall also provide for each congressional district and each county or legislative district an executive committee consisting of a chair and such other officers as may be necessary. The party rules may provide for only one executive committee and one convention where any county and congressional district have the same territorial limits.

A communicatively impaired delegate or alternate who needs interpreter services at a county, legislative district, or congressional district, or state convention shall so notify the executive committee of the major political party unit whose convention the delegate or alternate plans to attend. Written notice must be given by certified mail to the executive committee at least 30 days before the convention date. The major political party, not later than 14 days before the convention date, shall secure the services of one or more interpreters if available and shall assume responsibility for the cost of the services. The state central committee of the major political party shall determine the process for reimbursing interpreters.

A visually impaired delegate or alternate to a county, legislative district, or congressional district, or state convention may notify the executive committee of the major political party unit that the delegate or alternate requires convention materials in audio tape, Braille, or large print format. Upon receiving the request, the executive committee shall provide all official written convention materials as soon as they are available, so that the visually impaired individual may have them converted to audio tape, Braille, or large print format, prior to the convention.

Sec. 19. Minnesota Statutes 1988, section 203B.04, is amended by adding a subdivision to read:

Subd. 5. [PERMANENT ILLNESS OR DISABILITY.] An eligible voter who reasonably expects to be permanently unable to go to the polling place on election day because of illness or disability may apply to a county auditor or municipal clerk under this section to automatically receive an absentee ballot application before each election and to have the status as a permanent absentee voter indicated on the voter's registration record. The secretary of state shall adopt rules governing procedures under this subdivision."

Page 16, after line 16, insert:

"Sec. 24. Minnesota Statutes 1988, section 204B.09, subdivision 1, is amended to read:

Subdivision 1. [CANDIDATES IN STATE AND COUNTY GENERAL ELECTIONS.] Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state and federal offices filed at the state general election shall be filed not more than 70 days nor less than 56 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period. Candidates for presidential electors may file petitions on or before the state primary day. Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13. No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing. Affidavits and petitions for offices to

be voted on in only one county shall be filed with the county auditor of that county. Affidavits and petitions for offices to be voted on in more than one county shall be filed with the secretary of state."

Page 19, after line 21, insert:

"Sec. 30. [211B.045] [NONCOMMERCIAL SIGNS EXEMPTION.]

In any municipality with an ordinance that regulates the size of noncommercial signs, notwithstanding the provisions of that ordinance, all noncommercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election.

Sec. 31. Minnesota Statutes 1988, section 367.03, subdivision 1, is amended to read:

Subdivision 1. [OFFICERS, TERMS.] Except in towns operating under option A, there shall be elected in each town three supervisors as provided in this section. Where a new town has been or may be organized and supervisors have been or may be elected for such town at a town meeting prior to the annual town election, such supervisors shall serve only until the next annual town election at which election three supervisors shall be elected, one for three years, one for two years, and one for one year, so that the term of one shall expire each year. The number of years for which each is elected shall be indicated on the ballot. When two supervisors are to be elected for three-year terms under option A, a candidate shall indicate on the affidavit of candidacy which of the two offices the candidate is filing for. At all other annual town elections one supervisor shall be elected for three years to fill the place of the one whose term expires at that time. Except in towns operating under either option B or option D, or both, there shall be elected at the annual town election held in even-numbered years one town clerk, and at the annual town election held in odd-numbered years one town treasurer. The clerk and treasurer each shall serve for a term of two years and until their successors are elected and qualified.

Sec. 32. Minnesota Statutes 1988, section 367.33, subdivision 4, is amended to read:

Subd. 4. [TERMS.] If the additional supervisors are elected at a special election, they shall serve only until the next annual town election, at which the additional members shall stand for election, one for a term of two years and one for a term of three years. The candidate receiving the highest number of votes shall be elected for the longer term. If the additional supervisors are elected at an annual election, one shall serve for a term of two years and the other for a term of three years with the candidate receiving the highest number of votes being elected for the longer term. A candidate for one of the additional supervisor positions shall specify in the

affidavit of candidacy that the candidate is filing for either the two-year or the three-year term.

Sec. 33. [REPORT TO LEGISLATURE.]

The secretary of state shall evaluate the operation of section 19 and shall report to the chairs of the general legislation committee in the house of representatives and the elections committee in the senate by February 1, 1992."

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 5, after the second semicolon insert "providing for persons who are permanently ill or disabled to automatically receive absentee ballot applications before each election; providing for certain services at state party conventions; requiring a report; changing filing requirements for town elections; exempting certain noncommercial signs from municipal regulation;"

Page 1, line 11, after "1," insert "203B.04, by adding a subdivision;"

Page 1, line 12, after "3," insert "204B.09, subdivision 1;"

Page 1, line 13, delete "and" and after "204C.27;" insert "367.03, subdivision 1; and 367.33, subdivision 4;"

Page 1, line 14, delete "section" and insert "sections 202A.13; and"

Page 1, line 16, delete everything after the comma and insert "chapters 201 and 211B; repealing"

With the recommendation that when so amended the bill pass.

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

H. F. No. 2075, A bill for an act relating to utilities; providing for the assessment of expenses for adjudicating service area disputes to municipal electric utilities; amending Minnesota Statutes 1988, section 216B.62, subdivision 5.

Reported the same back with the following amendments:

Page 1, line 14, strike "and" and insert a comma and before the period insert "and rates"

Page 1, line 17, after "shall" insert "also"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 2077, A bill for an act relating to criminal sexual contact; expanding the definition of "sexual contact" in fifth degree criminal sexual conduct; amending Minnesota Statutes 1988, section 609.3451, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 609.72, subdivision 1, is amended to read:

Subdivision 1. Whoever does any of the following in a public or private place, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

(1) Engages in brawling or fighting; or

(2) Disturbs an assembly or meeting, not unlawful in its character;
or

(3) Engages in offensive, obscene, ~~or abusive language or in~~ boisterous ~~and, or noisy conduct or in offensive, obscene, or abusive language~~ tending reasonably to arouse alarm, anger, or resentment in others.

A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure.

Sec. 2. Minnesota Statutes 1988, section 609.746, subdivision 1, is amended to read:

Subdivision 1. [SURREPTITIOUS INTRUSION.] A person ~~who~~ is guilty of a misdemeanor if the person:

(1) enters upon another's property and surreptitiously gazes, stares, or peeps in the window of a house or place of dwelling of another with intent to intrude upon or interfere with the privacy of a member of the household is guilty of a misdemeanor; or

(2) surreptitiously gazes, stares, or peeps at another person who is in an area of a commercial establishment where the person has a reasonable expectation of privacy, unless the actor's conduct is for the purpose of preventing criminal activity and notice has been posted warning that the premises are under surveillance by the actor or the actor's employees.

Sec. 3. Minnesota Statutes 1988, section 617.241, subdivision 2, is amended to read:

Subd. 2. [CRIME.] It is unlawful for a person, knowing or with reason to know its content and character, to:

(a) exhibit, sell, rent, print, offer to sell, give away, circulate, publish, distribute or attempt to distribute any obscene material; or

(b) produce, present, participate in, or direct an obscene performance.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective August 1, 1990, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crime; expanding the crime of disorderly conduct to cover certain offensive, obscene, or abusive conduct; expanding the crime of interference with privacy to include certain public places; clarifying that the obscenity statute covers the rental of obscene material; amending Minnesota Statutes 1988, sections 609.72, subdivision 1; 609.746, subdivision 1; and 617.241, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 2111, A bill for an act relating to occupations and professions; providing for independent medical examinations by doctors of chiropractic; amending Minnesota Statutes 1988, sections 148.01, subdivision 1; and 148.08, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 148.

Reported the same back with the following amendments:

Page 3, line 20, after "doctor" insert "of chiropractic"

Page 3, line 21, after "party" insert "selecting a chiropractic examination"

Page 3, line 24, after "doctor" insert "of chiropractic"

Page 3, line 30, after "doctor" insert "of chiropractic"

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 2144, A bill for an act relating to education; expanding open enrollment to bordering states; amending Minnesota Statutes 1989 Supplement, section 120.062, subdivision 12, and by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1989 Supplement, section 120.062, subdivision 12, is amended to read:

Subd. 12. [GENERAL EDUCATION AID.] Adjustments to general education aid, capital expenditure facilities aid, and equipment aid for the resident and nonresident districts for intrastate transfers shall be made according to sections 124A.036, subdivision 5, and 124.245, subdivision 6, respectively. For interstate transfers, the state shall make the same adjustments for resident districts and shall pay tuition, according to section 120.08, subdivision 1, to nonresident districts.

Sec. 2. Minnesota Statutes 1988, section 120.062, is amended by adding a subdivision to read:

Subd. 13. [BORDERING STATES.] (a) A pupil residing in Minnesota may attend a school or a program in a district located in a county that borders Minnesota.

(b) A pupil residing in a county that borders Minnesota may attend a school or a program in a Minnesota school district if:

(1) the resident school board provides written consent; and

(2) the resident school board or resident state pays tuition in an amount that is at least comparable to the tuition specified in section 120.08, subdivision 1.

(c) The requirements of this section apply to interstate transfers, except the aid payment provision of subdivision 9, and as otherwise provided in this subdivision.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective September 1, 1993."

Delete the title and insert:

"A bill for an act relating to education; expanding open enrollment to bordering states; amending Minnesota Statutes 1988, section 120.062, by adding a subdivision; Minnesota Statutes 1989 Supplement, section 120.062, subdivision 12."

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2151, A resolution memorializing the President and Congress of the United States to maintain the federal subsidy for federal crop insurance.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 2152, A bill for an act relating to education; permitting most ECSUs to form a representative assembly; amending Minnesota Statutes 1988, section 123.58, subdivision 5.

Reported the same back with the following amendments:

Page 3, after line 12, insert:

“(i) Notwithstanding section 15.054, an ECSU board may sell computers and related products to the staff members of the member school districts to advance the instructional and research abilities of the staff members. The ECSU may contract with a private vendor for service, maintenance, and support for computers and related products sold by the board.”

Amend the title as follows:

Page 1, line 3, after the semicolon insert “permitting an ECSU to sell computers;”

With the recommendation that when so amended the bill pass.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 2171, A bill for an act relating to horse racing; increasing per diem rate for racing commissioners; requiring licenses for pari-mutuel clerks at county fairs; apportioning money for promotion of the breeding and racing industry; allowing administration of certain medications by designated persons; reducing state tax withholding on pari-mutuel winnings; amending Minnesota Statutes 1988, sections 240.02, subdivision 3; 240.09, subdivision 2; 240.18; 240.24, subdivision 2; and 290.92, subdivision 27.

Reported the same back with the following amendments:

Page 2, lines 17 to 19, delete the new language and insert “in the form of grants, contracts, or expenditures for (1) equine research and related education; (2) substance abuse programs for licensed personnel of Minnesota racetracks; and (3) promotion of and public information concerning (i) industry and commission activities, (ii)

racehorse breeding, ownership, and management, and (iii) development and expansion of the economic benefits from racing”

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

The report was adopted.

Begin from the Committee on Labor-Management Relations to which was referred:

H. F. No. 2196, A bill for an act relating to judicial administration; proposing an amendment to the Minnesota Constitution, articles VI and VIII, creating a court of compensation appeals; abolishing the workers' compensation court of appeals; providing for designation by the governor of the chief judge of the workers' compensation court of appeals; regulating the administration of the workers' compensation court of appeals; appropriating money; amending Minnesota Statutes 1988, sections 3C.11, subdivision 3; 3C.12, subdivision 2; 5.08, subdivision 2; 10A.01, subdivision 19; 14.03, subdivision 2; 15A.082, subdivisions 1 and 3; 15A.083, subdivision 7; 43A.18, subdivision 3; 43A.27, subdivision 4; 175A.01, subdivision 1; 175A.02; 175A.07, subdivision 4; 176.421, subdivisions 5, 6, and by adding a subdivision; 204B.06, subdivisions 4 and 6; 204B.11, subdivision 1; 204B.34, subdivision 3; 204B.36, subdivision 4; 204D.02, subdivision 1; 204D.08, subdivision 6; 209.01, subdivision 2; 268.10, subdivision 8; 268.12, subdivision 13; 480.052; 480.054; 480.055, subdivision 1; 480.19; 480A.06, subdivision 3; 481.02, subdivisions 3 and 6; 490.15, subdivision 1; and 574.18; Minnesota Statutes 1989 Supplement, sections 10A.01, subdivisions 5 and 18; 357.08; proposing coding for new law as Minnesota Statutes, chapter 480B; repealing Minnesota Statutes 1988, sections 175A.01 to 175A.10; and 176.471.

Reported the same back with the following amendments:

Page 15, line 6, after the period insert “Of the initial appointments, two judges shall be appointed to six-year terms; two judges, to four-year terms; and one judge, to a two-year term.”

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

The report was adopted.

Skoglund from the Committee on Insurance to which was referred:

H. F. No. 2204, A bill for an act relating to insurance; clarifying an insurer's duty to provide loss or claims experience data to an insured; amending Minnesota Statutes 1989 Supplement, section 72A.20, subdivision 26.

Reported the same back with the following amendments:

Page 1, line 10, delete "aggregate"

Page 2, after line 5, insert:

"Sec. 2. Minnesota Statutes 1989 Supplement, section 72A.501, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT; CONTENT.] An authorization used by an insurer, insurance-support organization, or insurance agent to disclose or collect personal or privileged information must be in writing and must meet the following requirements:

- (1) is written in plain language;
- (2) is dated;
- (3) specifies the types of persons authorized to disclose information about the person;
- (4) specifies the nature of the information authorized to be disclosed;
- (5) names the insurer or insurance agent and identifies by generic reference representatives of the insurer to whom the person is authorizing information to be disclosed;
- (6) specifies the purposes for which the information is collected; and
- (7) specifies the length of time the authorization remains valid.

Sec. 3. Minnesota Statutes 1989 Supplement, section 72A.502, subdivision 9, is amended to read:

Subd. 9. [GROUP POLICYHOLDER.] Personal or privileged information may be disclosed ~~with~~ without written authorization to a group policyholder only to report claims experience or conduct an audit of the insurer's or agent's operations or services, if the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit. Claims experience data must

be provided in accordance with state and federal requirements regarding the confidentiality of medical data.

Sec. 4. Minnesota Statutes 1989 Supplement, section 72A.502, is amended by adding a subdivision to read:

Subd. 11a. [MERGER OR SALE.] Personal or privileged information may be disclosed to a party or representative of a party to a proposed or consummated sale, transfer, merger, or consolidation of all or part of the business of the insurer, agent, or insurance-support organization, without a written authorization provided:

(1) prior to the consummation of the sale, transfer, merger, or consolidation, only such information is disclosed as is reasonably necessary to enable the recipient to make business decisions about the merger, transfer, purchase, or consolidation; and

(2) the recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurer, agent, or insurance-support organization."

Delete the title and insert:

"A bill for an act relating to insurance; clarifying an insurer's duty to provide loss or claims experience data to an insured; regulating insurance fair information reporting; amending Minnesota Statutes 1989 Supplement, sections 72A.20, subdivision 26; 72A.501, subdivision 1; and 72A.502, subdivision 9, and by adding a subdivision."

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 2220, A bill for an act relating to Minnesota Statutes; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating certain redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to statutes and other laws; amending Minnesota Statutes 1988, sections 11A.14, subdivision 5; 15.0597, subdivision 1; 15.50, subdivisions 2 and 5; 16B.53, subdivision 3; 62C.141; 115.49, subdivision 4; 163.06, subdivision 6; 197.55; 232.21, subdivision 7; 256B.69, subdivision 6; 257.41; 273.124, subdivision 13; 273.1315; 333.135; 336.9-105; 353A.02, subdivision 14; 354.05, subdivision 23; 354.66, subdivision 7; 412.701; 412.711; 459.07; 469.155, subdivision 12; 481.12; 626.556, subdivision 10c; Minnesota Statutes 1989 Supple-

ment, sections 18.022, subdivision 2; 62A.045; 105.41, subdivision 1a; 115C.03, subdivision 9; 124.86, subdivision 2; 127.455; 144.6501, subdivision 10; 168.013, subdivision 1a; 168.33, subdivision 2; 176.421, subdivision 7; 204C.361; 236.02, subdivision 7; 245.462, subdivision 4; 256E.08, subdivision 5; 256H.08; 256H.22, subdivisions 2 and 3; 260.185, subdivision 1; 270B.12, subdivision 7; 273.119, subdivision 1; 319A.20; 336.2A-104; 352.01, subdivision 2b; 352.72, subdivision 1; 352B.30, subdivision 1; 383D.41, subdivisions 1 and 2; 422A.05, subdivision 2a; 469.129, subdivision 1; 501B.61, subdivision 1; 563.01, subdivision 3; 609.605, subdivision 3; Minnesota Statutes Second 1989 Supplement, sections 121.904, subdivision 4a; 245A.14, subdivision 6; and 275.50, subdivision 5; and Laws 1989, chapters 329, article 8, section 15, subdivision 2; 332, section 3, subdivision 3; repealing Minnesota Statutes 1988, sections 11A.19, subdivisions 1 to 8; 43A.192; Minnesota Statutes 1989 Supplement, sections 11A.19, subdivision 9; and 226.01 to 226.06.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Skoglund from the Committee on Insurance to which was referred:

H. F. No. 2242, A bill for an act relating to insurance; no-fault auto; exempting certain antique automobiles and recreational vehicles from rental vehicle coverage; amending Minnesota Statutes 1989 Supplement, section 65A.49, subdivision 5a.

Reported the same back with the following amendments:

Page 1, delete line 21

Page 1, line 22, delete "168.011" and insert "vehicles, classic vehicles and special interest vehicles, or recreational equipment"

Page 2, after line 2, insert:

"For purposes of this paragraph, the following terms have the meanings given them:

(1) "antique vehicle" means a motor vehicle 25 years or more of age that is maintained solely for use in exhibitions, club activities, parades, or other functions of public interest, and is not used primarily for the transportation of persons or goods;

(2) "classic vehicle and special interest vehicle" means a motor vehicle of unique or rare design and of limited production that is an

object of curiosity and maintained solely for use in exhibitions, club activities, parades, and other functions of public interest, and is not used primarily for the transportation of persons or goods; and

(3) "recreational equipment" has the meaning given the term in section 168.011."

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar:

The report was adopted.

Osthoff from the Committee on Financial Institutions and Housing to which was referred:

H. F. No. 2243, A bill for an act relating to commercial transactions; adopting an article of the uniform commercial code that governs funds transfers; amending Minnesota Statutes 1989 Supplement, section 336.1-105; proposing coding for new law in Minnesota Statutes, chapter 336.

Reported the same back with the following amendments:

Page 4, line 24, delete "336.1-109" and insert "336.1-209"

Page 34, after line 21, insert:

"Sec. 2. [EFFECTIVE DATE.]

This act is effective January 1, 1991."

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Insurance to which was referred:

H. F. No. 2249, A bill for an act relating to insurance; no-fault auto; clarifying eligibility for economic loss benefits; amending Minnesota Statutes 1988, sections 65B.48, subdivision 1; and 65B.64, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 65B.64, subdivision 1, is amended to read:

Subdivision 1. A person entitled to basic economic loss benefits because of injury covered by sections 65B.41 to 65B.71 may obtain basic economic loss benefits through the assigned claims plan or bureau established pursuant to section 65B.63 and in accordance with the provisions for making assigned claims provided in sections 65B.41 to 65B.71, if:

(a) The person is 14 years old or younger and basic economic loss benefits are not applicable to the injury because of section 65B.58;

(b) Basic economic loss benefits are not applicable to the injury for some reason other than those specified in section 65B.58, 65B.59, or 65B.60;

(c) The plan of reparation security applicable to the injury cannot be identified; or

(d) A claim for basic economic loss benefits is rejected by a reparation obligor on some ground other than the person is not entitled to basic economic loss benefits under sections 65B.41 to 65B.71.

In addition to the requirements for eligibility contained in section 65B.48, a nonresident is not entitled to basic economic loss benefits if the nonresident is the owner of a motor vehicle and does not carry the minimum automobile insurance coverage required by the state in which the vehicle is registered.

Sec. 2. Minnesota Statutes 1989 Supplement, section 65B.64, subdivision 3, is amended to read:

Subd. 3. A person shall not be entitled to basic economic loss benefits through the assigned claims plan with respect to injury which was sustained if at the time of such injury the injured person was the owner of a private passenger motor vehicle for which security is required under sections 65B.41 to 65B.71 and that person failed to have such security in effect. Persons, whether or not related by blood or marriage, who dwell and function together with the owner as a family, other than adults who have been adjudicated as incompetent and minor children, shall also be disqualified from benefits through the assigned claims plan.

For purposes of determining whether security is required under section 65B.48, an owner of any vehicle is deemed to have contemplated the operation or use of the vehicle at all times unless the owner demonstrates to the contrary."

Amend the title as follows:

Page 1, line 4, delete everything after "1988,"

Page 1, delete line 5 and insert "section 65B.64, subdivision 1; Minnesota Statutes 1989 Supplement, section 65B.64, subdivision 3."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2253, A bill for an act relating to economic development; establishing the Minnesota natural wild rice promotion advisory council; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reported the same back with the following amendments:

Page 2, line 3, delete the first "the" and insert "no more than 15" and delete "of" and insert "to"

Page 2, after line 15, insert:

"The advisory council functions shall include but not be limited to addressing the issues of trademarking, labeling, packaging, consumer awareness, and marketing techniques necessary to the successful promotion of the exclusive and original nature of the home-grown Minnesota product.

The advisory council shall advise the department of trade and economic development annually of its activities and progress in this regard."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 2276, A bill for an act relating to peace officers; requiring applicants seeking initial peace officer licensure on or after August 1, 1994, to have successfully completed a professional peace officer

education program; requiring the board of peace officer standards and training to adopt rules by August 1, 1993, providing for the certification of professional peace officer education programs in accredited colleges and universities; requiring the board to establish a task force to assist in the formulation of these rules; requiring the board to submit an interim report to the legislature concerning the development of these rules; proposing coding for new law in Minnesota Statutes, chapter 626.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [PROFESSIONAL PEACE OFFICER EDUCATION; STUDY REQUIRED.]

Subdivision 1. [LEGISLATIVE FINDING; PURPOSE.] The legislature finds and declares that it is necessary to establish minimum academic requirements for peace officers as a prerequisite to licensure in order to maximize their ability to understand the complexities of the current criminal justice system and to deal effectively with the other professionals involved in the system. The legislature further finds and declares that the successful attainment of a baccalaureate degree and completion of a strong professional peace officer education program is an essential means to achievement of this objective.

Subd. 2. [STUDY AND REPORT.] The peace officer standards and training board, the state board for community colleges, the state board of vocational technical education, the state university board, and the higher education coordinating board shall jointly study the ways in which the objectives outlined in subdivision 1 can best be achieved. This study shall include but need not be limited to: (1) the availability of financial aid to those students who need financial assistance to earn a baccalaureate degree; and (2) the transferability to state universities of academic credits earned in law enforcement programs offered by technical colleges and community colleges. In conducting this study, the boards shall, at a minimum, consult with peace officers, professionals currently engaged in law enforcement education, police chiefs, sheriffs, elected officials from municipalities and counties, and representatives of the minority communities. A report based on this study shall be submitted to the legislature on or before February 1, 1991.

Sec. 2. Minnesota Statutes 1988, section 626.86, is amended to read:

626.86 [PEACE OFFICERS TRAINING.]

Money appropriated for peace officers training shall be expended as follows:

(a) ~~Ten~~ Thirty percent shall be provided for reimbursement to board approved skills courses in ~~proportion to the number of students successfully completing the board's skills licensing examination.~~

(b) To each local unit of government an amount in proportion to the number of licensed peace officers and constables employed, at a rate to be determined by the board. The disbursed amount shall be used exclusively for reimbursement of the cost of in-service training required under chapters 214 and 626.

Sec. 3. Minnesota Statutes 1989 Supplement, section 626.861, subdivision 4, is amended to read:

Subd. 4. [PEACE OFFICERS TRAINING ACCOUNT.] Receipts from penalty assessments must be credited to the general fund. The peace officers standards and training board may allocate from funds appropriated as follows:

(a) Up to ~~ten~~ 30 percent may be provided for reimbursement to board approved skills courses in ~~proportion to the number of students successfully completing the board's skills licensing examination.~~

(b) The balance may be used to pay each local unit of government an amount in proportion to the number of licensed peace officers and constables employed, at a rate to be determined by the board. The disbursed amount must be used exclusively for reimbursement of the cost of in-service training required under this chapter and chapter 214."

Delete the title and insert:

"A bill for an act relating to peace officer education; requiring the POST board and the state higher education boards to study ways of restructuring professional peace officer education programs to include a requirement for a baccalaureate degree; requiring a report to the legislature; increasing the percentage of penalty assessments funds allocated for skills course reimbursement; amending Minnesota Statutes 1988, section 626.86; and Minnesota Statutes 1989 Supplement, section 626.861, subdivision 4."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 2277, A bill for an act relating to crime victims; providing for a notice for victims of sexual assault concerning their risk of developing sexually transmitted diseases; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 611A.

Reported the same back with the following amendments:

Page 1, line 17, delete everything after "with" and insert "sexual assault victim advocates and health care professionals"

Page 1, line 18, delete "advocates"

Page 2, delete section 2

Amend the title as follows:

Page 1, line 5, delete "appropriating money;"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2304, A bill for an act relating to state government; increasing the time limit for rental of state property; authorizing payment to tenants for capital improvements under certain circumstances; amending Minnesota Statutes 1988, section 16B.24, subdivision 5.

Reported the same back with the following amendments:

Page 1, line 14, strike "five" and insert "ten"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 2325, A bill for an act relating to elections; presidential primary; changing the primary date; changing the requirements for being a candidate at the primary; allowing voters to prefer uncommitted delegates; allowing write-in votes; providing for voter receipt of ballots; eliminating the provision that the primary winner is the party's endorsed candidate; changing the apportionment of party delegates; requiring provision of certain information to interested persons; amending Minnesota Statutes 1989 Supplement, sections 207A.01; 207A.02, subdivision 1; 207A.03; and 207A.06; proposing coding for new law in Minnesota Statutes, chapter 207A; repealing Minnesota Statutes 1989 Supplement, section 207A.05.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 10A.15, subdivision 3b, is amended to read:

Subd. 3b. ~~[BY INDIVIDUAL MEMBERS OF POLITICAL FUND OR COMMITTEE.]~~ Contributions made to a candidate or principal campaign committee ~~by individual members of a political fund or committee that are solicited for or on behalf of a candidate by the a~~ political fund or committee must be reported as attributable to the political fund or committee and count toward the contribution limits of that fund or committee specified in section 10A.27, if the political fund or committee was organized or is operated primarily to solicit on behalf of or direct the contributions of its members and other than from its own funds to influence the nomination or election of a candidate. The term "individual members" as used in this subdivision means a person or entity who in any manner participates in or in any manner contributes financially or otherwise to the activities of the political fund or committee one or more candidates or principal campaign committees.

Sec. 2. Minnesota Statutes 1988, section 204B.06, is amended by adding a subdivision to read:

Subd. 1a. [PRESIDENTIAL PRIMARY AFFIDAVIT.] An affidavit of candidacy for the presidential primary shall include the candidate's name, address, office sought, and the candidate's political party or principal in three words or less. The affidavit shall include a statement that the candidate satisfies the federal constitutional requirements for holding office.

Sec. 3. Minnesota Statutes 1988, section 204B.11, subdivision 2, is amended to read:

Subd. 2. [PETITION IN PLACE OF FILING FEE.] At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by any individual eligible to vote for the candidate. A nominating petition filed pursuant to section 204B.07 or 204B.13, subdivision 4, is effective as a petition in place of a filing fee if the nominating petition includes a prominent statement informing the signers of the petition that it will be used for that purpose.

The number of signatures on a petition in place of a filing fee shall be as follows:

(a) For a state office voted on statewide, or for president of the United States, or United States senator, 2,000;

(b) For a congressional office, 1,000;

(c) For a county or legislative office, or for the office of district, county or county municipal judge, 500; and

(d) For any other office which requires a filing fee as prescribed by law, municipal charter or ordinance, the lesser of 500 signatures or five percent of the total number of votes cast in the municipality, ward or other election district at the preceding general election at which that office was on the ballot.

An official with whom petitions are filed shall make sample forms for petitions in place of filing fees available upon request.

Sec. 4. Minnesota Statutes 1989 Supplement, section 207A.01, is amended to read:

207A.01 [PRESIDENTIAL PRIMARY.]

A presidential primary must be held on the ~~fourth~~ first Tuesday in ~~February~~ April of each year in which a president and vice president of the United States are to be nominated and elected, at which the voters of this state may express their preference among the candidates of the major political party of their choice, for that party's nomination to be president of the United States or may vote for uncommitted delegates to the national party convention. For the purposes of sections 207A.01 to 207A.07, "political party" or "party" means a political party as defined in section 200.02, subdivision 7.

Sec. 5. Minnesota Statutes 1989 Supplement, section 207A.02, is amended to read:

207A.02 [CANDIDATES ON BALLOT.]

Subdivision 1. [REQUIRED LISTING.] The following individuals must be listed as candidates on the appropriate major political party presidential ballot with a separate ballot for each major political party:

(1) any individual whose name has been entered as a candidate for the nomination of a major political party in presidential primaries in two or more other states during the same year who files an affidavit of candidacy pursuant to section 204B.06 and submits the appropriate filing fee or petition in place of filing fee pursuant to section 204B.11; and

(2) any individual nominated as a candidate for the presidential nomination of a political party by a petition submitted not later than ten weeks before the primary and bearing the names of 2,000 1,000 eligible voters from each congressional district.

In addition, each major political party's ballot must contain a place for a voter to indicate a preference for having delegates to the party's national convention remain uncommitted, and a blank line printed below the other choices on the ballot so that a voter may write in the name of a person who is not listed on the ballot.

Subd. 1a. [TIME FOR FILING; FEE.] The period for filing an affidavit of candidacy for the presidential primary shall commence 16 weeks before the primary and close 14 weeks before the primary. The filing fee shall be \$500. The period for signing nominating petitions shall commence 16 weeks before the primary and close ten weeks before the primary.

Subd. 2. [TENTATIVE LISTING ANNOUNCING CANDIDATES.] A tentative determination of the Candidates to be listed who have filed an affidavit of candidacy pursuant to subdivision 1, clause (1), for each political party on the presidential primary ballot must be announced by the secretary of state ten weeks before the primary the day after filings close for the purpose of giving voters sufficient time to nominate unlisted other candidates by petition.

Subd. 3. [ANNOUNCEMENT.] The determination of which candidates must be listed on the presidential primary ballot must be made by the secretary of state not later than ~~six~~ eight weeks before the presidential primary. The secretary of state shall certify to the county auditor of each county the names of all candidates in the presidential primary at least seven weeks before the primary.

Subd. 4. [NOTIFICATION.] Not later than three days after the last day for filing a nominating petition pursuant to subdivision 1, clause (2), the secretary of state shall notify each individual whose name is to be listed on the presidential primary ballot that the individual's name will be listed unless the individual submits an affidavit stating that the individual is not a candidate for the

presidential nomination, does not intend to become a candidate, and would not accept the nomination. The affidavit must be submitted to and received by the secretary of state no later than five eight weeks before the presidential primary.

Sec. 6. Minnesota Statutes 1989 Supplement, section 207A.03, is amended to read:

207A.03 [PRESIDENTIAL PRIMARY; HOW CONDUCTED.]

Subdivision 1. [GENERAL RULE.] Except as otherwise provided in sections 207A.01 to 207A.07, the presidential primary must be ~~announced, held, and~~ conducted, and the results canvassed and returned in the manner provided by law for other primaries and in accordance with the general election laws of the state, as applicable the state primary. If a municipality which uses lever voting machines or an electronic voting system determines that the use of the machines or voting system would not be practical in the presidential primary, the municipality may use a paper ballot for the presidential primary.

Subd. 2. [VOTER CERTIFICATION; BALLOT.] An individual seeking to vote at the presidential primary shall request the ballot of the party for whose candidates the individual wishes to vote. The voter registration certificate or duplicate registration file for the presidential primary shall list the names of the political parties appearing on the ballot at the presidential primary. Before receiving a ballot, a voter shall sign the voter's certificate or duplicate registration file and shall place a check mark beside the name of the political party whose ballot the voter requested.

Sec. 7. Minnesota Statutes 1989 Supplement, section 207A.04, is amended to read:

207A.04 [AUDITOR FURNISHED INFORMATION BY SECRETARY OF STATE; BALLOT PREPARATION.]

Subdivision 1. [NOTICE OF FILING PERIOD.] Before December 1 of the year Twenty weeks before a presidential primary is to be held, the secretary of state shall provide notice to the county auditor of each county of the date of the presidential primary. Within ten days after notification by the secretary of state, each county auditor shall provide notice of the date of the presidential primary to each municipal clerk in the county.

Subd. 2. [NOTICE OF PRIMARY.] At least 15 days before the date of the presidential primary, each municipal clerk shall post a public notice stating the date of the presidential primary, the location of each polling place in the municipality, and the hours during which the polling places in the municipality will be open. The county

auditor shall post a similar notice in the auditor's office with information for any polling places in unorganized territory in the county. The governing body of a municipality or county may publish the notice in addition to posting it. Failure to give notice does not invalidate the election.

Subd. 23. [BALLOT PREPARATION.] The secretary of state shall prepare paper ballots, absentee ballot envelopes, ballot return envelopes, election return envelopes, and summary statements for use in the presidential primary. The ballots must be printed on white paper with a separate ballot for the names of the candidates of each political party.

Sec. 8. Minnesota Statutes 1989 Supplement, section 207A.06, is amended to read:

207A.06 [SELECTION OF DELEGATES; NATIONAL CONVENTION BALLOTING.]

Subdivision 1. [APPORTIONMENT OF VOTES.] The delegates to the national convention of each political party appearing on the presidential primary ballot who are chosen on the basis of their support for particular presidential candidates must be apportioned among the various candidates of that party receiving votes in the presidential primary, in proportion to their respective vote totals.

The secretary of state shall certify to the state chairperson of each political party appearing on the presidential primary ballot the number of delegates to which each presidential candidate is entitled.

Subd. 2. [CHOSEN DELEGATES.] Delegates to the national convention of each political party appearing on the presidential primary ballot must be chosen by the state convention or congressional district convention of that party, except as otherwise provided in this subdivision. The secretary of each party's state convention or congressional district convention shall promptly notify the secretary of state of the names of the delegates to the national convention chosen as supporters of each presidential candidate. Only supporters of candidates whose names appeared on the presidential primary ballot may be chosen by the state convention of that party to be delegates to the national convention. The secretary of state shall promptly notify each presidential candidate of the names of the delegates to the national convention chosen as supporters of that candidate. If the presidential candidate determines that the delegates chosen as supporters by the state convention are not in fact committed to the candidate's candidacy, the candidate shall, within ten days of receiving the notification from the secretary of state, advise the secretary of state of the names of those delegates to whom the candidate objects on those grounds and shall name as substitute delegates any other individuals who are committed to the candidacy. The determination and selection by the presidential candidate

shall take precedence over the decision of the state convention and is final. The secretary of state shall promptly notify the secretary of the state convention of the affected political party of the action by a presidential candidate.

Subd. 3. [DELEGATE VOTES.] At the national convention, delegates chosen because of their support for a presidential candidate, unless they have been released from their obligation by the candidate, shall vote for that candidate on the first ballot at the national convention regardless of the number of votes the candidate receives, and shall also vote for the candidate on the second and third ballots if the candidate receives at least 20 percent of the votes cast on the preceding ballot; unless they have been released from that obligation by the candidate.

Sec. 9. [207A.08] [INFORMATION ON PARTY CHOICE.]

Notwithstanding section 204C.18, subdivision 1, or other law to the contrary, a person entitled to inspect the duplicate registration file or receive a copy of a current precinct list under section 201.091, must also be informed of the party choice of any voter who voted in the most recent presidential primary under this chapter.

Sec. 10. [207A.09] [RULEMAKING AUTHORITY.]

The secretary of state shall adopt rules to implement the provisions of this chapter, as follows:

- (1) to implement the provisions of section 9;
- (2) to determine a method for verifying the signatures on nominating petitions and petitions in place of filing fees for the presidential primary;
- (3) to determine the format of the presidential primary ballots; and
- (4) to determine the manner of paying or reimbursing the costs to the counties of conducting the presidential primary.

Sec. 11. [REGIONAL PRIMARY STUDY.]

The secretary of state shall study the feasibility of Minnesota's joining any other state to hold a regional presidential primary and shall report conclusions to the chairs of the general legislation committee in the house and the elections committee in the senate by February 1, 1991.

Sec. 12. [REPEALER.]

Minnesota Statutes 1989 Supplement, section 207A.05, is repealed.

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "providing procedures for conducting the primary;"

Page 1, line 11, after "Statutes" insert "1988, sections 10A.15, subdivision 3b; 204B.06, by adding a subdivision; and 204B.11, subdivision 2; Minnesota Statutes"

Page 1, lines 11 and 12, delete ", subdivision 1"

Page 1, line 12, before "and" insert "207A.04;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

H. F. No. 2327, A bill for an act relating to telephone service; requiring the expansion of the metropolitan extended area telephone service, under some circumstances; proposing coding for new law in Minnesota Statutes, chapter 237.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [237.161] [EXTENDED AREA SERVICE.]

Subdivision 1. [CRITERIA.] The commission may grant a petition for installation of extended area service only when each of the following criteria has been met:

(1) the petitioning exchange is contiguous to the exchange or local calling area to which extended area service is requested in the petition;

(2) a lower cost alternative to basic flat rate service is available in the petitioning exchange; in the alternative, polling by the commission shows that 60 percent of the customers responding to the poll in

the petitioning exchange favor the installation of extended area service;

(3) polling by the commission shows that a majority of the customers responding to the poll in the petitioning exchange favor its installation, unless all parties and the commission agree that no polling is necessary;

(4) at least 50 percent of the customers in the petitioning exchange make one or more calls per month to the exchange or local calling area to which extended area service is requested, as determined by a traffic study; and

(5) the commission determines that a community of interest exists between the petitioning and the petitioned exchanges and that the installation of extended area service is in the public interest as governed by the commission's rules.

The rate to the polled exchange must be available to its customers before the commission determines what proportion of them favor the installation of extended area service.

In making the determination required in clause (4), the commission shall include a reasonable estimate of FX telephone traffic and other types of toll traffic. For the purposes of this subdivision, "FX" means tariffed telephone toll service provided by placing a telephone line from another telephone exchange area in the telephone customer's exchange area.

Subd. 2. [COSTS.] The costs for extended area service shall include the specific additional costs incurred as a result of the installation of the extended area service and the net book cost of existing facilities transferred from another service to now provide extended area service.

Subd. 3. [RATES.] Seventy-five percent of the cost of providing extended area service as identified in subdivision 2, must be apportioned to the petitioning exchange and the remaining 25 percent apportioned to the exchange or exchanges to which extended area service is requested. The cost must be apportioned among the customers in an exchange so that the relationship between the rates for classes of basic local service remains the same. The commission shall set rates that are income neutral for each affected telephone company at the point in time at which the commission determines the extended area service rates. The commission shall consider the interests of all parties when determining a fair and equitable extended area service rate for a local telephone exchange that is newly included in the extended area service.

Sec. 2. [METROPOLITAN EXTENDED AREA TELEPHONE SERVICE.]

Subdivision 1. [DEFINITION.] For the purposes of this section, "metropolitan" or "metropolitan area" means all of the area made up by the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Subd. 2. [REQUIRED EXPANSION OF METROPOLITAN EXTENDED AREA SERVICE.] Notwithstanding section 1, by July 1, 1991, the public utilities commission shall expand the metropolitan extended area service to include each local service telephone exchange served by a central office or wire center located within the metropolitan area if a majority of the consumers in an exchange that respond to polling by the commission are in favor of including that exchange in the extended area service as determined under subdivisions 3 and 4.

Subd. 3. [COMMISSION DUTIES; PROJECT.] The commission, in cooperation with each affected telephone company, shall determine the rates that would be charged to the customers in each metropolitan exchange that is not currently included in the metropolitan extended area service if that exchange were to be included. The commission shall then conduct a poll of all the customers in each exchange. The ballot or questionnaire sent to each customer must clearly identify the rate that would be charged to customers in the applicable exchange if the exchange becomes part of the metropolitan extended area service and must be returnable to the commission, at no cost to the customers, within 60 days of the date the ballot or questionnaire was mailed. If a majority of the customers in an exchange who respond to the commission's poll indicate that they favor inclusion, the commission shall include that exchange in the metropolitan extended area service.

Subd. 4. [COSTS; RATES.] The commission shall determine the costs and rates for each exchange subject to subdivision 3, as provided in section 1, subdivisions 2 and 3, and applicable commission rules.

Subd. 5. [FUTURE EXPANSION.] Customers in metropolitan exchanges that are not included in the extended area service under subdivision 3, and customers in nonmetropolitan exchanges that want to be included in the metropolitan extended area service after the completion of the project under subdivision 3, may petition the commission for inclusion under section 1 and applicable commission rules, provided that no state boundary may be crossed in expanding the metropolitan extended area service.

Subd. 6. [DUTIES; TELEPHONE COMPANIES.] Each telephone company that is potentially affected by the activities of the commission in undertaking the project required by subdivision 3 shall

cooperate with the commission in determining costs and rates and any other activity or determination necessary to implement that subdivision.

Sec. 3. [LOCAL TELEPHONE SERVICE AREA BOUNDARY CHANGE.]

The public utilities commission shall change the boundary between the Red Wing and Hastings local telephone exchanges to include Section 33, Township 116, Range 16, of Dakota county in the Hastings local telephone exchange. The commission shall follow its existing rules in making the change.

Sec. 4. [EFFECTIVE DATE; APPLICATION.]

Sections 1 to 3 are effective the day following final enactment and section 1 applies to all petitions pending before the public utilities commission unless the petitioners are customers of a metropolitan exchange and they withdraw their petition and notify the commission in writing that they want to be governed by section 2."

Delete the title and insert:

"A bill for an act relating to telephones; regulating the installation of extended area services in exchanges; prescribing standards; requiring expansion of extended area service to all exchanges that want to be included in the seven-county metropolitan area; requiring a local telephone exchange boundary change in Dakota county; proposing coding for new law in Minnesota Statutes, chapter 237."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2328; A bill for an act relating to the Cambridge regional human services center; permitting the transfer of water and sewer facilities; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [CAMBRIDGE REGIONAL HUMAN SERVICES CENTER.]

The purpose of this section is to provide authority for the better coordination of property and facilities at the Cambridge regional human services center with the city and community of Cambridge. The department of administration may transfer to the city of Cambridge any property at the Cambridge regional human services center that is appropriate for development or relates to the provision of water or sewer service or other utilities. The department and city may attach to the transfer the conditions that they agree are appropriate, including conditions that relate to water and sewer service at the center and in the city. If the transfer requires the conveyance of any interest in real estate, the attorney general shall prepare appropriate instruments of conveyance. \$ of the appropriation made by Laws 1989, chapter 300, article 1, section 7, is further appropriated to the commissioner of administration to be disbursed to the city of Cambridge to implement the transfer and its conditions. This appropriation expires upon the accomplishment or abandonment of its purpose."

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

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 2334, A bill for an act relating to crime; imposing felony penalties for discharging toxic chemicals into the air or water; imposing gross misdemeanor penalties for the illegal disposal of solid waste; imposing felony penalties for tampering with pollution monitoring devices; authorizing environmental cleanup as restitution for environmental crimes; amending Minnesota Statutes 1988, section 609.671, subdivisions 1, 2, 8, and 9, and by adding subdivisions.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 609.671, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Agency" means the pollution control agency.

(b) "Deliver" or "delivery" means the transfer of possession of hazardous waste, with or without consideration.

(c) "Dispose" or "disposal" has the meaning given it in section 115A.03, subdivision 9.

(d) "Hazardous air pollutant" means an air contaminant listed as a hazardous air pollutant under United States Code, title 42, section 7412.

(e) "Hazardous substance" means a substance on the list established under United States Code, title 33, section 1321.

(f) "Hazardous waste" means any waste identified as hazardous under the authority of section 116.07, subdivision 4, except for those wastes exempted under Minnesota Rules, part 7045.0120, wastes generated under Minnesota Rules, part 7045.0213 or 7045.0304, and household appliances.

(g) "Permit" means a permit issued by the pollution control agency or interim status for a treatment, storage, or disposal facility for hazardous waste that qualifies under the agency rules.

(h) "Toxic waste pollutant" means a toxic pollutant designated under United States Code, title 33, section 1317.

Sec. 2. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 12. [WATER AND AIR POLLUTION; KNOWING ENDANGERMENT.] (a) A person is guilty of a felony if the person:

(1) commits any of the acts described in subdivision 13 or 14; and

(2) at the time of the violation knowingly places another person in imminent danger of death, great bodily harm, or substantial bodily harm.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than \$100,000, or both, except that a defendant that is an organization may be sentenced to payment of a fine of not more than \$1,000,000.

Sec. 3. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 13. [WATER POLLUTION; TOXIC POLLUTANTS AND HAZARDOUS SUBSTANCES; FELONY.] (a) A person is guilty of a felony who knowingly:

(1) violates any effluent limit established for a toxic water

pollutant in a national pollutant discharge elimination system permit; or

(2) introduces into a storm or sanitary sewer or into a publicly-owned treatment works a hazardous substance that the person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes the treatment works to violate any effluent limitation or condition of the treatment works' national pollutant discharge elimination system permit.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$50,000 per day of violation, or both.

Sec. 4. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 14. [AIR POLLUTION; HAZARDOUS AIR POLLUTANTS.] (a) A person is guilty of a felony who knowingly:

(1) violates any emission standard or limitation adopted under United States Code, title 42, section 7412, for a hazardous air pollutant; or

(2) violates any emission limitation established for a hazardous air pollutant in a permit.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$50,000 per day of violation, or both.

Sec. 5. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 15. [TOXIC WATER POLLUTANTS AND HAZARDOUS AIR POLLUTANTS; GROSS MISDEMEANOR.] A person who commits any of the acts described in subdivision 13 or 14 as a result of the person's gross negligence is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$25,000 per day of violation, or both.

Sec. 6. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 16. [DEFENSE.] Except in the case of an intentional violation, it is a defense to liability under subdivisions 12 to 15 if a person shows by a preponderance of the evidence that the person:

(1) notified the agency or, in the case of a discharge into a publicly-owned treatment works, notified the treatment works of the violation of an emission limit or standard; and

(2) made the notice by mail or telephone within 24 hours of the time the person became aware of the violation.

Sec. 7. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 17. [INFORMATION AND MONITORING; TOXIC WATER POLLUTANTS; HAZARDOUS SUBSTANCES; HAZARDOUS AIR POLLUTANTS.] (a) A person is guilty of a felony who knowingly:

(1) falsifies data or other information required to be filed or maintained to demonstrate compliance with an effluent limitation or standard or a permit term or condition established for a toxic water pollutant, a hazardous substance, or a hazardous air pollutant under chapter 115 or 116; or

(2) falsifies, tampers with, or renders inaccurate any monitoring device or method used for purposes of complying with an effluent limitation or standard or a permit term or condition established for a toxic water pollutant, a hazardous substance, or a hazardous air pollutant under chapter 115 or 116.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$25,000, or both.

Sec. 8. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 18. [WASTE DISPOSAL; GROSS MISDEMEANOR.] (a) A person who knowingly commits any of the following acts is guilty of a gross misdemeanor:

(1) pays for or accepts payment for the disposal of solid waste at an unpermitted location; or

(2) pays for or accepts payment for the transportation of solid waste to an unpermitted location.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$10,000 per day of violation, or both. A person convicted of a second or subsequent violation of this subdivision may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than \$25,000 per day of violation, or both.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective August 1, 1990, and apply to violations occurring on or after that date."

Delete the title and insert:

"A bill for an act relating to crime; imposing felony penalties for discharging toxic chemicals into the air or water; imposing gross misdemeanor penalties for the illegal disposal of solid waste; imposing felony penalties for tampering with pollution monitoring devices; amending Minnesota Statutes 1988, section 609.671, subdivision 1, and by adding subdivisions."

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2374, A bill for an act relating to agriculture; changing the makeup of potato research and promotion councils; amending Minnesota Statutes 1988, section 17.54, subdivision 9.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

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

H. F. No. 2383, A bill for an act relating to education; providing for the environmental education act; creating the office of environmental education; proposing coding for new law as Minnesota Statutes, chapter 126A; repealing Minnesota Statutes 1988, sections 116E.01; 116E.02; 116E.03, subdivisions 2, 3, 4, 5, 6, 7, 7a, 8, and 9; and 116E.04; Minnesota Statutes 1989 Supplement, sections 116E.03, subdivision 1; and 116E.035.

Reported the same back with the following amendments:

Page 2, line 18, after "K-12" insert ", community education,"

Page 2, line 21, delete "17" and insert "18"

Page 2, line 28, after "service;" insert "a representative of the Minnesota school boards association;"

Page 3, line 32, before "ADVISORY" insert "TECHNICAL"

Page 3, line 33, after "establish" insert "technical"

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2385, A bill for an act relating to agriculture; requiring cash discounts on agricultural production inputs if there are interest discounts on credit terms for seller-financed sales; proposing coding for new law in Minnesota Statutes, chapter 325E.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 2390, A bill for an act relating to children; providing improved procedures to protect the safety and welfare of abused and neglected children; providing for more permanent placements of children in need of protection or services; improving data practices; requiring the commissioner of health to encourage display of posters informing pregnant women of the dangers of alcohol use; excluding persons with a history of child abuse or criminal sexual behavior from certain protections for criminal offenders; increasing penalties for assault against a child when there is a past pattern of child abuse; increasing the penalties for malicious child punishment resulting in great bodily harm and assaulting a child protection worker; including mental injuries and threatened injuries as abuse to be reported as maltreatment of minors; appropriating money for early intervention and targeted family services, and for family planning grants; amending Minnesota Statutes 1988, sections 147.09; 260.011, subdivision 2; 260.155, subdivision 1; 609.2231, by adding a subdivision; 626.556, subdivisions 1, 3, and by adding a subdivision; 626.559, subdivision 2; Minnesota Statutes 1989 Supplement, sections 245A.04, subdivision 3; 260.015, subdivision 2a; 260.161, subdivision 2; 260.171, subdivision 4; 260.191, subdivision 1; 260.221, subdivision 1; 364.09; 609.223; 609.377; 626.556, subdi-

visions 2, 10e, and 11; and 626.558, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 144; 245; and 260.

Reported the same back with the following amendments:

Page 1, line 38, after "women" insert "and the public"

Page 3, line 29, delete "AVERSIVE AND DEPRIVATION" and insert "RESTRICTIVE TECHNIQUES AND"

Page 3, line 33, delete "aversive and deprivation" and insert "restrictive techniques and"

Page 3, line 36, after "9545.1090" insert "or 9545.1400 to 9545.1500"

Page 4, line 1, delete "aversive and deprivation" and insert "restrictive techniques and"

Page 4, line 3, delete "aversive or deprivation" and insert "restrictive techniques and"

Page 4, line 6, delete "aversive or deprivation" and insert "restrictive techniques and" and delete "consumers" and insert "clients"

Page 4, line 10, delete "faradic shock without a court order" and insert "corporal punishment"

Page 4, line 11, delete "practices" and insert "techniques and procedures"

Page 4, line 12, delete "practices" and insert "techniques and procedures"

Page 4, line 13, delete everything after the period

Page 4, delete lines 14 and 15

Page 7, line 22, after the period insert "In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. and the Minnesota Indian family preservation act under sections 257.35 to 257.3579."

Page 8, line 1, after the period insert "and the Minnesota Indian family preservation act under sections 257.35 to 257.3579."

Page 16, lines 7, 11, 17, and 21, delete "legal"

Page 16, line 29, after "order" insert "for legal and physical custody"

Page 17, line 28, after "legal" insert "and physical"

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

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 2401, A bill for an act relating to traffic regulations; establishing penalties for driving past railroad crossing warning devices and flaggers; providing for instruction in railroad crossing safety at driver improvement clinics; establishing standards and procedures for closing a railroad crossing; imposing penalties; amending Minnesota Statutes 1988, sections 169.26; and 169.973, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 219; repealing Minnesota Statutes 1988, sections 219.27 and 219.28.

Reported the same back with the following amendments:

Page 3, line 17, after the period insert "If the board determines that the vacation, relocation, consolidation, or separation is consistent with the standards adopted under section 3, the board may order the crossing vacated, relocated, consolidated, or separated."

Page 3, line 18, delete "CROSSING-CLOSING" and insert "CROSSING VACATION"

Page 3, line 21, delete "closed" and insert "vacated"

Page 3, line 28, delete "closings" and insert "vacations"

Page 3, line 31, after the period insert "If after the hearing the board determines that the vacation is consistent with the standards adopted under section 3, it may order the crossing vacated."

Page 3, line 33, delete "closed" and insert "vacated"

Page 4, delete line 2, and insert:

"Section 1 is effective August 1, 1990, and applies to crimes committed on or after that date."

Page 4, line 3, delete "enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 2434, A bill for an act relating to crime; imposing penalties for assaulting social workers and other medical and social service employees; prohibiting repeated threats of crimes of violence; amending Minnesota Statutes 1988, sections 609.2231, by adding a subdivision; and 609.713, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 11, after "WORKERS" insert "; CORRECTIONS WORKERS"

Page 1, line 12, delete everything after "nurse," and insert "parole or probation officer, or other medical, corrections, or social"

Page 1, line 13, delete the second "employee" and insert "person"

Page 1, line 14, delete everything after the first "of" and insert "duties of the person's position specifically mandated by law or court order, and"

Page 1, delete section 2

Page 2, line 1, delete "3" and insert "2"

Page 2, delete line 2 and insert "Section 1 is effective August 1, 1990, and applies to"

Amend the title as follows:

Page 1, line 3, after "medical" insert "; corrections,"

Page 1, line 4, delete everything after the semicolon

Page 1, line 5, delete "violence;" and delete "sections" and insert "section"

Page 1, lines 6 and 7, delete "; and 609.713, by adding a subdivision"

With the recommendation that when so amended the bill pass.

The report was adopted.

Osthoff from the Committee on Financial Institutions and Housing to which was referred:

H. F. No. 2457, A bill for an act relating to public financing; allocating authority to issue tax exempt revenue bonds; amending Minnesota Statutes 1988, sections 474A.02, subdivisions 6, 8, and by adding a subdivision; 474A.03; 474A.061, subdivision 3, and by adding subdivisions; 474A.081, as amended; 474A.091, subdivisions 1 and 5; 474A.131, subdivision 2; and 474A.14; Minnesota Statutes Second 1989 Supplement, sections 474A.061, subdivisions 1 and 4; and 474A.091, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapter 474A; repealing Minnesota Statutes 1988, section 474A.091, subdivisions 4 and 4a; repealing Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1988, section 474A.02, subdivision 6, is amended to read:

Subd. 6. [DEPARTMENT; DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT FINANCE.] “Department” means the department of ~~trade and economic development finance~~.

Sec. 2. Minnesota Statutes 1988, section 474A.02, subdivision 8, is amended to read:

Subd. 8. [FEDERAL TAX LAW.] “Federal tax law” means those provisions of the Internal Revenue Code of 1986, as amended through December 31, 1989, that limit the aggregate amount of obligations of a specified type or types which may be issued by an issuer during a calendar year whose interest is excluded from gross income for purposes of federal income taxation.

Sec. 3. Minnesota Statutes 1988, section 474A.02, is amended by adding a subdivision to read:

Subd. 22b. [PUBLIC FACILITIES PROJECT.] “Public facilities project” means any publicly owned facility that is eligible to be financed with the proceeds of public facilities bonds as defined under section 474A.02, subdivision 23a.

Sec. 4. Minnesota Statutes 1988, section 474A.03, is amended to read:

474A.03 [DETERMINATION OF ANNUAL VOLUME CAP.]

Subdivision 1. [ANNUAL VOLUME CAP UNDER FEDERAL TAX LAW; POOL ALLOCATIONS.] At the beginning of each calendar year after December 31, ~~1987~~ 1990, the commissioner shall determine the aggregate dollar amount of the annual volume cap under federal tax law for the calendar year, and of this amount the commissioner shall make the following allocation:

- (1) ~~\$74,000,000~~ \$75,000,000 to the manufacturing pool;
- (2) ~~\$30,000,000~~ \$46,000,000 to the ~~multifamily~~ housing pool;
- (3) ~~\$21,000,000~~ \$10,000,000 to the public facilities pool; and
- (4) amounts to be allocated as provided in subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4) and subdivision 2a, paragraph (a), clauses (1) to (3), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Subd. 2a. [ENTITLEMENT ISSUER ALLOCATION.] (a) The commissioner shall make the following allocation to the Minnesota housing finance agency and the following cities:

- (1) ~~\$50,000,000~~ \$51,000,000 per year to the Minnesota housing finance agency, less any amount received in the previous year under section 474A.091, subdivision 6;
- (2) \$20,000,000 per year to the city of Minneapolis; and
- (3) \$15,000,000 per year to the city of Saint Paul; and
- (4) \$3,000,000 to each of the cities of the first class located outside of the metropolitan area as defined in section 473.121, subdivision 2, or an amount equal to the amount of mortgage bonds or residential rental project bonds that each city permanently issued in the previous calendar year, whichever amount is less. If a city is eligible to receive an entitlement allocation under this clause, the amount of the allocation is deducted from the allocations made under clauses (1), (2), and (3) in proportion to the total amount of allocations made in clauses (1), (2), and (3).

(b) Allocations provided under this subdivision must be used for mortgage bonds, mortgage credit certificates, or residential rental project bonds, except that entitlement cities may also use their allocations for public facility bonds.

Sec. 5. [474A.045] [SCORING SYSTEM FOR MANUFACTURING PROJECTS.]

The following criteria must be used in determining the allocation of small issue bonds for manufacturing projects. The issuer must prepare and submit to the commissioner a public purpose scoring worksheet that presents the data and methods used in determining the total score under this section. The total score is the sum of the following:

(1) the number of net direct new jobs in the state generated by the proposed project for the next two years per \$100,000 of proposed allocation multiplied by 15;

(2) the number of direct jobs retained in the state due to the proposed project per \$100,000 of proposed allocation multiplied by 15;

(3) the quotient of the total increase in net payroll generated in the state by the proposed project divided by the proposed bond allocation, multiplied by 100;

(4) the quotient of the estimated total net increase in property taxes generated in the state by the project in the first full year of operation divided by the proposed bond allocation, multiplied by 500; and

(5) the unemployment rate in the community where the proposed project is located measured as a percent of the state's unemployment rate, multiplied by ten.

The community unemployment rate used in determining the points under clause (5) must be the rate for the county in which the proposed project is located unless an accurate rate may be estimated for a smaller geographic area. The commissioner of jobs and training must approve the rate used when an unemployment rate other than that for a county is used.

If the manufacturing project will retain jobs and the total score includes points calculated under clause (2), the issuer must certify to the commissioner that the proceeds of the small issue bonds are required to retain those jobs. The commissioner shall submit the information relating to the retaining of jobs to the commissioner of trade and economic development. The commissioner of trade and economic development must verify that the proceeds of the small

issue bonds are required to retain the jobs referred to in the certification prior to the awarding of any points under this section.

Sec. 6. [474A.047] [RESIDENTIAL RENTAL BONDS; LIMITATIONS.]

Subdivision 1. [ELIGIBILITY.] An issuer may only use the proceeds from residential rental bonds if the proposed project meets one of the following:

(a) The proposed project is a single room occupancy project and all the units of the project will be occupied by individuals whose incomes are 50 percent or less of the greater of the statewide or county median income adjusted for household size as determined by the federal Department of Housing and Urban Development; or

(b) The proposed project is a multifamily project where at least 75 percent of the units have two or more bedrooms and at least 25 percent of the units have three or more bedrooms. At least 75 percent of the units of the multifamily project must be occupied by individuals or families whose incomes are 60 percent or less of the greater of the statewide or county median income adjusted for household size as determined by the federal Department of Housing and Urban Development.

The maximum rent for a proposed single room occupancy unit under paragraph (a) is 30 percent of the amount equal to 30 percent of the greater of the statewide or county median income for a one-member household as determined by the federal Department of Housing and Urban Development. The maximum rent for a multifamily project under paragraph (b) is 30 percent of the amount equal to 50 percent of the greater of the statewide or county median income as determined by the federal Department of Housing and Urban Development based on a household size with one person per bedroom.

Subd. 2. [15-YEAR AGREEMENT.] Prior to the issuance of residential rental bonds, the developer of the project for which the bond proceeds will be used must enter into a 15-year agreement with the issuer that specifies the maximum rental rates of the units in the project and the income levels of the residents of the project. The rental rates and income levels must be within the limitations established under subdivision 1. The developer must annually certify to the issuer over the term of the agreement that the rental rates are within the limitations under subdivision 1. The issuer may request individual certification of the income of all residents of the project.

If a project is found to be out of compliance with the rental rate and income levels under subdivision 1, the issuer must notify the Minnesota housing finance agency and department of revenue. The

interest earnings on the bonds issued for the project will be subject to the tax under chapter 290.

Sec. 7. Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] (a) An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, ~~and~~ (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in August, or in the amount of two percent of the requested allocation on or after the last Monday in August, and (5) a public purpose scoring worksheet for small issue applications. ~~An issuer applying for an allocation from the multifamily housing pool who does not sign an agreement requiring that the project comply with the gross rent restrictions of the low-income housing credit program under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1988, must submit an additional application deposit in the amount of two percent of the requested allocation before the last Monday in August, or in the amount of one percent of the requested allocation on or after the last Monday in August. The issuer must pay the application deposit by check. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.~~

(b) An entitlement issuer may not apply for an allocation from the ~~multifamily~~ housing pool or from the public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

(c) If an application is rejected under this section, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Sec. 8. Minnesota Statutes 1988, section 474A.061, is amended by adding a subdivision to read:

Subd. 2a. [HOUSING POOL ALLOCATION.] (a) On the first business day that falls on a Monday of the calendar year and on the first Monday in April, the commissioner shall allocate available

bonding authority in the housing pool to applications received by the Monday of the previous week for residential rental projects that meet the eligibility criteria under section 6. After April 1, and until April 15, the Minnesota housing finance agency may accept applications from cities for single-family housing programs which meet program requirements as follows:

(1) the housing program must meet a locally identified housing need and be economically viable;

(2) the adjusted income of home buyers cannot exceed the greater of the agency's income limits or 80 percent of the greater of the state or area median income as published by the Department of Housing and Urban Development;

(3) house price limits may not exceed the greater of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of 90 percent of the safe harbor limitations for existing housing provided under section 143(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, except that house price limits may be 100 percent of the median city purchase price if subsidy is used to reduce the effective purchase price of the property to the above levels. Data establishing the median purchase price in the city must be included in the application by a city requesting house price limits higher than the housing finance agency's house price limits;

(4) mortgage bonds may be issued during the first eight months that mortgage bond proceeds are available only for the purchase or purchase and rehabilitation of existing housing except in the following circumstances: newly constructed housing located in an area where a redevelopment project as defined under section 469.002, subdivision 14, may occur; newly constructed housing approved under the Affordable Housing Program of the Department of Housing and Urban Development; newly constructed housing located on a parcel purchased by the city or conveyed to the city under section 282.01, subdivision 1; or newly constructed housing that is part of a housing affordability initiative, other than those financed with the proceeds from the sale of bonds, in which federal, state, or local assistance is used to substantially improve the terms of the financing or to substantially write down the purchase price of the new housing; and

(5) the agency or a city may not make available, provide set asides, or commit to make available money or proceeds of bonds for the exclusive use of builders or developers for loans to eligible purchasers for new housing except for housing located in an area where a redevelopment project as defined under section 469.002, subdivision 14, may occur. This prohibition is in effect for the entire time mortgage bond proceeds are available.

The Minnesota housing finance agency may accept applications from July 1 to July 15 from cities for single-family housing programs which meet program requirements specified under clauses (1) to (5) if bonding authority is available in the housing pool. The agency and a representative for each applicant shall negotiate the terms of an agreement regarding the allocation of available authority among the applicants. The agreement must allot available bonding authority among the applicants. For purposes of paragraphs (a) to (d), "city" has the meaning given it in section 462C.02, subdivision 6, and "agency" means the Minnesota housing finance agency.

(b) Upon reaching agreement with participating cities, the agency shall forward to the commissioner the amounts allotted to each applicant pursuant to the agreement. The agency may issue bonds on behalf of participating cities. The agency shall request an allocation from the commissioner for all applicants who choose to have the agency issue bonds on their behalf and the commissioner shall allocate the requested amount to the agency. The agency may request an allocation at any time between the first Tuesday after the first Monday in April and the last Monday in August, but may request an allocation no later than the last Monday in August.

(c) A city may choose to issue bonds on its own behalf or through a joint powers agreement and may request an allocation from the commissioner. If the total amount requested by all applicants exceeds the amount available in the pool, the city may not receive a greater allocation than the amount it would have received under the agreement forwarded by the Minnesota housing finance agency to the commissioner. No city may request or receive an allocation from the commissioner until the agreement under paragraph (b) has been forwarded to the commissioner. Between the first Monday in April and the last Monday in August, no city may receive an allocation from the housing pool which has not first applied to the Minnesota housing finance agency.

(d) If a city issues mortgage bonds from an allocation received under paragraph (c), the issuer must provide for the recycling of funds into new loans. If the issuer is not able to provide for recycling, the issuer must notify the commissioner in writing of the reason that recycling was not possible and the reason the issuer elected not to have the Minnesota housing finance agency issue the bonds. "Recycling" means the use of money generated from the repayment and prepayment of loans for further eligible loans or for the redemption of bonds and the issuance of current refunding bonds.

(e) The total amount of allocation for mortgage bonds for one city is limited to the lesser of (i) \$4,000,000 or (ii) 20 percent of the total amount available for allocation for mortgage bonds from the housing pool after the first Monday in April.

Sec. 9. Minnesota Statutes 1988, section 474A.061, is amended by adding a subdivision to read:

Subd. 2b. [MANUFACTURING POOL ALLOCATION.] From the beginning of the calendar year until the last Monday in August, the commissioner shall allocate available bonding authority from the manufacturing pool on Monday of each week to applications received on or before the Monday of the preceding week. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 5. Proposed projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed projects that receive less than 50 points are eligible to receive a proportionally reduced share of the proposed authority.

If there are two or more applications for manufacturing projects from the manufacturing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 474A.081, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 10. Minnesota Statutes 1988, section 474A.061, is amended by adding a subdivision to read:

Subd. 2c. [PUBLIC FACILITIES POOL ALLOCATION.] From the beginning of the calendar year until the last Monday in August, the commissioner shall allocate available bonding authority from the public facilities pool on Monday of each week to applications for eligible public facilities projects received on or before the Monday of the preceding week. If there are two or more applications for public facilities projects from the pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 474A.081, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 11. Minnesota Statutes 1988, section 474A.061, subdivision 3, is amended to read:

Subd. 3. [ADDITIONAL DEPOSIT.] An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Monday Tuesday in September only if the issuer has submitted to the department before the first Monday Tuesday in September a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained. The Minnesota housing finance agency may retain an unused portion of an allocation after

the first Tuesday in September without submitting an additional deposit.

Sec. 12. Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 4, is amended to read:

Subd. 4. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year within 90 days of allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in August, the amount of allocation is canceled and returned must be reallocated for reallocation through the pool from which it was originally allocated. If the issuer notifies the department or the 90-day period since allocation has expired on or after the last Monday in August, the amount of allocation is canceled and returned must be reallocated for reallocation through the unified pool. If the issuer notifies the department after the last Monday in November, the amount of allocation is canceled and returned must be reallocated for reallocation to the Minnesota housing finance agency.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of allocation shall receive within 30 days a refund of all of its application deposits equal to:

(1) one-half of the amount on application deposit for the amount of bonding authority returned before the first Monday in November within 30 days of receiving allocation;

(2) one-fourth of the amount on application deposit for the amount of bonding authority returned on or after the first Monday in November and before the third Monday in November between 31 and 60 days of receiving allocation; and

(3) one-eighth of the amount on application deposit for the amount of bonding authority returned on or after the third Monday in November and before the last Monday in November between 61 and 90 days of receiving allocation.

No refund shall be available for allocations returned on or after the last Monday in November 90 or more days after receiving the allocation. This subdivision does not apply to the Minnesota housing finance agency.

Sec. 13. Minnesota Statutes 1988, section 474A.081, as amended by Laws 1989, chapter 328, article 1, section 21, is amended to read:

474A.081 [POOL TRANSFERS.]

Subdivision 1. [AUTHORITY TO TRANSFER BONDING AUTHORITY.] If there is insufficient bonding authority in either the manufacturing pool or the multifamily housing pool to provide allocations for applications received in any one week, additional bonding authority for small issue bonds and residential rental project bonds may be obtained under this section.

Subd. 2. [TRANSFER LIMITS.] No transfer of bonding authority may be made from any pool for qualified bonds not eligible to receive allocations from that pool (i) prior to June 30, or (ii) if, on June 30, allocations of bonding authority have been made from that pool equal to or exceeding 50 percent of the annual volume cap originally allocated to that pool. For 1987, the amount considered originally allocated to each of the pools shall be \$80,000,000 for the manufacturing pool and \$60,000,000 for the multifamily housing pool.

Subd. 4. [POOL TRANSFERS.] If there is insufficient bonding authority to provide allocations for all small issue bonds or residential rental project bonds in any one week, applications for small issue bonds may receive bonding authority from the multifamily housing pool or applications for residential rental project bonds may receive bonding authority from the manufacturing pool, except as provided in subdivision 2. If bonding authority is transferred from one pool to the other pool, applications for small issue bonds must receive priority for allocations from the manufacturing pool, and applications for residential rental project bonds must receive priority for allocations from the multifamily housing pool.

Sec. 14. Minnesota Statutes 1988, section 474A.091, subdivision 1, is amended to read:

Subdivision 1. [UNIFIED POOL AMOUNT.] On the day after the last Monday in August any bonding authority remaining unallocated from the manufacturing pool, the multifamily housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.

Sec. 15. Minnesota Statutes Second 1989 Supplement, section 474A.091, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the

type of qualified bonds to be issued, and (4) an application deposit in the amount of two percent of the requested allocation, and (5) a public purpose scoring worksheet for small issue applications. An issuer applying for an allocation for residential rental project bonds who does not sign an agreement requiring that the project comply with the gross rent restrictions of the low-income housing credit program under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1988, must submit an additional application deposit in the amount of one percent of the requested allocation. The issuer must pay the application deposit by check. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

The Minnesota housing finance agency may not apply for an allocation for mortgage bonds under this section until after the last Monday in September. Notwithstanding the restrictions imposed on unified pool allocations after October 1, under subdivision 3, paragraph (c)(2), the Minnesota housing finance agency may be awarded allocations for mortgage bonds from the unified pool after October 1. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.

Sec. 16. Minnesota Statutes Second 1989 Supplement, section 474A.091, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION PROCEDURE.] (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in September through and on the last Monday in November. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day after the holiday.

(b) On or before October 1, allocations shall be awarded from the unified pool in the following order of priority:

(1) applications for small issue bonds, with preference given to projects to be located in distressed counties designated under section 297A.257;

(2) applications for residential rental project bonds, with preference given to issuers agreeing to require that the project comply

with the gross rent restrictions of the low-income housing credit program under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1988;

(3) applications for public facility projects funded by public facility bonds;

(4) applications for redevelopment bonds;

(5) applications for mortgage bonds; and

(6) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in September. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 5. Proposed manufacturing projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed manufacturing projects that receive less than 50 points under section 5 are only eligible to receive a proportionally reduced share of the proposed authority. If there are two or more applications for manufacturing projects from the unified pool and there is insufficient bonding authority to provide allocations for all manufacturing projects in any one allocation period, the available bonding authority shall be awarded based on the number of points awarded a project under section 5 with those projects receiving the greatest number of points receiving allocation first.

(c)(1) On the first Monday in October, \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the manufacturing pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the manufacturing pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in October, ~~\$5,000,000~~ \$2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year, whichever is less, is reserved within the unified pool for public facility bonds. If sufficient bonding authority is not available to reserve the required amounts for both small issue bonds and public facility bonds, ~~three-fourths~~ seven-eighths of the remaining available bonding authority is reserved for small issue bonds and ~~one-fourth~~ one-eighth of the remaining available bonding authority is reserved for public facility bonds.

(2) The total amount of allocations for mortgage bonds from the housing pool and the unified pool may not exceed:

- (i) \$10,000,000 for any one city; or
- (ii) \$20,000,000 for any number of cities in any one county; or
- (iii) 60 percent of the amount initially allocated to the unified pool.

An allocation for mortgage bonds may be used for mortgage credit certificates.

After October 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, with preference given to manufacturing projects to be located in distressed counties designated under section 207A.257, public facility bonds, and residential rental project bonds.

(d) If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Sec. 17. Minnesota Statutes 1988, section 474A.091, subdivision 4, is amended to read:

Subd. 4. [MORTGAGE BOND SUNSET BONDS.] If federal tax law is not amended to permit the issuance of tax exempt mortgage bonds after December 31, 1988, All remaining bonding authority available for allocation under this section on December 1, 1988, is allocated to the Minnesota housing finance agency. For purposes of this subdivision, "city" has the meaning given it in section 462C.02, subdivision 6. The Minnesota housing finance agency shall reallocate at least 50 percent of the remaining bonding authority available for allocation to cities requesting an allocation on or before November 1, 1988, for the issuance of mortgage bonds. A city may apply for an allocation under this subdivision by submitting to the Minnesota housing finance agency an application on or before November 1, 1988, on forms provided by the agency. After December 1, 1988, any unallocated bonding authority remaining after all city requests are filled is reallocated to the Minnesota housing finance agency for issuance by the agency or for reallocation to a city requesting an allocation on or before November 1, 1988.

Sec. 18. Minnesota Statutes 1988, section 474A.091, subdivision 5, is amended to read:

Subd. 5. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year within 90 days of the allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in November, the amount of allocation is canceled and returned ~~must be reallocated~~ for reallocation through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of the allocation shall receive within 30 days a refund of its application deposit equal to:

(1) one-half of the amount on application deposit for the amount of bonding authority returned before the first Monday in November within 30 days of receiving the allocation;

(2) one-fourth of the amount on application deposit for the amount of bonding authority returned on or after the first Monday in November and before the third Monday in November between 31 and 60 days of receiving the allocation; and

(3) one-eighth of the amount on application deposit for the amount of bonding authority returned on or after the third Monday in November and before the last Monday in November between 61 and 90 days of receiving the allocation.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in November. This subdivision does not apply to the Minnesota housing finance agency.

Sec. 19. Minnesota Statutes 1988, section 474A.131, subdivision 2, is amended to read:

Subd. 2. [CARRYFORWARD NOTICE.] If an issuer intends to carry forward an allocation received under this chapter, it must notify the department in writing before the last Monday of December. If the written notice of carryforward is not provided within the time required, one-quarter of the amount of the application deposit eligible for refund upon filing of the notice of issue under this section is forfeited.

Sec. 20. Minnesota Statutes 1988, section 474A.14, is amended to read:

474A.14 [NOTICE OF AVAILABLE AUTHORITY.]

The department shall publish in the State Register at least twice monthly, a notice of the amount of bonding authority, if any, available for allocation pursuant to sections 474A.061 and 474A.091 in the housing, manufacturing, and public facilities pools as soon after January 1 as possible. The department shall publish in the State Register a notice of the amount of bonding authority available for allocation in the unified pool as soon after September 1 as possible.

Sec. 21. [SUNSET OF QUALIFIED BONDS.]

Subdivision 1. [TRANSFER.] If federal tax law is not amended by May 31, 1990, to permit the issuance of tax exempt mortgage bonds or small issue bonds past September 30, 1990, all remaining bonding authority available for allocation in housing, manufacturing, and public facilities pools is transferred to the unified pool on the first business day in June and must be reallocated as provided in this section.

Subd. 2. [APPLICATION.] An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of two percent of the requested allocation, and (5) a public purpose scoring worksheet for small issue applications as provided under section 5. The issuer must pay the application deposit by check. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

The Minnesota housing finance agency may not apply for an allocation for mortgage bonds under this section until after the last Monday in June. Notwithstanding the restrictions imposed on the unified pool allocations after July 1 under subdivision 3, paragraph (c), clause (2), the agency may be awarded allocations for mortgage bonds from the unified pool after July 1. The agency may apply for and receive an allocation under this section without submitting an application deposit.

Subd. 3. [ALLOCATION PROCEDURE.] (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in June through and on the last Monday in August. Applications for allocations must be received by the department by the Monday

preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day.

(b) On or before July 1, allocations shall be awarded from the unified pool in the following order of priority:

- (1) applications for small issue bonds;
- (2) applications for residential rental project bonds;
- (3) applications for public facilities projects financed with public facility bonds;
- (4) applications for redevelopment bonds;
- (5) applications for mortgage bonds; and
- (6) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in June and must meet the eligibility requirements of section 6. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 5. Proposed manufacturing projects that receive 50 points or more are eligible for all of the proposed allocations. If there are two or more applications for manufacturing projects from the unified pool and there is insufficient bonding authority to provide allocations for all manufacturing projects in any one allocation period, the available bonding authority shall be awarded based on the number of points awarded a project under section 5 with those projects receiving the greatest number of points receiving allocation first. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

(c)(1) On the first Monday in July, \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the manufacturing pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the manufacturing pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in July, \$2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year,

whichever is less, is reserved within the unified pool for public facility bonds. If sufficient bonding authority is not available to reserve the required amounts for both small issue bonds and public facility bonds, seven-eighths of the remaining available bonding authority is reserved for small issue bonds and one-eighth of the remaining available bonding authority is reserved for public facility bonds.

(2) Allocations for mortgage bonds from the unified pool may not exceed:

- (i) \$10,000,000 for any one city;
- (ii) \$20,000,000 for any number of cities in any one county; or
- (iii) 60 percent of the amount initially allocated to the unified pool.

An allocation for mortgage bonds may be used for mortgage credit certificates.

After July 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds, and residential rental project bonds.

(d) If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Subd. 4. [REMAINING ALLOCATION.] Any remaining bonding authority that has not been allocated by September 1 in the unified pool shall be allocated to the Minnesota housing finance agency.

Subd. 5. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section within 90 days of the allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in August, the amount of allocation is canceled and returned for reallocation through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of the allocation shall receive within 30 days a refund equal to:

(1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving the allocation;

(2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving the allocation; and

(3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving the allocation.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in August.

Sec. 22. [REPEALER.]

Minnesota Statutes 1988, section 474A.091, subdivision 4a; and Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 2, are repealed. Section 21 is repealed January 1, 1991.

Sec. 23. [EFFECTIVE DATE.]

Sections 1 to 4, 7 to 20, and section 22 are effective January 1, 1991. Sections 5, 6, and 21 are effective the day after final enactment.

Delete the title and insert:

"A bill for an act relating to public financing; allocating authority to issue tax exempt revenue bonds; amending Minnesota Statutes 1988, sections 474A.02, subdivisions 6, 8, and by adding a subdivision; 474A.03; 474A.061, subdivision 3, and by adding subdivisions; 474A.081, as amended; 474A.091, subdivisions 1, 4, and 5; 474A.131, subdivision 2; and 474A.14; Minnesota Statutes Second 1989 Supplement, sections 474A.061, subdivisions 1 and 4; and 474A.091, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapter 474A; repealing Minnesota Statutes 1988, section 474A.091, subdivision 4a; Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 2."

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

The report was adopted.

Begins from the Committee on Labor-Management Relations to which was referred:

H. F. No. 2460, A bill for an act relating to health; providing for planning for a surveillance system for occupational diseases; appropriating money.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wells from the Committee on Health and Human Services to which was referred:

H. F. No. 2470, A bill for an act relating to human services; creating a new chapter establishing a unified process for the handling of civil, criminal, and financial recovery matters in all human service programs; amending Minnesota Statutes 1988, sections 256.73, subdivision 6; and 393.07, subdivision 10; proposing coding for new law as Minnesota Statutes, chapter 256J; repealing Minnesota Statutes 1988, sections 256.98; 256.981; 256.982; and 256D.14.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [256.984] [ADMINISTRATIVE FRAUD DISQUALIFICATION HEARINGS.]

Subdivision 1. [HEARING AUTHORITY.] A local agency may also initiate an administrative fraud disqualification hearing for individuals accused of wrongfully obtaining assistance or intentional program violations in the AFDC or food stamp programs. The hearing is subject to the requirements of section 256.045.

Subd. 2. [COMBINED HEARING.] The referee may combine a fair hearing and administrative fraud disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the individual receives prior notice that the hearings will be combined. If the administrative fraud disqualification hearing and fair hearing are combined, the time frames for administrative fraud disqualification hearings apply.

Sec. 2. [256.985] [DISQUALIFICATION PROVISIONS.]

Subdivision 1. [DISQUALIFICATION FROM PROGRAM.] (a)

Any person found by clear and convincing evidence, by a federal or state court or in an administrative hearing, to have wrongfully obtained assistance in the AFDC or food stamp programs shall be disqualified from that assistance program and the needs of that individual shall not be taken into consideration in determining the grant or assistance level. The period of disqualification shall be as follows:

- (1) for a first offense, six months;
- (2) for a second offense, 12 months; and
- (3) for a third or subsequent offense, permanent disqualification.

The disqualification period shall begin within 45 days of the date on which the fraud determination is made, unless the individual is not a current participant in the program. If the individual is not a current participant in the program, the disqualification period shall begin when the individual has applied and been determined eligible for benefits.

(b) Any period for which sanctions are imposed is effective, without possibility of administrative stay, until the finding upon which the sanctions were imposed is reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved.

Subd. 2. [INELIGIBILITY FOR GENERAL ASSISTANCE.] No person disqualified from any federally aided assistance program shall be eligible for general assistance during the period covered by the disqualification sanction.

Sec. 3. Minnesota Statutes 1988, section 256.98, subdivision 7, is amended to read:

Subd. 7. [DIVISION OF RECOVERED AMOUNTS.] If the state is responsible for the recovery, the amounts recovered shall be paid to the appropriate units of government as provided under section 256.863. If the recovery is directly attributable to a county, the county may retain ~~one-half~~ all of the nonfederal share of any recovery from a recipient or the recipient's estate. This subdivision does not apply to recoveries from medical providers or to recoveries involving the department of human services, surveillance and utilization review division, state hospital collections unit, and the benefit recoveries division.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; authorizing fraud disqualification hearings for the AFDC and food stamps programs; setting disqualification periods; increasing county recoveries; amending Minnesota Statutes 1988, section 256.98, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 256."

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

The report was adopted.

Skoglund from the Committee on Insurance, to which was referred:

H. F. No. 2474, A bill for an act relating to insurance; long-term care; modifying the definition of medically prescribed long-term care; allowing additional licensed health care providers to prepare plans of care; regulating assessments; regulating cancellations; amending Minnesota Statutes 1988, sections 62A.46, subdivisions 2, 4, 5, and 8; 62A.48, subdivision 3, and by adding a subdivision; and 62A.56; Minnesota Statutes 1989 Supplement, section 62A.48, subdivision 1.

Reported the same back with the following amendments:

Page 2, line 29, after "that" insert "could not be omitted without adversely affecting the patient's illness or condition and" and after "by" insert "either: (1)"

Page 2, line 30, delete the new language and reinstate the stricken language

Page 2, line 32, delete "or assessment" and strike the old language

Page 2, strike line 33 and insert ", or (2) a registered nurse or licensed social worker based on an assessment of the insured's ability to perform the activities of daily living and to perform basic cognitive functions appropriately."

Page 3, line 1, after "by" insert "either: (1)" and reinstate "and" and delete "a"

Page 3, line 2, delete the new language and reinstate the stricken language

Page 3, line 4, delete "or assessment" and strike "and are" and insert "; or (2) by a registered nurse or licensed social worker that specifies prescribed long-term care services or treatment that are consistent with an assessment of the insured's ability to perform the activities of daily living and to perform basic cognitive functions appropriately. The plan of care must be prepared"

Page 3, line 6, after "and" insert "must contain services or treatment"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2496, A bill for an act relating to environment and natural resources; authorizing the issuance of state bonds and expenditure of the proceeds to acquire and to better state parks, recreation areas, trails, forests, wildlife management areas, scientific and natural areas, wild, scenic, and recreational rivers, canoe and boating routes, and public water access; to improve fish, wildlife, and native plant habitat; to provide for private critical habitat match program; to provide for construction of wastewater treatment facilities, state independent grants for construction of municipal wastewater treatment facilities, state match to federal revolving loan, and combined sewer overflow grants; for acquisition and enhancement of metropolitan regional parks; for local recreation grants; for waste management; authorizing issuance of state bonds; appropriating money.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2514, A bill for an act relating to agriculture; changing certain regional districts of the state agricultural society; amending Minnesota Statutes 1988, section 37.04, subdivision 2.

Reported the same back with the following amendments:

Page 1, after line 13, insert:

"Sec. 2. Minnesota Statutes 1989 Supplement, section 38.04, is amended to read:

38.04 [ANNUAL MEETINGS; REPORTS.]

Every county agricultural society shall hold an annual meeting for the election of officers and the transaction of other business on or before the third Tuesday in November. Service on the county agricultural society board or as an officer of the board is not a public office. Elected officials of the state or its political subdivisions may serve on the board or be elected as officers.

At the annual meeting, the society's secretary shall make a report of its proceedings for the preceding year; this report shall contain a statement of all transactions at its fairs, the numbers of entries, the amount and source of all money received, and the amount paid out for premiums and other purposes, and show in detail its entire receipts and expenditures during the year. The report must contain a separate accounting of any income received from the operation of horse racing on which pari-mutuel betting is conducted, and of the disposition of that income.

The treasurer shall make a comprehensive report of the funds received, paid out, and on hand, and upon whose order paid. Each secretary shall cause a certified copy of the annual report to be filed with the county recorder of the county and the commissioner of agriculture on or before the first day of ~~November~~ December each year."

Amend the title as follows:

Page 1, line 3, after the semicolon insert "changing the time for filing certain reports by county agricultural societies;"

Page 1, line 4, before the period insert "; Minnesota Statutes 1989 Supplement, section 38.04."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2536, A bill for an act relating to natural resources; authorizing a matching grant for the development of demonstration forest facilities at the forest resource center, Lanesboro; appropriating money.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 2564, A bill for an act relating to education; establishing a task force to coordinate educational opportunity on the border between Minnesota and South Dakota.

Reported the same back with the following amendments:

Page 1, line 13, delete "like"

Page 1, line 14, delete everything after "to" and insert "make recommendations"

Page 1, delete line 15 and insert "regarding removing"

Page 1, line 16, delete "are" and after "to" insert "intrastate" and delete "opportunity" and insert "opportunities"

Amend the title as follows:

Page 1, line 3, delete "opportunity" and insert "opportunities"

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

The report was adopted.

Skoglund from the Committee on Insurance to which was referred:

H. F. No. 2572, A bill for an act relating to insurance; life; regulating policies with accelerated benefits; modifying the application of certain provisions; prescribing a penalty; amending Minnesota Statutes 1989 Supplement, section 61A.072, subdivisions 3 and 4.

Reported the same back with the following amendments:

Page 1, line 13, delete "This" and insert "The" and after "prohibition" insert "in paragraph (a)"

Page 1, line 14, delete "for no" and insert "without" and after "cost" insert "to the insured"

Page 1, line 18, after the period insert "A supplemental contract offered under this paragraph must meet all other applicable requirements of this section."

Page 1, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 1989 Supplement, section 61A.072, is amended by adding a subdivision to read:

Subd. 5. [EXCLUSION.] Subdivision 4 does not apply to contracts or supplemental contracts granting the right to receive accelerated benefits if:

(a) one of the options for payment provides for lump sum payment;

(b) no conditions or restrictions are imposed on the use of the funds by the insured; and

(c) the offeree or insured is given written notice at the time the contract or supplemental contract is offered or sold that (i) Minnesota law sets minimum requirements for life insurance contracts where the right to receive accelerated benefits is contingent upon the insured receiving long-term care services; and (ii) the contract or supplemental contract being offered or sold does not meet those minimum requirements."

Amend the title as follows:

Page 1, delete line 6 and insert "subdivision 3, and by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2580, A bill for an act relating to county and district agricultural societies; providing supplemental funding for fiscal year 1991; appropriating money.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Skoglund from the Committee on Insurance to which was referred:

H. F. No. 2589, A bill for an act relating to insurance; promoting availability of automobile insurance for home day care providers; amending Minnesota Statutes 1988, sections 65B.13; 65B.47, subdivision 1; and 65B.49, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, delete section 1

Page 2, line 17, delete "home" and insert "family and group family"

Page 2, line 29, delete "HOME" and insert "FAMILY AND GROUP FAMILY"

Page 2, line 31, delete "home" and insert "family and group family"

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to insurance; promoting availability of automobile insurance for family and group family day care providers; amending Minnesota Statutes 1988, sections 65B.47, subdivision 1; and 65B.49, by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2592, A bill for an act relating to agriculture; establishing an agricultural liming material law; appropriating money; prescribing penalties; proposing coding for new law as Minnesota Statutes, chapter 18F.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

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

H. F. No. 2599, A bill for an act relating to retirement; Minneapolis municipal employees; consolidating funds within the fund, excluding CETA employees; removing mandatory retirement age; establishing a bounce-back annuity; increasing survivor benefits; amending Minnesota Statutes 1988, sections 422A.06, subdivisions 1, 3, 5, 6, and 8; 422A.09, subdivision 3; 422A.13, subdivision 2; 422A.17; and 422A.23, subdivisions 2, 6, 9, and 10; proposing coding for new law in Minnesota Statutes, chapter 422A.

Reported the same back with the following amendments:

Page 1, after line 12, insert:

"Section 1. Minnesota Statutes 1989 Supplement, section 356.215, subdivision 4d, is amended to read:

Subd. 4d. [INTEREST AND SALARY ASSUMPTIONS.] For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354 other than the variable annuity fund governed by section 354.62, and 490, the actuarial valuation shall use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year. For funds governed by chapter 354A, the actuarial valuation shall use preretirement and postretirement assumptions of 8.5 percent and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year, but the actuarial valuation shall reflect the payment of postretirement adjustments to retirees shall be based on the methods specified in the bylaws of the fund as approved by the legislature. For a fund governed by chapter 422A, the actuarial valuation shall use a preretirement interest assumption of six percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.04 multiplied by the salary for the preceding year. For all other funds, the actuarial valuation shall use a preretirement interest assumption of five percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.035 multiplied by the salary for the preceding year.

For funds governed by chapters 3A, 352C, and 490, the actuarial valuation shall use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and an assumption that in each future year in which the salary amount payable is not determinable from section 3.099, 15A.081, subdivision 6, or 15A.083, subdivision 1, whichever is applicable, or from applicable compensation council recommendations under section 15A.082, the salary on which a retirement or other benefit is based is 1.065 multiplied by the known or computed salary for the preceding year, whichever is applicable."

Page 11, line 18, delete "13" and insert "14"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after "10;" insert "Minnesota Statutes 1989 Supplement, section 356.215, subdivision 4d;"

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 2605, A bill for an act relating to education; making rules governing the use of aversive and deprivation procedures by school district employees conform with department of human services rules; amending Minnesota Statutes 1988, section 127.44.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 127.43, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] For the purposes of providing instruction to handicapped children under section 120.17, this section and section 127.44, the following terms have the meanings given them.

Sec. 2. Minnesota Statutes 1988, section 127.44, is amended to read:

127.44 [AVERSIVE AND DEPRIVATION PROCEDURES.]

Subdivision 1. [RULES.] The state board of education shall adopt rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

- (1) promote the use of positive approaches and must not encourage or require the use of aversive or deprivation procedures;
- (2) require that planned application of aversive and deprivation procedures be a part of an individual education plan;
- (3) require parents or guardians to be notified after the use of aversive or deprivation procedures in an emergency; and
- (4) establish health and safety standards for the use of time-out procedures that require a safe environment, continuous monitoring of the child, ventilation, and adequate space; and
- (5) contain a list of prohibited procedures that includes at least the procedures prohibited under section 127.45.

Subd. 2. [PROHIBITED PROCEDURES AND ACTIONS.] The following procedures and actions are prohibited:

- (1) using corporal punishment such as hitting, biting, pinching, or slapping;
- (2) requiring a person to assume and maintain a specified physical position or posture as an aversive procedure. Examples include requiring persons to stand with their hands over their heads for long periods of time or to remain in a fixed position;
- (3) use of faradic shock;
- (4) totally or partially restricting a person's senses, except at a level of intrusiveness that does not exceed placing a hand in front of a person's eyes as a visual screen or playing music through earphones worn by the person at a level of sound which does not cause the person discomfort;
- (5) presentation of intense sounds, lights, or other sensory stimuli as an aversive stimulus;
- (6) use of a noxious smell, taste, substance, or spray, including water mist, as an aversive stimulus;
- (7) denying or restricting a person's access to equipment and devices such as hearing aids and communication boards that facil-

itate the person's functioning. If temporary removal of the equipment or device is necessary to prevent injury to the person or others, the equipment or device shall be returned to the person as soon as possible;

(8) using a locked time out room without continuous one-to-one monitoring by an adult; and

(9) withholding scheduled meals longer than a short period of time.

Subd. 3. [VIOLATION.] A violation of this section is not a crime under section 645.241 but may be a crime if the conduct violates a provision of chapter 609.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

Amend the title as follows:

Page 1, line 6, delete "section" and insert "sections 127.43, subdivision 1; and"

With the recommendation that when so amended the bill pass.

The report was adopted.

Simoneau from the Committee on Appropriations to which was referred:

H. F. No. 2609, A bill for an act relating to capital improvements; providing for emergency capital expenses at Inver Hills Community College; authorizing sale of state bonds; appropriating money.

Reported the same back with the following amendments:

Page 1, line 8, delete "\$" and insert "\$1,954,000"

Page 1, line 10, after "or" insert ", if necessary," and delete "as necessary"

Page 1, line 12, after the period insert "The funds may be used to pay for obligations incurred or to reimburse expenditures already made before the effective date of this section."

Page 1, line 17, delete "\$" and insert "\$1,954,000"

Page 1, after line 20, insert:

"Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 2610, A bill for an act relating to commerce; clarifying exceptions to the licensing requirements for real estate brokers; amending Minnesota Statutes 1989 Supplement, section 82.18.

Reported the same back with the following amendments:

Page 2, line 24, strike "when" and insert "provided that the person is licensed as a securities agent pursuant to section 80A.04, the person acknowledges that any violation of chapter 82A or the rules adopted under chapter 82A will be a violation of chapter 80A, and the person is"

With the recommendation that when so amended the bill pass.

The report was adopted.

Beginch from the Committee on Labor-Management Relations to which was referred:

H. F. No. 2615, A bill for an act relating to workers' compensation; including mentally retarded persons and those with related conditions to the list of registrable conditions for the subsequent disability special fund; amending Minnesota Statutes 1988, section 176.131, subdivision 8.

Reported the same back with the following amendments:

Page 3, after line 8, insert:

"Sec. 2. Minnesota Statutes 1989 Supplement, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, psychological, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation. Exposure to rabies is an injury and an employer shall furnish preventive treatment to employees exposed to rabies. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to do so the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee. No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability.

(b) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and 176.305.

Sec. 3. Minnesota Statutes 1988, section 176.185, subdivision 1, is amended to read:

Subdivision 1. [NOTICE OF COVERAGE, TERMINATION, CANCELLATION.] Within ten days after the issuance of a policy of insurance covering the liability to pay compensation under this chapter written by an insurer licensed to insure such liability in this state, the insurer shall file notice of coverage with the commissioner under rules and on forms prescribed by the commissioner. No policy shall be canceled by the insurer within the policy period nor terminated upon its expiration date until a notice in writing is delivered or mailed to the insured and filed with the commissioner, fixing the date on which it is proposed to cancel it, or declaring that the insurer does not intend to renew the policy upon the expiration

date. If the insurer or its agent has delivered or mailed a written certificate of insurance, certifying that a policy in the name of the insured is in force, then the insurer shall deliver or mail written notice of said cancellation or termination to the recipient of the certificate of insurance. A cancellation or termination is not effective until 30 days after written notice has been filed with the commissioner in a manner prescribed by the commissioner unless prior to the expiration of the 30-day period the employer obtains other insurance coverage or an order exempting the employer from carrying insurance as provided in section 176.181. Upon receipt of the notice the commissioner shall notify the insured that the insured must obtain coverage from some other licensed carrier and that, if unable to do so, the insured shall request the commissioner of commerce to require the issuance of a policy as provided in section 79.251, subdivision 4. Upon a cancellation or termination of a policy by the insurer the employer is entitled to be assigned a policy in accordance with sections 79.251 and 79.252. Notice of cancellation or termination by the insured shall be served upon the insurer by written statement mailed or delivered to the insurer. Upon receipt of the notice the insurer shall notify the commissioner of the cancellation or termination and the commissioner shall ask the employer for the reasons for the cancellation or termination and notify the employer of the duty under this chapter to insure the employer's employees. If the insurer or its agent has delivered or mailed a written certificate of insurance, certifying that a policy in the name of the insured is in force, then the insurer shall deliver or mail written notice of cancellation or termination to the recipient of the certificate of insurance. If an insurer fails to mail or deliver notice of cancellation or termination of an insured's policy to the recipient of a certificate of insurance, then the insurer shall indemnify and hold harmless the recipient from any award of benefits or other damages under this chapter resulting from the failure to give notice."

Amend the title as follows:

Page 1, line 5, after the semicolon insert "requiring treatment for employees exposed to rabies; regulating notice of insurance coverage, termination, and cancellation;"

Page 1, line 6, delete "section" and insert "sections" and before the period insert "; and 176.185, subdivision 1; Minnesota Statutes 1989 Supplement, section 176.135, subdivision 1"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2626, A bill for an act relating to retirement; making various changes concerning reserves, coverage, contribution, and administration for the state board of investment, the Minnesota state retirement system, the public employees retirement association, and the Duluth teachers retirement fund association; clarifying certain provisions; changing administrative requirements; amending Minnesota Statutes 1988, sections 11A.18, subdivision 6; 352.01, subdivision 13; 352.029, subdivision 3; 352.03, subdivision 1; 352.115, subdivision 7; 352.96, subdivision 4; 353.03, subdivision 3; 353.15, subdivision 2; 353.27, subdivisions 7 and 10; 353.46, subdivision 4; 353.657, subdivision 1; and 353.83; Minnesota Statutes 1989 Supplement, sections 352.021, subdivision 5; 352.93, subdivision 3; 352.96, subdivision 3; 353.01, subdivisions 2b, 11a, and 16; 353.33, subdivision 6; 353.35; and 353.656, subdivisions 1 and 3; repealing Minnesota Statutes 1989 Supplement, section 353.87, subdivision 5.

Reported the same back with the following amendments:

Page 13, line 10, after "granted" insert "up to"

Page 21, line 25, after "payments" insert "are to be added to and considered a portion of the annuity otherwise payable to the recipient and"

Page 22, delete lines 7 to 18 and insert:

"Section 1. [DULUTH TEACHERS RETIREMENT FUND AND ST. PAUL TEACHERS RETIREMENT FUND: ALTERNATE METHOD OF PAYING ADDITIONAL LUMP SUM AMOUNT.]

Notwithstanding the articles or bylaws of the Duluth teachers retirement fund association or St. Paul teachers retirement fund association, approval is granted for Duluth teachers retirement fund association and St. Paul teachers retirement fund association to provide that a lump sum postretirement adjustment that is payable may, upon the request of the annuitant or survivor and approval of the board of trustees of the fund, be converted to a monthly annuity benefit of equivalent actuarial value. The amount of the additional annuity shall be determined by:

(1) the age of the annuitant or survivor on the date of the lump sum postretirement adjustment;

(2) use of an annuity table of mortality established by the board of trustees of the association as required by Minnesota Statutes, section 356.215; and

(3) use of the postretirement interest rate assumption specified in Minnesota Statutes, section 11A.18."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2630, A bill for an act relating to natural resources; authorizing the commissioner to promulgate rules relating to oil, gas, and other hydrocarbon wells and their spacing, pooling, and unitization; providing enforcement authority; proposing coding for new law in Minnesota Statutes, chapter 93.

Reported the same back with the following amendments:

Page 1, line 17, delete "therefore"

Page 1, line 18, delete "the department of"

Page 1, line 19, after "rules" insert "under chapter 14"

With the recommendation that when so amended the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 2646, A bill for an act relating to human services; long-term care; establishing methods to determine recommended rates for day training and habilitation services; allowing a waiver for personal care services; clarifying definitions of certain facilities; establishing requirements for home care services; exempting certain persons from preadmission nursing home screening; clarifying allocations for alternative care grants; establishing limits on the investment per bed for newly constructed or established long-term care facilities; clarifying eligibility requirements for continued services; amending Minnesota Statutes 1988, sections 256B.04, subdivision 16; 256B.055, subdivision 12; 256B.091, subdivisions 4 and 6; 256B.48, subdivision 2; 256B.49, by adding a subdivision; 256B.50, subdivisions 1 and 1b; and 256B.501, by adding a subdivision; Minnesota Statutes 1989 Supplement, sections 252.46, subdivision 4; 256B.091, subdivision 8; and 256B.495, subdivision 1; Laws 1988,

chapter 689, article 2, section 256, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 256B.

Reported the same back with the following amendments:

Page 4, line 8, delete everything after the comma

Page 4, line 9, delete everything before "a"

Page 4, line 10, delete "which is" and insert "may be"

Page 4, line 11, delete "if" and insert "for persons who require" and delete "is required" and delete "a person" and insert "they"

Page 4, line 12, delete "exhibits" and insert "exhibit"

Page 9, line 34, after "home" insert "for fiscal year 1991"

Page 9, line 36, strike "by the commissioner"

Page 10, line 4, after the period insert "The rate allowed for a screening where two team members are present shall be the actual costs up to \$218. The rate allowed for a screening where only one team member is present shall be the actual costs up to \$131. The commissioner shall establish by rule, in accordance with chapter 14, an annual adjustment of the state maximum screening rate."

Page 12, line 1, delete "June" and insert "April"

Page 12, line 2, delete "15" and insert "1"

Page 12, line 6, delete "calendar" and insert "the base"

Page 12, line 7, delete "1989" and after the period insert "The base year for each county shall be either fiscal year 1989 or calendar year 1989, whichever period contains a larger total dollar amount of payments plus claims submitted for each county. To be counted in the allocation process, claims must be submitted by June 1, 1990."

Page 12, line 34, delete everything after "agencies" and insert ", according to an allocation system established by the legislature after considering the results of the study required by paragraph (e)."

Page 12, delete lines 35 and 36

Page 13, delete lines 1 to 3

Page 13, line 4, delete everything before "No"

Page 13, line 26, after "county" insert "and senior citizen"

Page 21, line 6, after "of" insert "establishing payment rates under"

Page 21, line 21, after "252.292" insert ", in which case clause (3) shall not apply"

Page 22, line 27, delete "as in subdivision 12"

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

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 2649, A bill for an act relating to human services; clarifying medical assistance payment rate procedures for hospitals; allowing case management for certain recipients of medical assistance; amending verification of pregnancy requirements for medical assistance eligibility; clarifying eligibility requirements for medical assistance and general assistance medical care; clarifying asset and income allowances for institutionalized spouses; clarifying services to be covered by medical assistance; establishing requirements for a relative's responsibility; expanding the homestead exclusion for medical assistance eligibility; establishing procedures for a vendor's request for a contested case proceeding; establishing requirements for claims against the estate of a recipient; clarifying procedures for enforcement of medical support; amending Minnesota Statutes 1988, sections 13.46, subdivision 5; 256B.04, subdivision 15; 256B.055, subdivisions 3, 5, and 6; 256B.056, subdivisions 2, 7, and by adding a subdivision; 256B.0625, subdivisions 4, 5, 9, and by adding subdivisions; 256B.15; 256B.19, by adding a subdivision; 256B.69, subdivision 3; 256D.03, subdivisions 3 and 7; 518.171, subdivisions 1, 3, 4, and 7; Minnesota Statutes 1989 Supplement, sections 256.969, subdivisions 2c and 6a; 256.9695, subdivisions 1 and 3; 256B.055, subdivision 7; 256B.056, subdivisions 3 and 4; 256B.057, subdivisions 1, 2, and by adding subdivisions; 256B.0575; 256B.059, subdivisions 4 and 5; 256B.0595, subdivisions 1, 2, and 4; 256B.14; 256B.69, subdivision 16; 256D.03, subdivision 4; Laws 1989, chapter 282, article 3, section 98, subdivisions 4 and 5; proposing coding for new law in Minnesota Statutes, chapter 256B; repealing Minnesota Statutes 1989 Supplement, section 256B.055, subdivision 8.

Reported the same back with the following amendments:

Page 26, line 10, after "restorations" insert "that are cost-effective" and delete "with disabilities"

Page 26, line 11, delete "disability" and insert "medical condition"

Page 28, delete line 36

Page 29, delete lines 1 to 5

Page 29, line 6, delete "4" and insert "3"

Page 29, line 12, delete "5" and insert "4"

Page 30, delete lines 28 to 35 and insert:

"Subd. 3. [MINOR, BLIND OR DISABLED CHILDREN.] If a decedent who was single, or who was the surviving spouse of a married couple, is survived by a child who is under age 21 or blind or permanently and totally disabled according to the supplemental security income program criteria, no claim shall be filed against the estate.

Subd. 4. [OTHER SURVIVORS.] If the decedent who was single or the surviving spouse of a married couple is survived by one of the following persons, a claim exists against the estate in an amount not to exceed the value of the nonhomestead property included in the estate:"

Page 30, line 36, delete "(c)" and insert "(a)"

Page 31, line 4, delete "(d)" and insert "(b)"

Page 41, delete sections 45 and 46

Page 41, delete lines 35 and 36 and insert "effective for all claims filed for deaths occurring on and after the date of enactment."

Page 42, delete lines 1 to 14 and insert:

"Subd. 2. Section 23 is effective the day after final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 33, delete everything after the semicolon

Page 1, line 34, delete everything before "proposing".

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

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 2685, A bill for an act relating to education; clarifying legislative intent concerning corporal punishment; amending Minnesota Statutes 1989 Supplement, section 127.45.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2719, A bill for an act relating to agriculture; providing emergency drought relief for farmers and small businesses; establishing a program of low-interest loans; providing water supplies in emergencies; providing emergency hay and hayfield reseeding; appropriating money.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

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

H. F. No. 2721, A bill for an act relating to retirement; Minneapolis police and firefighters; health and medical benefits; continuance of surviving spouse benefits; amending Laws 1949, chapter 406, section 4, subdivisions 2 and 3, as amended; and section 6, subdivision 1, as amended; and Laws 1965, chapter 519, section 1, as amended.

Reported the same back with the following amendments:

Page 1, delete section 1

Page 6, delete section 4

Page 6, after line 14, insert:

“Sec. 4. [ST. LOUIS PARK POLICE SURVIVOR BENEFITS.]

The provision of Minnesota Statutes, section 423.810, subdivision 1, requiring termination of a surviving spouse's pension upon remarriage does not apply to surviving spouses receiving pensions from the St. Louis Park Police Relief Association.”

Page 6, line 16, delete “5” and insert “3”

Page 6, after line 18, insert:

“Sec. 6. [EFFECTIVE DATE.]

Section 4 is effective on approval by the St. Louis Park city council and compliance with Minnesota Statutes, section 645.021.”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon insert “St. Louis Park police survivor benefits;”

Page 1, lines 5 and 6, delete “section 4, subdivisions 2 and 3, as amended; and”

With the recommendation that when so amended the bill pass.

The report was adopted.

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

House Resolution No. 17, A house resolution designating and proclaiming April 22, 1990, as Earth Day 1990.

Reported the same back with the recommendation that the resolution be adopted.

The report was adopted.

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

House Resolution No. 18, A house resolution relating to Earth Day; April 22, 1990.

Reported the same back with the recommendation that the resolution be adopted.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 173, 869, 1067, 1101, 1439, 1561, 1854, 1855, 1861, 1884, 1902, 1916, 2000, 2016, 2023, 2041, 2075, 2077, 2111, 2144, 2151, 2152, 2204, 2220, 2242, 2243, 2249, 2253, 2276, 2277, 2304, 2325, 2327, 2334, 2374, 2383, 2385, 2401, 2434, 2474, 2514, 2572, 2589, 2592, 2599, 2605, 2609, 2610, 2615, 2626, 2630, 2685 and 2721 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 1922 and 1947 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Price introduced:

H. F. No. 2761, A bill for an act relating to animals; making certain presumptions about manufactured home park rules that prohibit residents over 55 from keeping certain pets; amending Minnesota Statutes 1988, section 327C.05, subdivision 2.

The bill was read for the first time and referred to the Committee on Financial Institutions and Housing.

Onnen, Bègich, Simoneau and Sviggum introduced:

H. F. No. 2762, A bill for an act relating to workers' compensation; requiring a study to determine incentives for an insurer to return an

employee to work; requiring a study to determine policies to encourage the hiring of injured employees.

The bill was read for the first time and referred to the Committee on Labor-Management Relations.

Gruenes and Carlson, D., introduced:

H. F. No. 2763, A bill for an act relating to game and fish; authorizing certain disabled permit holders to take deer of either sex; amending Minnesota Statutes 1988, section 97B.055, subdivision 3.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Krueger introduced:

H. F. No. 2764, A bill for an act relating to education; clarifying the use and distribution of appropriations for curriculum and technology integration; amending Laws 1989, chapter 329, article 11, section 15, subdivision 10.

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

Greenfield introduced:

H. F. No. 2765, A bill for an act relating to health; eliminating the office of social work and mental health boards; modifying the duties of the board of unlicensed mental health service providers; requiring all mental health service providers to file with the board; amending Minnesota Statutes 1988, sections 148B.01, subdivision 7; 148B.07; 148B.41, subdivision 1; 148B.42, subdivision 2, and by adding a subdivision; 148B.43; and 148B.46, subdivision 1; Minnesota Statutes 1989 Supplement, sections 148B.17; 148B.40, subdivision 3; and 148B.42, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 148B; repealing Minnesota Statutes 1988, sections 148B.01, subdivision 2; 148B.02; and 148B.171.

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

Rodosovich introduced:

H. F. No. 2766, A bill for an act relating to human services; requiring an agreement between a county of financial responsibility

and a host county; amending Minnesota Statutes 1988, section 256B.092, by adding a subdivision.

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

Peterson; Carlson, D.; Johnson, V., and Brown introduced:

H. F. No. 2767, A bill for an act relating to finance; appropriating money for purple loosestrife control.

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

Tompkins introduced:

H. F. No. 2768, A bill for an act relating to environment; setting fees based on performance for motor vehicle emissions inspections in the metropolitan area; amending Minnesota Statutes 1988, sections 116.64; and 116.65, subdivision 2.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Kalis introduced:

H. F. No. 2769, A bill for an act relating to the state building code; accessibility for the physically disabled; establishing an access review board; providing for review of applications for permission to provide accessibility by means of stairway chair lifts; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 471.

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

Osthoff and Quinn introduced:

H. F. No. 2770, A bill for an act relating to financial institutions; establishing a system for the evaluation and rating of community reinvestment by depository financial institutions owned by interstate bank holding companies; providing uniformity with federal financial institutions regulatory practices; regulating public disclosure of uniform rating; amending Minnesota Statutes 1988, sections 48.92, by adding a subdivision; 48.93, subdivision 3; and 48.97, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 47; repealing Minnesota Statutes 1988, section 48.99.

The bill was read for the first time and referred to the Committee on Financial Institutions and Housing.

Otis, Segal, Jefferson, Schreiber and Vanasek introduced:

H. F. No. 2771, A resolution memorializing the Soviet Union to continue human rights reforms.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Brown introduced:

H. F. No. 2772, A bill for an act relating to bonds; providing money for the construction of a noncommercial television station.

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

Nelson, K., introduced:

H. F. No. 2773, A bill for an act relating to taxation; providing a retroactive effective date for the credit for prior years' alternative minimum tax; amending Laws 1989, First Special Session chapter 1, article 10, section 47.

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

Clark, McLaughlin and Greenfield introduced:

H. F. No. 2774, A bill for an act relating to public capital facilities; authorizing the issuance of state bonds; appropriating money.

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

Clark, Rodosovich and Greenfield introduced:

H. F. No. 2775, A bill for an act relating to public capital facilities; authorizing the issuance of state bonds; appropriating money.

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

Clark introduced:

H. F. No. 2776, A bill for an act relating to public capital facilities; authorizing the issuance of state bonds; appropriating money.

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

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 Senate Files, herewith transmitted:

S. F. Nos. 1680, 1794, 1691, 1717, 1820, 1973, 1777 and 2353.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1680, A bill for an act relating to cooperatives; providing absentee ballots are secret ballots; amending Minnesota Statutes 1989 Supplement, section 308A.635, subdivision 6.

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

S. F. No. 1794, A bill for an act relating to veterans; redefining the term "veteran"; amending Minnesota Statutes 1988, section 197.447.

The bill was read for the first time.

O'Connor moved that S. F. No. 1794 and H. F. No. 2001, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1691, A bill for an act relating to children; establishing procedures for the placement and removal of children in foster homes; proposing coding for new law in Minnesota Statutes, chapter 257.

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

S. F. No. 1717, A bill for an act relating to education; establishing a task force to coordinate educational opportunity on the border between Minnesota and South Dakota.

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

S. F. No. 1820, A bill for an act relating to counties; permitting a county board to assign certain duties; proposing coding for new law in Minnesota Statutes, chapter 373.

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

S. F. No. 1973, A resolution memorializing the President and Congress to reauthorize the low-income home energy assistance program and to increase its appropriation for fiscal year 1991 and subsequent years.

The bill was read for the first time.

Dawkins moved that S. F. No. 1973 and H. F. No. 2097, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1777, A bill for an act relating to Ramsey county; setting the terms of charter commission members; amending Minnesota Statutes 1988, section 383A.553, subdivision 1.

The bill was read for the first time.

Kostohryz moved that S. F. No. 1777 and H. F. No. 2043, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2353, A bill for an act relating to vocational rehabilitation; providing for supported employment programs; amending Minnesota Statutes 1988, section 129A.01, subdivisions 11, 12, and by adding a subdivision.

The bill was read for the first time.

Cooper moved that S. F. No. 2353 and H. F. No. 2487, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

CONSENT CALENDAR

H. F. No. 2002, A bill for an act relating to veterans; changing a provision prohibiting cemeteries near veterans homes; amending Minnesota Statutes 1988, section 137.20.

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 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 2116 was reported to the House.

Johnson, R., moved that H. F. No. 2116 be continued on the Consent Calendar. The motion prevailed.

H. F. No. 2134, A bill for an act relating to elections; changing the

vote margin for an automatic recount at the state primary or general election; amending Minnesota Statutes 1988, section 204C.35, 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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Gruenes	Lieder	Osthoff	Segal
Anderson, G.	Gutknecht	Limmer	Ostrom	Simoneau
Anderson, R.	Hartle	Long	Otis	Skoglund
Battaglia	Hasskamp	Lynch	Ozment	Solberg
Bauerly	Haukoos	Macklin	Pappas	Sparby
Beard	Hausman	Marsh	Pauly	Stanius
Begich	Heap	McDonald	Pellow	Steensma
Bennett	Henry	McEachern	Pelowski	Sviggum
Bertram	Hugoson	McGuire	Peterson	Swenson
Bishop	Jacobs	McLaughlin	Poppenhagen	Tjornhom
Blatz	Janezich	McPherson	Price	Tompkins
Boo	Jaros	Milbert	Pugh	Trimble
Brown	Jefferson	Miller	Quinn	Tunheim
Burger	Jennings	Morrison	Redalen	Uphus
Carlson, L.	Johnson, A.	Munger	Reding	Valento
Carruthers	Johnson, R.	Murphy	Rest	Vellenga
Clark	Johnson, V.	Nelson, C.	Rice	Wagenius
Dauner	Kahn	Nelson, K.	Richter	Waltman
Dawkins	Kalis	O'Connor	Rodossovich	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	Spk. Vanasek
Girard	Krueger	Onnen	Schreiber	
Greenfield	Lasley	Orenstein	Seaberg	

The bill was passed and its title agreed to.

H. F. No. 2202, A bill for an act relating to education; allowing the board of teaching to grant variances to its rules in certain cases; amending Minnesota Statutes 1988, section 125.185, by adding a subdivision.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Begich	Brown	Dawkins	Girard
Anderson, G.	Bennett	Burger	Dille	Greenfield
Anderson, R.	Bertram	Carlson, L.	Dorn	Gruenes
Battaglia	Bishop	Carruthers	Forsythe	Gutknecht
Bauerly	Blatz	Clark	Frederick	Hartle
Beard	Boo	Cooper	Frerichs	Hasskamp

Haukoos	Krueger	O'Connor	Quinn	Steensma
Hausman	Lasley	Ogren	Redalen	Sviggum
Heap	Lieder	Olsen, S.	Reding	Swenson
Henry	Limmer	Olson, E.	Rest	Tjornhom
Hugoson	Long	Olson, K.	Rice	Tompkins
Jacobs	Lynch	Omann	Richter	Trimble
Janezich	Macklin	Onnen	Rodosovich	Tunheim
Jaros	Marsh	Orenstein	Rukavina	Uphus
Jefferson	McDonald	Osthoff	Runbeck	Valento
Jennings	McEachern	Ostrom	Sarna	Vellenga
Johnson, A.	McGuire	Otis	Schafer	Wagenius
Johnson, R.	McLaughlin	Ozment	Scheid	Waltman
Johnson, V.	McPherson	Pappas	Schreiber	Weaver
Kahn	Milbert	Pauly	Seaberg	Welle
Kalis	Miller	Pellow	Segal	Wenzel
Kelly	Morrison	Pelowski	Simoneau	Williams
Kelso	Munger	Peterson	Skoglund	Winter
Kinkel	Murphy	Poppenhagen	Solberg	Spk. Vanasek
Knickerbocker	Nelson, C.	Price	Sparby	
Kostohryz	Nelson, K.	Pugh	Stanis	

The bill was passed and its title agreed to.

H. F. No. 2296, A bill for an act relating to state lands; authorizing private sale of certain tax-forfeited land in Becker county.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 2321 was reported to the House.

Haukoos moved to amend H. F. No. 2321, the first engrossment, as follows:

Page 2, line 27, reinstate "sales" and insert "or"

Page 3, line 7, after "of" insert "sales or"

Page 3, line 9, delete "excise"

Page 5, line 7, reinstate "sales" and insert "or"

The motion prevailed and the amendment was adopted.

H. F. No. 2321, A bill for an act relating to consumer protection; requiring an itemized statement for certain automobile purchase price refunds; amending Minnesota Statutes 1988, sections 325F.662, subdivision 8; and 325F.665, subdivisions 3 and 6.

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	Greenfield	Lasley	Orenstein	Seaberg
Anderson, G.	Gruenes	Lieder	Osthoff	Segal
Anderson, R.	Gutknecht	Limmer	Ostrom	Simoneau
Battaglia	Hartle	Long	Otis	Skoglund
Bauerly	Hasskamp	Lynch	Ozment	Solberg
Beard	Haukoos	Macklin	Pappas	Sparby
Begich	Hausman	Marsh	Pauly	Stanisus
Bennett	Heap	McDonald	Pellow	Steensma
Bertram	Henry	McEachern	Pelowski	Sviggum
Bishop	Hugoson	McGuire	Peterson	Swenson
Blatz	Jacobs	McLaughlin	Poppenhagen	Tjornhom
Boo	Janezich	McPherson	Price	Tompkins
Brown	Jaros	Milbert	Pugh	Trimble
Burger	Jefferson	Miller	Quinn	Tunheim
Carlson, L.	Jennings	Morrison	Redalen	Uphus
Carruthers	Johnson, A.	Munger	Reding	Valento
Clark	Johnson, R.	Murphy	Rest	Vellenga
Cooper	Johnson, V.	Nelson, C.	Rice	Wagenius
Dauner	Kahn	Nelson, K.	Richter	Waltman
Dawkins	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	Spk. Vanasek
Girard	Krueger	Onnen	Schreiber	

The bill was passed, as amended, and its title agreed to.

H. F. No. 2336, A bill for an act relating to historical interpretive centers; defining the status of Farmamerica in Waseca county.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 2407, A bill for an act relating to health; requiring an asbestos abatement rule change.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Bennett	Carlson, L.	Dorn	Gutknecht
Anderson, G.	Bertram	Carruthers	Forsythe	Hartle
Anderson, R.	Bishop	Clark	Frederick	Hasskamp
Battaglia	Blatz	Cooper	Frerichs	Haukoos
Bauerly	Boo	Dauner	Girard	Hausman
Beard	Brown	Dawkins	Greenfield	Heap
Begich	Burger	Dille	Gruenes	Henry

Hugoson	Long	Olson, E.	Reding	Sviggum
Jacobs	Lynch	Olson, K.	Rest	Swenson
Janezich	Macklin	Omann	Rice	Tjornhom
Jaros	Marsh	Onnen	Richter	Tompkins
Jefferson	McDonald	Orenstein	Rodosovich	Trimble
Jennings	McEachern	Osthoff	Rukavina	Tunheim
Johnson, A.	McGuire	Ostrom	Runbeck	Uphus
Johnson, R.	McLaughlin	Otis	Sarna	Valento
Johnson, V.	McPherson	Ozment	Schafer	Vellenga
Kahn	Milbert	Pappas	Scheid	Wagenius
Kalis	Miller	Pauly	Schreiber	Waltman
Kelso	Morrison	Pellow	Seaberg	Weaver
Kinkel	Munger	Pelowski	Segal	Welle
Knickerbocker	Murphy	Peterson	Simoneau	Wenzel
Kostohryz	Nelson, C.	Poppenhagen	Skoglund	Williams
Krueger	Nelson, K.	Price	Solberg	Winter
Lasley	O'Connor	Pugh	Sparby	Spk. Vanasek
Lieder	Ogren	Quinn	Stanisus	
Limmer	Olsen, S.	Redalen	Steensma	

The bill was passed and its title agreed to.

H. F. No. 2505, A bill for an act relating to retirement; permitting participants in the college supplemental retirement plan to designate beneficiaries; amending Minnesota Statutes 1989 Supplement, section 136.82, subdivisions 1 and 2.

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 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 2645, A bill for an act relating to insurance; regulating domestic insurers; providing for domestications and conversions to foreign insurers; proposing coding for new law in Minnesota Statutes, chapter 60A.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 2650, A bill for an act relating to cemeteries; allowing transfer of certain cemetery property to a religious corporation; amending Minnesota Statutes 1988, section 306.02, by adding a subdivision.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Girard	Lasley	Orenstein	Seaberg
Anderson, G.	Greenfield	Lieder	Osthoff	Simoneau
Anderson, R.	Gruenes	Limmer	Ostrom	Skoglund
Battaglia	Gutknecht	Long	Otis	Solberg
Bauerly	Hartle	Lynch	Ozment	Sparby
Beard	Hasskamp	Macklin	Pappas	Stanisus
Begich	Haukoos	Marsh	Pauly	Steensma
Bennett	Hausman	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, L.	Jefferson	Morrison	Redalen	Valento
Carruthers	Jennings	Munger	Reding	Vellenga
Clark	Johnson, A.	Murphy	Rest	Wagenius
Cooper	Johnson, R.	Nelson, C.	Rice	Waltman
Dauner	Johnson, V.	Nelson, K.	Richter	Weaver
Dawkins	Kahn	O'Connor	Rodosovich	Welle
Dempsey	Kalis	Ogren	Rukavina	Wenzel
Dille	Kelso	Olsen, S.	Runbeck	Williams
Dorn	Kinkel	Olson, E.	Sarna	Winter
Forsythe	Knickerbocker	Olson, K.	Schafer	Spk. Vanasek
Frederick	Kostohryz	Omman	Scheid	
Frerichs	Krueger	Onnen	Schreiber	

The bill was passed and its title agreed to.

H. F. No. 2657 was reported to the House.

Rukavina moved that H. F. No. 2657 be returned to its author. The motion prevailed.

GENERAL ORDERS

Pursuant to Rules of the House, the House resolved itself into the Committee of the Whole with Vanasek in the Chair for consideration of bills pending on General Orders of the day. After some time spent therein the Committee arose.

REPORT OF THE COMMITTEE OF THE WHOLE

The Speaker resumed the Chair, whereupon the following recommendations of the Committee were reported to the House:

H. F. Nos. 1839 and 1952 were recommended for progress.

On the motion of Long the report of the Committee of the Whole was adopted.

MOTIONS AND RESOLUTIONS

O'Connor moved that the name of Trimble be added as an author on H. F. No. 1730. The motion prevailed.

Bishop moved that his name be stricken as an author on H. F. No. 2042. The motion prevailed.

Bauerly moved that the name of McEachern be stricken and the name of Pappas be added as an author on H. F. No. 2192. The motion prevailed.

Scheid moved that the name of Abrams be added as an author on H. F. No. 2243. The motion prevailed.

McLaughlin moved that the name of Sparby be added as an author on H. F. No. 2329. The motion prevailed.

Blatz moved that the names of Long, Henry, McLaughlin and Pellow be added as authors on H. F. No. 2706. The motion prevailed.

Ozment moved that the name of Tjornhom be added as an author on H. F. No. 2745. The motion prevailed.

McGuire moved that H. F. No. 2351, now on General Orders, be re-referred to the Committee on Judiciary. The motion prevailed.

Nelson, K., moved that H. F. No. 2383, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Jennings moved that H. F. No. 2592, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Kelly moved that H. F. No. 2276, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Jefferson moved that H. F. No. 2111, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Winter moved that H. F. No. 2023, now on Technical General

Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Williams moved that H. F. No. 1907 be recalled from the Committee on Appropriations and be re-referred to the Committee on Governmental Operations. The motion prevailed.

Bertram moved that H. F. No. 1930, now on General Orders, be re-referred to the Committee on Rules and Legislative Administration. The motion prevailed.

Ozment moved that H. F. No. 2514 be returned to its author. The motion prevailed.

House Resolution No. 17 was reported to the House.

HOUSE RESOLUTION NO. 17

A house resolution designating and proclaiming April 22, 1990, as Earth Day 1990.

Whereas, almost 20 years ago, more than 20 million Americans joined together on Earth Day in a demonstration of concern for the environment, and their collective action resulted in the passage of sweeping new laws to protect our air, water, and land; and

Whereas, in the 19 years since the first Earth Day, despite environmental improvements, the environmental health of the planet is increasingly endangered, threatened by global climate change, ozone depletion, growing world population, tropical deforestation, ocean pollution, toxic wastes, desertification, and nuclear waste requiring action by all sectors of society; and

Whereas, Earth Day 1990 is a national and international call to action for all citizens to join in a global effort to save the planet; and

Whereas, Earth Day 1990 activities and events will educate all citizens on the importance of acting in an environmentally sensitive fashion by recycling, conserving energy and water, using efficient transportation, and adopting more ecologically sound lifestyles; and

Whereas, Earth Day 1990 will also educate all citizens on the importance of buying and using those products least harmful to the environment, the importance of doing business with companies that are environmentally sensitive and responsible, the importance of voting for those candidates who demonstrate an abiding concern for

the environment, and the importance of supporting the passage of legislation that will help protect the environment; *Now, Therefore,*

Be It Resolved by the House of Representatives of the State of Minnesota that it designate and proclaim April 22, 1990, as Earth Day 1990, and that that day shall be set aside for public activities promoting preservation of the global environment and launching the "Decade of the Environment."

Be It Further Resolved that the Chief Clerk of the House of Representatives is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Speaker, and that it be presented to the appropriate Minnesota organizations planning public activities for Earth Day 1990.

Munger moved that House Resolution No. 17 be now adopted. The motion prevailed and House Resolution No. 17 was adopted.

House Resolution No. 18 was reported to the House.

HOUSE RESOLUTION NO. 18

A house resolution relating to Earth Day; April 22, 1990.

Whereas, April 22, 1990, marks the 20th anniversary of Earth Day, a citizen awakening of how humans can affect the environment; and

Whereas, activities and awareness spawned by the original Earth Day led to key federal environmental legislation being enacted and new state law, such as the Environmental Rights Act, the Environmental Policy Act, the Waste Management Act, the state Superfund Act, the Reinvest in Minnesota Resources Act, and the constitutionally created Environmental Trust Fund; and

Whereas, the Environment and Natural Resources committees of the Minnesota House and Senate have played an important part in enacting the above state legislation, as well as countless other environmental laws during the past 20 years, thus leading to a national reputation as an environmentally progressive state; and

Whereas, public concern for the environment has grown, standing as an important and enduring legacy of the last 20 years, and the public stands ready to act in support of new environmental initiatives; and

Whereas, the call for environmental action has become a global

effort, with needs to act on ozone depletion, global warming, forest destruction, oil spills, growing world population, and international air and water pollution; *Now, Therefore,*

Be It Resolved by the House of Representatives of the State of Minnesota that the citizens of the state are encouraged to participate in and support all events and activities honoring Earth Day 1990, and throughout the year.

Be It Further Resolved that the Chief Clerk of the House of Representatives shall be directed to prepare enrolled copies of this resolution, to be authenticated by his signature and that of the Speaker, and that they be presented to representatives of organizations sponsoring events and activities recognizing Earth Day.

Munger moved that House Resolution No. 18 be now adopted. The motion prevailed and House Resolution No. 18 was adopted.

Carruthers, Schreiber, Scheid and Limmer introduced:

House Resolution No. 19, A house resolution commending the Sunny Hollow Elementary School, New Hope, Minnesota, for their efforts in environmental activism.

SUSPENSION OF RULES

Carruthers moved that the rules be so far suspended that House Resolution No. 19 be now considered and be placed upon its adoption. The motion prevailed.

HOUSE RESOLUTION NO. 19

A house resolution commending the Sunny Hollow Elementary School, New Hope, Minnesota, for their efforts in environmental activism.

Whereas, a "pollution solution" has excited the school principal, teachers, and students of Sunny Hollow Elementary School; and

Whereas, Clinton Hill, who passed away recently, left his 6th grade classmates to carry out his dream that kids could save the Earth and all the creatures upon it from pollution; and

Whereas, Will and Tessa Hill, Clinton's parents, have taken the initiative to follow through with his dreams, and have taken steps to keep alive Clinton's Kids for Saving Earth Club; and

Whereas, about \$5,000 in unsolicited donations have come in for the cause, and Target Stores is putting in nearly \$1,000,000 towards the dream; and

Whereas, the Kids for Saving Earth Club and Target Stores have plans to:

Put brochures telling about Clinton's crusade inside advertising supplements;

Broadcast 30-second commercials during Earth Week telling about the kids' involvement;

Give away 5 million posters with tips on things that kids can do to help the environment;

Sell special T-shirts and donate the profits to Kids for Saving Earth Club;

Give the State of Minnesota a Kids for Saving Earth flag to fly over the Capitol on Earth Day, April 22, 1990; and

Prepare kits for every elementary school in the country explaining how they can start their own clubs; and

Whereas, by passing Clinton's dream to other elementary schools across the country, the dream of using "kid power" to clean up the environment comes closer to a reality; *Now, Therefore*,

Be It Resolved by the House of Representatives of the State of Minnesota that it commend the Sunny Hollow Elementary School for their efforts and increased environmental awareness.

Be It Further Resolved that the Chief Clerk of the House of Representatives is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Speaker, and that it be presented to Sunny Hollow Elementary School, New Hope, Minnesota.

Carruthers moved that House Resolution No. 19 be now adopted. The motion prevailed and House Resolution No. 19 was adopted.

Vanasek, Long, Ogren, Simoneau and McEachern introduced:

House Resolution No. 20, A house resolution setting the maximum limit on budget adjustments for the biennium.

The resolution was referred to the Committee on Ways and Means.

Olson, K., moved that the following statement be printed in the Permanent Journal of the House:

"It was my intention to vote in the negative on Monday, March 12, 1990, when the final vote was taken on the passage of H. F. No. 1569. In error I pressed the yea button rather than the nay button." The motion prevailed.

ADJOURNMENT

Long moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Thursday, March 15, 1990.

EDWARD A. BURDICK, Chief Clerk, House of Representatives