

## THIRTY-NINTH DAY

St. Paul, Minnesota, Monday, April 25, 1983

The Senate met at 10:00 a.m. and was called to order by the President.

### CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Harry Walsh.

The roll was called, and the following Senators answered to their names:

|             |               |            |                |           |
|-------------|---------------|------------|----------------|-----------|
| Adkins      | Diessner      | Kronebusch | Pehler         | Solon     |
| Anderson    | Dieterich     | Laidig     | Peterson, C.C. | Spear     |
| Belanger    | Frank         | Langseth   | Peterson, D.C. | Storm     |
| Benson      | Frederick     | Lantry     | Peterson, D.L. | Stumpf    |
| Berg        | Frederickson  | Lessard    | Peterson, R.W. | Taylor    |
| Berglin     | Freeman       | Luther     | Petty          | Ulland    |
| Bernhagen   | Hughes        | McQuaid    | Pogemiller     | Vega      |
| Bertram     | Isackson      | Mehrkens   | Purfeerst      | Waldorf   |
| Brataas     | Johnson, D.J. | Merriam    | Ramstad        | Wegscheid |
| Chmielewski | Jude          | Moe, D.M.  | Reichgott      | Willet    |
| Dahl        | Kamrath       | Moe, R.D.  | Renneke        |           |
| Davis       | Knaak         | Nelson     | Samuelson      |           |
| DeCramer    | Knutson       | Novak      | Schmitz        |           |
| Dicklich    | Kroening      | Olson      | Sieloff        |           |

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

### EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 19, 1983

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1983 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F.<br>No. | H.F.<br>No. | Session Laws<br>Chapter No. | Date Approved<br>1983 | Date Filed<br>1983 |
|-------------|-------------|-----------------------------|-----------------------|--------------------|
| 73          |             | 37                          | April 19              | April 19           |
| 81          |             | 38                          | April 19              | April 19           |
| 351         |             | 39                          | April 19              | April 19           |
| 552         |             | 40                          | April 19              | April 19           |
| 589         |             | 41                          | April 19              | April 19           |
|             | 68          | 42                          | April 19              | April 19           |
|             | 268         | 43                          | April 19              | April 19           |
|             | 316         | 44                          | April 19              | April 19           |
|             | 364         | 45                          | April 19              | April 19           |

Sincerely,

Joan Anderson Growe  
Secretary of State

April 20, 1983

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

I have the honor to inform you that the following enrolled Act of the 1983 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F.<br>No. | H.F.<br>No. | Session Laws<br>Chapter No. | Date Approved<br>1983 | Date Filed<br>1983 |
|-------------|-------------|-----------------------------|-----------------------|--------------------|
| 96          |             | 46                          | April 20              | April 20           |

Sincerely,

Joan Anderson Growe  
Secretary of State

April 21, 1983

The Honorable Jerome M. Hughes  
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 101.

Sincerely,

Rudy Perpich, Governor

April 21, 1983

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1983 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F.<br>No. | H.F.<br>No. | Session Laws<br>Chapter No. | Date Approved<br>1983 | Date Filed<br>1983 |
|-------------|-------------|-----------------------------|-----------------------|--------------------|
| 101         |             | 47                          | April 21              | April 21           |
|             | 25          | 48                          | April 21              | April 21           |
|             | 624         | 49                          | April 21              | April 21           |
|             | 633         | 50                          | April 21              | April 21           |

Sincerely,

Joan Anderson Growe  
Secretary of State

April 22, 1983

The Honorable Jerome M. Hughes  
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 186, 233, 240, 356 and 369.

Sincerely,

Rudy Perpich, Governor

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 115, 530, 1195, 402, 827 and 833.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 21, 1983

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 708: A bill for an act relating to the court system; removing obsolete references to justice of the peace and magistrate; amending Minnesota Statutes 1982, sections 72A.12, subdivision 5; 72A.30; 88.645; 97.50, subdivisions 1 and 7; 115.32, subdivision 3; 127.09; 127.17, subdivision 4; 144.12, subdivision 1; 168.46; 169.42, subdivision 5; 169.91; 169.95; 169.965, subdivision 3; 169.966, subdivision 3; 169.971, subdivision 4; 171.08; 171.16, subdivision 1; 181.09; 181.17; 219.32; 219.97, subdivision 13; 290.58; 297A.42, subdivision 2; 299F.40, subdivision 5; 340.85, subdivision 2; 340.91; 345.02; 345.03; 345.04; 345.05; 345.06;

345.14; 346.03; 346.04; 346.09, subdivision 1; 347.04; 347.05; 347.06; 357.12; 357.16; 357.22; 357.27; 357.29; 358.15; 359.061; 359.11; 361.27, subdivision 2; 365.52; 366.20; 367.11; 367.25, subdivision 1; 368.01, subdivision 20; 373.09; 375.24; 390.15; 390.20; 390.31, subdivision 2; 390.33, subdivisions 2 and 6; 395.23; 412.02, subdivision 1; 412.021, subdivision 2; 412.023, subdivision 5; 412.111; 412.861, subdivision 3; 473.608, subdivision 17; 485.07; 488A.021, subdivision 4; 488A.09, subdivision 7; 488A.19, subdivision 5; 490.18; 509.04; 514.29; 514.34; 542.05; 549.03; 550.17; 571.50; 571.58; 571.65; 574.20; 574.35; 588.01, subdivision 3; 588.02; 593.21; 609.27, subdivision 1; 609.415, subdivision 1; 609.66, subdivision 1; 611.07, subdivision 1; 611.17; 617.27; 624.62; 625.01; 625.02; 625.03; 625.04; 625.05; 625.06; 625.07; 625.08; 625.09; 625.10; 625.11; 625.12; 625.13; 625.14; 625.15; 625.17; 625.18; 626.04; 626.05, subdivision 1; 626.06; 626.09; 626.11; 626.14; 626.15; 626.17; 626.66; 629.03; 629.13; 629.14; 629.15; 629.16; 629.17; 629.18; 629.23, subdivision 3; 629.31; 629.36; 629.363; 629.364; 629.39; 629.401; 629.403; 629.41; 629.44; 629.45; 629.53; 629.54; 629.55; 629.60; 629.62; 630.17; 630.37; 631.04; 636.08; 641.07; 641.25; and 648.39, subdivision 3; repealing Minnesota Statutes 1982, sections 357.14; 357.15; 367.03, subdivision 4; 367.21; 388.02; 412.02, subdivision 5; 412.171; 487.01, subdivision 8; 488A.283; 488A.284; 492.02, subdivision 2; 542.15; 549.16; 599.21; 599.22; 599.23; 609.46; 629.56; 629.66; and 629.71.

Senate File No. 708 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 21, 1983

Mr. Peterson, R.W. moved that the Senate do not concur in the amendments by the House to S.F. No. 708, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 936: A bill for an act relating to retirement; the Minneapolis police relief association; board membership; sources and uses of funds; member contributions; amending Laws 1949, Chapter 406, Sections 1, Subdivision 1, as amended; 3, as amended; 4, Subdivisions 2 and 3, as amended; 5, Subdivisions 1, 3, and 5, as amended; and 6, Subdivision 3, as amended; Laws 1953, Chapter 127, Sections 1, Subdivisions 1, as amended, and 4, and by adding a subdivision; and Laws 1965, Chapter 493, Section 5.

Senate File No. 936 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 21, 1983

### CONCURRENCE AND REPASSAGE

Mr. Spear moved that the Senate concur in the amendments by the House

to S.F. No. 936 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 936: A bill for an act relating to retirement; the Minneapolis police relief association; board membership; sources and uses of funds; member contributions; amending Laws 1949, Chapter 406, Sections 1, Subdivision 1, as amended; 3, as amended; 4, Subdivisions 2 and 3, as amended; 5, Subdivisions 1, 3, and 5, as amended; and 6, Subdivision 3, as amended; Laws 1953, Chapter 127, Sections 1, Subdivisions 2, as amended, and 4, and by adding a subdivision; and Laws 1965, Chapter 493, Section 3.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

|           |               |            |                |           |
|-----------|---------------|------------|----------------|-----------|
| Adkins    | Diessner      | Kronebusch | Pehler         | Solon     |
| Anderson  | Dieterich     | Laidig     | Peterson, C.C. | Spear     |
| Belanger  | Frank         | Langseth   | Peterson, D.C. | Storm     |
| Benson    | Frederick     | Lantry     | Peterson, D.L. | Stumpf    |
| Berg      | Frederickson  | Lessard    | Peterson, R.W. | Ulland    |
| Berglin   | Freeman       | Luther     | Petty          | Vega      |
| Bernhagen | Hughes        | McQuaid    | Pogemiller     | Waldorf   |
| Bertram   | Isackson      | Mehrrens   | Purfeerst      | Wegscheid |
| Brataas   | Johnson, D.J. | Merriam    | Ramstad        | Willet    |
| Dahl      | Jude          | Moe, D.M.  | Reichgott      |           |
| Davis     | Kamrath       | Moe, R.D.  | Renneke        |           |
| DeCramer  | Knaak         | Nelson     | Schmitz        |           |
| Dicklich  | Kroening      | Novak      | Sieloff        |           |

So the bill, as amended, was repassed and its title was agreed to.

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 381:

H.F. No. 381: A bill for an act relating to taxation; adopting certain federal provisions relating to income taxes; updating certain references to the Internal Revenue Code; adopting certain federal provisions relating to the determination of interest rates on taxes; imposing penalties; amending Minnesota Statutes 1982, sections 270.75, subdivision 5; 290.01, subdivisions 20, 20a, as amended, 20b, as amended, 20c, and 20f; 290.05, subdivision 6; 290.068, subdivisions 3 and 4; 290.09, subdivisions 2, 7, as amended, and 29; 290.091; 290.10; 290.135, subdivision 1, as amended; 290.16, subdivisions 7 and 16; 290.17, subdivision 1; 290.26, subdivision 2; 290.37, by adding a subdivision; 290.41, subdivisions 3, 8, and by adding a subdivision; 290.45, subdivision 1; 290.48, by adding a subdivision; 290.53, subdivision 2, and by adding subdivisions; 290.92, subdivisions 7, 13, 15, and by adding a subdivision; 290.93, subdivisions 9, 10, and 11; 290.934, subdivision 4; 290.9725; 290.9726, subdivisions 5 and 6; 290.974; 290A.03, subdivision 3; proposing new law coded in Minnesota

Statutes, chapter 290; repealing Minnesota Statutes 1982, section 290.01, subdivision 28.

And the House respectfully requests that a Conference Committee of three members be appointed thereon.

Otis, Tomlinson and Dempsey have been appointed as such committee on the part of the House.

House File No. 381 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 21, 1983

Mr. Petty moved that H.F. No. 381 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 870:

H.F. No. 870: A bill for an act relating to state government; authorizing the commissioner of the department of economic security to adopt permanent or temporary rules; proposing new law coded in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1982, section 268.12, subdivision 3.

And the House respectfully requests that a Conference Committee of three members be appointed thereon.

Rodosovich, Clawson and Sviggum have been appointed as such committee on the part of the House.

House File No. 870 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 21, 1983

Mr. Pogemiller moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 870, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 91, 859, 1107, 1147, 744, 1058, 1092, 1124, 779 and 1006.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 21, 1983

### FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees

indicated.

H.F. No. 91: A bill for an act relating to public utilities; providing for rights of stockholders and directors of cooperative electric associations; proposing new law coded in Minnesota Statutes, chapter 216B.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 60, now on General Orders.

H.F. No. 859: A bill for an act relating to the military; redefining categories of service; restricting state liability for workers' compensation claims, tort claims, and special compensation payments; clarifying applicability of state's uniform code of military justice; reenacting the authority of the adjutant general to repair regimental battle flags; amending Minnesota Statutes 1982, sections 3.732, subdivision 1; 176.011, subdivision 9; 190.05, subdivision 5, and by adding subdivision; 192.38; 192A.015; and 192A.02, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 190.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 512, now on General Orders.

H.F. No. 1107: A bill for an act relating to the Minnesota veterans home; clarifying the treatment of assets for purposes of calculating maintenance charges; amending Minnesota Statutes 1982, section 198.03.

Referred to the Committee on Veterans and General Legislation.

H.F. No. 1147: A bill for an act relating to local government; permitting the cities of Richfield and Bloomington to implement an energy conservation program; authorizing the financing of a residential energy conservation program; requiring a report to the legislature.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1096.

H.F. No. 744: A bill for an act relating to motor vehicles; providing for special, free license plates for recipients of the congressional medal of honor; proposing new law coded in Minnesota Statutes, chapter 168.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 717.

H.F. No. 1058: A bill for an act relating to limited partnerships; providing for withdrawals of certain partners; providing for liabilities of partners; amending Minnesota Statutes 1982, sections 322A.27; and 322A.33.

Referred to the Committee on Judiciary.

H.F. No. 1092: A bill for an act relating to motor vehicles; allowing the holder of personalized license plates to retain the same number after the personalized plates have been damaged, lost, or stolen; amending Minnesota Statutes 1982, section 168.12, subdivision 2a.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1119.

H.F. No. 1124: A bill for an act relating to Minnesota Statutes; correcting erroneous, ambiguous, omitted, and obsolete references and text; eliminat-

ing certain redundant, conflicting, and superseded provisions; providing instructions to the revisor; amending Minnesota Statutes 1982, sections 10A.275; 10A.31, subdivision 2; 10A.32, subdivision 3b; 10A.335; 11A.24, subdivision 6; 15.06, subdivision 1; 16.861, subdivision 3; 17A.06, subdivision 3; 32.212; 32.213; 35.251; 43A.18, subdivision 5; 45.16, subdivision 2; 48.605, subdivision 1; 60A.07, subdivision 8; 60A.17, subdivision 7a; 93.20, subdivision 9; 98.46, subdivision 16; 100.27, subdivision 9; 112.85, subdivision 2; 116D.05; 116G.03, subdivision 5; 116J.70, subdivision 2a; 120.80, subdivision 1; 120.81, subdivision 1; 121.904, subdivision 11b; 168.021, subdivision 2; 169.451; 169.974, subdivision 2; 169.974, subdivision 6; 169.99, subdivision 1; 171.131, subdivision 2; 179.70, subdivision 1; 238.04, subdivision 2; 244.09, subdivision 1; 252A.13, subdivision 2; 253B.19, subdivision 5; 256.871, subdivision 7; 256.976, subdivision 4; 260.185, subdivision 1; 260.193, subdivision 6; 268.18, subdivision 2; 273.13, subdivisions 6 and 7d; 275.125, subdivision 1; 282.38, subdivisions 1 and 2; 290.012, subdivision 2; 297.02, subdivision 5; 298.28, subdivision 1; 326.241, subdivision 1; 327B.01, subdivisions 11 and 14; 327B.04, subdivision 4; 327B.05, subdivision 1; 327B.09, subdivision 1; 340.069; 354.532, subdivision 4; 363.03, subdivision 10; 367.41, subdivisions 1 and 5; 367.42, subdivision 1; 375B.01; 381.12, subdivision 2; 383A.35; 398A.01, subdivision 8; 462.355, subdivision 4; 462.36, subdivision 1; 462.445, subdivision 14; 462C.04, subdivision 2; 474.03; 508A.46; 515A.1-102; 518.24; and 525.619; amending Laws 1982, chapter 581, section 18, subdivision 4; and Laws 1982, Third Special Session chapter 1, article II, section 7; repealing Minnesota Statutes 1982, section 609.01, subdivision 2; repealing Laws 1976, chapters 2, section 62; and 173, section 53; Laws 1981, chapter 224, section 18; Laws 1982, chapters 416, section 1; 424, sections 3 and 8; and 642, section 8.

Referred to the Committee on Rules and Administration.

H.F. No. 779: A bill for an act relating to liquor; authorizing the cities of Roseau and Karlstad to issue one on-sale license to an Eagles Club.

Referred to the Committee on Public Utilities and State Regulated Industries.

H.F. No. 1006: A bill for an act relating to intoxicating liquor; authorizing a city to authorize an on-sale licensee to dispense liquor at events held in facilities of the metropolitan sports facilities commission; amending Minnesota Statutes 1982, section 340.11, subdivision 11c.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1043.

## REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of reports pertaining to appointments. The motion prevailed.

Mr. Dieterich from the Committee on Public Utilities and State Regulated Industries, to which was referred



H.F. No. 289: A bill for an act relating to the city of St. Paul; authorizing the city to permit, by ordinance, the use of an "on-sale" liquor license issued by the city at the Highland Park and Phalen Park club houses.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 13, delete "either of"

Page 1, line 13, delete "Highland Park" and insert "Como Park Conservatory, Harriet Island,"

Page 1, line 14, delete "houses" and insert "house"

Page 2, after line 11, insert:

"Sec. 2. [ST. PAUL; ON-SALE NON-INTOXICATING MALT LIQUOR AND ON-SALE WINE LICENSES FOR THE DOWNTOWN COUNCIL.]

*Notwithstanding sections 340.11, subdivision 20, 340.14, subdivision 3, and any other contrary provision of law, charter, or ordinance, the governing body of the city of St. Paul may issue "on-sale" non-intoxicating malt liquor and "on-sale" wine licenses to the St. Paul Downtown Council for use only at the annual Taste of the Twin Cities Festival to commemorate the July 4th holiday at the state capitol and on its surrounding property.*

*The fee for each license issued under this section is \$53.50.*

Sec. 3. [HENNEPIN COUNTY; SHORT-TERM LIQUOR LICENSE.]

*Notwithstanding any law to the contrary, Hennepin County, by resolution of its county board, may issue, with or without fee, to a nonprofit organization or corporation, one-day on-sale licenses for the sale and serving of intoxicating liquor in or upon any building or property of Hennepin County in connection with any convention, banquet, conference, meeting or social event conducted by the nonprofit organization. The licensee may dispense intoxicating liquor only to persons attending the event. The licensee's authority shall expire upon termination of the event. All dispensing of intoxicating liquor shall be in accordance with the terms and conditions prescribed by resolution of the county board."*

Page 2, line 13, delete "This act is" and insert "Sections 1 and 2 are"

Page 2, after line 15, insert:

*"Section 3 is effective upon approval by the county board of Hennepin County and compliance with the provisions of Minnesota Statutes, section 645.021, subdivision 3."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "the city of St. Paul" and insert "liquor licensing"

Page 1, line 2, after "city" insert "of St. Paul"

Page 1, line 4, delete "Highland Park" and insert "Como Park Conservatory, Harriet Island,"

Page 1, line 5, delete "houses" and insert "house"

Page 1, line 5, before the period, insert “; authorizing the city of St. Paul to issue on-sale non-intoxicating malt liquor and on-sale wine licenses to the Downtown Council for use at the Taste of the Twin Cities Festival; authorizing Hennepin County to issue short-term liquor licenses”

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Dieterich from the Committee on Public Utilities and State Regulated Industries, to which was referred

S.F. No. 886: A bill for an act relating to intoxicating liquor; authorizing Clearwater County to issue an off-sale license in Itasca Township.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Dieterich from the Committee on Public Utilities and State Regulated Industries, to which was referred

S.F. No. 1043: A bill for an act relating to intoxicating liquor; authorizing a city to authorize an on-sale licensee to dispense liquor at events held in facilities of the metropolitan sports facilities commission; amending Minnesota Statutes 1982, section 340.11, subdivision 11c.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 21, before the period, insert “*and located within the municipality*”

Page 2, after line 15, insert:

“Sec. 2. [EFFECTIVE DATE.]

*This act is effective on the day following final enactment.*”

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 373: A bill for an act relating to negligence; regulating the liability of good samaritans; amending Minnesota Statutes 1982, section 604.05.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 10, delete “*including a public volunteer*” and insert “*except persons who are reasonably expecting to receive compensation or who are acting within the course of their employment or within the scope of their duties as part of a police, fire, rescue, sheriff, or life support transportation service*”

Page 1, line 16, delete “*or*” and insert “*and*” and after “*wanton*” insert “*or reckless*”

Page 1, line 17, delete everything after “*care*”

Page 1, lines 18 and 19, delete the new language

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 142: A bill for an act relating to agricultural and residential homesteads; providing for relief in certain cases from inequitable foreclosure of mortgages, termination of contracts for the conveyance of real estate, and execution sales of real property during an emergency declared by the legislature; postponing certain realty sales and extending the period of redemption of real property during an emergency; providing for possession during the extended period; limiting the right to maintain actions for deficiency judgements; proposing new law coded as Minnesota Statutes, chapter 583.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 26, after "12" insert "*for a period longer than one year*"

Page 2, line 34, delete "MORTGAGEE" and insert "MORTGAGOR"

Page 3, line 3, delete "a"

Page 3, line 4, delete "*proclamation*" and insert "*the effective date of sections 1 to 12*"

Page 3, line 12, delete "*granting*"

Page 3, line 13, delete "*of the*" and delete "*would be equitable and just*" and insert "*is necessitated by general economic conditions*"

Page 5, line 33, after the period, insert "*In the case of contracts for deed, the court shall ensure that the payment required by the contract vendee is sufficient to adequately maintain the vendor's standard of living.*"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

H.F. No. 190: A bill for an act relating to courts; providing for the appointment of a court commissioner to solemnize marriages in Brown, Dodge, Fillmore and Olmsted counties; proposing new law coded in Minnesota Statutes, chapter 517.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1982, section 517.041, is amended to read:

517.041 [POWER TO APPOINT COURT COMMISSIONER; DUTY.]

The county court of the combined county court district of Benton and Stearns may appoint as court commissioner a person who was formerly employed by that county court district as a court commissioner.

*The county court of the third or fifth judicial districts may appoint as court*

*commissioner for Brown, Dodge, Fillmore and Olmsted counties respectively a person who was formerly employed by those counties as a court commissioner.*

The sole duty of ~~the~~ *an* appointed court commissioner is to solemnize marriages."

Amend the title as follows:

Page 1, line 4, delete "proposing new"

Page 1, line 5, delete everything before the period and insert "amending Minnesota Statutes 1982, section 517.041"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 1146: A bill for an act relating to statutes; conforming certain laws to judicial decisions of unconstitutionality; amending Minnesota Statutes 1982, sections 65B.51, subdivision 1; 154.03; and 573.01.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, after line 3, insert:

"Sec. 3. Minnesota Statutes 1982, section 570.02, subdivision 2, is amended to read:

Subd. 2. [GROUNDS.] (a) A writ of attachment which serves to acquire quasi in rem jurisdiction over a defendant may be issued in the following situations:

(1) When the defendant's property, present within the state, is the subject of or directly related to the controversy between the parties; ~~or~~

(2) When a nonresident or foreign corporation owns or has an interest in tangible property which is permanently or regularly present within the state; ~~or~~

(3) When a resident, domiciliary, or domestic corporation owns or has an interest in tangible property which is present, no matter how irregularly, within the state; ~~or~~

(4) When a person, resident or nonresident, or a corporation, domestic or foreign, owns or has an interest in any kind of property, tangible or intangible, which is present within the state, and no more convenient forum exists in the United States; or

(5) When a person, resident or nonresident, or corporation, domestic or foreign, owning or having an interest in any kind of property, tangible or intangible, which is present within the state, would be subject to in personam jurisdiction under the due process clause, even though the state jurisdictional statutes do not ~~so~~ provide *it*.

(b) An order of attachment which serves only to secure property and not to acquire jurisdiction over the defendant may be issued ~~in the following situa-~~

tions:

*(1) When actual notice and an opportunity for a hearing is provided to a person, resident or nonresident, a corporation, domestic or foreign; and*

*(+) (2) When a person, resident or nonresident, a corporation, domestic or foreign, owns or has any interest in any kind of property, tangible or intangible, which is present within the state and may be applied to the satisfaction of a valid in personam judgment against the defendant; or*

*(2) When a valid in personam action has been instituted and a person, resident or nonresident, or corporation, domestic or foreign, owns or has an interest in any kind of property, tangible or intangible, which is present within the state and may be applied to the satisfaction of a valid in personam judgment, when rendered, against the defendant, if:*

*(i) That person or corporation with intent to defraud or delay his creditors has removed or is about to remove property from this state; or*

*(ii) That person or corporation has assigned, disposed of, or secreted or is about to assign, dispose of, or secrete, property with intent to defraud or delay his creditors."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, before "and" insert "570.02, subdivision 2;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

H.F. No. 419: A bill for an act relating to insurance; fire; hail; requiring the insured, in case of loss, to show the damaged property and related records to the company and consent to be examined under oath; providing for the exchange of information on losses or potential losses between companies and authorized persons; providing for the appraisal of losses; specifying the procedure to be used in selecting appraisers; amending Minnesota Statutes 1982, sections 65A.01, subdivision 3; 65A.26; 65A.29; and 299F.054, subdivisions 1, 2, 4, and by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, lines 2 to 4, reinstate the stricken language

Page 5, line 33, delete "same" and insert "oath"

Page 5, line 36, delete "be" and insert "are" and delete "such" and insert "a"

Page 6, line 1, delete "as may be"

Page 8, line 13, delete "An" and insert "A written" and delete "in writing"

Page 8, line 28, delete the comma

Page 9, line 8, delete "*An*" and insert "*A written*" and delete "*in writing*"

Page 10, lines 7 and 14, strike "*When*" and insert "*If*"

Page 10, line 11, strike "*as*"

Page 10, line 24, delete "*shall*" and insert "*may*"

Page 10, line 25, delete "*nor*" and insert "*or*"

Page 10, line 30, delete "*therefor*"

Page 10, line 36, strike "*shall be*" and insert "*is*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

H.F. No. 721: A bill for an act relating to the city of Babbitt; authorizing the establishment of detached banking facilities.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

H.F. No. 959: A bill for an act relating to commerce; authorizing certain retailers of motor vehicle fuel to compute sales by the half-gallon; proposing new law coded in Minnesota Statutes 1982, section 325E.095.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

H.F. No. 953: A bill for an act relating to the city of Silver Bay; authorizing the establishment of detached banking facilities.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

H.F. No. 558: A bill for an act relating to commerce; altering certain interest rate provisions on renegotiations of conventional and cooperative apartment loans and contracts for deed; amending Minnesota Statutes 1982, section 47.20, subdivision 4a.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 1982, section 47.20, subdivision 2, is

amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section the terms defined in this subdivision have the meanings given them:

(1) "Actual closing costs" mean reasonable charges for or sums paid for the following, whether or not retained by the mortgagee or lender:

(a) Any insurance premiums including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance, but excluding any charges or sums retained by the mortgagee or lender as self-insured retention.

(b) Abstracting, title examination and search, and examination of public records.

(c) The preparation and recording of any or all documents required by law or custom for closing a conventional or cooperative apartment loan.

(d) Appraisal and survey of real property securing a conventional loan or real property owned by a cooperative apartment corporation of which a share or shares of stock or a membership certificate or certificates are to secure a cooperative apartment loan.

(e) A single service charge, which includes any consideration, not otherwise specified herein as an "actual closing cost" paid by the borrower and received and retained by the lender for or related to the acquisition, making, refinancing or modification of a conventional or cooperative apartment loan, and also includes any consideration received by the lender for making a borrower's interest rate commitment or for making a borrower's loan commitment, whether or not an actual loan follows the commitment. The term service charge does not include forward commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the conventional or cooperative apartment loan, except that in the case of a construction loan, the service charge shall not exceed two percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construction loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for which the charge is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real or personal property securing a conventional or cooperative apartment loan or the closing of a conventional or cooperative apartment loan paid by the borrower and received by any party other than the lender.

(2) "Contract for deed" means an executory contract for the conveyance of real estate, the original principal amount of which is less than \$100,000. A commitment for a contract for deed shall include an executed purchase agreement or earnest money contract wherein the seller agrees to finance any part or all of the purchase price by a contract for deed.

(3) "Conventional loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less

than \$100,000, secured by a mortgage upon real property containing one or more residential units or upon which at the time the loan is made it is intended that one or more residential units are to be constructed, and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration, and which is not made pursuant to the authority granted in subdivision 1, clause (3) or (4). The term mortgage does not include contracts for deed or installment land contracts.

(4) "Cooperative apartment loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a security interest on a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation, which may be accompanied by an assignment by way of security of the borrower's interest in the proprietary lease or occupancy agreement in property issued by the cooperative apartment corporation and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration.

(5) "Cooperative apartment corporation" means a corporation or association organized under sections 308.05 to 308.18 or chapter 317, the shareholders or members of which are entitled, solely by reason of their ownership of stock or membership certificates in the corporation or association, to occupy one or more residential units in a building owned or leased by the corporation or association.

(6) "Forward commitment fee" means a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of residential units, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of apartments as defined in section 515.02 to be created out of existing structures pursuant to the Minnesota condominium act, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make cooperative apartment loans to two or more credit worthy purchasers, including future purchasers, of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation; provided, that the forward commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(7) "Borrower's interest rate commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees that, if a conventional or cooperative apartment loan is made following issuance of and pursuant to the commitment, the conventional or cooperative apartment loan shall be made at a rate of interest not in excess of the rate of interest agreed to in the commitment, provided that the rate of interest agreed to in the commitment is not in excess of the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower.

(8) "Borrower's loan commitment" means a binding commitment made



by a lender to a borrower wherein the lender agrees to make a conventional or cooperative apartment loan pursuant to the provisions, including the interest rate, of the commitment, provided that the commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the commitment is issued and the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional or cooperative apartment loan within a specified time period in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower; provided that a lender who issues a borrower's loan commitment pursuant to the provisions of a forward commitment is authorized to issue the borrower's loan commitment at a rate of interest not to exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(9) "Finance charge" means the total cost of a conventional or cooperative apartment loan including extensions or grant of credit regardless of the characterization of the same and includes interest, finders fees, and other charges levied by a lender directly or indirectly against the person obtaining the conventional or cooperative apartment loan or against a seller of real property securing a conventional loan or a seller of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation securing a cooperative apartment loan, or any other party to the transaction except any actual closing costs and any forward commitment fee. The finance charges plus the actual closing costs and any forward commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional or cooperative apartment loan. The finance charge, with respect to wraparound mortgages, shall be computed based upon the face amount of the wraparound mortgage note, which face amount shall consist of the aggregate of those funds actually advanced by the wraparound lender and the total outstanding principal balances of the prior note or notes which have been made a part of the wraparound mortgage note.

(10) "Lender" means any person making a conventional or cooperative apartment loan, or any person arranging financing for a conventional or cooperative apartment loan. The term also includes the holder or assignee at any time of a conventional or cooperative apartment loan.

(11) "Loan yield" means the annual rate of return obtained by a lender over the term of a conventional or cooperative apartment loan and shall be computed as the annual percentage rate as computed in accordance with sections 226.5 (b), (c) and (d) of Regulation Z, 12 C.F.R. section 226, but using the definition of finance charge provided for in this subdivision. For purposes of this section, with respect to wraparound mortgages, the rate of interest or loan yield shall be based upon the principal balance set forth in the wraparound note and mortgage and shall not include any interest differential or yield differential between the stated interest rate on the wrap-around mortgage and the stated interest rate on the one or more prior mortgages included in the stated loan amount on a wraparound note and mortgage.

(12) "Monthly index of the federal ~~national~~ home loan mortgage association corporation auction yields" means the ~~gross~~ net weighted average yield

of accepted offers in the ~~second free market system conventional home mortgage auction held by eight month forward commitment program of the federal national home loan mortgage association corporation~~ in a month.

(13) "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

(14) "Residential unit" means any structure used principally for residential purposes or any portion thereof, and includes a unit in a townhouse or planned unit development, a condominium apartment, a non-owner occupied residence, and any other type of residence regardless of whether the unit is used as a principal residence, secondary residence, vacation residence or residence of some other denomination.

(15) "Vendor" means any person or persons who agree to sell real estate and finance any part or all of the purchase price by a contract for deed. The term also includes the holder or assignee at any time of the vendor's interest in a contract for deed."

Page 1, line 11, after "4a." insert "[MAXIMUM INTEREST RATE.]"

Page 1, lines 14, 15, 21, and 26, strike "national" and insert "home loan"

Page 1, lines 15, 16, and 21, strike "association" and insert "corporation"

Page 1, line 22, after "month" insert "*plus an additional three-eighths of one percent per annum*"

Page 2, line 1, strike "association" and insert "corporation"

Page 2, line 10, strike "national" and insert "home loan" and strike "association free market"

Page 2, line 11, strike "system conventional home mortgage auction" and insert "*corporation eight month forward commitment purchase program*"

Page 2, line 23, delete "provided that" and insert "if"

Page 2, line 26, after "made" insert "*and the effective annual percentage rate for the entire term of the loan or contract is disclosed*"

Page 4, delete section 2 and insert:

"Sec. 3. Minnesota Statutes 1982, section 47.20, subdivision 6a, is amended to read:

Subd. 6a. [LOAN ASSUMPTIONS AFTER MAY 8, 1981.] If the purpose of a conventional loan, or loan made pursuant to the authority granted in subdivision 1, clause (3) or (4), is to enable a borrower to purchase a one to four family dwelling for his or her primary residence, the lender shall consent to the subsequent transfer of the real estate and shall release the existing borrower from all obligations under the loan instruments, if the transferee (1) meets the standards of credit worthiness normally used by persons in the business of making conventional loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the real estate used as collateral, (2) executes an agreement in writing

with the lender whereby the transferee assumes the obligations of the existing borrower under the loan instruments, and (3) executes an agreement in writing to pay interest on the remaining obligation at a new interest rate not to exceed the lender's current market rate of interest on similar loans at the time of the transfer, the most recently published monthly index of the federal ~~national home loan mortgage association corporation~~ auction yields as compiled by the federal ~~national mortgage association~~ or the existing interest rate provided for by the terms of the note, whichever is greater. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument."

Page 4, line 31, before "Section" insert "*This act is effective the day after final enactment.*" and delete "1" and insert "2"

Page 4, line 32, delete "*the effective*" and insert "*that*"

Page 4, line 33, delete "*of that section*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "changing the index for determining the maximum lawful interest rate for conventional mortgages, co-operative apartment loans, and contracts for deed;"

Page 1, line 6, delete "subdivision" and insert "subdivisions 2," and after "4a" insert ", and 6a"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 954: A bill for an act relating to the Minneapolis park and recreation board; providing for the appointment of various employees; amending Laws 1969, chapter 1024, sections 1 and 2.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 462: A bill for an act relating to St. Louis County; limiting compensation of elected county officers.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 1062: A bill for an act relating to port authorities; providing for the term of service of certain members of port authorities; amending Minnesota Statutes 1982, section 458.10, subdivision 2.

Reports the same back with the recommendation that the bill do pass.

Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 1122: A bill for an act relating to the town of Flowing; permitting the town to conduct elections and town business in a nearby city.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 741: A bill for an act relating to real estate; regulating the duties of a county recorder; amending Minnesota Statutes 1982, sections 386.31; 386.36; 580.24; 580.25; 582.03; 582.04; repealing Minnesota Statutes 1982, section 357.181.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 694: A bill for an act relating to Ramsey County; providing for the membership, terms, and procedures of the medical center commission; amending Minnesota Statutes 1982, section 383A.41, subdivisions 2, 3, and 4.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 445: A bill for an act relating to the city of St. Paul; setting the maximum amounts of and other conditions for the issuance of capital improvement bonds; amending Laws 1971, chapter 773, sections 1, as amended, and 2, as amended.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, lines 10, 11, and 27, strike "such"

Page 3, lines 21 and 22, strike "such"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

S.F. No. 906: A bill for an act relating to economic development; creating a preference for Minnesota residents in the awarding of public contracts; creating a preference for Minnesota labor and materials; amending Minne-

sota Statutes 1982, section 16.073; proposing new law coded in Minnesota Statutes, chapter 16.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 8, after "the" insert "design,"

Page 2, line 13, delete "responsible"

Page 2, line 13, after "lowest" insert "responsible"

Page 2, line 14, delete "five" and insert "ten"

Page 2, line 14, delete "that of"

Page 2, line 15, delete the first "bidder" and insert "bid"

Pages 2 to 4, delete section 2 and insert:

"Sec. 2. [16.0721] [PREFERENCE FOR MINNESOTA AND AMERICAN MADE MATERIALS.]

*Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given them:*

(a) "Public agency" has the meaning assigned to it in section 1, subdivision 1, clause (b), and includes any contractor acting pursuant to a contract with a public agency;

(b) "Materials" means any goods, supplies, equipment or any other tangible products or materials, including foods;

(c) "Manufactured" means mined, grown, produced, manufactured, fabricated or assembled;

(d) "Manufactured in Minnesota" means manufactured in whole or in substantial part within Minnesota or that the majority of its components were manufactured in whole or in substantial part in Minnesota;

(e) "Manufactured in the United States" means manufactured in whole or in substantial part within the United States or that the majority of the component parts thereof were manufactured in whole or in substantial part in the United States;

(f) "Purchase" means acquire by purchase or lease.

*Subd. 2. [PURCHASE PREFERENCE.] Notwithstanding the provisions of any other law to the contrary, no materials may be purchased by a public agency for use for governmental purposes which are not manufactured in Minnesota or the United States, except as may be provided in this section. When all other factors are substantially equal, preference must be given first to those products which are manufactured to the greatest extent in Minnesota, and second to those products which are manufactured to the greatest extent in the United States. To the extent possible, specifications must be written so as to permit the public agency to purchase materials manufactured in Minnesota.*

*Subd. 3. [EXEMPTIONS.] Subdivision 2 does not apply if the person having contracting authority in respect to the purchase determines that (1) the materials are not manufactured in Minnesota or the United States in suffi-*

*cient or reasonably available quantities, (2) the price or bid of the materials exceeds by more than ten percent the price or bid of available and comparable materials manufactured outside of Minnesota or the United States, (3) the quality of the materials is substantially less than the quality of comparably priced available materials manufactured outside of Minnesota or the United States, or (4) the purchase of the materials manufactured in Minnesota or the United States is otherwise not in the public interest. Subdivision 2 also does not apply if the materials are purchased with a view to commercial resale or with a view to use in the production of goods for commercial sale.*

*Subd. 4. [OTHER LAW SUPERSEDED.] The provisions of this section supersede Minnesota Statutes, section 16.073.*

Sec. 3. [REPEALER.]

*Sections 1 and 2 are repealed June 30, 1985."*

Amend the title as follows:

Page 1, line 5, delete everything after the semicolon

Page 1, line 6, delete "section 16.073;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

H.F. No. 250: A bill for an act relating to insurance; regulating interest rates on life insurance policy loans; establishing written pricing and dividend policies in certain circumstances; prescribing penalties; amending Minnesota Statutes 1982, section 61A.03; proposing new law coded in Minnesota Statutes, chapter 72A.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 15, strike "shall" and insert "may" and after "or" strike "be issued"

Page 1, line 16, strike "the same" and insert "it"

Page 1, line 18, strike "shall be" and insert "are"

Page 1, line 22, strike "any" and insert "a"

Page 1, line 23, strike "shall be" and insert "is"

Page 1, line 24, strike "grace of"

Page 1, line 25, after "month" insert "grace period" and strike "which"

Page 1, line 26, strike "may be subject to an interest charge," and strike "month"

Page 2, line 1, strike "shall" and insert "will"

Page 2, line 1, strike ", which" and insert ". The"

Page 2, line 1, after "may" insert "subject the late payment to a finance

*charge and"*

Page 2, line 2, strike "month of" and after "grace" insert "*period,*"

Page 2, line 7, strike "is" and insert "*has been*"

Page 2, line 11, strike "and," and insert "; *that*"

Page 2, line 14, strike the second comma and insert "; *and that*"

Page 2, line 16, strike "classed" and insert "*classified*"

Page 2, line 23, strike "shall be deemed" and insert "*are*"

Page 2, line 24, strike "such" and strike "shall avoid" and insert "*voids,*"

Page 2, lines 25 and 28, strike the comma

Page 2, lines 29 and 32, strike "shall" and insert "*will*"

Page 2, line 29, strike "such as" and insert "*the amount*"

Page 2, line 34, strike the second and third commas

Page 2, line 36, strike "shall have" and insert "*has*"

Page 3, line 1, after "fifth" insert a comma

Page 3, lines 1, 6, 20, and 24, strike "such" and insert " *the*"

Page 3, line 2, strike ", and" and insert a period

Page 3, line 2, strike "shall provide" and insert "*provides*"

Page 3, line 3, strike "shall" and insert "*must*"

Page 3, line 3, strike "shall be" and insert "*is*"

Page 3, line 4, strike "shall" and insert "*does*"

Page 3, line 4, strike "any" and insert "*an*"

Page 3, line 4, strike the comma

Page 3, line 5, strike "which" and insert "*. The*"

Page 3, line 5, strike "stipulate that" and insert " *condition*"

Page 3, line 6, strike "shall be conditioned"

Page 3, line 7, strike the semicolon and insert a period

Page 3, line 8, strike "shall" and insert "*is*" and strike "be" and strike "*nor*"

Page 3, line 9, strike "nor" and insert "*or*"

Page 3, line 11, after "provision" insert "*(1)*"

Page 3, line 12, strike "years" and insert "*years*"

Page 3, line 18, strike ". Such" and insert "; *(2) that the*"

Page 3, line 18, strike "shall"

Page 3, line 19, strike "be" and insert "*is*"

Page 3, line 20, strike ", and the policy shall provide" and insert "; *(3)*"

and strike "except"

Page 3, line 21, strike "when" and insert "unless"

Page 3, line 21, strike "exceeding" and insert "more than"

Page 3, line 22, strike "therefor" and insert "for it"

Page 3, line 22, strike "it shall be"

Page 3, line 23, strike "further stipulated in the policy" and insert "(4)"

Page 3, line 27, strike ", and" and insert "; (5)"

Page 3, lines 27 and 34, strike "any such" and insert "an"

Page 3, line 28, strike "shall" and insert "does"

Page 3, line 29, strike "shall equal" and insert "equals"

Page 3, line 29, strike "exceed" and insert "exceeds"

Page 3, line 30, strike "such" in both places and insert "the" in both places

Page 3, line 31, strike "shall have" and insert "has"

Page 3, line 33, after the semicolon, insert "and (6) that" and strike "as"

Page 3, line 34, strike "herein" and insert "those"

Page 3, line 34, strike "shall" and insert "in this section will"

Page 3, line 35, strike "; but" and insert a period

Page 3, line 35, strike "shall" and insert "is"

Page 3, line 35, strike "be"

Page 4, lines 3 and 4, strike "shall be" and insert "is"

Page 4, line 4, strike "such" and insert "that"

Page 4, line 5, strike "shall" and insert "has"

Page 4, line 5, strike "have"

Page 4, line 6, strike "from such" and insert "after the"

Page 4, lines 6, 7, and 8, strike the comma

Page 4, line 11, strike "shall" and insert "will"

Page 4, line 11, strike "upon" and insert "within two months after"

Page 4, line 11, strike ", or not later"

Page 4, line 12, strike everything before the semicolon

Page 4, line 17, after "describing" insert "the policy"

Page 4, line 18, strike "the same, and so specifying" and insert "stating"

Page 4, line 19, after the second comma, insert "so"

Page 4, line 23, strike "shall" and insert "must"

Page 4, line 25, delete "shall" and insert "must"



Page 4, line 35, delete "*clause*" and insert "*paragraph*" and after "(a)" insert "*, clause*" and after "(2)" insert a comma

Page 5, lines 1, 3, 15, 18, 23, and 26, delete "*clause*" and insert "*paragraph*"

Page 5, lines 1, 3, and 15, after "(a)" insert "*, clause*"

Page 5, line 3, after "(2)" insert a comma

Page 5, line 3, delete "*shall*" and insert "*may*"

Page 5, line 3, delete "*higher*" and insert "*lower*"

Page 5, line 4, delete "*used to compute*" and insert "*credited to the policyholder's premium in computing*"

Page 5, line 5, delete "*plus one percent*"

Page 5, line 6, delete "*per annum*"

Page 5, line 11, after the comma, insert "*the commissioner shall substitute*"

Page 5, line 12, delete "*shall be substituted by the*"

Page 5, line 13, delete "*commissioner*"

Page 5, line 15, delete "*shall*" and insert "*must*"

Page 5, lines 22 and 25, delete "*such*" and insert "*the*"

Page 6, lines 5 and 7, delete "*clause*" and insert "*paragraph*"

Page 6, lines 6 and 27, delete "*clauses*" and insert "*paragraphs*"

Page 6, lines 10 and 27, delete "*shall*" and insert "*must*"

Page 6, line 12, delete "*shall*" and insert "*may*"

Page 7, line 8, delete "*shall*" and insert "*do*"

Page 7, lines 11 and 24, delete "*clause*" and insert "*paragraph*"

Page 7, line 16, delete "*shall apply*" and insert "*applies*"

Page 7, line 16, delete "*which are*"

Page 7, line 20, delete "*chapter*" and insert "*section*"

Page 7, after line 20, insert:

"Sec. 2. [65B.134] [COMPREHENSIVE COVERAGE; GLASS BREAKAGE.]

*Any policy of automobile insurance, as defined in section 65B.14, subdivision 2, providing comprehensive coverage, whether designated as such or included in a policy providing broader coverage, must provide at the option of the insured complete coverage for repair or replacement of all damaged safety glass without regard to any deductible or minimum amount."*

Page 7, line 24, delete "*shall be*" and insert "*is*"

Page 7, line 27, before "*Sections*" insert "*Section 2 is effective July 1, 1983, and applies to all policies of automobile insurance issued or renewed*

*after that date."*

Page 7, line 27, delete "2" and insert "3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "requiring automobile insurance policy option of safety glass coverage without a deductible;"

Page 1, line 7, delete "chapter" and insert "chapters 65B and"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

S.F. No. 1168: A bill for an act relating to insurance; automobile; authorizing the commissioner to adopt rules on nonrenewals of policies; amending Minnesota Statutes 1982, section 65B.17.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1982, section 60C.09, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] A covered claim is any unpaid claim, including one for unearned premium, which:

(a) Arises out of and is within the coverage of an insurance policy issued by a member insurer if the insurer becomes an insolvent insurer after April 30, 1979;

(b) Arises out of a class of business which is not excepted from the scope of Laws 1971, Chapter 145 by section 60C.02; and

(c) Is made by:

(i) A policyholder, or an insured beneficiary under a policy, who, at the time of the insured event, was a resident of this state; or

(ii) A person designated in the policy as having an insurable interest in or related to property situated in this state at the time of the insured event; or

(iii) An obligee or creditor under any surety bond, who, at the time of default by the principal debtor or obligor, was a resident of this state; or

(iv) A third party claimant under a liability policy or surety bond, if: (a) the insured or the third party claimant was a resident of this state at the time of the insured event; (b) the claim is for bodily or personal injuries suffered in this state by a person who when he suffered the injuries was a resident of this state; or (c) the claim is for damages to real property situated in this state at the time of damage; or

(v) A direct or indirect assignee of a person who except for the assignment might have claimed under (i), (ii) or (iii).

*A covered claim also includes any unpaid claim which arises or exists within 30 days after the time of entry of an order of liquidation with a finding of insolvency by a court of competent jurisdiction unless prior thereto the insured replaces the policy or causes its cancellation or the policy expires on its expiration date.*

Sec. 2. Minnesota Statutes 1982, section 65B.17, is amended to read:

**65B.17 [RENEWAL; NOTICE NOT TO RENEW.]**

*Subdivision 1. [GENERAL REGULATIONS.] No insurer shall fail to renew an automobile insurance policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least 60 days advance notice of its intention not to renew. ~~Said~~ The notice ~~shall~~ must contain the specific underwriting or other reason or reasons for ~~such~~ the nonrenewal. When the failure to renew is based upon a termination of the agency contract, the notice ~~shall~~ must so state. This section ~~shall~~ does not apply:*

- (a) If the insurer has manifested its willingness to renew; or
- (b) In case of nonpayment of the renewal premium;

*Provided that, notwithstanding the failure of an insurer to comply with this section, the policy ~~shall terminate~~ terminates on the effective date of any other automobile insurance policy procured by the insured, with respect to any automobile designated in both policies. Renewal of a policy ~~shall~~ does not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of ~~such~~ the renewal. No insurer shall fail to renew an automobile policy solely because of the age of the insured. No insurer shall refuse to renew an automobile insurance policy for reasons which are arbitrary or capricious. ~~No insurer shall refuse to renew an automobile insurance policy in violation of rules adopted pursuant to subdivision 2.~~ An insurer may refuse to renew an automobile insurance policy in case of nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing such insurance; provided, however, that this provision for nonrenewal for failure to pay dues shall not be applicable to persons who are retired at age 62 years of age or older or who are disabled, according to social security standards.*

*No insurer shall take any action in regard to an automobile insurance policy on the statements or charges of any person made to the insurer concerning alleged unsafe driving habits of an insured unless the insurer shall concurrently disclose to the insured the name and address of the person from which the insurer received the information.*

*Subd. 2. [RULEMAKING.] The commissioner may adopt rules pursuant to chapter 14, including temporary rules, to specify the grounds for nonrenewal of an automobile policy. The rules must limit the basis for nonrenewal to the following factors:*

- (a) *the reasons stated for cancellation in section 65B.15;*
- (b) *payments made for collision, bodily injury liability, or property damage liability coverage;*
- (c) *moving violations of a driver; and*

*(d) other factors deemed reasonable by the commissioner.*

*The rules must specify the manner in which these factors will be considered and may reflect the severity or reoccurrence of any moving violation, the amount of any payment made, and the number of vehicles insured.*

*Subd. 3. [ADMINISTRATIVE PENALTY.] The rules adopted under this section may provide for imposition of a monetary penalty not greater than \$500 per occurrence upon insurers who are found to be in violation of any rule provision.*

Sec. 3. Minnesota Statutes 1982, section 65B.48, subdivision 3, is amended to read:

Subd. 3. Self-insurance, subject to approval of the commissioner, is effected by filing with the commissioner in satisfactory form:

(1) a continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic economic loss benefits, or both, and to perform all other obligations imposed by sections 65B.41 to 65B.71;

(2) evidence that appropriate provision exists for prompt administration of all claims, benefits, and obligations provided by sections 65B.41 to 65B.71; ~~and~~

(3) evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance complying with sections 65B.41 to 65B.71, for payment of tort liabilities, basic economic loss benefits, and all other obligations imposed by sections 65B.41 to 65B.71-; *and*

*(4) a nonrefundable application fee of \$500.*

Sec. 4. Minnesota Statutes 1982, section 65B.48, is amended by adding a subdivision to read:

*Subd. 3a. To carry out the purposes of subdivision 3, the commissioner may adopt rules pursuant to chapter 14, including temporary rules. These rules may:*

*(a) establish reporting requirements;*

*(b) establish standards or guidelines to assure the adequacy of the financing and administration of self-insurance plans;*

*(c) establish bonding requirements or other provisions assuring the financial integrity of entities that self-insure; and*

*(d) establish other reasonable requirements to further the purposes of this section.*

Sec. 5. [EFFECTIVE DATE.]

*Sections 1 to 4 are effective the date after final enactment."*

Amend the title as follows:

Page 1, line 2, delete everything after "insurance;" and insert "covered claims under the insurance guaranty act; rulemaking power of commissioner on nonrenewal of auto insurance and self-insurance; application fee for self-insurers;"

Page 1, line 4, delete "section" and insert "sections 60C.09, subdivision 1,"

Page 1, line 5, before the period, insert "; and 65B.48, subdivision 3, and by adding a subdivision"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 572: A bill for an act relating to public welfare; authorizing the establishment of community work experience programs on a pilot demonstration basis; proposing new law coded in Minnesota Statutes, chapter 256.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 11, after "*experience*" insert "*and training*"

Page 1, line 13, delete "*is authorized to*" and insert "*may*"

Page 1, lines 14 and 15, delete "*have the following duties*"

Page 1, line 23, after the period, insert "*The commissioner shall prohibit use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1983.*"

Page 2, line 1, after "*implementation*" insert "*and on the cost effectiveness*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

H.F. No. 490: A bill for an act relating to public welfare; setting standards for determining the county of financial responsibility for purposes of medical assistance, community social services, and supplemental aid; amending Minnesota Statutes 1982, sections 256B.02, subdivisions 2 and 3; 256D.37, by adding a subdivision; and 256E.08, subdivision 7.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 800: A bill for an act relating to health; providing for retention and destruction of certain medical records; amending Minnesota Statutes 1982, section 145.32.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 13, strike "*thereof*" and insert "*of the hospital*"

Page 1, line 16, strike "to" and insert "may"

Page 1, line 17, strike "same" and insert "records"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 724: A bill for an act relating to public welfare; continuing to allow personal care attendants' services as services under medical assistance; amending Minnesota Statutes 1982, section 256B.02, subdivision 8.

Reports the same back with the recommendation that the bill be amended as follows:

Page 4, line 14, before the period, insert "*provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse*"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 783: A bill for an act relating to welfare; proposing a moratorium on new construction and new certification of nursing home beds; providing a limit on inpatient chemical dependency treatment; requiring a second medical opinion prior to reimbursement for certain elective surgeries; making medicare certification a condition of medical assistance reimbursement; amending Minnesota Statutes 1982, sections 256.045, subdivision 3; 256.966, subdivision 1; 256.968; 256B.02, subdivision 8; 256B.03, subdivision 2, as amended; 256B.04, by adding a subdivision; 256B.061; 256B.064, subdivision 2; 256B.27, subdivisions 3 and 4; and 256B.48, by adding a subdivision; and Laws 1981, chapter 360, article II, section 54, as amended.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1982, section 245.62, is amended to read:

245.62 [COMMUNITY MENTAL HEALTH PROGRAM; TAX LEVY CENTER.]

*Subdivision 1. [ESTABLISHMENT.] Any city, county, town, or any combination thereof, or private nonprofit corporation may establish a community mental health services program and may establish clinics and staff same with persons specially trained in psychiatry and related fields center.*

*Subd. 2. [DEFINITION.] A community mental health center is a private nonprofit corporation or public agency approved under the temporary and permanent rules promulgated by the commissioner pursuant to subdivision 4.*

*Subd. 3. [CLINICAL DIRECTOR.] All community mental health center services shall be provided under the clinical direction of a licensed consulting psychologist licensed under sections 148.88 to 148.98, or a physician who is board certified or eligible for board certification in psychiatry, and who is licensed under section 147.02.*

*Subd. 4. [RULES.] The commissioner shall promulgate temporary and permanent rules to establish standards for the designation of an agency as a community mental health center. These standards shall include, but are not limited to:*

*(a) provision of mental health services in the prevention, identification, treatment and aftercare of emotional disorders, chronic and acute mental illness, mental retardation and developmental disabilities, and alcohol and drug abuse and dependency, including the services listed in section 245.61 except detoxification services;*

*(b) establishment of a community mental health center board pursuant to section 245.66; and*

*(c) approval pursuant to section 245.69, subdivision 2.*

Sec. 2. Minnesota Statutes 1982, section 245.66, is amended to read:

**245.66 [COMMUNITY MENTAL HEALTH CENTER BOARDS.]**

Every city, county, town, combination thereof or nonprofit corporation establishing a community mental health center ~~under contract with a county board or human service board shall, before it may come within the provisions of sections 245.61 to 245.69 and receive funds from the county board or human service board, shall~~ establish a community mental health center board. The community mental health center ~~boards board~~ may include county commissioner representatives from each participating county and shall be representative of local health departments, medical societies, hospital boards, lay associations concerned with mental health, mental retardation and chemical dependency, labor, agriculture, business, civic and professional groups and the general public. Membership may include a representative from any county which purchases substantial services from the community mental health board, the local population, including at least health and human service professions and advocate associations, other fields of employment, and the general public. Each community mental health center board shall be responsible for the governing governance and performance of its center and shall be responsible for the performance of the center under any contracts entered into with a county board of commissioners or human services board. This governing shall include determination of the services to be provided by the community mental health center, establishment of the annual budget, appointment of the center director, and establishment of personnel standards and compensation for employees of the center.

Sec. 3. Minnesota Statutes 1982, section 256.045, subdivision 3, is amended to read:

**Subd. 3. [STATE AGENCY HEARINGS.]** In counties in which the commissioner of welfare has not appointed a local welfare referee, any person applying for or receiving any of the forms of public assistance described in subdivision 2 whose application for assistance is denied, not acted upon

with reasonable promptness, or whose assistance is suspended, reduced, or terminated by a local agency, *or any patient or relative aggrieved by an order of the commissioner under section 252.27*, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant ~~or~~, recipient, *patient or relative* shows good cause why the request was not submitted within the 30 day time limit. A local agency ~~or~~, applicant ~~or~~, recipient, *patient or relative* aggrieved by a ruling of a local welfare referee may appeal the ruling to the state agency by filing a notice of appeal with the state agency within 30 days after receiving the ruling of the local welfare referee. A state welfare referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of public welfare. In appeals from rulings of local welfare referees, the hearing may be limited, upon stipulation of the parties, to a review of the record of the local welfare referee.

Sec. 4. Minnesota Statutes 1982, section 256.966, subdivision 1, is amended to read:

Subdivision 1. [IN GENERAL.] For the biennium ending June 30, ~~1983~~ 1985, the annual increase in the cost per service unit paid to any vendor under medical assistance and general assistance medical care shall not exceed eight percent. The period for measuring growth shall be the state fiscal year. *The actual acquisition cost of prescription drug ingredients is not subject to the eight percent increase limit or any other cost limitation and shall be fully reimbursed. For vendors enrolled in the general assistance medical care program, the annual increase in cost per service unit allowable during state fiscal year 1984 shall not exceed eight percent. The basis for measuring growth shall be the cost per service unit that would have been reimbursable in state fiscal year 1983 if payments had not been rateably reduced and if payments had been based on the 50th percentile of usual and customary billings for medical assistance in 1979. The increase in cost per service unit allowable for vendors in the general assistance medical care program during state fiscal year 1985 shall not exceed eight percent. The basis for measuring growth shall be state fiscal year 1984.*

Sec. 5. Minnesota Statutes 1982, section 256.967, is amended to read:

#### 256.967 [MEDICAL CARE PAYMENTS; LIMITATIONS ON FEES.]

All payments for vendors of medical care under general assistance medical care shall be based upon this standard: the 50th percentile of usual and customary fees based upon medical assistance billings during calendar year ~~1978~~ 1979. All payments for vendors of medical care under medical assistance shall be limited to the 50th percentile of usual and customary fees based upon billings during calendar year 1979 for physician services, dental care, vision care, podiatric services, chiropractic care, physical therapy, occupational therapy, speech pathologists, audiologists, mental health centers, psychologists, public health clinics, and independent laboratory and x-ray services.

Sec. 6. Minnesota Statutes 1982, section 256.968, is amended to read:

#### 256.968 [LIMITATION ON INPATIENT CHEMICAL DEPENDENCY



## TREATMENT.]

The commissioner of public welfare shall limit medical assistance and general assistance medical care reimbursement for treatment of alcoholism, chemical dependency or drug addiction which is rendered in a licensed hospital or certified nursing home to ~~40~~ 30 days unless need for extended care is certified by the attending physician *and has received prior approval from the commissioner.*

Sec. 7. Minnesota Statutes 1982, section 256B.02, subdivision 8, is amended to read:

Subd. 8. "Medical assistance" or "medical care" means payment of part or all of the cost of the following care and services for eligible individuals whose income and resources are insufficient to meet all of such cost:

(1) Inpatient hospital services. *A second medical opinion is required prior to reimbursement for elective surgeries. The commissioner shall publish a proposed list of elective surgeries that require a second medical opinion prior to reimbursement in the State Register. The list is not subject to the requirements of sections 14.01 to 14.70. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal.*

(2) Skilled nursing home services and services of intermediate care facilities.

(3) Physicians' services.

(4) Outpatient hospital or *physician-directed* clinic services. *The physician-directed clinic staff shall include at least two physicians, one of whom is on the premises whenever the clinic is open, and all services shall be provided under the direct supervision of the physician who is on the premises.*

(5) *Community mental health center services, as defined in rules adopted by the commissioner pursuant to section 256B.04, subdivision 2, and provided by a community mental health center as defined in section 245.62, subdivision 2.*

~~(5)~~ (6) Home health care services.

~~(6)~~ (7) Private duty nursing services.

~~(7)~~ (8) Physical therapy and related services.

~~(8)~~ (9) Dental services, excluding cast metal restorations.

~~(9)~~ (10) Laboratory and x-ray services.

~~(10)~~ (11) The following if prescribed by a licensed practitioner: drugs, eyeglasses, dentures, and prosthetic devices. The commissioner shall designate a formulary committee which shall advise the commissioner on the names of drugs for which payment shall be made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the

department of public welfare, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of public welfare, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. The formulary shall not include: drugs for which there is no federal funding; over the counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, prenatal vitamins, and vitamins for children under the age of seven; nutritional products; anorectics; and drugs for which medical value has not been established. Payment to drug vendors shall not be modified before the formulary is established. The commissioner may promulgate conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

The basis for determining the amount of payment shall be the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. Establishment of this fee shall not be subject to the requirements of the administrative procedure act. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written" on the prescription as required by section 151.21, subdivision 2.

Notwithstanding the above provisions, implementation of any change in the fixed dispensing fee which has not been subject to the administrative procedure act shall be limited to not more than 180 days, unless, during that time, the commissioner shall have initiated rulemaking through the administrative procedure act.

~~(11)~~ (12) Diagnostic, screening, and preventive services.

~~(12)~~ (13) Health care pre-payment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act.

~~(13)~~ (14) Abortion services, but only if one of the following conditions is met:

(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written statement of two physicians indicating the abortion is medically necessary to prevent the death of the mother, and (2) the patient has given her consent to the abortion in writing unless the patient is physically or legally incapable of providing informed consent to the procedure, in which case consent will be given as otherwise provided by law;

(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342, clauses (c), (d), (e)(i), and (f), and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency

for investigation, unless the victim is physically unable to report the criminal sexual conduct, in which case the report shall be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct; or

(c) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion.

~~(14)~~ (15) Transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by non-ambulatory persons in obtaining emergency or non-emergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this clause, a person who is incapable of transport by taxicab or bus shall be considered to be non-ambulatory.

~~(15)~~ (16) To the extent authorized by rule of the state agency, costs of bus or taxicab transportation incurred by any ambulatory eligible person for obtaining non-emergency medical care.

~~(16)~~ (17) Any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law.

Sec. 8. Minnesota Statutes 1982, section 256B.04, subdivision 14, is amended to read:

Subd. 14. [COMPETITIVE BIDDING.] The commissioner shall utilize volume purchase through competitive bidding under the provisions of chapter 16, to provide the following items:

(1) Eyeglasses;

(2) *Oxygen. The commissioner shall provide for oxygen needed in an emergency situation on a short-term basis, until the vendor can obtain the necessary supply from the contract dealer;*

~~(2)~~ (3) Hearing aids and supplies; and

~~(3)~~ (4) Durable medical equipment, including but not limited to:

(a) hospital beds;

(b) commodes;

(c) glide-about chairs;

(d) patient lift apparatus;

(e) wheelchairs and accessories;

(f) oxygen administration equipment;

(g) respiratory therapy equipment; and

(h) electronic diagnostic, therapeutic and life support systems.

*Counties that are able to negotiate a volume purchase for any of the above items through their own competitive bidding process shall seek an exemption from the provisions of this subdivision from the commissioner when the price negotiated by the county is lower than the price available to the commis-*

sioner.

Sec. 9. Minnesota Statutes 1982, section 256B.04, is amended by adding a subdivision to read:

*Subd. 16. [UTILIZATION REVIEW.] Establish on a statewide basis a new program to safeguard against unnecessary or inappropriate use of medical assistance services, against excess payments, against unnecessary or inappropriate hospital admissions or lengths of stay, and against underutilization of services in pre-paid health plans, long term care facilities or any health care delivery system subject to fixed rate reimbursement. In implementing the program, the state agency shall utilize both pre-payment and post-payment review systems to determine if utilization is reasonable and necessary. The determination of whether services are reasonable and necessary shall be made by the commissioner in consultation with a professional services advisory group appointed by the commissioner. An aggrieved party may appeal the commissioner's determination pursuant to the contested case procedures of chapter 14.*

Sec. 10. Minnesota Statutes 1982, section 256B.06, subdivision 1, is amended to read:

Subdivision 1. Medical assistance may be paid for any person:

(1) Who is a child eligible for or receiving adoption assistance payments under Title IV-E of the Social Security Act, 42 U.S.C. Sections 670 to 676; or

(2) Who is a child eligible for or receiving foster care maintenance payments under Title IV-E of the Social Security Act, 42 U.S.C. Sections 670 to 676; or

(3) Who is eligible for or receiving public assistance, or a woman who is pregnant, as medically verified, and who would be eligible for assistance under the aid to families with dependent children program if the child had been born and living with the woman; or

(4) Who is ~~eligible for or receiving~~ *meets the categorical eligibility requirements of the supplemental security income for the aged, blind and disabled program and the other eligibility requirements of this section;* or

(5) Who except for the amount of income or resources would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children and is in need of medical assistance; or

(6) Who is under 21 years of age and in need of medical care that neither he nor his relatives responsible under sections 256B.01 to 256B.26 are financially able to provide; or

(7) Who is residing in a hospital for treatment of mental disease or tuberculosis and is 65 years of age or older and without means sufficient to pay the per capita hospital charge; and

(8) Who resides in Minnesota, or, if absent from the state, is deemed to be a resident of Minnesota in accordance with the regulations of the state agency; and

(9) Who alone, or together with his spouse, does not own real property

other than the homestead. For the purposes of this section, "homestead" means the house owned and occupied by the applicant as his dwelling place, together with the land upon which it is situated and an area no greater than two contiguous lots in a platted or laid out city or town or 80 contiguous acres in unplatted land. Occupancy or exemption shall be determined as provided in chapter 510 and applicable law, including continuing exemption by filing notice under section 510.07. Real estate not used as a home may not be retained unless it produces net income applicable to the family's needs or the family is making a continuing effort to sell it at a fair and reasonable price or unless sale of the real estate would net an insignificant amount of income applicable to the family's needs, or unless the commissioner determines that sale of the real estate would cause undue hardship; and

(10) Who individually does not own more than ~~\$2,000~~ \$2,700 in cash or liquid assets, or if a member of a household with two family members (husband and wife, or parent and child), does not own more than ~~\$4,000~~ \$5,400 in cash or liquid assets, plus \$200 for each additional legal dependent. The value of the following shall not be included:

(a) the homestead, and (b) one motor vehicle licensed pursuant to chapter 168 and defined as: (1) passenger automobile, (2) station wagon, (3) motorcycle, (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, subdivision 1e; and

(11) Who has or anticipates receiving an annual income not in excess of \$2,600 for a single person, or \$3,250 for two family members (husband and wife, parent and child, or two siblings), plus \$625 for each additional legal dependent, or who has income in excess of these maxima and in the month of application, or during the three months prior to the month of application, incurs expenses for medical care that total more than one-half of the annual excess income in accordance with the regulations of the state agency. In computing income to determine eligibility of persons who are not residents of long term care facilities, the commissioner shall disregard increases in income of social security or supplementary security income recipients due solely to increases required by sections 215(i) and 1617 of the social security act, and shall disregard income of disabled persons that is also disregarded in determining eligibility for supplemental aid under section 256D.37, subdivision 1, unless prohibited by federal law or regulation. If prohibited, the commissioner shall first seek a waiver. In excess income cases, eligibility shall be limited to a period of six months beginning with the first of the month in which these medical obligations are first incurred; and

(12) Who has continuing monthly expenses for medical care that are more than the amount of his excess income, computed on a monthly basis, in which case eligibility may be established before the total income obligation referred to in the preceding paragraph is incurred, and medical assistance payments may be made to cover the monthly unmet medical need. In licensed nursing home and state hospital cases, income over and above that required for justified needs, determined pursuant to a schedule of contributions established by the commissioner of public welfare, is to be applied to the cost of institutional care. The commissioner of public welfare may establish a schedule of contributions to be made by the spouse of a nursing

home resident to the cost of care and shall seek a waiver from federal regulations which establish the amount required to be contributed by either spouse when one spouse is a nursing home resident; and

(13) Who has applied or agrees to apply all proceeds received or receivable by him or his spouse from automobile accident coverage and private health care coverage to the costs of medical care for himself, his spouse, and children. The state agency may require from any applicant or recipient of medical assistance the assignment of any rights accruing under private health care coverage. Any rights or amounts so assigned shall be applied against the cost of medical care paid for under this chapter. Any assignment shall not be effective as to benefits paid or provided under automobile accident coverage and private health care coverage prior to receipt of the assignment by the person or organization providing the benefits.

Sec. 11. Minnesota Statutes 1982, section 256B.07, is amended to read:

256B.07 [EXCEPTIONS IN DETERMINING RESOURCES.]

A local agency may, within the scope of regulations set by the commissioner of public welfare, waive the requirement of liquidation of excess assets when the liquidation would cause undue hardship. Household goods and furniture in use in the home, wearing apparel, ~~insurance policies with cash surrender value not in excess of \$1,500 per insured person, and~~ personal property used as a regular abode by the applicant or recipient, ~~a prepaid funeral contract not in excess of \$750 per person plus accrued interest of not more than \$200, and a lot in a burial plot~~ shall not be considered as resources available to meet medical needs.

Sec. 12. Minnesota Statutes 1982, section 256B.14, subdivision 2, is amended to read:

Subd. 2. [ACTIONS TO OBTAIN PAYMENT.] The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete repayment of medical assistance furnished to recipients for whom they are responsible. *In determining the income contribution for parents of children in out of home placement, the state agency shall use the standard set forth in 12 MCAR S 2.027 until the promulgation of the rule required under this subdivision.* These rules shall not require repayment when payment would cause undue hardship to the responsible relative or his or her immediate family. The county agency shall give the responsible relative notice of the amount of the repayment. If the state agency or county agency finds that notice of the payment obligation was given to the responsible relative, but that the relative failed or refused to pay, a cause of action exists against the responsible relative for that portion of medical assistance granted after notice was given to the responsible relative, which the relative was determined to be able to pay.

The action may be brought by the state agency or the county agency in the county where assistance was granted, for the assistance, together with the costs of disbursements incurred due to the action.

In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing contributions by a responsible relative found able to repay the county or state agency. The order shall be effective only for the period of time during which

the recipient receives medical assistance from the county or state agency.

Sec. 13. Minnesota Statutes 1982, section 256B.17, subdivision 4, is amended to read:

Subd. 4. [PERIOD OF INELIGIBILITY.] *In any case where the uncompensated value of transferred resources exceeds \$12,000, the commissioner shall require a period of ineligibility which exceeds 24 months, provided that the period of ineligibility bears a reasonable relationship to the excess uncompensated value of the transferred asset. For any uncompensated transfer, the period of ineligibility shall be calculated by dividing the transferred amount by the statewide average monthly skilled nursing facility per diem for the previous calendar year to determine the number of months of ineligibility. The individual shall remain ineligible until this fixed ineligibility period has expired, subject to the exclusions contained in section 14.*

Sec. 14. Minnesota Statutes 1982, section 256B.17, is amended by adding a subdivision to read:

Subd. 5. [EXCLUSIONS FOR HOMESTEAD TRANSFERS.] *Notwithstanding subdivision 4, an individual shall not be ineligible if the transferred property is a homestead as defined by section 256B.06, subdivision 1, and one of the following conditions applies:*

*(1) a satisfactory showing is made that the individual can reasonably be expected to return to the homestead as a permanent residence;*

*(2) title to the home was transferred to the individual's spouse, child who is under age 21, or blind or permanently and totally disabled child as defined in the supplemental security income program;*

*(3) a satisfactory showing is made that the individual intended to dispose of the home at fair market value or for other valuable consideration;*

*(4) the local agency determines that denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being.*

Sec. 15. Minnesota Statutes 1982, section 256B.17, is amended by adding a subdivision to read:

Subd. 6. [CONFORMANCE WITH FEDERAL LAW.] *Notwithstanding the other provisions of this section, uncompensated property transfers shall be treated no more restrictively than allowed by federal law.*

Sec. 16. Minnesota Statutes 1982, section 256B.27, subdivision 3, is amended to read:

Subd. 3. *The commissioner of public welfare, with the written consent of the recipient, shall be allowed access to all personal medical records of medical assistance recipients solely for the purposes of investigating whether or not: (a) a vendor of medical care has submitted a claim for reimbursement, a cost report or a rate application which the vendor knows to be false in whole or in part; or (b) the medical care was medically necessary. The vendor of medical care shall receive notification from the commissioner at least 24 hours before the commissioner gains access to such records. The determination of abuse or provision of services not medically necessary shall be made by the commissioner in consultation with a review organiza-*

tion as defined in section 145.61 or other an advisory committees committee of vendors as appointed by the commissioner on the recommendation of appropriate professional organizations. Notwithstanding any other law to the contrary, a vendor of medical care shall not be subject to any civil or criminal liability for providing access to medical records to the commissioner of public welfare pursuant to this section.

Sec. 17. Minnesota Statutes 1982, section 256B.48, is amended by adding a subdivision to read:

*Subd. 4. [MEDICARE CERTIFICATION REQUIRED.] A nursing home that offers skilled nursing facility care is not eligible to receive medical assistance payments unless it is certified by the commissioner of health for both medicare and medical assistance under United States Code, Title 42, sections 1395 et seq. and 1396 et seq.*

Sec. 18. Minnesota Statutes 1982, section 256D.03, subdivision 3, is amended to read:

*Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] State aid shall be paid to local agencies or counties for 90 percent of the cost of general assistance medical care paid by the local agency or county pursuant to section 256D.02, subdivision 4a on behalf of persons eligible according to standards established by the commissioner of public welfare in accordance with the rates established by rule of the commissioner. Persons eligible for benefits under sections 256D.01 to 256D.21 and persons not eligible for federal health care benefits whose nonexempt property, as determined according to medical assistance standards, has an equity value no greater than \$1,000 and whose income is not in excess of the medical assistance standards shall be eligible for general assistance medical care and have free choice in the selection of a vendor of the medical care. Any local agency or county may, from its own resources, make payments for medical care for persons not otherwise eligible for the care pursuant to standards established by the commissioner. Persons with excess income and resources may qualify for benefits under this subdivision by spending down. Treatment of income and resources in calculation of the spenddown shall be the same as in the medical assistance program pursuant to chapter 256B.*

The commissioner of public welfare shall promulgate rules to establish administrative and fiscal procedures for payment of the state share of the medical costs incurred by the counties under section 256D.02, subdivision 4a. The rules may include:

(a) procedures by which state liability for the costs of medical care incurred pursuant to section 256D.02, subdivision 4a may be deducted from county liability to the state under any other public assistance program authorized by law;

(b) procedures for processing claims of counties for reimbursement by the state for expenditures for medical care made by the counties pursuant to section 256D.02, subdivision 4a;

(c) procedures by which the local agencies may contract with the commissioner of public welfare for state administration of general assistance medical care payments;

(d) standards of eligibility, utilization of services and payment levels which



shall conform to those of medical assistance pursuant to chapter 256B; and

(e) general criteria and procedures for the identification and prompt investigation of suspected fraud; theft, abuse, presentment of false or duplicate claims; presentment of claims for services not medically necessary; or false statements or representations of material facts by a vendor of general assistance medical care; and for the imposition of sanctions against such vendor of medical care. The rules relating to sanctions shall be consistent with the provisions of section 256B.064, subdivisions 1a to 2.

Sec. 19. Minnesota Statutes 1982, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE: SERVICES.] (a) Notwithstanding the provisions of sections 256D.01 to 256D.21 and 261.23, or any other law to the contrary, for the biennium ending June 30, 1983, state aid shall be paid to local agencies or counties for 90 percent of general assistance medical care paid by the local agency or county on behalf of persons eligible for general assistance or persons meeting the income and resource criteria established in the program for aid to families with dependent children. Nothing in this provision shall be construed to modify the spenddown required in appropriate cases for general assistance medical care. Reimbursement for medical care provided under sections 256D.01 to 256D.21 or 261.23 under the general assistance medical care program shall be limited to the following categories of service only: inpatient hospital care, outpatient hospital care, services provided by medicare certified rehabilitation agencies, prescription drugs, eyeglasses, physician's services, medical transportation, and dental care. In addition, payments of state aid shall be made for day treatment services provided by a mental health center established under sections 245.61 to 245.69, subdivision 1, and funded through chapter 256E and for prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization.

(b) ~~At the option of~~ In order to contain costs, the county board and shall, with the approval of the commissioner of public welfare, ~~reimbursement for inpatient hospital care, outpatient hospital care, and prescription drugs may be limited to designated select vendors of medical care providers who can provide the most economical care consistent with high medical standards and may contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall encourage county boards to submit proposals for demonstration projects designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under section 256B.02, subdivision 8, except that where counties enter into prepaid capitation agreements, payments shall be as provided in section 256.966, subdivision 2.~~

(c) The commissioner of public welfare may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions. Reductions below the cost per service unit allowable under section 256.966, shall be permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical

dependency or mental illness may be reduced no more than 45 percent; payments for all other inpatient hospital care may be reduced no more than 35 percent. Reductions below the payments allowable under section 256.967 for the remaining general assistance medical care services allowable under this provision may be reduced no more than 25 percent. There shall be no copayment required of any recipient of benefits for any services provided under this subdivision.

(d) If the commissioner or county refuses to pay all or part of the charge for a health service, they shall not be liable for the unpaid portion of the charge. Any county may, from its own resources, provide medical payments for which state payments are not made.

Sec. 20. Minnesota Statutes 1982, section 256D.03, is amended by adding a subdivision to read:

*Subd. 5. [DIVISION OF COSTS.] The state shall pay 90 percent of the cost of general assistance medical care paid by the local agency or county pursuant to this section. However, for counties who contract with health maintenance organizations or other providers to deliver services under a prepaid capitation agreement, the state shall pay 95 percent of the cost per person enrolled.*

Sec. 21. Minnesota Statutes 1982, section 256D.03, is amended by adding a subdivision to read:

*Subd. 6. [DUTIES OF THE COMMISSIONER.] The commissioner shall promulgate temporary and permanent rules as necessary to establish:*

*(a) standards of eligibility, utilization of services, and payment levels;*

*(b) standards for quality assurance, surveillance, and utilization review procedures that conform to those established for the medical assistance program pursuant to chapter 256B, including general criteria and procedures for the identification and prompt investigation of suspected fraud, theft, abuse, presentment of false or duplicate claims, presentment of claims for services not medically necessary, or false statements or representations of material facts by a vendor of general assistance medical care, and for the imposition of sanctions against such vendor of medical care. The rules relating to sanctions shall be consistent with the provisions of section 256B.064, subdivisions 1a and 2;*

*(c) administrative and fiscal procedures for payment of the state share of the medical costs incurred by the counties under section 256D.02, subdivision 4a. Rules promulgated pursuant to this clause may include: (1) procedures by which state liability for the costs of medical care incurred pursuant to section 256D.02, subdivision 4a may be deducted from county liability to the state under any other public assistance program authorized by law; (2) procedures for processing claims of counties for reimbursement by the state for expenditures for medical care made by the counties pursuant to section 256D.02, subdivision 4a; and (3) procedures by which the local agencies may contract with the commissioner of public welfare for state administration of general assistance medical care payments.*

Sec. 22. Minnesota Statutes 1982, section 260.191, subdivision 2, is amended to read:

Subd. 2. All orders under this section shall be for a specified length of time set by the court not to exceed one year. However, before the order has expired and upon its own motion or that of any interested party, the court has ~~continuing jurisdiction to renew the order or shall~~, after notice to the parties and a hearing, *renew the order for another year or make some other disposition of the case, until the individual is no longer a minor. Any person to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct.*

Sec. 23. Minnesota Statutes 1982, section 260.242, subdivision 2, is amended to read:

Subd. 2. (a) A guardian appointed under the provisions of subdivision 1 has legal custody of his ward unless the court which appoints him gives legal custody to some other person. If the court awards custody to a person other than the guardian, the guardian nonetheless has the right and responsibility of reasonable visitation, except as limited by court order.

(b) The guardian may make major decisions affecting the person of his ward, including but not limited to giving consent (when consent is legally required) to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment, or adoption of the ward. When, pursuant to subdivision 1, clause (a), the commissioner of public welfare is appointed guardian, he may delegate to the welfare board of the county in which, after the appointment, the ward resides, the authority to act for him in decisions affecting the person of his ward, including but not limited to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment of the ward.

(c) A guardianship created under the provisions of subdivision 1 shall not of itself include the guardianship of the estate of the ward.

*(d) If the ward is in foster care, the court shall, upon its own motion or that of the guardian, conduct a dispositional hearing within 18 months of the foster care placement and once every two years thereafter to determine the future status of the ward including, but not limited to, whether the child should be continued in foster care for a specified period, should be placed for adoption, or should, because of the child's special need or circumstances, be continued in foster care on a permanent or long-term basis. When the court has determined that the special needs of the ward are met through a permanent or long-term foster care placement, no subsequent dispositional hearings are required.*

Sec. 24. Minnesota Statutes 1982, section 261.23, is amended to read:

#### 261.23 [COSTS OF HOSPITALIZATION.]

The costs of hospitalization of such indigent persons exclusive of medical and surgical care and treatment shall not exceed in amount the full rates fixed and charged by the Minnesota general hospital under the provisions of sections 158.01 to 158.11 for the hospitalization of such indigent patients. *For indigent persons hospitalized pursuant to sections 261.21 to 261.232, the state shall pay ninety percent of the cost of the hospitalization of indigent persons under the provisions of sections 261.21 to 261.232 shall be paid by the state and ten percent allowable under the general assistance medical care program and ten percent of the allowable cost of hospitalization shall be*

paid by the county of the residence of ~~such~~ the indigent persons at ~~such~~ the times as ~~may be~~ provided for in ~~such~~ the contract; and in case of an injury or emergency requiring immediate surgical or medical treatment, for a period not to exceed 72 hours, 90 percent of the cost allowable under the general assistance medical care program shall be paid by the state and ten percent of the cost shall be paid by the county from which ~~such~~ the patient, if indigent, is certified. If the county of residence of the patient is not the county in which the patient has legal settlement for the purposes of poor relief, then the county of residence may seek reimbursement from the county in which the patient has settlement for the purposes of poor relief for all costs it has necessarily incurred and paid in connection with the hospitalization of said patient.

Sec. 25. [LEGISLATIVE AUDIT COMMISSION STUDY.]

*The legislative audit commission shall investigate the feasibility, costs, benefits, and related issues associated with the state assuming the powers, duties and responsibilities of the fiscal intermediary for the medicare program under United States Code, Title 42, sections 1395 et seq. The commission shall make any recommendations it deems appropriate to the legislature and the governor no later than January 15, 1984.*

Sec. 26. [RULES.]

*The commissioner of public welfare may promulgate temporary and permanent rules as necessary to implement sections 4, 5, 18 to 21, and 24. The commissioner shall promulgate temporary and permanent rules to establish standards and criteria for deciding which medical assistance services require prior authorization and for deciding whether a second medical opinion is required for an elective surgery. The commissioner shall promulgate permanent rules to establish the methods and standards for determining inappropriate utilization of medical assistance services.*

Sec. 27. [APPROPRIATION.]

*\$329,800 is appropriated from the general fund to the commissioner of public welfare for the biennium ending June 30, 1985 for the purposes of implementing the statewide program to review utilization under section 256B.04, subdivision 14. The approved complement of the department of public welfare is increased by 15 full-time positions for this purpose.*

Sec. 28. [EFFECTIVE DATE.]

*Sections 1 to 9 and 13 to 27 are effective the day following final enactment. Sections 10 and 11 are effective July 1, 1983. Sections 13 to 15 apply to transfers made on or after the effective date of those sections, regardless of the individual's status in relation to eligibility for medical assistance."*

Delete the title and insert:

*"A bill for an act relating to public welfare; defining mental health center and providing board membership; providing medical assistance and general assistance medical care limits on inpatient chemical dependency treatment; altering eligibility standards and other provisions of the medical assistance and general assistance programs; requiring limits on annual medical care increases; requiring a second medical opinion prior to reimbursement for certain elective surgeries; providing medical assistance reimbursement for*

mental health center services; making medicare certification a condition of medical assistance reimbursement for skilled nursing home care; amending the general assistance medical care program; providing for annual review of court-ordered child placement; providing for dispositional hearings for state wards; appropriating money; amending Minnesota Statutes 1982, sections 245.62; 245.66; 256.045, subdivision 3; 256.966, subdivision 1; 256.967; 256.968; 256B.02, subdivision 8; 256B.04, subdivision 14, and by adding a subdivision; 256B.06, subdivision 1; 256B.07; 256B.14, subdivision 2; 256B.17, subdivision 4, and by adding subdivisions; 256B.27, subdivision 3; 256B.48, by adding a subdivision; 256D.03, subdivisions 3, 4, and by adding subdivisions; 260.191, subdivision 2; 260.242, subdivision 2; and 261.23."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Hughes from the Committee on Elections and Ethics, to which was referred

S.F. No. 919: A bill for an act relating to the legislature; enacting the present legislative apportionment into statutory form with minor alterations; amending Minnesota Statutes 1982, sections 2.021; 2.031; proposing new law coded in Minnesota Statutes, chapter 2; and repealing Minnesota Statutes 1982, sections 2.041 to 2.712.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 18, delete "231, 233,"

Page 1, line 22, after "215," insert "and" and delete ", and 415"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 999: A bill for an act relating to public welfare; establishing a medical assistance prepayment demonstration project; appropriating money; proposing new law coded in Minnesota Statutes, chapter 256B.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [256B.70] [PREPAYMENT DEMONSTRATION PROJECT.]

*Subdivision 1. [PURPOSE.] The commissioner of public welfare shall establish a medical assistance demonstration project to determine whether prepayment combined with better management of health care services is an effective mechanism to ensure that all eligible individuals receive necessary health care in a coordinated fashion while containing costs. For the purposes of this project, waiver of certain statutory provisions is necessary in accordance with this section.*

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

*(a) "Commissioner" means the commissioner of public welfare. For the remainder of this section, the commissioner's responsibilities for methods and policies for implementing the project will be proposed by the project advisory committees and approved by the commissioner.*

*(b) "Demonstration provider" means an individual, agency, organization, or group of the aforementioned entities that participates in the demonstration project according to criteria, standards, methods, and other requirements established for the project and approved by the commissioner.*

*(c) "Eligible individuals" means those persons eligible for medical assistance benefits as defined in section 256B.06.*

*(d) "Limitation of choice" means suspending freedom of choice while allowing eligible individuals to choose among the demonstration providers.*

*Subd. 3. [GEOGRAPHIC AREA.] The commissioner shall designate the geographic areas in which eligible individuals may be included in the demonstration project. The geographic areas shall include one urban, one suburban, and at least one rural county. In order to encourage the participation of long-term care providers, the project area may be expanded beyond the designated counties for eligible individuals over age 65.*

*Subd. 4. [LIMITATION OF CHOICE.] The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner.*

*Subd. 5. [PROSPECTIVE PER CAPITA PAYMENT.] The project advisory committees with the commissioner shall establish the method and amount of payments for services. The commissioner shall annually contract with demonstration providers to provide services consistent with these established methods and amounts for payment. Notwithstanding section 62D.02, subdivision 1, payments for services rendered as part of the project may be made to providers that are not licensed health maintenance organizations on a risk-based, prepaid capitation basis.*

*If allowed by the commissioner, a demonstration provider may contract with an insurer, health care provider, nonprofit health service plan corporation, or the commissioner, to provide insurance or similar protection against the cost of care provided by the demonstration provider or to provide coverage against the risks incurred by demonstration providers under this section. The recipients enrolled with a demonstration provider are a permissible group under group insurance laws and the Nonprofit Health Service Plan Corporations Act. Under this type of contract, the insurer or corporation may make benefit payments to a demonstration provider for services rendered or to be rendered to a recipient. Any insurer or nonprofit health service plan corporation licensed to do business in this state is authorized to*

*provide this insurance or similar protection.*

*Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2. The commissioner shall complete development of capitation rates for payments before delivery of services under this section is begun.*

*Subd. 6. [SERVICE DELIVERY.] Each demonstration provider shall be responsible for the health care coordination for eligible individuals. Demonstration providers:*

*(1) Shall authorize and arrange for the provision of all needed health services including but not limited to the full range of services listed in section 256B.02, subdivision 8, in order to ensure appropriate health care is delivered to enrollees.*

*(2) Shall accept the prospective, per capita payment from the commissioner in return for the provision of comprehensive and coordinated health care services for eligible individuals enrolled in the program.*

*(3) May contract with other health care and social service practitioners to provide services to enrollees.*

*(4) Shall institute recipient grievance procedures according to the method established by the project, utilizing applicable requirements of chapter 62D. Disputes not resolved through this process shall be appealable to the commissioner as provided in subdivision 11.*

*Subd. 7. [ENROLLEE BENEFITS.] All eligible individuals enrolled by demonstration providers shall receive all needed health care services as defined in subdivision 6.*

*All enrolled individuals have the right to appeal if necessary services are not being authorized as defined in subdivision 11.*

*Subd. 8. [PREADMISSION SCREENING WAIVER.] Except as applicable to the project's operation, the provisions of section 256B.091 are waived for the purposes of this section for recipients enrolled with demonstration providers.*

*Subd. 9. [REPORTING.] Each demonstration provider shall submit information as required by the commissioner, including data required for assessing client satisfaction, quality of care, cost, and utilization of services for purposes of project evaluation. Required information shall be specified before the commissioner contracts with a demonstration provider.*

*Subd. 10. [INFORMATION.] Notwithstanding any law or rule to the contrary, the commissioner may allow disclosure of the recipient's identity solely for the purposes of (a) allowing demonstration providers to provide the information to the recipient regarding services, access to services, and other provider characteristics, and (b) facilitating monitoring of recipient satisfaction and quality of care. The commissioner shall develop and implement measures to protect recipients from invasions of privacy and from harassment.*

*Subd. 11. [APPEALS.] A recipient may appeal to the commissioner a demonstration provider's delay or refusal to provide services. The commissioner shall appoint a panel of health practitioners, including social service*

*practitioners, as necessary to determine the necessity of services provided or refused to a recipient. The deliberations and decisions of the panel replace the administrative review process otherwise available under chapter 256B. The panel shall follow the time requirements and other provisions of the Code of Federal Regulations, title 42, sections 431.200 to 431.246. The time requirements shall be expedited based on request by the individual who is appealing for emergency services. If a service is determined to be necessary and is included among the benefits for which a recipient is enrolled, the service must be provided by the demonstration provider as specified in subdivision 5.*

## Sec. 2. [TEMPORARY RULES.]

*The commissioner of public welfare shall adopt temporary rules which meet the requirements of sections 14.29 to 14.36. Notwithstanding the provisions of section 14.35, the temporary rules promulgated to implement sections 1 to 3 shall be effective for 360 days and may be continued in effect for an additional 900 days if the commissioner gives notice by publishing a notice in the state register and mailing notice to all persons registered with the commissioner to receive notice of rulemaking proceedings in connection with sections 1 to 3. The temporary rules shall not be effective beyond December 31, 1986, without meeting the requirements of sections 14.13 to 14.20.*

## Sec. 3. [APPROPRIATION.]

*There is appropriated from the general fund to the commissioner of public welfare the sum of \$..... for the purposes of sections 1 and 2. This appropriation is available for the biennium ending June 30, 1985.*

## Sec. 4. [EFFECTIVE DATE.]

*Sections 1 to 3 are effective the day following final enactment. If the project implementation phase has not begun by June 30, 1985, sections 1 to 3 are repealed on that date."*

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Willet from the Committee on Finance, to which was referred

H.F. No. 76: A bill for an act relating to the environment; establishing an environmental response, compensation and compliance fund to pay for removal and remedial action associated with certain hazardous substances released into the environment and for other purposes; providing for liability for cleanup costs, personal injury, economic loss, and damage to natural resources resulting from releases of hazardous substances; imposing taxes, fees, and penalties; providing for injunctive relief; appropriating money; amending Minnesota Statutes 1982, sections 115A.24, subdivision 1; 466.01, by adding a subdivision; and 466.04, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 116; proposing new law coded as Minnesota Statutes, chapter 115B; repealing Minnesota Statutes 1982, section 115A.24, subdivision 2.

Reports the same back with the recommendation that the bill be amended as follows:



Delete everything after the enacting clause and insert:

“Section 1. [115B.01] [CITATION.]

*Sections 1 to 20 may be cited as the Environmental Response and Liability Act.*

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

*Subdivision 1. [APPLICATION.] For the purposes of sections 1 to 20, the following terms have the meanings given them.*

*Subd. 2. [ACT OF GOD.] “Act of God” means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.*

*Subd. 3. [AGENCY.] “Agency” means the pollution control agency.*

*Subd. 4. [DIRECTOR.] “Director” means the director of the pollution control agency.*

*Subd. 5. [FACILITY.] “Facility” means:*

*(a) Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft;*

*(b) Any watercraft of any description, or other artificial contrivance used or capable of being used as a means of transportation on water; or*

*(c) Any site or area where a hazardous substance, or a pollutant or contaminant, has been deposited, stored, disposed of, or placed, or otherwise come to be located.*

*“Facility” does not include any consumer product in consumer use.*

*Subd. 6. [FEDERAL SUPERFUND ACT.] “Federal Superfund Act” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq.*

*Subd. 7. [FUND.] “Fund” means the environmental response, compensation and compliance fund established under section 20.*

*Subd. 8. [HAZARDOUS SUBSTANCE.] “Hazardous substance” means:*

*(a) Any commercial chemical designated pursuant to the Federal Water Pollution Control Act, under 33 U.S.C. Section 1321(b)(2)(A);*

*(b) Any hazardous air pollutant listed pursuant to the Clean Air Act, under 42 U.S.C. Section 7412; and*

*(c) Any hazardous waste.*

*“Hazardous substance” does not include natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of such synthetic gas and natural gas, nor does it include petroleum, including crude oil or any fraction thereof which is not otherwise a hazardous waste.*

*Subd. 9. [HAZARDOUS WASTE.] “Hazardous waste” means:*

*(a) Any hazardous waste as defined in section 116.06, subdivision 13, and*

any substance identified as a hazardous waste pursuant to rules adopted by the agency under section 116.07; and

(b) Any hazardous waste as defined in the Resource Conservation and Recovery Act, under 42 U.S.C. Section 6903, which is listed or has the characteristics identified under 42 U.S.C. Section 6921, not including any hazardous waste the regulation of which has been suspended by act of Congress.

Subd. 10. [NATURAL RESOURCES.] "Natural resources" has the meaning given it in section 116B.02, subdivision 4.

Subd. 11. [OWNER OF REAL PROPERTY.] "Owner of real property" means a person who is in possession of, has the right of control, or controls the use of real property, including without limitation a person who may be a fee owner, lessee, renter, tenant, lessor, contract for deed vendee, licensor, licensee, or occupant.

Any person owning or holding a remainder or other nonpossessory interest or estate in real property shall become an owner of real property only from and after the time that person's interest or estate in the real property vests in actual possession or after that person obtains the unconditioned right to possession or control of the real property.

Subd. 12. [PERSON.] "Person" means any individual, partnership, association, public or private corporation, or other entity, including the United States government, any interstate body, and the state and any agency, department or political subdivision of the state.

Subd. 13. [POLLUTANT OR CONTAMINANT.] "Pollutant or contaminant" means any element, substance, compound, mixture, or agent, other than a hazardous substance, which after release from a facility and upon exposure of, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, (including malfunctions in reproduction) or physical deformations, in the organisms or their offspring.

"Pollutant or contaminant" does not include natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of such synthetic gas and natural gas.

Subd. 14. [RELEASE.] "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment which occurred at a point in time or which continues to occur.

"Release" does not include:

by (a) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, watercraft, or pipeline pumping station engine;

(b) Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, under 42 U.S.C. Section 2014, if the release is subject to requirements with respect to financial protection established by the federal nuclear regulatory

*commission under 42 U.S.C. Section 2210;*

*(c) Release of source, byproduct or special nuclear material from any processing site designated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, under 42 U.S.C. Section 7912(a)(1) or 7942(a); or*

*(d) Any release resulting from the application of fertilizer or agricultural or silvicultural chemicals, or disposal of emptied pesticide containers or residues from a pesticide as defined in section 18A.21, subdivision 25.*

**Subd. 15. [REMEDY OR REMEDIAL ACTION.]** "Remedy" or "remedial action" means those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance, or a pollutant or contaminant, into the environment, to prevent, minimize or eliminate the release in order to protect the public health or welfare or the environment.

"Remedy" or "remedial action" includes, but is not limited to:

*(a) Actions at the location of the release such as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances, pollutants or contaminants, or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring and maintenance reasonably required to assure that these actions protect the public health and welfare and the environment; and*

*(b) The costs of permanent relocation of residents and businesses and community facilities when the agency determines that, alone or in combination with other measures, relocation is more cost effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of hazardous substances, or pollutants or contaminants, or may otherwise be necessary to protect the public health or welfare.*

"Remedy" or "remedial action" does not include offsite transport of hazardous substances, pollutants or contaminants, or contaminated materials or their storage, treatment, destruction, or secure disposition offsite unless the agency determines that these actions:

*(1) Are more cost effective than other remedial actions;*

*(2) Will create new capacity to manage hazardous substances in addition to those located at the affected facility, in compliance with section 116.07 and subtitle C of the Solid Waste Disposal Act, 42 U.S.C. Section 6921 et seq.; or*

*(3) Are necessary to protect public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of the hazardous substances, pollutants or contaminants, or contaminated materials.*

**Subd. 16. [REMOVE OR REMOVAL.]** "Remove" or "removal" means:

*(a) The cleanup or removal of a released hazardous substance, or a pollutant or contaminant, from the environment;*

*(b) Necessary actions taken in the event of a threatened release of a haz-*

*ardous substance, or a pollutant or contaminant, into the environment;*

*(c) Actions necessary to monitor, assess, and evaluate a release or threatened release of a hazardous substance, or a pollutant or contaminant;*

*(d) Disposal or processing of removed material; or*

*(e) Other actions necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result from a release or threatened release.*

*"Remove" or "removal" includes, but is not limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9604(b), and any emergency assistance which may be provided under the Disaster Relief Act of 1974, 42 U.S.C. Section 5121 et seq.*

*Subd. 17. [RESPOND OR RESPONSE.] "Respond" or "response" means remove, removal, remedy, and remedial action.*

*Subd. 18. [WATER.] "Water" has the meaning given to the term "waters of the state" in section 115.01, subdivision 9.*

### **Sec. 3. [115B.03] [RESPONSIBLE PERSON.]**

*Subdivision 1. [GENERAL RULE.] For the purposes of sections 1 to 20, and except as provided in subdivisions 2 and 3, a person is responsible for a release or threatened release of a hazardous substance, or a pollutant or contaminant, from a facility if the person:*

*(a) Possessed with the right of control, controlled the use of, or operated the facility: (1) when the hazardous substance, or pollutant or contaminant, was placed or came to be located in or on the facility; (2) when the hazardous substance, or pollutant or contaminant, was located in or on the facility but before the release; or (3) during the time of the release or threatened release;*

*(b) Owned or possessed the hazardous substance, or pollutant or contaminant, and arranged, by contract, agreement or otherwise, for the disposal, treatment or transport for disposal or treatment of the hazardous substance, or pollutant or contaminant; or*

*(c) Knew or reasonably should have known that the waste he accepted for transport to a disposal or treatment facility contained a hazardous substance, or pollutant or contaminant, and either selected the facility to which it was transported or disposed of it in a manner contrary to law.*

*Subd. 2. [EMPLOYEES AND EMPLOYERS.] When a person who is responsible for a release or threatened release as provided in subdivision 1 is an employee who is acting in the scope of his employment:*

*(a) The employee is subject to liability under section 4 or section 5 only if his conduct with respect to the hazardous substance was negligent under circumstances in which he knew that the substance was hazardous and that his conduct, if negligent, could result in serious harm; and*

*(b) His employer shall be considered a person responsible for the release or threatened release and is subject to liability under section 4 or section 5*

regardless of the degree of care exercised by the employee.

**Subd. 3. [OWNER OF REAL PROPERTY.]** An owner of real property is not a person responsible for the release or threatened release of a hazardous substance from a facility in or on the property unless that person:

(a) Was engaged in the business of generating, transporting, storing, treating, or disposing of a hazardous substance at the facility or disposing of waste at the facility, or knowingly permitted others to engage in such a business at the facility;

(b) Knowingly permitted any person to make regular use of the facility for disposal of waste;

(c) Knowingly permitted any person to use the facility for disposal of a hazardous substance;

(d) Knew or reasonably should have known that a hazardous substance was located in or on the facility at the time right, title, or interest in the property was first acquired by the person and engaged in conduct by which he associated himself with the release; or

(e) Took action which significantly contributed to the release after he knew or reasonably should have known that a hazardous substance was located in or on the property.

In determining whether any person acquiring any right, title, or interest in the real property or the owner of real property knew or reasonably should have known that a hazardous substance was located in or on the facility at the time he either acquired his interest in the property or became an owner of real property, he may rely upon a written warranty, representation, or undertaking set forth in any instrument conveying any right, title, or interest in the real property executed by the person conveying the right, title, or interest, or set forth in any memorandum of any such instrument executed for the purpose of recording. The written warranty, representation, or undertaking is admissible as evidence in any action involving the acquiring person's knowledge or duty to know of the location of a hazardous substance on or in the property and is prima facie evidence of the facts set forth in it and of the acquiring person's knowledge or duty to investigate; or

Any liabilities or causes of action accruing hereunder during the time the owner of real property is in possession with the right of control or has control of the real property shall not accrue against such other persons holding any right, title, or interest in the real property.

**Sec. 4. [115B.04] [LIABILITY FOR RESPONSE COSTS AND NATURAL RESOURCES; LIMITATIONS AND DEFENSES.]**

**Subdivision 1. [LIABILITY.]** Except as otherwise provided in subdivisions 2 to 10, and notwithstanding any other provision or rule of law, any person who is responsible for a release or threatened release of a hazardous substance from a facility is strictly liable, jointly and severally, for the following response costs and damages which result from the release or threatened release or to which the release or threatened release significantly contributes:

(a) All reasonable and necessary costs of removal, or remedial action in-

curred by the state, a political subdivision of the state or the United States;

(b) Any other reasonable and necessary costs or expenses incurred by any person to remove a hazardous substance; and

(c) All damages for any injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss.

**Subd. 2. [LIABILITY FOR POLLUTANT OR CONTAMINANT EXCLUDED.]** *There is no liability under this section for response costs or damages which result from the release of a pollutant or contaminant.*

**Subd. 3. [LIABILITY FOR A THREATENED RELEASE.]** *Liability under this section for a threatened release of a hazardous substance is limited to the recovery by the agency of reasonable and necessary response costs as provided in section 17, subdivision 6.*

**Subd. 4. [TRANSPORTATION OF HOUSEHOLD REFUSE.]** *A person who accepts only household refuse for transport to a treatment or disposal facility is not liable under this section for the release or threatened release of any hazardous substance unless he knew or reasonably should have known that the hazardous substance was present in the refuse. For the purpose of this subdivision, household refuse means garbage, trash, or septic tank sanitary wastes generated by single or multiple residences, hotels, motels, restaurants and other similar facilities.*

**Subd. 5. [DEFENSE TO CERTAIN CLAIMS BY POLITICAL SUBDIVISIONS AND PRIVATE PERSONS.]** *It is a defense to a claim by a political subdivision or private person for recovery of the costs of its response actions under this section that the hazardous substance released from the facility was placed or came to be located in the facility before April 1, 1982, and that the response actions of the political subdivision or private person were not authorized by the agency as provided in section 17, subdivision 12. This defense applies only to response costs incurred on or after July 1, 1983.*

**Subd. 6. [DEFENSE FOR INTERVENING ACTS.]** *It is a defense to liability under this section that the release or threatened release was caused solely by:*

(a) An act of God;

(b) An act of war;

(c) An act of vandalism or sabotage; or

(d) An act or omission of a third party or the plaintiff.

*“Third party” for the purposes of clause (d) does not include an employee or agent of the defendant, or a person in the chain of responsibility for the generation, transportation, storage, treatment, or disposal of the hazardous substance.*

*The defense provided in clause (d) applies only if the defendant establishes that he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances which he knew or should have known, and that he took precautions against foreseeable acts or*

*omissions of a third party and the consequences that could foreseeably result from those acts or omissions.*

**Subd. 7. [RELEASES SUBJECT TO CERTAIN PERMITS OR STANDARDS; FEDERAL POST-CLOSURE FUND.]** *It is a defense to liability under this section that:*

*(a) The release or threatened release was from a hazardous waste facility as defined under section 115A.03, for which a permit had been issued pursuant to section 116.07 or pursuant to subtitle C of the Solid Waste Disposal Act, 42 U.S.C. Section 6921 et seq., and if the hazardous substance was specifically identified in the permit and the release was within the limits allowed in the permit for release of that substance;*

*(b) The hazardous substance released was specifically identified in a federal or state permit and the release is within the limits allowed in the permit;*

*(c) The release resulted from circumstances identified and reviewed and made a part of the public record of a federal or state agency with respect to a permit issued or modified under federal or state law, and the release conformed with the permit;*

*(d) The release was any part of an emission or discharge into the air or water and the emission or discharge was subject to a federal or state permit and was in compliance with control rules or regulations adopted pursuant to state or federal law;*

*(e) The release was the introduction of any hazardous substance into a publicly owned treatment works and the substance was specified in, and is in compliance with, applicable pretreatment standards specified for that substance under state and federal law; or*

*(f) Liability has been assumed by the federal post-closure liability fund under 42 U.S.C. Section 9607(k).*

**Subd. 8. [NATURAL RESOURCES.]** *It is a defense to liability under this section, for the loss of, destruction of, or injury to natural resources that:*

*(a) The natural resources were specifically identified as an irreversible and irretrievable commitment of natural resources in an approved final state or federal environmental impact statement, or other comparable approved final environmental analysis for a project or facility which was the subject of a governmental permit or license; and*

*(b) The project or facility was being operated within the terms of its permit or license.*

**Subd. 9. [RENDERING ASSISTANCE IN RESPONSE ACTIONS.]** *It is a defense to liability under this section that the response costs or damages resulted from acts taken or omitted in preparation for, or in the course of rendering care, assistance, or advice to the director or agency pursuant to section 17 or in accordance with the national hazardous substance response plan pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9605, or at the direction of an on-scene coordinator appointed under that plan, with respect to any release or threatened release of a hazardous substance.*

**Subd. 10. [BURDEN OF PROOF FOR DEFENSES.]** *Any person claiming a defense provided in subdivisions 5 to 9 has the burden to prove all elements*

*of the defense by a preponderance of the evidence.*

**Sec. 5. [115B.05] [LIABILITY FOR ECONOMIC LOSS, DEATH, PERSONAL INJURY AND DISEASE; LIMITATIONS AND DEFENSES.]**

*Subdivision 1. [LIABILITY.] Except as otherwise provided in subdivisions 2 to 8, and notwithstanding any other provision or rule of law, any person who is responsible for the release of a hazardous substance from a facility is strictly liable, jointly and severally, for the following damages which result from the release or to which the release significantly contributes:*

*(a) All damages for actual economic loss resulting from such a release including:*

*(1) Any injury to, destruction of, or loss of any real or personal property, including relocation costs;*

*(2) Any loss of use of real or personal property;*

*(3) Any loss of past or future income or profits resulting from injury to or destruction of real or personal property without regard to the ownership of the property; and*

*(b) All damages for death or personal injury or disease including:*

*(1) Any medical expenses, rehabilitation costs or burial expenses;*

*(2) Any loss of past or future income, or loss of earning capacity, resulting from personal injury or disease; and*

*(3) Damages for physical impairment or other pain and suffering.*

*Subd. 2. [LIABILITY FOR POLLUTANT OR CONTAMINANT EXCLUDED.] There is no liability under this section for damages which result from the release of a pollutant or contaminant.*

*Subd. 3. [CERTAIN EMPLOYEE CLAIMS NOT COVERED.] Except for a third party who is subject to liability under section 176.061, subdivision 5, there is no liability under this section for the death, personal injury or disease of an employee which is compensable under chapter 176 as an injury or disease arising out of and in the course of employment.*

*Subd. 4. [TRANSPORTATION OF HOUSEHOLD REFUSE.] A person who accepts only household refuse for transport to a treatment or disposal facility is not liable under this section for the release or threatened release of any hazardous substance unless he knew or reasonably should have known that the hazardous substance was present in the refuse. For the purpose of this subdivision, household refuse means garbage, trash, or septic tank sanitary wastes generated by single or multiple residences, hotels, motels, restaurants and other similar facilities.*

*Subd. 5. [DEFENSE FOR INTERVENING ACTS.] It is a defense to liability under this section that the release or threatened release was caused solely by:*

*(a) An act of God;*

*(b) An act of war;*

*(c) An act of vandalism or sabotage; or*



(d) *An act or omission of a third party or the plaintiff.*

*"Third party" for the purposes of clause (d) does not include an employee or agent of the defendant, or a person in the chain of responsibility for the generation, transportation, storage, treatment, or disposal of the hazardous substance.*

*The defense provided in clause (d) applies only if the defendant establishes that he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances which he knew or should have known, and that he took precautions against foreseeable acts or omissions of a third party and the consequences that could foreseeably result from those acts or omissions.*

**Subd. 6. [RELEASES SUBJECT TO CERTAIN PERMITS OR STANDARDS; FEDERAL POST-CLOSURE FUND.]** *It is a defense to liability under this section that:*

(a) *The release or threatened release was from a hazardous waste facility as defined under section 115A.03, for which a permit had been issued pursuant to section 116.07 or pursuant to subtitle C of the Solid Waste Disposal Act, 42 U.S.C. Section 6921 et seq., and if the hazardous substance was specifically identified in the permit and the release was within the limits allowed in the permit for release of that substance;*

(b) *The hazardous substance released was specifically identified in a federal or state permit and the release is within the limits allowed in the permit;*

(c) *The release resulted from circumstances identified and reviewed and made a part of the public record of a federal or state agency with respect to a permit issued or modified under federal or state law, and the release conformed with the permit;*

(d) *The release was any part of an emission or discharge into the air or water and the emission or discharge was subject to a federal or state permit and was in compliance with control rules or regulations adopted pursuant to state or federal law;*

(e) *The release was the introduction of any hazardous substance into a publicly owned treatment works and the substance was specified in, and is in compliance with, applicable pretreatment standards specified for that substance under state and federal law; or*

(f) *Liability has been assumed by the federal post-closure liability fund under 42 U.S.C. Section 9607(k).*

**Subd. 7. [RENDERING ASSISTANCE IN RESPONSE ACTIONS.]** *It is a defense to liability under this section that the damages resulted from acts taken or omitted in preparation for, or in the course of rendering care, assistance, or advice to the director or agency pursuant to section 17 or in accordance with the national hazardous substance response plan pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9605, or at the direction of an on-scene coordinator appointed under that plan, with respect to any release or threatened release of a hazardous substance.*

**Subd. 8. [BURDEN OF PROOF FOR DEFENSES.]** *Any person claiming a*

defense provided in subdivisions 5 to 7 has the burden to prove all elements of the defense by a preponderance of the evidence.

Sec. 6. [115B.06] [RETROACTIVE APPLICATION.]

*Notwithstanding any provision or rule of law, if a defendant shows that his hazardous substance was placed or came to be located in or on the facility on or before April 1, 1963, sections 5, 7, 8, 10, and 13 do not apply to any claim or proceeding for personal injury, death, disease, or economic loss or other harm or loss subject to section 5.*

Sec. 7. [115B.07] [CAUSATION.]

*In any action brought under section 5 or any other law to recover damages for death, personal injury, or disease arising out of the release of a hazardous substance, if the plaintiff produces evidence sufficient to enable a reasonable person to find that:*

*(a) There was a release of a hazardous substance;*

*(b) Defendant was a responsible person with respect to the release;*

*(c) The plaintiff was exposed to the hazardous substance;*

*(d) The hazardous substance to which the plaintiff was exposed was the same kind of substance as that which was released from the facility;*

*(e) The death, injury or disease suffered by the plaintiff is caused or significantly contributed to by exposure to the hazardous substance in an amount and duration experienced by the plaintiff;*

*then the court may not direct a verdict against the plaintiff on the issue of causation.*

*Evidence to a reasonable medical certainty that exposure to the hazardous substance caused or significantly contributed to the death, injury or disease is not required for the question of causation to be submitted to the trier of fact.*

*Nothing in this section shall be construed to relieve the plaintiff of the burden of proving the causal connection between the release of the hazardous substance and the plaintiff's death, injury or disease, or that a defendant is a person responsible for the release of the hazardous substance from the facility.*

Sec. 8. [115B.08] [COMPARATIVE FAULT OF PLAINTIFF AND DEFENDANT; LIABILITY LIMITED; CONTRIBUTION.]

*Subdivision 1. [COMPARATIVE FAULT.] In an action under section 5, the court may, and when requested by any party shall, direct the jury to find separate special verdicts determining the amount of damages that are recoverable in the action, and the percentage of fault attributable to each party. The court shall then reduce the amount of damages that are recoverable by the percentage of fault attributable to the plaintiff.*

*Subd. 2. [FAULT ATTRIBUTABLE TO PLAINTIFF.] For the purpose of subdivision 1, fault attributable to a plaintiff is limited to:*

*(a) Voluntary assumption of a known risk; or*

*(b) Knowingly and unreasonably subjecting himself to a risk which results*

*from the special or unusual character of the hazardous substance.*

*A plaintiff does not assume a risk for purposes of clause (a) if, in order to avoid assuming the risk, the plaintiff would be required to forego the exercise of a valuable right or privilege.*

*Subd. 3. [FAULT ATTRIBUTABLE TO DEFENDANT.] For the purpose of subdivision 1, the following factors shall be considered in determining the percentage of fault attributable to a defendant:*

*(a) The extent to which the defendant's contribution to the release of a hazardous substance can be distinguished;*

*(b) The amount of hazardous substance involved;*

*(c) The degree of toxicity of the hazardous substance involved;*

*(d) The degree of involvement of and care exercised by the defendant in manufacturing, treating, transporting, and disposing of the hazardous substance;*

*(e) The degree of cooperation by the defendant with federal, state, or local officials to prevent any harm to the public health or the environment; and*

*(f) Knowledge of the defendant of the hazardous nature of the substance.*

*The burden is on a defendant to show the percentage of fault which is attributable to him or to other defendants.*

*Subd. 4. [LIMITATION OF LIABILITY.] If the percentage of fault attributable to a defendant is determined as provided in this section, the defendant shall be liable for that percentage of the damages recoverable in the action.*

*Subd. 5. [CONTRIBUTION.] Any defendant held liable for damages which exceed that proportion of the damages recoverable in the action which is attributable to the fault of the defendant is entitled to seek contribution from any other defendant to the extent of that other defendant's proportionate share of the damages.*

**Sec. 9. [115B.09] [AGREEMENTS TO TRANSFER LIABILITY; INSURANCE AND SUBROGATION.]**

*No conveyance, indemnification, hold harmless agreement, or similar agreement shall be effective to transfer the liability imposed under sections 1 to 15 from the owner or operator of a facility or from any person who may be liable under those sections to any other person. Nothing in this section shall be construed:*

*(a) To prohibit any party who may be liable under sections 1 to 15 from entering an agreement by which that party is insured, held harmless or indemnified for part or all of that liability;*

*(b) To prohibit the enforcement of any insurance, hold harmless or indemnification agreement; or*

*(c) To bar any cause of action brought by a party who may be liable under sections 1 to 15 or by an insurer or guarantor, whether by right of subrogation or otherwise.*

**Sec. 10. [115B.10] [STATUTE OF LIMITATIONS.]**

*No person may recover pursuant to sections 1 to 15 unless the action is commenced within six years from the date when the cause of action accrues. In determining when the cause of action accrues for an action to recover damages for death, personal injury or disease, the court may consider factors including the following:*

*(a) When the plaintiff discovered the injury or loss;*

*(b) Whether a personal injury or disease had sufficiently manifested itself; and*

*(c) When the plaintiff discovered, or using due diligence should have discovered, a causal connection between the injury, disease, or loss and the release of a hazardous substance.*

**Sec. 11. [115B.11] [OTHER REMEDIES PRESERVED.]**

*Nothing in sections 1 to 15 shall be construed to abolish or diminish any remedy or affect the right of any person to bring a legal action or use any remedy available under any other provision of state or federal law, including common law, to recover for personal injury, disease, economic loss or response costs arising out of a release of any hazardous substance, or for removal or the costs of removal of that hazardous substance. Nothing in sections 1 to 15 shall be construed to limit or restrict in any way the liability of any person under any other state or federal law, including common law, for loss due to personal injury or disease, for economic loss, or for response costs arising out of any release or threatened release of a hazardous substance from a facility regardless of the time at which a hazardous substance was placed or came to be located in the facility. The provisions of sections 1 to 15 shall not be considered, interpreted, or construed in any way as reflecting a determination, in whole or in part, of policy regarding the inapplicability of strict liability, or strict liability doctrines under any other state or federal law, including common law, to activities past, present or future, relating to hazardous substances, or pollutants or contaminants, or other similar activities.*

**Sec. 12. [115B.12] [DOUBLE RECOVERY PROHIBITED.]**

*A person who recovers response costs or damages pursuant to sections 1 to 15 may not recover the same costs or damages pursuant to any other law. A person who recovers response costs or damages pursuant to any other state or federal law may not recover for the same costs or damages pursuant to sections 1 to 15.*

**Sec. 13. [115B.13] [AWARD OF COSTS.]**

*Upon motion of a party prevailing in an action under sections 1 to 15 the court may award costs, disbursements and reasonable attorney fees and witness fees to that party.*

**Sec. 14. [115B.14] [STATE AND POLITICAL SUBDIVISION LIABILITY.]**

*Notwithstanding any other provision or rule of law, including sections 3.732 to 3.84 and chapter 466, the state and political subdivisions shall be subject to the same liability, responsibility, and proceedings as a private individual for claims arising out of the release or threatened release of haz-*

*ardous substances or pollutants and contaminants.*

**Sec. 15. [115B.15] [APPLICATION OF SECTIONS 1 TO 15.]**

*Sections 1 to 15 apply to any release or threatened release of a hazardous substance occurring on or after July 1, 1983, including any release which began before July 1, 1983, and continued after that date. Sections 1 to 15 do not apply to a release or threatened release which occurred wholly before July 1, 1983, regardless of the date of discovery of any injury or loss caused by the release or threatened release.*

**Sec. 16. [115B.16] [DISPOSITION OF FACILITIES.]**

**Subdivision 1. [CLOSED DISPOSAL FACILITIES; USE OF PROPERTY.]** *No person shall use any property on or in which hazardous waste remains after closure of a disposal facility as defined in section 115A.03, subdivision 10, in any way that disturbs the integrity of the final cover, liners, or any other components of any containment system, or the function of the disposal facility's monitoring systems, unless the agency finds that the disturbance:*

*(a) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or*

*(b) Is necessary to reduce a threat to human health or the environment.*

**Subd. 2. [RECORDING OF AFFIDAVIT.]** *Before any transfer of ownership of any property which a person having any right, title, or interest in real property knew or should have known was used as the site of a hazardous waste disposal facility as defined in section 115A.03, subdivision 10, or which the owner knew or should have known is subject to extensive contamination by release of a hazardous substance, the owner shall record with the county recorder of the county in which the property is located an affidavit containing a legal description of the property that discloses to any potential transferee:*

*(a) That the land has been used to dispose of hazardous waste or that the land is contaminated by a release of a hazardous substance;*

*(b) The identity, quantity, location, condition and circumstances of the disposal or contamination to the full extent known; and*

*(c) That the use of the property or some portion of it may be restricted as provided in subdivision 1.*

*An owner must also file an affidavit within 60 days after any material change in any matter required to be disclosed under clauses (a) to (c) with respect to property for which an affidavit has already been recorded.*

*If the owner or any subsequent owner of the property removes the hazardous substance, together with any residues, liner, and contaminated underlying and surrounding soil, that owner may record an affidavit indicating the removal of the hazardous substance.*

*Failure to record an affidavit as provided in this subdivision does not affect or prevent any transfer of ownership of the property.*

**Subd. 3. [DUTY OF COUNTY RECORDER.]** *The county recorder shall record all affidavits presented to him in accordance with subdivision 2. The*

*affidavits shall be recorded in a manner which will assure their disclosure in the ordinary course of a title search of the subject property.*

*Subd. 4. [PENALTIES.] (a) Any person who knowingly violates the provisions of subdivision 1 is subject to a civil penalty in an amount determined by the court of not more than \$100,000, and shall be liable under sections 4 and 5 for any release or threatened release of any hazardous substance resulting from the violation.*

*(b) Any person who knowingly fails to record an affidavit as required by subdivision 2 shall be liable under sections 4 and 5 for any release or threatened release of any hazardous substance from a facility located on that property.*

*(c) A civil penalty may be imposed and recovered by an action brought by a county attorney or by the attorney general in the district court of the county in which the property is located.*

*(d) Any civil fines recovered under this subdivision shall be deposited in the fund.*

**Sec. 17. [115B.17] [STATE RESPONSE TO RELEASES.]**

*Subdivision 1. [REMOVAL AND REMEDIAL ACTION.] Whenever there is a release or substantial threat of release from a facility of any pollutant or contaminant which presents an imminent and substantial danger to the public health or welfare, or whenever a hazardous substance is released or there is a threatened release of a hazardous substance from a facility:*

*(a) The agency may take any removal or remedial action relating to the hazardous substance, or pollutant or contaminant, which the agency deems necessary to protect the public health or welfare or the environment. Before taking any action the agency shall:*

*(1) Request any responsible party known to the agency to take actions which the agency deems reasonable and necessary to protect the public health, welfare or the environment, stating the reasons for the actions, a reasonable time for beginning and completing the actions taking into account the urgency of the actions for protecting the public health, welfare and environment, and the intention of the agency to take action if the requested actions are not taken as requested;*

*(2) Notify any person having any right, title, or interest in the real property where the facility is located or where response actions are proposed to be taken, if the person is not a responsible party, that responsible parties have been requested to take response actions and that the owner's cooperation will be required in order for responsible parties or the agency to take those actions; and*

*(3) Determine that the actions requested by the agency will not be taken by any known responsible party in the manner and within the time requested.*

*(b) The director may take removal action which he deems necessary to protect the public health, welfare or the environment if the director determines that the release or threatened release constitutes an emergency requiring immediate action to prevent, minimize or mitigate damage to the public health, welfare or the environment. Before taking any action the*

*director shall make reasonable efforts in light of the urgency of the action to follow the procedure provided in clause (a).*

*No removal action taken by any person shall be construed as an admission of liability for a release or threatened release.*

*Subd. 2. [OTHER ACTIONS.] Whenever the agency or director is authorized to act pursuant to subdivision 1 or whenever the agency or director has reason to believe that a release of a hazardous substance, or a pollutant or contaminant, has occurred or is about to occur, or that illness, disease, or complaints thereof may be attributable to exposure to a hazardous substance, or a pollutant or contaminant, the agency or director may undertake investigations, monitoring, surveys, testing, and other similar activities necessary or appropriate to identify the existence and extent of the release or threat thereof, the source and nature of the hazardous substances, or pollutants or contaminants, and the extent of danger to the public health or welfare or to the environment. In addition, the agency may undertake planning, legal, fiscal, economic, engineering, architectural, and other studies or investigations necessary or appropriate to plan and direct a response action, to recover the costs of the response action, and to enforce the provisions of sections 1 to 18.*

*Subd. 3. [DUTY TO PROVIDE INFORMATION.] Any person who the agency has reason to believe is responsible for a release or threatened release as provided in section 3, or who is a person having any right, title, or interest in the real property where the release or threatened release is located or where response actions are proposed to be taken, when requested by the agency, or any member, employee or agent thereof who is authorized by the agency, shall furnish to the agency any information which he may have or may reasonably obtain which is relevant to the release or threatened release.*

*Subd. 4. [ACCESS TO INFORMATION AND PROPERTY.] The agency or any member, employee or agent thereof authorized by the agency, upon presentation of credentials, may:*

*(a) Examine and copy any books, papers, records, memoranda or data of any person who has a duty to provide information to the agency under subdivision 3; and*

*(b) Enter upon any property, public or private, for the purpose of taking any action authorized by this section including obtaining information from any person who has a duty to provide the information under subdivision 3, conducting surveys or investigations, and taking removal or remedial action.*

*Subd. 5. [CLASSIFICATION OF DATA.] Except as otherwise provided in this subdivision, data obtained from any person pursuant to subdivision 3 or 4 is public data as defined in section 13.02. Upon certification by the subject of the data that the data relates to sales figures, processes or methods of production unique to that person, or information which would tend to affect adversely the competitive position of that person, the director shall classify the data as private or nonpublic data as defined in section 13.02. Notwithstanding any other law to the contrary, data classified as private or nonpublic under this subdivision may be disclosed when relevant in any proceeding under sections 1 to 18, or to other public agencies concerned with*

*the implementation of sections 1 to 18.*

*Subd. 6. [RECOVERY OF EXPENSES.] Any reasonable and necessary expenses incurred by the agency or director pursuant to this section, including all response costs, and administrative and legal expenses, may be recovered in a civil action brought by the attorney general against any person who may be liable under section 4 or any other law. The agency's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary. Any expenses incurred pursuant to this section which are recovered by the attorney general pursuant to section 4 or any other law, including any award of attorneys fees, shall be deposited in the fund and credited to a special account for additional response actions as provided in section 20, subdivision 2, clause (b) or (d).*

*Subd. 7. [ACTIONS RELATING TO NATURAL RESOURCES.] For the purpose of this subdivision, the state is the trustee of the air, water and wildlife of the state. An action pursuant to section 4 for damages with respect to air, water or wildlife may be brought by the attorney general in the name of the state as trustee for those natural resources. Any damages recovered by the attorney general pursuant to section 4 or any other law for injury to, or loss of natural resources resulting from the release of a hazardous substance, or a pollutant or contaminant, shall be deposited in the fund and credited to a special account for the purposes provided in section 20, subdivision 2, clause (f).*

*Subd. 8. [ACTIONS RELATING TO PESTICIDES OR FERTILIZER OR SOIL OR PLANT AMENDMENTS.] When the commissioner of agriculture has reported an incident involving the release of pesticides under the provisions of section 18A.37 or the release of fertilizers or soil or plant amendments, and the agency determines that the incident constitutes a release of a hazardous substance, or a pollutant or contaminant, the agency shall authorize the commissioner, subject to the provisions of subdivision 13, to take any action which the agency would be authorized to take under subdivisions 1 to 4. Subject to the provisions of section 20, subdivision 3, the agency shall reimburse the commissioner from the fund for the reasonable and necessary expenses incurred in taking those actions and may recover any amount spent from the fund under subdivision 6.*

*Subd. 9. [ACTIONS RELATING TO OCCUPATIONAL SAFETY AND HEALTH.] The agency, director and the commissioner of labor and industry shall make reasonable efforts to coordinate any actions taken under this section and under sections 182.65 to 182.674 to avoid duplication or conflict of actions or requirements with respect to a release or threatened release affecting the safety of any conditions or place of employment.*

*Subd. 10. [ACTIONS RELATING TO HEALTH.] The agency and director shall make reasonable efforts to coordinate and consult with the commissioner of health in planning and directing response actions with respect to a release or threatened release affecting the public health. If the commissioner of health, upon the request of the agency, takes any actions authorized under this section, the agency shall reimburse the commissioner from the fund for the reasonable and necessary expenses incurred in taking those actions and may recover any amount spent from the fund under subdivision 6.*

*Subd. 11. [LIMIT ON ACTIONS BY POLITICAL SUBDIVISIONS.]*



*When the agency or director has requested a person who is responsible for a release or threatened release to take any response action under subdivision 1, no political subdivision shall request or order that person to take any action which conflicts with the action requested by the agency or director.*

**Subd. 12. [AUTHORIZATION OF CERTAIN RESPONSE ACTIONS.]** *For the purpose of permitting a political subdivision or private person to recover response costs as provided in section 4, subdivision 5, the agency may authorize the political subdivision to take removal or remedial actions or may authorize the private person to take removal actions with respect to any release of a hazardous substance which was placed or came to be located in the facility before April 1, 1982. The authorization shall be based on application of the criteria in the rules of the agency adopted under subdivision 13 or, if the rules have not been adopted, under the criteria set forth in subdivision 13 on which the rules are required to be based. The authorization shall not be inconsistent with the criteria. This subdivision shall not be construed to prohibit a political subdivision or private person from taking removal or remedial actions without the authorization of the agency.*

**Subd. 13. [PRIORITIES; RULES.]** *By November 1, 1983, the agency shall establish a temporary list of priorities among releases or threatened releases for the purpose of taking remedial action and, to the extent practicable consistent with the urgency of the action, for taking removal action under this section. The temporary list, with any necessary modifications, shall remain in effect until the agency adopts rules establishing state criteria for determining priorities among releases and threatened releases. The agency shall adopt the rules by July 1, 1984. After rules are adopted, a permanent priority list shall be established, and may be modified from time to time, according to the criteria set forth in the rules. Before any list is established under this subdivision the agency shall publish the list in the state register and allow 30 days for comments on the list by the public.*

*The temporary list and the rules required by this subdivision shall be based upon the relative risk or danger to public health or welfare or the environment, taking into account to the extent possible the population at risk, the hazardous potential of the hazardous substances at the facilities, the potential for contamination of drinking water supplies, the potential for direct human contact, the potential for destruction of sensitive ecosystems, the administrative and financial capabilities of the agency, and other appropriate factors.*

**Sec. 18. [115B.18] [FAILURE TO TAKE REQUESTED ACTIONS; CIVIL PENALTIES; ACTION TO COMPEL PERFORMANCE; INJUNCTIVE RELIEF.]**

**Subdivision 1. [CIVIL PENALTIES.]** *Any person responsible for a release or threatened release from a facility of a pollutant or contaminant which presents an imminent and substantial danger to the public health or welfare, or for a release or threatened release of a hazardous substance from a facility shall forfeit and pay to the state a civil penalty in an amount to be determined by the court of not more than \$10,000 per day for each day that the person fails to take reasonable and necessary response actions or to make reasonable progress in completing response actions requested as provided in subdivision 3.*

*The penalty provided under this subdivision may be recovered by an action brought by the attorney general in the name of the state in connection with an action to recover expenses of the agency under section 17, subdivision 6, or by a separate action in the district court of Ramsey County. All penalties recovered under this subdivision shall be deposited in the fund.*

*Subd. 2. [ACTION TO COMPEL PERFORMANCE.] When any person who is responsible for a release or threatened release from a facility of a pollutant or contaminant which presents an imminent and substantial danger to the public health or welfare, or for a release or threatened release of a hazardous substance from a facility, fails to take response actions or to make reasonable progress in completing response actions requested as provided in subdivision 3, the attorney general may bring an action in the name of the state to compel performance of the requested response actions. If any person having any right, title, or interest in and to the real property where the facility is located or where response costs are proposed to be taken is not a person responsible for the release or threatened release, the person may be joined as an indispensable party in an action to compel performance in order to assure that the requested response actions can be taken on that property by the responsible parties.*

*Subd. 3. [REQUESTS FOR RESPONSE ACTIONS.] A request for emergency removal action shall be made by the director. Other requests for response actions shall be made by the agency. A request shall be in writing, shall state the action requested, the reasons for the action, and a reasonable time by which the action must be begun and completed taking into account the urgency of the action for protection of the public health, welfare, and environment.*

*Subd. 4. [INJUNCTIVE RELIEF.] The release or threatened release of a hazardous substance, or a pollutant or contaminant, shall constitute a public nuisance and may be enjoined in an action, in the name of the state, brought by the attorney general.*

#### **Sec. 19. [115B.19] [PURPOSES OF FUND AND TAXES.]**

*In establishing the environmental response, compensation and compliance fund in section 20 and imposing taxes in section 22 it is the purpose of the legislature to:*

*(a) Encourage treatment and disposal of hazardous waste in a manner that adequately protects the public health and welfare and the environment;*

*(b) Encourage responsible parties to provide the response actions necessary to protect the public and the environment from the effects of the release of hazardous substances;*

*(c) Encourage the use of alternatives to land disposal of hazardous waste including resource recovery, recycling, neutralization and reduction;*

*(d) Provide state agencies with the financial resources needed to prepare and implement an effective and timely state response to the release of hazardous substances, including investigation, planning, removal and remedial action;*

*(e) Compensate for increased governmental expenses and loss of revenue and to provide other appropriate assistance to mitigate any adverse impact*

on communities in which commercial hazardous waste processing or disposal facilities are located under the siting process provided in chapter 115A;

(f) Recognize the environmental and public health costs of land disposal of solid waste and of the use and disposal of hazardous substances and to place the burden of financing state hazardous waste management activities on those whose products and services contribute to hazardous waste management problems and increase the risks of harm to the public and the environment.

**Sec. 20. [115B.20] [ENVIRONMENTAL RESPONSE, COMPENSATION AND COMPLIANCE FUND.]**

*Subdivision 1. [ESTABLISHMENT.] The environmental response, compensation and compliance fund is created as an account in the state treasury and may be spent only for the purposes provided in subdivision 2.*

*Subd. 2. [PURPOSES FOR WHICH MONEY MAY BE SPENT.] Subject to appropriation by the legislature the money in the fund may be spent for any of the following purposes:*

*(a) Preparation by the agency for taking removal or remedial action under section 17, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 17 or 18;*

*(b) Removal and remedial actions taken or authorized by the agency or director under section 17, including related enforcement and compliance efforts under section 17 or 18, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;*

*(c) Reimbursement to any private person for expenditures made to provide alternative water supplies deemed necessary by the agency and the department of health to protect the public health from contamination resulting from the release of a hazardous substance;*

*(d) Removal and remedial actions taken or authorized by the agency or director under section 17, including related enforcement and compliance efforts under section 17 or 18, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9604(c)(3) for actions related to commercial hazardous waste facilities located under the siting authority of chapter 115A;*

*(e) Compensation as provided by law, after submission by the waste management board of the report required under section 115A.08, subdivision 5, to mitigate any adverse impact of the location of commercial hazardous waste processing or disposal facilities located pursuant to the siting authority of chapter 115A;*

*(f) Planning and implementation by the commissioner of natural resources of the rehabilitation, restoration or acquisition of natural resources to rem-*

*edy injuries or losses to natural resources resulting from the release of a hazardous substance;*

*(g) Inspection, monitoring and compliance efforts by the agency, or by political subdivisions with agency approval, of commercial hazardous waste facilities located under the siting authority of chapter 115A;*

*(h) Grants by the agency or the waste management board to demonstrate alternatives to land disposal of hazardous waste including reduction, separation, pretreatment, processing and resource recovery, for education of persons involved in regulating and handling hazardous waste; and*

*(i) Intervention and environmental mediation by the legislative commission on waste management under chapter 115A.*

*Subd. 3. [LIMIT ON CERTAIN EXPENDITURES.] The director or agency may not spend any money under subdivision 2, clause (b), (c) or (d) for removal or remedial actions to the extent that the costs of those actions may be compensated from any fund established under the Federal Superfund Act, 42 U.S.C. Section 9600 et seq. The director or agency shall determine the extent to which any of the costs of those actions may be compensated under the federal act based on the likelihood that the compensation will be available in a timely fashion. In making this determination the director or agency shall take into account:*

*(a) The urgency of the removal or remedial actions and the priority assigned under the Federal Superfund Act to the release which necessitates those actions;*

*(b) The availability of money in the funds established under the Federal Superfund Act; and*

*(c) The consistency of any compensation for the cost of the proposed actions under the Federal Superfund Act with the national contingency plan, if such a plan has been adopted under that act.*

*Subd. 4. [REVENUE SOURCES.] Revenue from the following sources shall be deposited in the environmental response, compensation and compliance fund:*

*(a) The proceeds of the taxes imposed pursuant to section 22, including interest and penalties;*

*(b) All money recovered by the state under sections 1 to 18 or under any other statute or rule related to the regulation of hazardous waste or hazardous substances, including civil penalties and money paid under any agreement, stipulation or settlement but excluding fees imposed under section 25;*

*(c) All interest attributable to investment of money deposited in the fund; and*

*(d) All money received in the form of gifts, grants, reimbursement or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants.*

*Subd. 5. [RECOMMENDATION BY LCWM.] The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations regarding appropriations*

*from the fund.*

*Subd. 6. [REPORT TO LEGISLATURE.] By November 1, 1984, and each year thereafter, the agency shall submit to the senate finance committee, the house appropriations committee and the legislative commission on waste management a report detailing the activities for which money from the environmental response, compensation and compliance fund has been spent during the previous fiscal year.*

## **Sec. 21. [TAXES; DEFINITIONS.]**

*Subdivision 1. [APPLICATION.] The definitions provided in this section and section 2 apply to sections 21 to 24.*

*Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of revenue.*

*Subd. 3. [GENERATOR.] "Generator" means a person who generates hazardous waste and who is required to disclose the generation of hazardous waste under the hazardous waste rules of the agency adopted under section 116.07.*

*Subd. 4. [LONG TERM CONTAINMENT.] "Long term containment" means land disposal or storage for a period of more than one year.*

*Subd. 5. [TREATMENT.] "Treatment" means any material, technique or process designed to change the physical, chemical or biological character or composition of a hazardous waste in order to: (a) neutralize it; (b) render it nonhazardous or less hazardous; (c) render it safer to transport, store or dispose of; (d) make it amenable to storage; or (e) reduce its volume.*

*Subd. 6. [WASTEWATER TREATMENT UNIT.] "Wastewater treatment unit" means a device which is part of a wastewater treatment facility subject to regulation pursuant to the federal Clean Water Act under 33 U.S.C. Section 1317 (b) or 1342.*

## **Sec. 22. [HAZARDOUS WASTE GENERATOR TAX.]**

*Subdivision 1. [TAXES IMPOSED; EXCLUSIONS.] Each generator of hazardous waste shall pay the taxes imposed by this section based upon the volume and destination of the hazardous wastes generated. The taxes imposed by this section do not apply to hazardous wastes destined for recycling or reuse, to used crankcase oil, to hazardous waste which is generated as a result of any response action, or to hazardous waste which meets applicable pretreatment standards or compliance schedules and is discharged to a public sewage treatment works.*

*Subd. 2. [LONG TERM CONTAINMENT WITHOUT TREATMENT.] Hazardous waste destined for long term containment without treatment shall be taxed at the rate of 32 cents per gallon of liquid or \$32 per cubic yard of solid.*

*Subd. 3. [LONG TERM CONTAINMENT AFTER TREATMENT.] Hazardous waste destined for long term containment after treatment shall be taxed at the rate of 16 cents per gallon of liquid or \$16 per cubic yard of solid.*

*Subd. 4. [OTHER TREATMENT.] Hazardous waste destined for treat-*

ment, other than as provided in subdivision 5, to produce a material which is not hazardous, including treatment permitted by the agency in a sewage treatment works, or hazardous waste which is destined for destructive treatment by incineration shall be taxed at the rate of eight cents per gallon of liquid or \$8 per cubic yard of solid.

Subd. 5. [ON-SITE WASTEWATER TREATMENT.] *The tax imposed under this section does not apply to hazardous waste which is destined for treatment in an on-site wastewater treatment unit to produce a material which is not hazardous before entering a public sewer system or waters of the state but the tax does apply to any residue of treatment which is a hazardous waste.*

Subd. 6. [DISPOSITION OF PROCEEDS.] *The proceeds of the taxes imposed under this section including any interest and penalties shall be deposited in the fund.*

Subd. 7. [REVIEW OF TAX BY LCWM.] *Within 60 days after the waste management board submits the plan required under section 115A.11 to the legislative commission on waste management, the commission shall review the taxes and tax rates imposed under this section in light of the objectives and recommendations of the plan, and shall recommend to the standing tax committees of both houses of the legislature any changes in the taxes or tax rates which are needed to assist or encourage implementation of the strategies adopted by the state for management of hazardous waste.*

#### Sec. 23. [SEVERABILITY.]

*If any tax imposed under section 22 is found to be invalid because of the purpose for which the proceeds were appropriated or made available under section 20, subdivision 2, the proceeds of that tax shall not be appropriated or available for the objectionable purposes, but the tax shall continue to be imposed and the proceeds shall be appropriated and made available for other purposes provided in section 20, subdivision 2.*

#### Sec. 24. [TAX ADMINISTRATION AND ENFORCEMENT.]

Subdivision 1. [ANNUAL RETURNS.] *Every generator of hazardous waste subject to taxation pursuant to section 22 shall file a return relating to the tax due for the preceding calendar year with the commissioner of revenue by April 15 each year, in the form prescribed by the commissioner. Payment of the tax, to the extent not paid in full pursuant to subdivisions 2 and 3, shall be submitted with the return.*

Subd. 2. [DECLARATIONS OF ESTIMATED TAX.] *For 1983, every generator of hazardous waste required to pay a tax pursuant to section 22 shall make a declaration of estimated hazardous waste generated for the last six months of calendar 1983 if the tax can reasonably be estimated to exceed \$500. The declaration of the estimated tax shall be filed by October 15, 1983. The amount of estimated tax with respect to which a declaration is required shall be paid in two equal installments by October 15, 1983 and January 15, 1984. For 1984 and subsequent years, every generator of hazardous waste required to pay a tax pursuant to section 22 shall make a declaration of estimated hazardous waste generated for the calendar year if the tax can reasonably be expected to be in excess of \$1,000. The declaration of estimated tax shall be filed by March 15. The amount of estimated tax with*

respect to which a declaration is required shall be paid in four equal installments on or before the 15th day of March, June, September, and December.

An amendment of a declaration may be filed in any interval between installment dates prescribed above but only one amendment may be filed in each interval. If an amendment of a declaration is filed, the amount of each remaining installment shall be the amount which would have been payable if the new estimate had been made when the first estimate for the calendar year was made, increased or decreased, as the case may be, by the amount computed by dividing

(1) the difference between (A) the amount of estimated tax required to be paid before the date on which the amendment was made, and (B) the amount of estimated tax which would have been required to be paid before that date if the new estimate had been made when the first estimate was made, by

(2) the number of installments remaining to be paid on or after the date on which the amendment is made.

The commissioner of revenue may grant a reasonable extension of time for filing any declaration but the extension shall not be for more than six months.

Subd. 3. [FAILURE TO PAY ESTIMATED TAX.] (a) In case of any underpayment of estimated tax required by this section, except as provided in clause (b), there shall be added to the tax for the taxable year an amount determined at the rate specified in section 270.75, subdivision 4, upon the amount of the underpayment for the period of the underpayment.

For purposes of this subdivision, the amount of the underpayment shall be the excess of

(1) the amount of the installment, over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier:

(1) April 15 or

(2) With respect to any portion of the underpayment, the date on which the portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under this subdivision for the installment date.

(b) Notwithstanding the provisions of clause (a), the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount which would have been required to be paid on or before that date if the estimated tax were the lesser of

(1) For 1985 and thereafter, the tax shown on the return of the taxpayer for the preceding year or, for 1984, twice the amount of the tax shown for 1983; or

(2) Eighty percent of the actual liability for the year.

**Subd. 4. [REFUNDS OF OVERPAYMENTS OF ESTIMATED TAX.]** *Refunds of overpayments of estimated tax shall be made as provided in section 290.936.*

**Subd. 5. [EXCHANGE OF INFORMATION.]** *Notwithstanding the provisions of section 116.075, the pollution control agency may provide the commissioner of revenue with the information necessary for the enforcement of section 22 and this section. Information disclosed in a return filed pursuant to this section is public. Information exchanged between the commissioner and the agency is public unless the information is of the type determined to be for the confidential use of the agency pursuant to section 116.075 or is trade secret information classified pursuant to section 13.37. Information obtained in the course of an audit of the taxpayer by the department of revenue shall be private or nonpublic data to the extent that it is not directly divulged in a return of the tax.*

**Subd. 6. [PAYMENT BY OUT-OF-STATE GENERATORS.]** *A generator of any hazardous waste which is generated outside of this state and is transported into this state for long term containment or treatment as described in section 22, subdivisions 2 to 4 shall pay the tax imposed by section 22 at the first point at which the hazardous wastes are received by a person in this state for storage, treatment or long term containment. The tax shall be paid to the person who first receives the wastes in this state at the time the waste is received and shall be remitted by that person to the commissioner of revenue quarterly in the form and manner provided by the commissioner.*

**Subd. 7. [DUTIES OF THE AGENCY AND METROPOLITAN COUNTIES.]** *The agency shall provide to the commissioner the names and addresses of all persons known to the agency who are subject to tax under section 22, together with any information which the agency possesses concerning the amount of hazardous waste generated and disposed of by those persons. Metropolitan counties required to regulate hazardous wastes under section 473.811, subdivision 5b, shall provide to the agency the data and information necessary to allow the agency to carry out its duties under this subdivision. Upon request by the commissioner, the agency shall examine returns and reports filed with the commissioner and notify the commissioner of any suspected inaccurate or fraudulent declaration or return. The agency may assist in auditing any person subject to tax under section 21 when requested by the commissioner.*

**Subd. 8. [PENALTIES; ENFORCEMENT.]** *The audit, penalty and enforcement provisions applicable to taxes imposed under chapter 290 apply to the taxes imposed under section 22 and those provisions shall be administered by the commissioner.*

**Subd. 9. [RULES.]** *The commissioner may adopt temporary and permanent rules necessary to implement the provisions of this section and section 22.*

**Subd. 10. [ADMINISTRATIVE EXPENSES.]** *Any amount expended by the commissioner from a general fund appropriation to enforce and administer section 22 and this section shall be reimbursed to the general fund and the amount necessary to make the reimbursement is appropriated from the fund to the commissioner of finance for transfer to the general fund.*

**Sec. 25. [116.12] [HAZARDOUS WASTE ADMINISTRATION FEES.]**



*Subdivision 1. [FEE SCHEDULES.] The agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in section 16A.128 to cover the amount appropriated from the general fund to the agency for that year for permitting, monitoring, inspection and enforcement expenses of the hazardous waste activities of the agency.*

*The legislature may appropriate additional amounts that need not be covered by fees or may provide that the fees shall cover only a portion of the general fund appropriation for the hazardous waste activities of the agency, in order to assure adequate funding for the regulatory and enforcement functions of the agency related to hazardous waste. All fees collected by the agency under this section shall be deposited in the general fund.*

*Subd. 2. [HAZARDOUS WASTE GENERATOR FEE.] Each generator of hazardous waste shall pay a fee on the hazardous waste which he generates. The agency shall compute the amount of the fee due based on the hazardous waste disclosures submitted by the generators and other information available to the agency. The agency shall annually prepare a statement of the amount of the fee due from each generator. The fee shall be paid annually commencing with the first day of the calendar quarter after the date of the statement.*

*The agency may exempt generators of small quantities of hazardous wastes otherwise subject to the fee if it finds that the cost of administering a fee on those generators is excessive relative to the proceeds of the fee. The fee shall consist of a minimum fee for each generator not exempted by the agency and an additional fee based on the quantity of wastes generated by the generator.*

*If any metropolitan counties recover the costs of administering county hazardous waste regulations by charging fees, the fees charged by the agency outside of those counties shall not exceed the fees charged by those counties. The agency shall not charge a fee in any metropolitan county which charges such a fee. The agency shall impose a surcharge on the fees charged by the metropolitan counties and by the agency to reflect the agency's expenses in carrying out its statewide hazardous waste regulatory responsibilities. The surcharge imposed on the fees charged by the metropolitan counties shall be collected by the metropolitan counties in the manner in which the counties collect their generator fees. Metropolitan counties shall remit the proceeds of the surcharge to the agency by the last day of the month following the month in which they were collected.*

*Subd. 3. [FACILITY FEES.] The agency shall charge an original permit fee, a reissuance fee and an annual operator's fee for any hazardous waste facility permitted by the agency. The agency may include reasonable and necessary costs of any environmental review required under chapter 116D in the original permit fee for any hazardous waste facility.*

Sec. 26. Minnesota Statutes 1982, section 115A.24, subdivision 1, is amended to read:

*Subdivision 1. [CERTIFICATE.] Except as provided in subdivision 2, By December 15, 1982, on the basis of and consistent with its hazardous waste management plan adopted under section 115A.11, the board shall issue a certificate or certificates of need for disposal facilities for hazardous wastes in the state. The certificate or certificates shall indicate the types and vol-*

umes of waste for which disposal facilities are and will be needed through the year 2000 and the number, types, sizes, general design and operating specifications, and function or use of the disposal facilities needed in the state. The board shall certify need only to the extent that the board has determined that there are no feasible and prudent alternatives including waste reduction, separation, pretreatment, processing, and resource recovery which would minimize adverse impact upon natural resources, provided that the board shall require the establishment of at least one commercial disposal facility in the state. Economic considerations alone shall not justify certification nor the rejection of alternatives. Alternatives that are speculative and conjectural shall not be deemed to be feasible and prudent. The board shall consider all technologies being developed in other countries as well as in the United States when it considers the alternatives to hazardous waste disposal. The certificate or certificates shall not be subject to the provisions of chapter 14 but shall be the final determination required on the matters decided by the certificate or certificates and shall have the force and effect of law. The certificate or certificates shall not be amended for five years. The board and the permitting agencies, in reviewing and selecting sites, completing environmental impact statements, and issuing approvals and permits for waste disposal facilities described in the certificate or certificates of need, shall not reconsider matters determined in the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of facilities consistent with the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of at least one commercial disposal facility for hazardous waste in the state.

Sec. 27. [APPROPRIATION; COMPLEMENT.]

*Subdivision 1. [APPROPRIATION TO FUND.] The sum of \$5,000,000 is appropriated from the general fund and transferred to the environmental response, compensation, and compliance fund established in section 20. This appropriation is available until expended.*

*Subd. 2. [TAX ADMINISTRATION; COMPLEMENT.] The sum of \$50,000 in fiscal year 1984 and \$40,000 in fiscal year 1985 is appropriated from the general fund to the commissioner of revenue for the purposes of administering and enforcing sections 21 to 24. This appropriation shall be reimbursed to the general fund under the provisions of section 24, subdivision 10.*

*The complement of the department of revenue is increased by two positions.*

*Subd. 3. [APPROPRIATION FOR RESPONSE ACTIONS; COMPLEMENT.] The sum of \$483,700 in fiscal year 1984 and \$400,700 in fiscal year 1985 is appropriated from the environmental response, compensation, and compliance fund to the pollution control agency for administrative costs.*

*The complement of the pollution control agency is increased by ten positions.*

*All money in the environmental response, compensation, and compliance fund not otherwise appropriated is appropriated to the pollution control agency for the purposes described in section 20, subdivision 2, clauses (a),*

(b), and (c). This appropriation is available until June 30, 1985.

*Subd. 4. [APPROPRIATION FOR COMPLIANCE ACTIONS; COMPLEMENT.] The sum of \$45,600 in fiscal year 1984 and \$56,400 in fiscal year 1985 is appropriated from the general fund to the attorney general for the purposes of enforcing this act. This appropriation shall be reimbursed to the general fund from the environmental response, compensation, and compliance fund, and the amount necessary to make the reimbursement is appropriated to the commissioner of finance for transfer to the general fund.*

*The complement of the office of the attorney general is increased by two positions.*

Sec. 28. [STUDY.]

*The commissioner of insurance shall conduct a study to determine (1) whether adequate private insurance is available on reasonable terms and conditions to the persons subject to liability under section 5 of this act, and (2) whether the market for this insurance is sufficiently competitive to insure purchasers of features such as a reasonable range of deductibles, coinsurance provisions, and exclusions. The commissioner shall submit the results of the study, together with his recommendations, to the legislature by January 1, 1985. The director of the pollution control agency shall cooperate with and provide assistance to the commissioner during the course of the study.*

Sec. 29. [REPEALER.]

*Minnesota Statutes 1982, section 115A.24, subdivision 2, is repealed.*

Sec. 30. [EFFECTIVE DATE.]

*Sections 16 to 24 are effective the day following final enactment. The taxes imposed by section 22 are effective July 1, 1983. The remaining sections of this act are effective July 1, 1983."*

Amend the title as follows:

Page 1, line 10, after "relief;" insert "providing for a study of insurance availability;"

Page 1, line 12, delete "sections" and insert "section" and delete everything after "1;"

Page 1, line 13, delete everything before "proposing"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Willet from the Committee on Finance, to which was referred

S.F. No. 372: A bill for an act relating to claims against the state; providing for payment of various claims; appropriating money.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, after line 2, insert:

*"Subd. 5. Al Ende, 9888 Deerwood Lane, Maple Grove, Minnesota*

55369; for an injury sustained while performing assigned duties as a member of the prison building maintenance crew at the Minnesota correctional facility-Stillwater. Of this appropriation, \$448.00 is for payment to Mr. Ende for his medical expenses already incurred, \$3,220.00 is for payment to Mr. Ende for a 15 percent permanent partial disability of his spine, and \$10,000.00 is for the commissioner of corrections to pay for spinal surgery if elected by Mr. Ende.....\$13,668.00."

Page 2, after line 10, insert:

"Subd. 8. Roger D. McCulley, 14431 Wolfram, Anoka, Minnesota 55303, for legal expenses incurred by him in defending the constitutionality of Minnesota Statutes, section 100.29, subdivision 19.....\$6,156.00."

Renumber the subdivisions in sequence

Page 3, after line 16, insert:

"Subd. 16. Wright County, c/o Sherry Schliesing, Restitution Probation Officer, Courthouse, Buffalo, Minnesota 55313, Court File No. 44264, Restitution Case No. E1498, for medical expenses for an injury claimant received while doing court-ordered community service restitution. . . . . \$61.30.

## Sec. 2. [TRUNK HIGHWAY FUND CLAIMS.]

*Subdivision 1. The sum set forth in subdivision 2 is appropriated from the trunk highway fund to the commissioner of transportation for payment to the persons named in full and final payment of claims against the state.*

*Subd. 2. Washington County Board of Commissioners, c/o Thomas J. Ryan, Washington County Courthouse, Stillwater, Minnesota 55082, for expenses incurred during the eight years they relied on the northern route designation for I-94 which were laid to waste with the eventual designation of the southern route along in place Highway 12..... \$31,666.00.*

*Subd. 3. The commissioner of transportation shall credit the account of the City of Baudette in the amount of \$41,000.00 to be applied toward the city's obligation under cooperative construction agreement no. 61145 for the construction of state project 3901-29. This credit is a full and final payment of all the city's claims against the state arising out of agreement no. 61145."*

Page 4, after line 28, insert:

"Bruce O. Berg, Route 2, Box 1, Newfolden, Minnesota 56736.....\$195.00."

Page 5, after line 4, insert:

"James R. Bryce, Route 1, Box 37B, Two Harbors, Minnesota 55616.....\$300.00."

Page 5, after line 16, insert:

"Terrence Daisey, 3445 Hamilton Avenue, Wayzata, Minnesota 55391.....\$585.00."

Richard G. DeFoe, Box 53, Benedict, Minnesota 56436.....\$195.00."

Page 5, after line 31, insert:

*"Jerome V. Hansen, Route 6, St. Cloud, Minnesota 56301.....\$600.00.*

*James P. Harthon, c/o Phillip Harthon, Graceton, Minnesota 56645.....\$600.00."*

Page 6, after line 2, insert:

*"Cary C. Huber, 1919 Silver Bell Road, #315, Eagan, Minnesota 55122.....\$255.00."*

Page 6, after line 20, insert:

*"Donald H. Melius, 110 7th Avenue South, Hopkins, Minnesota 55434.....\$210.00."*

Page 7, after line 17, insert:

*"Maynard E. Schmitt, 195 South Dunlap, #4, Saint Paul, Minnesota.....\$120.00."*

Page 7, after line 19, insert:

*"James A. Siems, Route 2, Isanti, Minnesota 55040.....\$100.00."*

Page 8, after line 5, insert:

*"Roland V. Wilson, 112-1/2 North Main Street, #3, Crookston, Minnesota 56716.....\$570.00."*

Page 8, after line 9, insert:

*"Ronald L. Wittrock, 616 Southwest 5th Street, Pipestone, Minnesota 56164.....\$285.00."*

Renumber the sections in sequence

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Willet from the Committee on Finance, to which was referred

S.F. No. 366: A bill for an act relating to appropriations; authorizing the Arrowhead regional development commission to repay an appropriation with funds raised by a levy; amending Laws 1981, chapter 356, section 30.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Willet, from the Committee on Finance, to which was re-referred

S.F. No. 85: A bill for an act relating to taxation; providing a property tax credit to certain veterans awarded the congressional medal of honor; appropriating money; proposing new law coded in Minnesota Statutes, chapter 273.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Moe, D. M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 750: A bill for an act relating to economic development; creating

the foreign trade agency to promote state economic growth; appropriating money; and proposing new law coded in Minnesota Statutes, chapter 116J.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, delete section 1

Page 1, line 20, delete "2" and insert "1"

Page 1, line 21, delete "6" and insert "5"

Page 2, line 6, delete "*commerce*" and insert "*energy and economic development*"

Page 2, line 30, delete "*department of commerce*" and insert "*commissioner of energy and economic development*"

Page 3, delete lines 22 to 36

Page 4, delete lines 1 to 5

Renumber the subdivisions in sequence

Page 5, line 3, delete "\$2,000,000" and insert "\$....."

Page 5, line 9, delete everything after "*be*" and insert "*knowledgeable*"

Page 5, line 10, delete everything after "*finance*" and insert "*, exporting,*"

Page 5, line 11, delete everything before "*international*" and insert "*or*"

Page 5, line 12, delete "*Members of*"

Page 5, delete lines 13 to 16

Page 5, line 17, delete "*subdivision 2.*" and after "*Membership*" insert a comma

Page 5, line 17, after "*terms*" insert "*, compensation*"

Renumber the sections in sequence

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Moe, D. M. from the Committee on Governmental Operations, to which was referred

H.F. No. 564: A bill for an act relating to the state board of investment; modifying the procedures for purchase and sale of securities; clarifying the membership of the investment advisory council; abolishing certain restrictions on stock investments; modifying procedures for the mortality adjustments for the post-retirement investment fund; authorizing additional investment alternatives; amending Minnesota Statutes 1982, sections 11A.07, subdivision 4; 11A.08, subdivision 1, as amended; 11A.17, subdivision 4; 11A.18, subdivisions 5, 9, and 11; 11A.24, subdivisions 1, 5, and 6.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Moe, D. M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 1068: A bill for an act relating to economic development; creating the world trade center commission; appropriating money.

Reports the same back with the recommendation that the bill be referred to the Committee on Finance without recommendation. Report adopted.

Mr. Moe, D. M. from the Committee on Governmental Operations, to which was referred

H.F. No. 764: A bill for an act relating to retirement; qualifying park district police for certain pension aids; amending Minnesota Statutes 1982, section 69.011, subdivision 1.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

S.F. No. 359: A bill for an act relating to taxation; providing a transitional period of exemption from the tax on aggregate materials under certain circumstances.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, delete lines 15 to 20 and insert "*the aggregate materials are delivered prior to January 1, 1985.*"

Page 1, line 22, after the period, insert "*The county shall refund any tax paid pursuant to section 298.75 on aggregate material sold under a contract described in section 1 upon presentation by the operator of a copy of the contract to the county auditor.*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 984: A bill for an act relating to taxation; authorizing cities to impose taxes on the gross receipts from the furnishing of certain lodging; proposing new law coded in Minnesota Statutes, chapter 477A.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [477A.018] [CITY LODGING TAX.]

*Subdivision 1. [AUTHORIZATION.] Notwithstanding section 477A.016 or any other law, a statutory or home rule charter city may by ordinance impose a tax of up to three percent on the gross receipts from the furnishing*

*for consideration of lodging at a hotel, motel, rooming house, tourist court, or other use of space by a transient, other than the renting or leasing of it for a continuous period of 30 days or more.*

*Subd. 2. [EXISTING TAXES.] No statutory or home rule charter city may impose a tax under this section upon transient lodging that, when combined with any tax authorized by special law or enacted prior to 1972, exceeds a rate of three percent.*

*Subd. 3. [DISPOSITION OF PROCEEDS.] Ninety-five percent of the gross proceeds from any tax imposed under subdivision 1 shall be used by the statutory or home rule charter city to fund a local convention or tourism bureau for the purpose of marketing and promoting the city as a tourist or convention center. This subdivision shall not apply to any statutory or home rule charter city that has a lodging tax authorized by special law or enacted prior to 1972 at the time of enactment of this section.*

**Sec. 2. [COLLECTION.]**

*The statutory or home rule charter city may agree with the commissioner of revenue that a tax imposed pursuant to section 1 shall be collected by the commissioner together with the tax imposed by Minnesota Statutes, chapter 297A, and subject to the same interest, penalties and other rules and that its proceeds, less the cost of collection, shall be remitted to the city.*

**Sec. 3. [EFFECTIVE DATE.]**

*This act is effective July 1, 1983."*

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring these funds to be dedicated to tourism marketing and promotion;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

S.F. No. 187: A bill for an act relating to taxation; abolishing the aggregate removal tax; allowing the counties of Becker, Clay, Kittson, Marshall, Norman, Polk, and Wilkin to impose an aggregate removal tax; prescribing penalties; repealing Minnesota Statutes 1982, section 298.75; Laws 1961, chapter 605; Laws 1963, chapter 475; Laws 1965, chapter 163; Laws 1977, chapters 112 and 117; and Laws 1979, chapter 273.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 13, after "POLK," insert "TRAVERSE, BIG STONE, MAHNOMEN,"

Page 1, line 18, after "Polk," insert "Traverse, Big Stone, Mahnomen,"

Page 4, line 3, after "Polk," insert "Traverse, Big Stone, Mahnomen,"

Amend the title as follows:

Page 1, line 4, after "Polk," insert "Traverse, Big Stone, Mahnomen,"



And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 596: A bill for an act establishing an agricultural resource energy loan guaranty program, board, and fund, and the terms of guaranties by the state of project loans in the program; appropriating money, taxes, tax increments, and other governmental charges; authorizing the issuance of state bonds; amending Minnesota Statutes 1982, sections 116B.03, subdivision 1; 290.01, by adding a subdivision; 297A.44, subdivision 1; and 362A.01, subdivision 1; 362A.05; and 473F.02, subdivision 3; proposing new law coded as Minnesota Statutes, chapter 41A; proposing new law coded in Minnesota Statutes, chapter 362A.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 21, after "of" insert "chemicals including"

Page 2, lines 22, 26 and 29, delete "energy"

Page 3, line 1, after "fuel" insert "and chemicals,"

Page 3, line 15, delete "energy"

Page 4, line 28, delete "energy"

Page 5, line 6, delete "energy"

Page 5, lines 15 and 21, before "percent" insert "95"

Page 5, line 19, after "than" insert "80"

Page 9, line 1, delete "energy"

Page 10, line 31, delete "energy"

Page 12, after line 11, insert:

*"Subd. 4. [TERMINATION.] No application for a guaranty shall be approved by the board pursuant to sections 1 to 6 after December 31, 1989. A guaranty approved prior to January 1, 1990, shall remain in effect for the period established by its terms."*

Page 12, line 12, delete "ENERGY"

Page 12, lines 16, 29 and 31, delete "energy"

Page 13, line 12, delete "energy"

Page 14, lines 13 and 35, delete "energy"

Page 16, lines 28 to 32, delete the new language and insert " , or for action taken by a person as authorized or required in a conditional or final commitment issued by the agricultural resource loan guaranty board for a state guaranty of a loan for a project"

Page 17, lines 14 and 21, delete "energy"

Page 18, lines 7 and 24, delete "energy"

Pages 19 and 20, delete section 13

Page 20, line 19, delete "energy"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "energy"

Page 1, line 10, after "1;" insert "and" and delete "and 473F.02,"

Page 1, line 11, delete "subdivision 3;"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

S.F. No. 1126: A resolution memorializing the United States Congress to conduct an in-depth investigation of the steel industry.

Reports the same back with the recommendation that the resolution do pass and be re-referred to the Committee on Rules and Administration. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 745 for comparison with companion Senate File, reports the following House File was found not identical with its companion Senate File as follows:

| GENERAL ORDERS |          | CONSENT CALENDAR |          | CALENDAR |         |
|----------------|----------|------------------|----------|----------|---------|
| H.F. No.       | S.F. No. | H.F. No.         | S.F. No. | H.F.No.  | S.F.No. |
| 745            | 737      |                  |          |          |         |

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 745 be amended as follows:

Page 8, line 12, delete "chief hearing examiner" and insert "revisor of statutes"

Page 8, line 13, delete "revisor of statutes" and insert " chief hearing examiner"

Page 9, line 14, insert a comma before "submit"

Page 9, line 16, after the stricken "filed" insert "submitted"

Page 9, line 17, delete "submitted"

Page 11, line 34, delete "revisor of statutes, and the"

Page 11, line 35, before the period insert ", and to the revisor of statutes"

Page 12, line 11, delete "revisor of statutes, and the"

Page 12, line 12, before the period insert ", and to the revisor of statutes"

Page 13, line 8, strike the comma

And when so amended H.F. No. 745 will be identical to S.F. No. 737, and further recommends that H.F. No. 745 be given its second reading and substituted for S.F. No. 737, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Mr. Hughes from the Committee on Elections and Ethics, to which were referred the following appointments as reported in the Journal for January 24, 1983:

#### STATE ETHICAL PRACTICES BOARD

William W. McCutcheon

Leonard C. Myrah

Reports the same back with the recommendation that the appointments be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Mr. Hughes from the Committee on Elections and Ethics, to which was referred the following appointment as reported in the Journal for January 31, 1983:

#### STATE ETHICAL PRACTICES BOARD

Myra S. Greenberg

Reports the same back with the recommendation that the appointment be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

### SECOND READING OF SENATE BILLS

S.F. Nos. 1198, 886, 1043, 373, 1146, 906, 1168, 572, 800, 919, 372, 366, 85, 359, 984 and 187 were read the second time.

### SECOND READING OF HOUSE BILLS

H.F. Nos. 289, 190, 419, 721, 959, 953, 558, 954, 462, 1062, 1122, 741, 694, 445, 250, 490, 76, 564, 764 and 745 were read the second time.

### MOTIONS AND RESOLUTIONS

Mr. Schmitz moved that the name of Mr. Dahl be added as a co-author to S.F. No. 753. The motion prevailed.

Mr. Bertram moved that the name of Mr. Anderson be added as a co-author to S.F. No. 1196. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Calendar. The motion prevailed.

### CALENDAR

S.F. No. 634: A bill for an act relating to game and fish; establishing the joint legislative committee on fishing resources; imposing a surcharge on fishing licenses for development and improvement of state fishing resources; authorizing designation of experimental and specialized fishing waters; authorizing additional notice of netting season; licensing fishing guides; increasing certain license fees; prohibiting angling and use of tip-ups while spearing in a dark house; prohibiting issuance of new commercial game fish netting licenses; allowing designation of lakes for taking of certain muskellunge; imposing penalties for various offenses; amending Minnesota Statutes 1982, sections 84.027, subdivision 2; 97.48, subdivision 26, and by adding a subdivision; 97.53, by adding a subdivision; 97.55, by adding subdivisions; 98.46, subdivision 5; 98.52, by adding subdivisions; and 101.42, subdivisions 1a and 20; proposing new law coded in Minnesota Statutes, chapters 97, 98, and 102.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 10, as follows:

Those who voted in the affirmative were:

|             |               |            |                |           |
|-------------|---------------|------------|----------------|-----------|
| Adkins      | DeCramer      | Kroening   | Nelson         | Sieloff   |
| Belanger    | Dicklich      | Kronebusch | Novak          | Solon     |
| Benson      | Diessner      | Laidig     | Pehler         | Spear     |
| Berg        | Dieterich     | Langseth   | Peterson, C.C. | Stumpf    |
| Berglin     | Frank         | Lantry     | Peterson, D.C. | Taylor    |
| Bernhagen   | Frederickson  | Lessard    | Petty          | Ulland    |
| Bertram     | Freeman       | Luther     | Pogemiller     | Vega      |
| Brataas     | Hughes        | McQuaid    | Purfeerst      | Waldorf   |
| Chmielewski | Isackson      | Merriam    | Ramstad        | Wegscheid |
| Dahl        | Johnson, D.J. | Moe, D.M.  | Reichgott      | Willet    |
| Davis       | Knaak         | Moe, R.D.  | Schmitz        |           |

Those who voted in the negative were:

|           |         |                |                |           |
|-----------|---------|----------------|----------------|-----------|
| Anderson  | Jude    | Mehrkens       | Peterson, R.W. | Samuelson |
| Frederick | Kamrath | Peterson, D.L. | Renneke        | Storm     |

So the bill passed and its title was agreed to.

S.F. No. 887: A bill for an act relating to transportation; providing for the inclusion of former municipal state-aid streets in the county state-aid highway system; amending Minnesota Statutes 1982, section 162.02, subdivision 1, and by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 40 and nays 24, as follows:

Those who voted in the affirmative were:

|           |               |           |                |           |
|-----------|---------------|-----------|----------------|-----------|
| Adkins    | Diessner      | Langseth  | Pehler         | Samuelson |
| Bernhagen | Freeman       | Lantry    | Peterson, C.C. | Schmitz   |
| Bertram   | Hughes        | Lessard   | Peterson, D.C. | Sieloff   |
| Brataas   | Johnson, D.J. | McQuaid   | Peterson, R.W. | Solon     |
| Dahl      | Jude          | Moe, D.M. | Petty          | Storm     |
| Davis     | Kamrath       | Moe, R.D. | Pogemiller     | Stumpf    |
| DeCramer  | Kroening      | Nelson    | Purfeerst      | Ulland    |
| Dicklich  | Laidig        | Novak     | Reichgott      | Vega      |

Those who voted in the negative were:

|          |              |            |                |           |
|----------|--------------|------------|----------------|-----------|
| Anderson | Chmielewski  | Isackson   | Merriam        | Taylor    |
| Belanger | Dieterich    | Knaak      | Peterson, D.L. | Waldorf   |
| Benson   | Frank        | Kronebusch | Ramstad        | Wegscheid |
| Berg     | Frederick    | Luther     | Renneke        | Willet    |
| Berglin  | Frederickson | Mehrkens   | Spear          |           |

So the bill passed and its title was agreed to.

S.F. No. 170: A bill for an act relating to elections; providing for experimental mail elections; proposing new law coded in Minnesota Statutes, chapter 204B.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 44 and nays 20, as follows:

Those who voted in the affirmative were:

|             |               |           |                |           |
|-------------|---------------|-----------|----------------|-----------|
| Adkins      | Frank         | Luther    | Peterson, C.C. | Solon     |
| Belanger    | Freeman       | McQuaid   | Peterson, D.C. | Spear     |
| Berglin     | Hughes        | Mehrkens  | Peterson, R.W. | Storm     |
| Chmielewski | Johnson, D.J. | Merriam   | Petty          | Stumpf    |
| Dahl        | Jude          | Moe, D.M. | Pogemiller     | Vega      |
| Davis       | Kroening      | Moe, R.D. | Purfeerst      | Waldorf   |
| DeCramer    | Langseth      | Nelson    | Reichgott      | Wegscheid |
| Dicklich    | Lantry        | Novak     | Samuelson      | Willet    |
| Diessner    | Lessard       | Pehler    | Schmitz        |           |

Those who voted in the negative were:

|           |           |              |                |         |
|-----------|-----------|--------------|----------------|---------|
| Anderson  | Bertram   | Frederickson | Kronebusch     | Renneke |
| Benson    | Brataas   | Isackson     | Laidig         | Sieloff |
| Berg      | Dieterich | Kamrath      | Peterson, D.L. | Taylor  |
| Bernhagen | Frederick | Knaak        | Ramstad        | Ulland  |

So the bill passed and its title was agreed to.

S.F. No. 889: A bill for an act relating to local government; clarifying powers of municipalities and redevelopment agencies with respect to acquisition, construction, leasing, selling, loan of funds, and issuance of revenue bonds for industrial development projects; amending Minnesota Statutes 1982, sections 474.03 and 474.06.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 6, as follows:

Those who voted in the affirmative were:

|             |               |            |                |           |
|-------------|---------------|------------|----------------|-----------|
| Adkins      | Dicklich      | Knaak      | Nelson         | Sieloff   |
| Anderson    | Diessner      | Kroening   | Novak          | Solon     |
| Belanger    | Dieterich     | Kronebusch | Pehler         | Spear     |
| Benson      | Frank         | Laidig     | Peterson, D.C. | Storm     |
| Berg        | Frederick     | Langseth   | Peterson, D.L. | Stumpf    |
| Berglin     | Frederickson  | Lantry     | Petty          | Taylor    |
| Bernhagen   | Freeman       | Lessard    | Pogemiller     | Vega      |
| Bertram     | Hughes        | Luther     | Purfeerst      | Waldorf   |
| Chmielewski | Isackson      | McQuaid    | Ramstad        | Wegscheid |
| Dahl        | Johnson, D.J. | Mehrkens   | Reichgott      | Willet    |
| Davis       | Jude          | Moe, D.M.  | Renneke        |           |
| DeCramer    | Kamrath       | Moe, R.D.  | Schmitz        |           |

Those who voted in the negative were:

Brataas  
Merriam

Peterson, C.C.

Peterson, R.W.

Samuelson

Ulland

So the bill passed and its title was agreed to.

S.F. No. 679: A bill for an act relating to redevelopment; authorizing the commissioner of iron range resources and rehabilitation to exercise certain powers and to issue bonds to finance certain projects and programs in tax relief areas; appropriating money; amending Minnesota Statutes 1982, section 298.292; proposing new law coded in Minnesota Statutes, chapter 298.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 44 and nays 20, as follows:

Those who voted in the affirmative were:

|             |               |           |                |           |
|-------------|---------------|-----------|----------------|-----------|
| Adkins      | DeCramer      | Kroening  | Peterson, C.C. | Spear     |
| Anderson    | Dicklich      | Langseth  | Peterson, D.C. | Storm     |
| Belanger    | Diessner      | Lantry    | Petty          | Stumpf    |
| Berglin     | Dieterich     | Lessard   | Pogemiller     | Taylor    |
| Bertram     | Frank         | Luther    | Purfeerst      | Vega      |
| Brataas     | Freeman       | Moe, R.D. | Reichgott      | Waldorf   |
| Chmielewski | Hughes        | Nelson    | Samuelson      | Wegscheid |
| Dahl        | Johnson, D.J. | Novak     | Schmitz        | Willet    |
| Davis       | Jude          | Pehler    | Solon          |           |

Those who voted in the negative were:

|           |              |            |                |         |
|-----------|--------------|------------|----------------|---------|
| Benson    | Frederickson | Kronebusch | Merriam        | Ramstad |
| Berg      | Isackson     | Laidig     | Moe, D.M.      | Renneke |
| Bernhagen | Kamrath      | McQuaid    | Peterson, D.L. | Sieloff |
| Frederick | Knaak        | Mehrkens   | Peterson, R.W. | Ulland  |

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Consent Calendar. The motion prevailed.

## CONSENT CALENDAR

S.F. No. 1067: A bill for an act relating to crimes; exempting participants in supervised research programs from arrest for certain driving violations; amending Minnesota Statutes 1982, section 169.121, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 60 and nays 4, as follows:

Those who voted in the affirmative were:

|             |               |            |                |           |
|-------------|---------------|------------|----------------|-----------|
| Adkins      | Dicklich      | Kroening   | Novak          | Samuelson |
| Anderson    | Diessner      | Kronebusch | Pehler         | Schmitz   |
| Belanger    | Dieterich     | Laidig     | Peterson, C.C. | Sieloff   |
| Benson      | Frank         | Langseth   | Peterson, D.C. | Solon     |
| Berg        | Frederickson  | Lantry     | Peterson, D.L. | Spear     |
| Berglin     | Freeman       | Lessard    | Peterson, R.W. | Storm     |
| Bertram     | Hughes        | Luther     | Petty          | Stumpf    |
| Brataas     | Johnson, D.J. | McQuaid    | Pogemiller     | Taylor    |
| Chmielewski | Jude          | Mehrkins   | Purfeerst      | Ulland    |
| Dahl        | Kamrath       | Merriam    | Ramstad        | Vega      |
| Davis       | Knaak         | Moe, R.D.  | Reichgott      | Wegscheid |
| DeCramer    | Knutson       | Nelson     | Renneke        | Willet    |

Messrs. Bernhagen, Frederick, Isackson and Waldorf voted in the negative.

So the bill passed and its title was agreed to.

H.F. No. 608: A bill for an act relating to insurance; accident and health; exempting administrators of self insured health plans established by collective bargaining agreement from certain regulatory provisions; amending Minnesota Statutes 1982, section 60A.23, subdivision 8.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

|             |               |            |                |           |
|-------------|---------------|------------|----------------|-----------|
| Adkins      | Dicklich      | Knutson    | Novak          | Schmitz   |
| Anderson    | Diessner      | Kroening   | Pehler         | Sieloff   |
| Belanger    | Dieterich     | Kronebusch | Peterson, C.C. | Solon     |
| Benson      | Frank         | Laidig     | Peterson, D.C. | Spear     |
| Berg        | Frederick     | Langseth   | Peterson, D.L. | Storm     |
| Berglin     | Frederickson  | Lantry     | Peterson, R.W. | Stumpf    |
| Bernhagen   | Freeman       | Lessard    | Petty          | Taylor    |
| Bertram     | Hughes        | Luther     | Pogemiller     | Ulland    |
| Brataas     | Isackson      | McQuaid    | Purfeerst      | Vega      |
| Chmielewski | Johnson, D.J. | Mehrkins   | Ramstad        | Waldorf   |
| Dahl        | Jude          | Merriam    | Reichgott      | Wegscheid |
| Davis       | Kamrath       | Moe, R.D.  | Renneke        | Willet    |
| DeCramer    | Knaak         | Nelson     | Samuelson      |           |

So the bill passed and its title was agreed to.

H.F. No. 903: A bill for an act relating to insurance; removing obsolete statutory provisions regulating assessment benefit associations; repealing Minnesota Statutes 1982, sections 63.01 to 63.35.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

|             |               |            |                |           |
|-------------|---------------|------------|----------------|-----------|
| Adkins      | Dicklich      | Knutson    | Novak          | Schmitz   |
| Anderson    | Diessner      | Kroening   | Pehler         | Sieloff   |
| Belanger    | Dieterich     | Kronebusch | Peterson, C.C. | Solon     |
| Benson      | Frank         | Laidig     | Peterson, D.C. | Spear     |
| Berg        | Frederick     | Langseth   | Peterson, D.L. | Storm     |
| Berglin     | Frederickson  | Lantry     | Peterson, R.W. | Stumpf    |
| Bernhagen   | Freeman       | Lessard    | Petty          | Taylor    |
| Bertram     | Hughes        | Luther     | Pogemiller     | Ulland    |
| Brataas     | Isackson      | McQuaid    | Purfeerst      | Vega      |
| Chmielewski | Johnson, D.J. | Mehrkins   | Ramstad        | Waldorf   |
| Dahl        | Jude          | Merriam    | Reichgott      | Wegscheid |
| Davis       | Kamrath       | Moe, R.D.  | Renneke        | Willet    |
| DeCramer    | Knaak         | Nelson     | Samuelson      |           |

So the bill passed and its title was agreed to.

H.F. No. 801: A bill for an act relating to financial institutions; authorizing electronic financial terminals at locations other than retail locations established by persons other than retailers; amending Minnesota Statutes 1982, sections 47.62, subdivision 1; and 47.64, subdivision 3; repealing Minnesota Statutes 1982, section 47.61, subdivision 5.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

|             |               |            |                |           |
|-------------|---------------|------------|----------------|-----------|
| Anderson    | Diessner      | Kroening   | Novak          | Sieloff   |
| Belanger    | Dieterich     | Kronebusch | Pehler         | Solon     |
| Benson      | Frank         | Laidig     | Peterson, C.C. | Spear     |
| Berg        | Frederick     | Langseth   | Peterson, D.C. | Storm     |
| Berglin     | Frederickson  | Lantry     | Peterson, D.L. | Stumpf    |
| Bernhagen   | Freeman       | Lessard    | Peterson, R.W. | Taylor    |
| Bertram     | Hughes        | Luther     | Petty          | Ulland    |
| Brataas     | Isackson      | McQuaid    | Purfeerst      | Vega      |
| Chmielewski | Johnson, D.J. | Mehrkins   | Ramstad        | Waldorf   |
| Dahl        | Jude          | Merriam    | Reichgott      | Wegscheid |
| Davis       | Kamrath       | Moe, D.M.  | Renneke        | Willet    |
| DeCramer    | Knaak         | Moe, R.D.  | Samuelson      |           |
| Dicklich    | Knutson       | Nelson     | Schmitz        |           |

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the General Orders Calendar. The motion prevailed.

## GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Hughes in the chair.

After some time spent therein, the committee arose, and Mr. Luther reported that the committee had considered the following:

S.F. Nos. 462, 525, 856, 661, 987, 954, 378, 756, 601, 301, 799 and H.F. Nos. 656 and 697, which the committee recommends to pass.



S.F. No. 1012, which the committee recommends to pass with the following amendment offered by Mr. Laidig:

Page 50, after line 11, insert:

“Sec. 58. [COUNTY FINANCING OF FACILITIES.]

*The counties of Washington and Ramsey, separately or jointly, may, by resolution, authorize the issuance of bonds or other obligations, including initial obligations issued to finance solely preliminary costs such as site acquisition and preparations and legal, engineering, financial, and planning services, to provide funds to acquire or better solid waste and related facilities, including transmission facilities and property or property rights for a solid waste or related facility, or to refund any outstanding obligations issued for that purpose.*

*Any later formation of a solid waste management district under Minnesota Statutes, chapter 115A, or contemplated sale or lease of any of the facilities or their work product to a private person, after the county or solid waste management district has incurred the costs of the facilities or work product, shall not restrict or limit the use of the proceeds of the bonds or other obligations.*

*The county may pledge to the payment of the obligations and the interest on them,*

- (a) its full faith, credit, and taxing powers;*
- (b) the proceeds of any designated tax levies;*
- (c) the gross or net revenues or charges to be derived from any facility operated by or for the county;*
- (d) the proceeds of any anticipating refunding obligations, state or federal loan or grant, or any sale of the facilities or their work product;*
- (e) any other funds of the county; or*
- (f) any combination of the foregoing.*

*Taxes levied for the payment of the obligations and interest shall not reduce the amounts of other taxes which the county is authorized by law to levy.*

*The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest when due and to pay the cost of interest accruing on the obligations before six months after the date the facilities are first placed in service.*

*Revenue bonds issued pursuant to this section may be sold at public or private sale upon the conditions the county board shall determine, but any bonds to which the full faith and credit and taxing powers of the county are pledged shall be sold in accordance with Minnesota Statutes, chapter 475. No election shall be required to authorize the issuance of the obligations, and the debt limitations of chapter 475 or other law shall not apply to the obligations. The obligations may mature at a time or times, and in amounts, as the county board determines.*

*The county may covenant to refund, to the extent necessary, any temporary obligations with a term of no more than four years, in which event the tax*

*which would otherwise be required by section 475.61, subdivision 1, need not be required. The interest rate on temporary obligations may be fixed at the time of sale or be adjusted from time to time based on an index related to the cost of borrowing, and the price at which the temporary obligations may be sold may be at any amount determined most favorable by the county board, but the resulting composite interest rate may not exceed the rate permitted under section 475.55.*

*Except as provided in this section, the obligations shall be issued and sold in accordance with chapter 475.*

**Sec. 59. [DISTRICT FORMATION.]**

*Notwithstanding any contrary provisions of Minnesota Statutes, section 115A.63, subdivision 3, or other law, Ramsey and Washington counties, before establishing a waste management district solely within their boundaries, need not demonstrate that they are unable to fulfill the purposes of a district through joint action under Minnesota Statutes, section 471.59.*

**Sec. 60. [POWERS ADDITIONAL AND SUPPLEMENTAL.]**

*The powers conferred by sections 58 and 59 are in addition and supplemental to the powers conferred by any other law or charter. Insofar as any other law or charter is inconsistent with sections 58 and 59, the provisions of sections 58 and 59 control as to facilities authorized under those sections.*

**Sec. 61. [EFFECTIVE DATE.]**

*Sections 58 to 60 are effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing bodies of both Ramsey and Washington counties."*

Page 50, line 20, delete "59" and insert "57, 62 and 63"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 15, after the semicolon, insert "authorizing issuance of bonds by Washington and Ramsey Counties for a solid waste facility;"

The motion prevailed. So the amendment was adopted.

S.F. No. 1105, which the committee recommends to pass with the following amendment offered by Mr. Frederickson:

Page 1, line 22, before the period, insert " , subject to an easement for Trunk Highway No. 99 as set forth in Commissioner's Width Order No. 15913, and further subject to Trunk Highway No. 295 as set forth in Commissioner's Order No. 21188"

The motion prevailed. So the amendment was adopted.

On motion of Mr. Moe, R.D., the report of the Committee of the Whole, as kept by the Secretary, was adopted.

**RECESS**

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

### MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate proceed to the Order of Business of Introduction and First Reading of Senate Bills. The motion prevailed.

### INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Messrs. Kroening and Waldorf introduced—

S.F. No. 1199: A bill for an act relating to solid waste management; transferring power from metropolitan counties to the metropolitan waste control commission to acquire, construct, and operate solid waste disposal facilities in the metropolitan area; amending Minnesota Statutes 1982, sections 473.504, subdivision 9; 473.801, by adding a subdivision; 473.802; 473.803, subdivision 1; 473.811, subdivisions 1, 2, 2a, 3, 4, 4a, 4b, 6, 8, and 9; 473.831, subdivisions 1 and 2; and 473.833, subdivisions 4 and 6.

Referred to the Committee on Agriculture and Natural Resources.

Mr. Ulland introduced—

S.F. No. 1200: A bill for an act relating to the legislature; extending the provisions of the open meetings law to the legislature; amending Minnesota Statutes 1982, section 471.705.

Referred to the Committee on Governmental Operations.

Mr. Ulland introduced—

S.F. No. 1201: A bill for an act relating to real property; extending the right of municipalities to restrict the conveyances of partial parcels of platted land; amending Minnesota Statutes 1982, section 272.162, subdivision 3.

Referred to the Committee on Judiciary.

Ms. Berglin introduced—

S.F. No. 1202: A bill for an act relating to community social services; amending the community social services act to incorporate certain programs for the mentally ill and mentally retarded and the program of day care sliding fees; amending Minnesota Statutes 1982, sections 256E.06, subdivision 2; and 256E.08, subdivision 9; repealing Minnesota Statutes 1982, section 245.87.

Referred to the Committee on Health and Human Services.

Messrs. Peterson, R.W.; Johnson, D.J.; Pogemiller and Spear introduced—

S.F. No. 1203: A bill for an act relating to taxation; property; providing that sales ratio studies are inadmissible in actions challenging real estate taxes; amending Minnesota Statutes 1982, section 278.05, subdivision 4.

Referred to the Committee on Taxes and Tax Laws.

Mr. Purfeerst introduced—

S.F. No. 1204: A bill for an act relating to taxation; abolishing the aggregate removal tax; allowing Le Sueur County to impose an aggregate removal tax; prescribing penalties; repealing Minnesota Statutes 1982, section 298.75; Laws 1961, chapter 605; Laws 1963, chapter 475; Laws 1965, chapter 163; Laws 1977, chapters 112 and 117; and Laws 1979, chapter 273.

Referred to the Committee on Taxes and Tax Laws.

### APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 267: Messrs. Pogemiller, Merriam and Sieloff.

H.F. No. 870: Messrs. Pogemiller, Merriam and Belanger.

S.F. No. 61: Messrs. Luther, Pogemiller and Knaak.

S.F. No. 708: Messrs. Peterson, R.W.; Merriam and Storm.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

### MEMBERS EXCUSED

Mr. Johnson, D.E. was excused from the Session of today. Mr. Knutson was excused from the Session of today until 10:35 a.m. Ms. Olson was excused from the Session of today until 11:30 a.m.

### ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 11:00 a.m., Tuesday, April 26, 1983. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate