

SIXTY-EIGHTH DAY

St. Paul, Minnesota, Monday, March 14, 1988

The Senate met at 2:00 p.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Frank 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. Philip J. Weiler.

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

Adkins	Davis	Jude	Metzen	Reichgott
Anderson	DeCramer	Knaak	Moe, D.M.	Renneke
Beckman	Dicklich	Knutson	Moe, R.D.	Samuelson
Belanger	Diessner	Kroening	Morse	Schmitz
Benson	Frank	Laidig	Novak	Solon
Berg	Frederick	Langseth	Olson	Spear
Berglin	Frederickson, D.J.	Lantry	Pehler	Storm
Bernhagen	Frederickson, D.R.	Lessard	Peterson, D.C.	Stumpf
Bertram	Freeman	Luther	Peterson, R.W.	Taylor
Brandl	Gustafson	Marty	Piper	Vickerman
Chmielewski	Hughes	McQuaid	Pogemiller	Waldorf
Cohen	Johnson, D.E.	Mehrkens	Purfeerst	Wegscheid
Dahl	Johnson, D.J.	Merriam	Ramstad	

The President declared a quorum present.

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

MEMBERS EXCUSED

Messrs. Decker and Larson were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committees indicated.

March 3, 1988

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

The following appointment to the Board of the Minnesota School and

Resource Center for the Arts is hereby respectfully submitted to the Senate for confirmation as required by law:

Audrey Eickhof, R.R. 2, Box 17, Crookston, Polk County, has been appointed by me, effective March 8, 1988, for a term expiring the first Monday in January, 1989.

(Referred to the Committee on Education.)

March 3, 1988

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

The following appointment to the Minnesota Higher Education Coordinating Board is hereby respectfully submitted to the Senate for confirmation as required by law:

Alice S. Keller, 358 Collegeview, Winona, Winona County, has been appointed by me, effective March 8, 1988, for a term expiring the first Monday in January, 1994.

(Referred to the Committee on Education.)

Sincerely,

Rudy Perpich, Governor

March 10, 1988

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. 236 and 1184.

Sincerely,

Rudy Perpich, Governor

March 10, 1988

The Honorable Robert E. Vanasek
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 1988 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. No.	H.F. No.	Session Laws Chapter No.	Date Approved 1988	Date Filed 1988
236		406	March 10	March 10
1184		407	March 10	March 10

Sincerely,

Joan Anderson Growe

Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 1715.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 10, 1988

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 232: A bill for an act relating to crimes; expanding the definition of crime for victims' rights provisions to include ordinance violations resulting in bodily harm; expanding crimes that entitle victim to notice of plea agreement; granting right to victim to submit an impact statement to the court; requiring officers to give victims a notice of their rights; requiring prosecutors to present to the court a written victim impact summary prepared by the victim; ensuring privacy of victim's request for notice of prisoner release; amending Minnesota Statutes 1986, sections 611A.01; 611A.02; and 611A.06; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing Minnesota Statutes 1986, section 611A.03, subdivision 3.

There has been appointed as such committee on the part of the House:

Seaberg, Kelly and Bishop.

Senate File No. 232 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 10, 1988

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1575: A bill for an act relating to game and fish; clarifying when

a trout and salmon stamp is required and responsibility for road-kill deer; amending Minnesota Statutes 1986, section 97C.305; Minnesota Statutes 1987 Supplement, sections 97A.475, subdivisions 6 and 7; 97A.485, subdivision 6; and 97A.502; repealing Minnesota Statutes 1987 Supplement, section 97A.451, subdivision 1.

There has been appointed as such committee on the part of the House: Battaglia, Munger and Rose.

Senate File No. 1575 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 10, 1988

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 577, 1940, 1709, 1806 and 1817.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 10, 1988

FIRST READING OF HOUSE BILLS

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

H.F. No. 577: A bill for an act relating to termination of parental rights; clarifying the purposes of the laws on termination of parental rights; altering certain grounds and procedures for termination of parental rights; amending Minnesota Statutes 1986, sections 257.071, subdivisions 3 and 4; 260.011, subdivision 2; 260.012; 260.015, subdivision 10; and 260.155, subdivisions 4a and 7; and Minnesota Statutes 1987 Supplement, section 260.221.

Referred to the Committee on Judiciary.

H.F. No. 1940: A bill for an act relating to consumer protection; requiring certain disclosures regarding storage fees imposed by repair shops; amending Minnesota Statutes 1986, sections 325F58, subdivision 3; and 325F62, subdivision 3; Minnesota Statutes 1987 Supplement, sections 325F56, subdivision 8; and 325F60, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1801, now on General Orders.

H.F. No. 1709: A bill for an act relating to retirement; judges' retirement fund; providing coverage under the combined service annuity, combined service disability benefit, and combined service survivor benefit provisions; requiring the establishment of a bounce-back joint and survivor optional annuity form; amending Minnesota Statutes 1987 Supplement, sections 356.30, subdivision 3; 356.302, subdivision 7; 356.303, subdivision 4; and 490.124, subdivision 11.

Referred to the Committee on Governmental Operations.

H.F. No. 1806: A bill for an act relating to state agencies; amending and repealing various statutes administered by the state board of investments; amending Minnesota Statutes 1986, sections 11A.17, subdivisions 1, 4, 9, 11, and 14; 11A.19, subdivision 4; and 352D.04, subdivision 1; Minnesota Statutes 1987 Supplement, sections 11A.24, subdivisions 4 and 6; 136.81, subdivision 3; and 353D.05, subdivision 2; repealing Minnesota Statutes 1986, section 11A.17, subdivisions 12 and 13.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1784, now on General Orders.

H.F. No. 1817: A bill for an act relating to watercraft; requiring lifesaving devices in duck boats; amending Minnesota Statutes 1986, section 361.141, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1698, now on General Orders.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the report pertaining to appointments and the reports pertaining to S.F. Nos. 722 and 1888. The motion prevailed.

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

S.F. No. 2203: A bill for an act relating to human services; authorizing a county to establish an adult protection team; requiring records to be maintained; proposing coding for new law in Minnesota Statutes, chapter 626.

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

Page 1, line 25, delete "must" and insert "may"

Page 2, delete lines 8 to 14 and insert:

"Subd. 3. [INFORMATION SHARING.] The local welfare agency may make available to members of the team for case consultation all records collected and maintained by the agency under section 626.557 and in connection with case consultation. Any member of the case consultation committee may share welfare data or mental health data, acquired in the member's professional capacity, with the committee to assist the committee in its function. Members prohibited from disclosing patient identifying information because of federal law shall seek consent from each patient or resident, or a guardian, conservator or legal representative, for the disclosure of appropriate data to the case consultation committee."

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. 2157: A bill for an act relating to human services; establishing minimum maintenance and difficulty of care rates for adults in foster care;

amending Minnesota Statutes 1987 Supplement, section 256D.37, subdivision 1.

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

Page 3, line 26, delete everything after "(c)"

Page 3, line 27, delete everything before "The"

Page 3, line 28, delete "minimum standard"

Page 3, line 30, delete "emergency and permanent"

Page 3, line 31, delete "minimum"

Page 3, line 32, delete "conisder" and insert "consider"

Page 3, line 35, after the period, insert "*Rate increases which occur upon implementation of statewide rates for adults in foster care are exempt from the percentage limit on annual increases in negotiated rates. Nothing in this paragraph shall be construed to prevent counties from paying higher rates with county funds.*"

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. 2158: A bill for an act relating to health; extending foster care insurance to providers of adult foster care; appropriating money; amending Minnesota Statutes 1986, section 245.814, subdivisions 1, 2, and 3.

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

Page 1, line 13, delete "under"

Page 1, line 14, delete "chapter 245A"

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. 2224: A bill for an act relating to elections; requiring optical scan voting systems to be tested within 14 days before election; amending Minnesota Statutes 1986, section 206.83.

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

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

S.F. No. 2264: A bill for an act relating to elections; allowing the city of Falcon Heights to consolidate election precincts.

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

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

S.F. No. 2134: A bill for an act relating to St. Louis county; requiring a polling place at a certain location.

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

Page 1, delete lines 11 to 13 and insert:

"Notwithstanding Minnesota Statutes, section 645.021, subdivision 2, section 1 is effective upon approval by a majority of the voters of St. Louis county, voting on the question at the 1988 general election.

Sec. 3. [BALLOT QUESTION.]

At the election on the question of approval of section 1, the question submitted to the voters shall be:

"Beginning in 1990, shall St. Louis County provide a polling place at the Evergreen Fire Department fire hall for each primary and general election?"

Yes

No

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

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

S.F. No. 2398: A bill for an act relating to elections; providing that statewide computerized voter registration system satisfy requirements for duplicate registration file; establishing voter registration account and appropriating money; changing certain procedures related to registration cards, files, and records; changing certain procedures for filing, voting, arranging names on ballots, and completing summary statements; amending Minnesota Statutes 1986, sections 201.091, subdivisions 2 and 5; 204B.09, subdivision 1; 204D.08, subdivision 5; Minnesota Statutes 1987 Supplement, sections 201.022, subdivision 1; 201.071, subdivision 4; 204C.24, subdivision 1; and 204D.08, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 201.

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

Page 1, line 28, delete "All" and insert "County"

Page 1, line 29, delete "must be" and insert "are"

Page 6, after line 14, insert:

"Sec. 10. Minnesota Statutes 1987 Supplement, section 206.80, is amended to read:

206.80 [ELECTRONIC VOTING SYSTEMS.]

(a) An electronic voting system may not be employed unless it

(1) permits every voter to vote in secret;

(2) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote;

(3) provides for write-in voting when authorized;

(4) rejects by means of the automatic tabulating equipment, except as provided in section 206.84 with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast;

(5) permits a voter at a primary election to select secretly the party for which the voter wishes to vote; and

(6) rejects, by means of the automatic tabulating equipment, all votes cast in a primary election by a voter when the voter votes for candidates of more than one party, except as provided in paragraph (b).

(b) A punch card electronic voting system ~~must permit~~ *may not be employed at a partisan primary election unless it permits* a voter at a partisan primary election to select the party for which the voter wishes to vote by punching out an indicator for one of the parties only, and must reject, by means of the automatic tabulating equipment, all votes cast in a partisan primary election by a voter for candidates of a party other than the one chosen by the voter from the party indicators."

Amend the title as follows:

Page 1, line 10, after the semicolon, insert "permitting cities or counties to use their present voting systems for general elections;"

Page 1, line 14, delete "and"

Page 1, line 15, after the semicolon, insert "and 206.80;"

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. 2378: A bill for an act relating to campaign financing; providing that a portion of the proceeds of the state elections campaign checkoff be paid to political parties; requiring transfer of amounts designated for payment to a candidate who refuses public financing to that candidate's opponent; amending Minnesota Statutes 1986, section 10A.31, subdivision 5; repealing Minnesota Statutes 1986, section 10A.32, subdivision 3b.

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 1986, section 10A.01, is amended by adding a subdivision to read:

Subd. 24. [STATE COMMITTEE.] "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the state level.

Sec. 2. Minnesota Statutes 1986, section 10A.25, subdivision 10, is amended to read:

Subd. 10. The expenditure limits imposed by this section apply only to

candidates who agree to be bound by the limits as a condition of receiving a public subsidy for their campaigns in the form of:

- (a) an allocation of money from the state elections campaign fund; or
- (b) ~~Credits against the tax due of individuals who contribute to that candidate.~~

Sec. 3. Minnesota Statutes 1986, section 10A.31, subdivision 5, is amended to read:

Subd. 5. In each calendar year the moneys in each party account and the general account shall be allocated to candidates as follows:

(1) ~~24~~ 16.8 percent for the offices of governor and lieutenant governor together;

(2) ~~3-6~~ 2.88 percent for the office of attorney general;

(3) ~~1-8~~ 1.44 percent each for the offices of secretary of state, state auditor and state treasurer;

(4) In each calendar year during the period in which state senators serve a four-year term, ~~23-4/3~~ 18.64 percent for the office of state senator and ~~46-2/3~~ 37.3 percent for the office of state representative;

(5) In each calendar year during the period in which state senators serve a two-year term, ~~35~~ 28 percent each for the offices of state senator and state representative;

(6) *20 percent for the state committee of a political party; money allocated to each state committee under this clause must be deposited in a separate account and must be spent for legitimate political party operations, including voter education; the sample ballot; operations of precinct caucuses, county unit conventions, and state conventions; and the maintenance and programming of computers used to provide lists of voters, party workers, party officers, patterns of voting, and other data for use in political party activities;*

(7) To assure that moneys will be returned to the counties from which they were collected, and to assure that the distribution of those moneys rationally relates to the support for particular parties or for particular candidates within legislative districts, moneys from the party accounts for legislative candidates shall be distributed as follows:

Each candidate for the state senate and state house of representatives whose name is to appear on the ballot in the general election shall receive money from the candidate's party account set aside for candidates of the state senate or state house of representatives, whichever applies, according to the following formula;

For each county within the candidate's district the candidate's share of the dollars allocated in that county to the candidate's party account and set aside for that office shall be:

(a) The sum of the votes cast in the last general election in that part of the county in the candidate's district for all candidates of that candidate's party (i) whose names appeared on the ballot in each voting precinct of the state and (ii) for the state senate and state house of representatives, divided by

(b) The sum of the votes cast in that county in the last general election

for all candidates of that candidate's party (i) whose names appeared on the ballot in each voting precinct in the state and (ii) for the state senate and state house of representatives, multiplied by

(c) The amount in the candidate's party account allocated in that county and set aside for the candidates for the office for which the candidate is running.

The sum of all the county shares calculated in the formula above is the candidate's share of the candidate's party account.

In a year in which an election for the state senate occurs, with respect to votes for candidates for the state senate only, "last general election" means the last general election in which an election for the state senate occurred.

For any party under whose name no candidate's name appeared on the ballot in each voting precinct in the state in the last general election, amounts in the party's account shall be allocated based on (a) the number of people voting in the last general election in that part of the county in the candidate's district, divided by (b) the number of the people voting in that county in the last general election, multiplied by (c) the amount in the candidate's party account allocated in that county and set aside for the candidates for the office for which the candidate is running.

In a year in which the first election after a legislative reapportionment is held, "the candidate's district" means the newly drawn district, and voting data from the last general election will be applied to the area encompassing the newly drawn district notwithstanding that the area was in a different district in the last general election.

If in a district there was no candidate of a party for the state senate or state house of representatives in the last general election, or if a candidate for the state senate or state house of representatives was unopposed, the vote for that office for that party shall be the average vote of all the remaining candidates of that party in each county of that district whose votes are included in the sums in clauses (a) and (b). The average vote shall be added to the sums in clauses (a) and (b) before the calculation is made for all districts in the county.

Money from a party account not distributed to candidates for state senator and representative in any election year shall be returned to the general fund of the state. Money from a party account not distributed to candidates for other offices in an election year shall be returned to the party account for reallocation to candidates as provided in clauses (1) to (6) of this subdivision in the following year. Moneys from the general account refused by any candidate shall be distributed to ~~all other qualifying candidates in proportion to their shares as provided in this subdivision~~ the other candidates for the same office in the district who have signed an agreement to be bound by the limits, and are eligible to receive money from the general account.

Sec. 4. [REPEALER.]

Minnesota Statutes 1986, section 10A.32, subdivision 3b, is repealed."

Amend the title as follows:

Page 1, line 8, delete "section" and insert "sections 10A.01, by adding a subdivision; 10A.25, subdivision 10; and"

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. 762: A bill for an act proposing an amendment to the Minnesota Constitution, article IV, section 4; providing for a senate with six-year terms and a house of representatives with staggered four-year terms.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Judiciary. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1717: A bill for an act relating to natural resources; adding certain land to Jay Cooke State Park in Carlton county.

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2340: A bill for an act relating to minerals; authorizing the commissioner of natural resources to lease certain severed mineral interests; amending Minnesota Statutes 1986, section 93.55, subdivisions 1, 3, and by adding a subdivision.

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2215: A bill for an act relating to state lands; authorizing private conveyance of tax-forfeited land in St. Louis county.

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

Mr. Davis from the Committee on Agriculture, to which was referred

S.F. No. 2325: A bill for an act relating to agriculture; appropriating money to collect and disseminate materials on soil and water stewardship for use in primary and secondary school curricula.

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

Page 1, line 14, after "soil" insert "and water"

Page 1, line 19, after "how" insert "existing"

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

Mr. Davis from the Committee on Agriculture, to which was referred

S.F. No. 1998: A bill for an act relating to grain marketing; establishing standards for certain premiums and discounts; authorizing the commissioner of agriculture to review the accuracy of certain test equipment operators; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 17C.

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 1986, section 17B.02, is amended to read:

17B.02 [DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in sections 17B.01 to 17B.29, the terms defined in this section have the meanings given them.

Subd. 2. [DEPARTMENT.] "Department" means the Minnesota department of agriculture.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.

Subd. 3a. [DISCOUNT.] "*Discount*" means an offer or purchase price for grain that is lower than the base or standard price offered by a buyer at a certain time and at a specified location. A discount price represents the lower than normal value of the grain because of inferior quality as determined by measurement of grade, dockage, test weight, moisture content, protein content, or other factors.

Subd. 3b. [INDEX MOISTURE LEVEL.] "*Index moisture level*" means the percentage moisture content for each grain that is used in establishing base or standard prices for the grain as determined by the commissioner.

Subd. 4. [PERSON.] "Person" means any individual, firm, copartnership, cooperative, company, association, and corporation, or their lessees, trustees, or receivers.

Subd. 5. [PREMIUM.] "*Premium*" means an offer or a purchase price for grain that exceeds the base or standard price offered by a buyer at a certain time and at a specified location. A premium price represents the higher than normal value of the grain because of superior quality as determined by measurement of grade, dockage, moisture content, test weight, protein content, or other factors.

Subd. 6. [TEST EQUIPMENT.] "*Test equipment*" means the mechanical and electronic devices commonly used in measurement of grain qualities including protein content, moisture content, and test weight.

Subd. 7. [TEST EQUIPMENT OPERATOR.] "*Test equipment operator*" means a person assigned by the management of an elevator or grain storage facility who is chiefly responsible for the preparation and analysis of grain samples for protein content, test weight, moisture content, and other qualities upon which price is determined.

Sec. 2. [17B.041] [COMMISSIONER TO REVIEW ACCURACY OF TEST EQUIPMENT AND TEST EQUIPMENT OPERATORS.]

Subdivision 1. [PERIODIC REVIEW.] *The commissioner shall establish*

a program for the periodic grain testing review of protein analysis, test weight, and moisture test equipment, and test equipment operators. A review must consist of the performance of routine tests and analysis by the principal operator of the test equipment. A review under this section must be based on the results of on-site analysis performed on one or more samples of grain by the principal operator of the appropriate test equipment.

Subd. 2. [POSTING OF REVIEW FINDINGS.] Personnel of the department who perform a review of test equipment and test equipment operators under subdivision 1 must post a dated and signed statement indicating the conclusions of the review in a conspicuous location in the place of business where grain testing is conducted. The statement must be on a form provided by the commissioner and include in prominent wording a caution to the effect that the results at the time of a review by department personnel do not necessarily indicate either accuracy or inaccuracy in the test equipment or procedures at other times. The statement must remain on display until a subsequent review has been made.

Subd. 3. [FOLLOW-UP REVIEW UPON REQUEST.] The commissioner shall arrange for a follow-up review within seven business days of a periodic review if a follow-up review is requested by the test equipment operator.

Subd. 4. [REQUEST FOR COMMISSIONER TO SCHEDULE A REVIEW.] A purchaser or seller of grain may request the commissioner to perform a review of the test equipment and test equipment operator that is used to test the grain. A signed request must be submitted to the commissioner and upon receipt of a request, the commissioner shall schedule a review at a reasonable time considering other duties and responsibilities of the department personnel.

Subd. 5. [COMMISSIONER AND DEPARTMENT NOT LIABLE.] The state is not liable to a seller or purchaser of grain for losses resulting from erroneous tests or analysis by test equipment or test equipment operators, whether reviewed by the department or not, if the commissioner and the department have exercised due care in the scheduling and conduct of reviews under subdivisions 1 and 3.

Sec. 3. [17B.045] [PREMIUMS BASED ON TEST WEIGHT MUST EQUAL OR EXCEED DISCOUNTS.]

A purchaser of grain who provides a discount for grain that falls below the standard test weight for that grain shall offer an equal or greater premium for grain that has a test weight higher than the standard test weight.

Sec. 4. [17B.047] [PREMIUMS BASED ON MOISTURE CONTENT.]

Subdivision 1. [COMMISSIONER TO ESTABLISH INDEX MOISTURE LEVELS.] The commissioner shall establish an index moisture level for each grain commonly bought and sold in this state by rule. The commissioner may take into consideration factors such as moisture level variations appropriate to different locations within the state, variations in the keeping qualities of grains at different seasons of the year, and other appropriate factors.

Subd. 2. [PREMIUMS GENERALLY EQUAL TO OR GREATER THAN DISCOUNTS.] A purchaser of grain who provides a discount for grain based on tested moisture content higher than the index moisture level shall provide an equal or greater premium for grain that tests at a moisture

content within the next three percentage points below the index moisture level. If the moisture content in a valid sample of the purchased grain is more than three percentage points below the index moisture level, the premium offered need not be further tied to an equivalent discount provided for grain that tests higher than the index moisture level.

Sec. 5. [17B.048] [SELLER OPTION TO AVERAGE LOADS.]

A purchaser of grain must allow a seller who delivers grain in multiple loads within a period of seven consecutive calendar days, at the option of the seller, to average the measurements from the multiple loads with respect to test weight, moisture content, and protein analysis.

Sec. 6. [APPROPRIATION.]

\$..... is appropriated from the general fund to the commissioner of agriculture for purposes of providing periodic reviews of test equipment and test equipment operators under section 2. The complement of the department is increased by

Sec. 7. [EFFECTIVE DATE.]

Sections 3, 4, and 5, apply to purchases of grain occurring on or after July 1, 1989."

Amend the title as follows:

Page 1, line 5, after "test" insert "equipment and test" and after the second semicolon, insert "amending Minnesota Statutes 1986, section 17B.02;"

Page 1, line 6, delete "as" and insert "in"

Page 1, line 7, delete "17C" and insert "17B"

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

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

S.F. No. 2025: A bill for an act relating to financial institutions; providing for the licensing of mortgage lenders and loan officers and general mortgage brokers and individual mortgage brokers; detailing the supervising powers of the commissioner; prescribing penalties; appropriating money; amending Minnesota Statutes 1986, sections 46.131, subdivision 2; 56.01; and 82.18; Minnesota Statutes 1987 Supplement, section 82.17, subdivision 4; proposing coding for new law as Minnesota Statutes, chapter 82B.

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 1986, section 56.01, is amended to read:
56.01 [NECESSITY OF LICENSE.]

(a) Except as authorized by this chapter and without first obtaining a license from the commissioner, no person shall engage in the business of making loans of money, credit, goods, or things in action, in an amount or of a value not exceeding that specified in section 56.131, subdivision 1, and charge, contract for, or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to

charge if not a licensee under this chapter.

(b) An agency or instrumentality of the United States government or a corporation otherwise created by an act of the United States Congress or a lender approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association, that engages in the business of purchasing or taking assignments of mortgage loans and undertakes direct collection of payments from or enforcement of rights against borrowers arising from mortgage loans, is not required to be licensed under this chapter in order to purchase or take assignments of mortgage loans from licensees under this chapter.

Sec. 2. [57.01] [SHORT TITLE.]

This chapter may be cited as the mortgage banker and mortgage broker act.

Sec. 3. [57.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of this chapter, the terms in this section have the meanings given them unless the context requires a different meaning.

Subd. 2. [AGRICULTURAL PROPERTY.] "Agricultural property" has the meaning given the term in section 583.22.

Subd. 3. [BORROWER.] "Borrower" means a natural person who has submitted an application for a loan to a mortgage banker.

Subd. 4. [BUSINESS.] "Business" means a commercial or industrial enterprise that is carried on for the purpose of active or passive investment or profit.

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 6. [AGREEMENT OR INTEREST RATE OR DISCOUNT POINT AGREEMENT.] "Agreement" or "interest rate or discount point agreement" means a contract between a mortgage banker and a borrower under which the mortgage banker agrees, subject to the mortgage banker's underwriting and approval requirements, to make a loan at a specified interest rate or number of discount points, or both, and the borrower agrees to make a loan on those terms. The term also includes an offer by a mortgage banker that is accepted by a borrower under which the mortgage banker promises to guarantee or lock in an interest rate or number of discount points, or both, for a specific period of time.

Subd. 7. [GENERAL MORTGAGE BROKER.] "General mortgage broker" means a person who directly or indirectly brokers, places, assists in placement, or finds mortgage loans for others or offers to broker, place, assist in placement, or find mortgage loans for others.

Subd. 8. [INDIVIDUAL MORTGAGE BROKER.] "Individual mortgage broker" means one who acts on behalf of a general mortgage loan broker with respect to brokering, placing, assisting in placement, or finding mortgage loans for others or offering or attempting to broker, place, assist in placement, or find mortgage loans for others.

Subd. 9. [MORTGAGE BANKER.] *"Mortgage banker" means a person making a mortgage loan.*

Subd. 10. [LOAN OFFICER.] (a) *"Loan officer" means a person who acts or attempts to act on behalf of a mortgage banker with respect to soliciting or negotiating a mortgage loan with a borrower.*

(b) *The term includes (1) an officer or employee of a mortgage banker who is authorized to solicit or negotiate loans and who regularly solicits or negotiates loans, and (2) a person who is responsible for the day to day management of a branch office or offices of a mortgage banker.*

Subd. 11. [MORTGAGE LOAN OR LOAN.] *"Mortgage loan" or "loan" means a loan or advance of credit to individuals secured by a mortgage or other encumbrance upon real property containing one to four residential units or upon which at the time the loan is made it is intended that one to four residential units are to be constructed.*

The term includes operating or real estate loans secured by agricultural property.

The term does not include a loan or advance of credit that is made primarily for a business or commercial purpose.

Subd. 12. [PERSON.] *"Person" means an individual, firm, corporation, partnership, association, trust, or legal or commercial entity or group of individuals however organized.*

Subd. 13. [PRINCIPAL STOCKHOLDER.] *"Principal stockholder" means a person owning 20 percent or more of the outstanding stock of a general mortgage broker or mortgage banker.*

Subd. 14. [REFERRAL FEE.] *"Referral fee" means the direct or indirect giving or accepting of anything of value including, but not limited to, a payment, advance, fund, loan, service, commission, gift, special privilege, or other consideration made in connection with a mortgage loan application referred to a person, whether or not licensed under this chapter, while making or brokering a mortgage loan, or administering an escrow account.*

Sec. 4. [57.03] [LICENSE REQUIREMENT.]

Subdivision 1. [GENERALLY.] *No person shall engage in business as a mortgage banker, loan officer, general mortgage broker, or individual mortgage broker, unless the person has first obtained a license under this chapter.*

Subd. 2. [EXEMPTIONS.] *The following persons are exempt from the licensing requirements of this chapter:*

(1) *a person whose primary responsibility is to process loan applications unless the person is authorized to solicit or negotiate loans;*

(2) *persons making or negotiating five or fewer mortgage loans in a period of 12 consecutive months;*

(3) *banks, savings banks, savings associations, and credit unions organized under the laws of this state, and banks, savings banks, savings associations, and credit unions organized under the laws of the United States that have offices in this state from which deposits are accepted pursuant to the laws of this state or the United States, and their employees, provided, however, that subsidiaries and service corporations of these institutions*

are not exempt from the requirements of this chapter;

(4) regulated lenders licensed under chapter 56, and industrial loan and thrift companies licensed under chapter 53;

(5) charitable corporations making mortgage loans to promote home ownership or improvements for the disadvantaged;

(6) agencies of the federal government, or a state government, or a quasi-governmental agency making mortgage loans under the specific authority of the laws of a state or the United States;

(7) persons acting as fiduciaries with respect to an employee pension benefit plan qualified under the Internal Revenue Code who make mortgage loans solely to plan participants from plan assets;

(8) persons licensed by the state of Minnesota as real estate brokers or salespersons who, in the course of representing a purchaser or seller of real estate, incidentally assist the purchaser or seller in obtaining financing for the real property in question if the licensee does not receive a separate commission, fee, or other valuable consideration including a referral fee for this service;

(9) an attorney authorized to practice law in this state, who incidentally acts as a mortgage broker in negotiating or placing a first mortgage loan in the normal course of legal practice if the attorney does not receive a separate commission, fee, or other valuable consideration for the service including a referral fee;

(10) persons acting in a fiduciary capacity conferred by authority of a court;

(11) employees of a mortgage banker who only solicit refinance loans, through the mail or by use of the telephone, from mortgagors whose loans the mortgage banker is servicing at the time of the solicitation if the persons making the solicitations are not residents of this state, and if the solicitations originate from outside this state; and

(12) a person who only negotiates assumptions, work outs, or conversions of existing loans.

Sec. 5. [57.04] [APPLICATIONS FOR MORTGAGE BANKER AND GENERAL MORTGAGE BROKER LICENSE.]

Subdivision 1. [FORM.] An application for a license under this section must be made in writing, and on a form approved by the commissioner.

Subd. 2. [CONTENTS.] The application for a mortgage banker and general mortgage broker must set forth:

(1) the name and address of the applicant;

(2) if the applicant is a firm or partnership, the name and address of each member of the firm or partnership;

(3) if the applicant is a corporation, the name and address of each officer, director, registered agent, and each principal stockholder;

(4) the addresses of all offices in Minnesota where business will be conducted by the applicant; and

(5) other information concerning the financial responsibility, background, experience, and activities of the applicant and its officers, directors, employees, and principal stockholders as the commissioner requires.

Subd. 3. [FINANCIAL RESPONSIBILITY FOR MORTGAGE BANKERS.] An applicant for a mortgage banker license shall:

(1) demonstrate evidence of approval or certification by the United States secretary of housing and urban development, other than as a loan correspondent mortgagee, or approval or certification of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association;

(2) certify to the commissioner a bond in the amount of \$100,000, issued by an insurer authorized to transact business in this state, with the state of Minnesota as obligee, conditioned for the prompt payment to a person entitled to it, other than an officer, partner, or employee of the licensee, from loss resulting from fraud, dishonesty, forgery, or theft in connection with a residential mortgage loan transaction by the licensee or an officer, agent, or employee; provided, however, that the aggregate liability of the surety to all persons for all losses must in no event exceed the amount of the bond. The bond must remain operative for a period of time as long as the period for which the license is sought; or

(3) provide evidence of, and continuously maintain, a line of credit for the funding of mortgage loans, in an amount of not less than \$250,000 with: (i) a licensed mortgage banker; (ii) a lending institution whose deposits are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation; or (iii) a person who is otherwise acceptable to the commissioner.

The requirement of a line of credit may be waived by the commissioner if all loans originated by the applicant are either: (i) closed in the name of a licensed mortgage banker or other financial institution or entity approved by the commissioner pursuant to an agreement between the mortgage banker or other financial institution and the applicant; or (ii) assigned, pursuant to an agreement, to a licensed mortgage banker or other financial institution or entity approved by the commissioner, simultaneous with the closing.

The applicant shall provide the commissioner with a copy of the agreement, which must state the circumstances under which the mortgage banker or financial institution shall be obligated to fund closings or purchase loans from the applicant. The licensee shall notify the commissioner of any modifications to the agreement.

Subd. 4. [EXPERIENCE.] An applicant for a mortgage banker license shall have at least one corporate officer with two years of mortgage origination experience within the previous four years. The experience requirement may be waived if the applicant is, in the opinion of the commissioner, otherwise qualified by reason of education or practical experience.

Sec. 6. [57.05] [APPLICATIONS FOR LOAN OFFICER AND INDIVIDUAL MORTGAGE BROKER LICENSE.]

The application for a loan officer and individual mortgage broker license must set forth: (1) the name and address of the applicant; and (2) other information concerning the financial responsibility, background, experience, and activities of the applicant as the commissioner requires.

Sec. 7. [57.06] [FEES.]

An application must be accompanied by the payment of the following fees:

(1) \$150 for each mortgage banker and general mortgage broker license, and \$30 for each annual renewal;

(2) \$50 for each loan officer and individual mortgage broker license, and \$15 for each annual renewal;

(3) \$10 for each transfer;

(4) \$25 for a corporation or partnership name change;

(5) \$5 for a name change;

(6) \$10 for a license history; and

(7) \$5 for a duplicate license.

All fees shall be retained by the commissioner and are nonreturnable, except that an overpayment of a fee shall be refunded upon proper application.

Sec. 8. [57.07] [EXAMINATIONS.]

Subdivision 1. [LOAN OFFICER AND INDIVIDUAL MORTGAGE BROKER.] *(a) An applicant for a loan officer and individual mortgage broker license must pass an examination conducted by the commissioner. The examination must be of sufficient scope to establish the competence of the applicant to act as a loan officer or individual mortgage broker.*

(b) The examination shall be conducted by the commissioner two months after a testing service has been certified by the commissioner, but not later than October 1, 1989.

Subd. 2. [EXAMINATION FREQUENCY.] *The commissioner shall not be required to hold examinations more frequently than once every 120 days. The examination may be held more frequently upon demand and as the commissioner considers reasonable.*

Subd. 3. [INSTRUCTION; NEW LICENSES.] *(a) An applicant for a loan officer and individual mortgage broker license shall be required to successfully complete a course of study in the mortgage banking field consisting of 45 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. A loan officer and individual mortgage broker licensed after October 1, 1989, shall, within one year of licensure, be required to successfully complete an additional course of study in the mortgage lending field consisting of 45 hours of instruction approved by the commissioner.*

(b) A person applying for a loan officer or individual mortgage broker license on or before October 1, 1989, who was employed by a mortgage banker or general mortgage broker on or before October 1, 1989, in a capacity that would require a loan officer license or individual mortgage broker license, shall not be required to satisfy the educational requirements of paragraph (a) before taking the examination. If the person applying for a license on or before October 1, 1989, fails the examination, the person is unlicensed. The commissioner may allow the person to continue to conduct business for 60 days from the date of the examination. If during the 60-day period the person reapplies for a license and passes the examination, the person may be licensed upon payment of the license fee.

(c) *The commissioner may approve courses of study offered in educational institutions of higher learning in this state, including degree programs, or courses of study developed by and offered under the auspices of national or state trade associations or private schools. The commissioner shall not approve any course offered by, sponsored by, or affiliated with any person or company otherwise licensed by the commissioner.*

(d) *The commissioner may waive the educational requirements of paragraph (a) for a person applying for a loan officer or individual mortgage broker license after October 1, 1989, who can demonstrate proficiency in mortgage banking.*

Subd. 4. [CONTINUING EDUCATION.] (a) *All loan officers and individual mortgage brokers shall be required to successfully complete 15 hours of education each renewal year, either as a student or a lecturer, in courses of study approved by the commissioner.*

(b) *A person applying for a loan officer or individual mortgage broker license as of October 1, 1989, shall not be required to satisfy the educational requirements of paragraph (a) until the second year after licensure.*

Sec. 9. [57.08] [LICENSE DURATION; TRANSFER RESTRICTIONS.]

(a) *Every license is issued annually under this chapter and expires on September 30 next following its issuance.*

(b) *A loan officer or individual mortgage broker shall be licensed to act on behalf of a licensed mortgage banker or general mortgage broker respectively and may not be licensed to act on behalf of more than one mortgage banker or general mortgage broker in this state during the same period of time.*

The commissioner shall establish the procedure for the transfer of a mortgage banker or general mortgage broker license because of a merger or acquisition.

(c) *When an individual mortgage broker or loan officer terminates activity on behalf of a general mortgage broker or mortgage banker in order to begin association immediately with another general mortgage broker or mortgage banker, the commissioner shall automatically transfer that person's license. The transfer is effective either upon the mailing of the required fee and the executed documents by mail or upon personal delivery of the fee and documents to the commissioner's office.*

(d) *A person who becomes unlicensed for reasons other than a revocation or suspension of a license may have the license reinstated without complying with the educational requirements of section 8, subdivision 3, if the person has been unlicensed for less than 24 months and reports 15 hours of continuing education credit for each year.*

Sec. 10. [57.09] [RENEWALS.]

(a) *Persons whose renewal applications have been properly and timely filed and who have not received notice of denial or a renewed license may continue to transact business whether or not the renewed license has been received on or before October 1. Application for renewal of a license is considered to have been timely filed if received by the commissioner, or mailed with proper postage and postmarked, by September 15 in each year. Applications for renewal are considered properly filed if made upon forms duly executed and containing information the commissioner requires.*

(b) The commissioner may require a licensee to file an annual report with the commissioner that sets forth the information and is in the form the commissioner requires regarding the business conducted by the licensee during the preceding calendar year.

Sec. 11. [57.10] [RETENTION OF BOOKS, ACCOUNTS, AND RECORDS.]

(a) Any person, whether or not licensed under this chapter, while making or brokering a loan or administering an escrow account shall maintain in its offices any books, accounts, and records the commissioner reasonably requires in order to determine whether the person is in compliance with this chapter and the rules adopted under it. The books, accounts, and records must be maintained separately from other business in which the mortgage banker, general mortgage broker, or escrow administrator is involved.

(b) Any person, whether or not licensed under this chapter, while making a mortgage loan shall retain for at least two years after settlement on a mortgage loan, copies of the note, settlement statement, truth-in-lending disclosure, and other papers or records relating to the loan as may be required by rule. Any person, whether or not licensed under this chapter, while brokering a mortgage loan shall retain for at least two years after a mortgage loan is made the original contract for the individual mortgage broker's compensation, a copy of the settlement statement, and an account of fees received in connection with the loan, and other papers or records as may be required by rule.

Sec. 12. [57.12] [PROHIBITED PRACTICES.]

Subdivision 1. [GENERALLY.] No person, whether or not licensed under this chapter, while making or brokering a mortgage loan or administering an escrow account shall:

(1) fill in or change the interest rate or number of discount points, or both, contained in an interest rate or discount point agreement after the interest rate or discount point agreement is executed by the parties;

(2) fail to reply within ten business days of receipt to all communications from a borrower about the borrower's loan that reasonably indicate that a response is requested or needed;

(3) if acting as a mortgage banker or loan officer, fail to require the person closing the mortgage loan to provide to the borrower prior to closing of the mortgage loan (i) a settlement statement, and (ii) a disclosure that conforms to that required by United States Code, title 15, section 1604, and Regulation Z, Code of Federal Regulations, title 12, part 226;

(4) in the conduct of affairs under the license, engage in deceptive, fraudulent, incompetent, or dishonest practices;

(5) charge an unreasonable fee;

(6) pay a referral fee;

(7) if directly or indirectly administering an escrow account:

(a) increase the amount of funds held in escrow by an amount that exceeds ten percent of the prior year's disbursements from the escrow account without having first provided the borrower with a written explanation specifically identifying the reasons for the increase;

(b) fail or cause a failure to make a payment for either or both insurance and taxes by the required due date. If the mortgage banker, loan officer, general mortgage broker, or individual mortgage broker fails to make or causes a failure to make the payments by the due date, that person is liable to the mortgagor for actual damages caused by the failure to pay the amounts when due. In addition, that person is liable for \$500 per occurrence if the person cannot prove that the failure to make or the action causing the failure to make the payments by the due date was not because of negligence or intentional conduct;

(c) fail to provide a borrower with an annual written analysis of an escrow account that is maintained by the mortgage banker for the payment of real property taxes or hazard insurance, including notice that the escrow account has a surplus or a shortage if one exists;

(8) induce a borrower or a third party to misrepresent information that is the subject of a loan application;

(9) require a borrower to purchase or renew any insurance policy from a designated carrier, agent, or agency, provided that a mortgage banker is not prohibited from: (i) disapproving an insurer or policy of insurance where there are reasonable grounds to believe that the insurer is insolvent or that the insurance is unsatisfactory as to placement with an unauthorized insurer, adequacy of the coverage, adequacy of the insurer to assume the risk to be insured, the assessment features to which the policy is subject, or other grounds that are based on the nature of the coverage and that are not arbitrary, unreasonable, or discriminatory; (ii) requiring that a policy of insurance or renewal thereof be in conformance with standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or (iii) securing insurance or a renewal thereof at the request of a borrower or because of the failure of the borrower to furnish the necessary insurance or renewal thereof;

(10) require a borrower to obtain a policy of insurance covering the mortgaged property that exceeds the replacement cost of the buildings on the mortgaged property, provided that a mortgage banker is not prohibited from requiring that a policy of insurance or renewal thereof be in conformance with the standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

(11) misrepresent the terms and conditions of the loan agreement;

(12) fail to notify the commissioner, in writing, of a change of information contained in the license application on file with the commissioner within ten business days of the change;

(13) in the application form, fail to disclose funds received or to be received, including but not limited to application fees, deposits, or charges made at the time of deposit, or the funds disbursed or to be disbursed and the purposes of the disbursement;

(14) fail to disburse funds in accordance with any agreement connected with, and promptly upon closing of, a mortgage loan, taking into account any applicable right of rescission;

(15) refuse to permit an investigation or examination by the commissioner or fail to comply with any order of the commissioner;

(16) fail to pay any fee, fine, or assessment imposed by the commissioner;

(17) use or cause to be published any advertisement that contains any false, misleading, or deceptive statement or representation;

(18) use or cause to be published any advertisement which contains any reference to the fact that the mortgage banker, loan officer, general mortgage broker, or individual mortgage broker is regulated or supervised by the commissioner;

(19) use or cause to be published any advertisement that identifies the mortgage banker, loan officer, general mortgage broker, or individual mortgage broker by any name other than the name on the license issued by the commissioner;

(20) fail reasonably to supervise licensees or employees to assure their compliance with this chapter;

(21) fail to deliver to a borrower, within 48 hours of a request from the borrower, an appraisal for which payment has been received by the mortgage banker or loan officer, in the event the borrower's loan application has failed to meet the mortgage banker's requirements for approval;

(22) upon receipt of an application for a mortgage loan, or at any time prior to receipt, fail to provide to the borrower an itemized list of the fees the borrower must pay at the time of application, and a statement of which fees will or will not be refunded if the application is withdrawn or denied. If there is more than one borrower, the information may be provided to one of them; or

(23) refuse to honor a written purchase agreement between the borrower and the seller relating to which party may lock in the interest rate or discount points.

Subd. 2. [GENERAL OR INDIVIDUAL MORTGAGE BROKERS.] No person, whether or not licensed under this chapter, while brokering a mortgage loan shall:

(1) except for documented out-of-pocket expenses paid or to be paid to third parties and which are necessary to obtain a loan commitment, receive compensation from a borrower until a written commitment to make a mortgage loan is given to the borrower by a mortgage banker or loan officer;

(2) fail to deposit in a trust account, within 48 hours of receipt, all fees received prior to the time a loan is actually funded. The trust account must be in a depository financial institution located within Minnesota;

(3) receive compensation from a borrower in connection with any mortgage loan transaction in which the general mortgage broker or individual mortgage broker is the mortgage banker, loan officer, or a principal stockholder, partner, trustee, director, or officer of the mortgage banker;

(4) receive compensation from the borrower other than that specified in a written agreement signed by the borrower; or

(5) receive compensation from the borrower for acting as a general mortgage broker or individual mortgage broker without first entering into a written contract with the borrower that:

(i) identifies the trust account into which the fees or consideration will be deposited;

(ii) sets forth the circumstances under which the general and individual

mortgage broker will be entitled to disbursement from the trust account;

(iii) sets forth the circumstances under which the borrower will be entitled to a refund of all or part of the fee;

(iv) specifically describes the services to be provided by the general and individual mortgage broker and the dates by which the services will be performed;

(v) states the maximum rate of interest to be charged on any loan obtained;

(vi) discloses, with respect to the 12-month period ending ten business days prior to the date of the contract in question, the percentage of the general mortgage broker's customers for whom loans have actually been funded as a result of the mortgage broker's services (this disclosure need not be made for any period before the effective date of this statute); and

(vii) discloses the cancellation rights and procedures in section 13.

Sec. 13. [57.13] [CANCELLATION.]

A customer of a general or individual mortgage broker who pays a fee before the time the loan is actually funded has an unconditioned right to rescind the contract for mortgage brokerage services at any time until midnight of the third business day after the day on which the contract is signed. Cancellation is evidenced by the customer giving written notice of cancellation to the general mortgage broker at the address stated in the contract. Notice of cancellation, if given by mail, is effective upon deposit in a mailbox properly addressed to the general mortgage broker with postage prepaid. Notice of cancellation need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the customer not to be bound by the contract. No act of a customer of a general or individual mortgage broker is effective to waive the right to rescind as provided in this section.

Sec. 14. [57.14] [DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.]

In addition to the powers granted in section 45.027, subdivision 7, the commissioner may deny, suspend, or revoke any mortgage banker's, general mortgage broker's, loan officer's, or individual mortgage broker's license issued under this chapter for:

(1) conviction of a felony or misdemeanor involving fraud, misrepresentation, or deceit;

(2) entry of a judgment against the mortgage banker, loan officer, general mortgage broker, or individual mortgage broker involving fraud, misrepresentation, or deceit;

(3) entry of a federal or state administrative order against the mortgage banker, loan officer, general mortgage broker, or individual mortgage broker for violation of any law or any regulation applicable to the conduct of the licensed business.

For the purposes of this section and section 45.027, acts of an officer, employee, director, partner, or principal stockholder are considered to be acts of the mortgage banker or mortgage broker.

Sec. 15. [57.15] [RIGHT TO USE THE TERM MORTGAGE BANKER, LOAN OFFICER, GENERAL MORTGAGE BROKER, OR INDIVIDUAL MORTGAGE BROKER.]

Subdivision 1. [RESTRICTION.] No persons making or brokering a mortgage loan or administering an escrow account, including persons exempt from the licensing requirements of this chapter, may advertise or represent themselves to be a mortgage banker, loan officer, general mortgage broker, or individual mortgage broker unless licensed as provided in this chapter or unless the person elects licensure pursuant to section 16 of this act.

Subd. 2. [PENALTY.] A person who willfully violates this section is guilty of a misdemeanor and may be fined not more than \$700 or imprisoned not more than 90 days, or both. Each act in violation of this section constitutes a separate offense and a prosecution or conviction for any violation of this section does not bar prosecution or conviction for another violation under this section.

Sec. 16. [57.16] [RIGHT OF FINANCIAL INSTITUTION TO ELECT LOAN OFFICER AND INDIVIDUAL MORTGAGE BROKER LICENSURE.]

(a) Notwithstanding the exemption provided in section 4, an exempt financial institution may elect licensing for its employees if each employee holds a loan officer or individual mortgage broker license and performs the functions defined in this chapter. Employees of exempt institutions who hold a loan officer's or individual mortgage broker's license shall comply with the requirements of this chapter as if they were licensed to a mortgage banker or general mortgage broker.

(b) A financial institution that elects licensing for its employees does not forfeit its right to the exemption provided in section 4 by virtue of the election.

Sec. 17. [57.17] [MORTGAGE BANKER AND GENERAL MORTGAGE BROKER; REPORT OF VIOLATIONS TO COMMISSIONER.]

A person, whether or not licensed under this chapter, while making or brokering a mortgage loan or administering an escrow account shall report a violation of this chapter by an employee to the commissioner. The report shall be made within a reasonable time after that person has knowledge of the violation. The commissioner shall prescribe the manner and form of the report. The making of a report of a violation to the commissioner shall not provide grounds for any action for libel, slander, or defamation by an employee against an employer, unless the employer knows that the report is false or acts with reckless disregard for the truth or falsity of the report.

A person who fails to report a violation is guilty of a misdemeanor and may be fined not more than \$700 or imprisoned not more than 90 days, or both. Each act in violation of this section constitutes a separate offense and a prosecution or conviction for any violation of this section does not bar prosecution or conviction for another violation under this section.

Sec. 18. [57.18] [RULES.]

The commissioner may adopt rules the commissioner considers appropriate to administer this chapter.

Sec. 19. Minnesota Statutes 1987 Supplement, section 82.17, subdivision 4, is amended to read:

Subd. 4. "Real estate broker" or "broker" means any person who:

(a) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds out as engaged in these activities;

~~(b) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly negotiates or offers or attempts to negotiate a loan, secured or to be secured by a mortgage or other encumbrance on real estate;~~

(c) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option, exchange, purchase or rental of any business opportunity or business, or its good will, inventory, or fixtures, or any interest therein;

~~(d) (c) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers, sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;~~

~~(e) (d) engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the person undertakes to promote the sale of real estate through its listing in a publication issued primarily for this purpose;~~

~~(f) (e) engages wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person. A person shall be presumed to be engaged in the business of selling real estate if the person engages as principal in five or more transactions during any 12-month period, unless the person is represented by a licensed real estate broker or salesperson;~~

~~(g) offers or makes more than five loans secured by real estate during any 12-month period and who is not a bank, savings bank, mutual savings bank, building and loan association, or savings and loan association organized under the laws of this state or the United States, trust company, trust company acting as a fiduciary, or other financial institution subject to the supervision of the commissioner of commerce, or mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified by the Federal Home Loan Mortgage Corporation, or approved or certified by the Federal National Mortgage Association.~~

Sec. 20. Minnesota Statutes 1986, section 82.18, is amended to read:

82.18 [EXCEPTIONS.]

Unless a person is licensed or otherwise required to be licensed under this chapter, the term real estate broker does not include:

(a) a licensed practicing attorney acting solely as an incident to the practice of law if the attorney complies in all respects with the trust account provisions of this chapter;

(b) a receiver, trustee, administrator, guardian, executor, or other person appointed by or acting under the judgment or order of any court;

(c) any person owning and operating a cemetery and selling lots therein solely for use as burial plots;

(d) any custodian, janitor, or employee of the owner or manager of a residential building who leases residential units in the building;

(e) any bank, trust company, savings and loan association, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of business within the scope of its corporate powers as provided by law;

(f) public officers while performing their official duties;

(g) employees of persons enumerated in clauses (b), (e) and (f), when engaged in the specific performance of their duties;

(h) any person who acts as an auctioneer bonded in conformity with section 330.02, when that person is engaged in the specific performance of duties as an auctioneer, and when that person has been employed to auction real estate by a person licensed under this chapter or when the auctioneer has engaged a licensed attorney to supervise the real estate transaction;

(i) any person who acquires real estate for the purpose of engaging in and does engage in, or who is engaged in the business of constructing residential, commercial or industrial buildings for the purpose of resale if no more than 25 such transactions occur in any 12-month period and the person complies with section 82.24;

(j) any person who offers to sell or sells an interest or estate in real estate which is a security registered pursuant to chapter 80A, when acting solely as an incident to the sale of these securities;

(k) any person who offers to sell or sells a business opportunity which is a franchise registered pursuant to chapter 80C, when acting solely to sell the franchise;

(l) any person who contracts with or solicits on behalf of a provider a contract with a resident or prospective resident to provide continuing care in a facility, pursuant to the Continuing Care Facility Disclosure and Rehabilitation Act (chapter 80D), when acting solely as incident to the contract;

(m) any broker-dealer or agent of a broker-dealer when participating in a transaction in which all or part of a business opportunity or business, including any interest therein, is conveyed or acquired pursuant to an asset purchase, merger, exchange of securities or other business combination, if the agent or broker-dealer is licensed pursuant to chapter 80A; and

(n) any mortgage banker, loan officer, or mortgage broker or individual mortgage broker licensed under sections 2 to 18 while engaged in the activities for which the license is required.

Sec. 21. [APPROPRIATION.]

\$100,000 is appropriated from the general fund to the commissioner of commerce for the purposes of administering sections 2 to 18 and is available until June 30, 1989. The approved complement of the department of commerce is increased by three positions.

Sec. 22. [REPEALER.]

Minnesota Statutes 1987 Supplement, sections 47.206, subdivision 6; and 82.175, are repealed.

Sec. 23. [EFFECTIVE DATE; APPLICABILITY.]

Sections 1 to 22 are effective the day following final enactment. Nothing in those sections requires a mortgage banker or general mortgage broker to be licensed before October 1, 1988, or a loan officer or individual mortgage broker to be licensed sooner than they would otherwise be required under section 8, subdivision 1, paragraph (b)."

Delete the title and insert:

"A bill for an act relating to financial institutions; regulating the business of mortgage bankers, loan officers, general mortgage brokers, and individual mortgage brokers; establishing licensing requirements; detailing the supervising powers of the commissioner; prohibiting certain practices; prescribing penalties; appropriating money; amending Minnesota Statutes 1986, sections 56.01; and 82.18; Minnesota Statutes 1987 Supplement, section 82.17, subdivision 4; proposing coding for new law as Minnesota Statutes, chapter 57; repealing Minnesota Statutes 1987 Supplement, sections 47.206, subdivision 6; and 82.175."

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

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 2358: A bill for an act relating to highways; naming and designating legislative trunk highway No. 299 as Olof Hanson Drive; amending Minnesota Statutes 1986, section 161.14, by adding a subdivision.

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 Commerce, to which was referred

S.F. No. 2471: A bill for an act relating to intoxicating liquor; authorizing the city of Bloomington to issue an on-sale intoxicating liquor license to Midsummer, A Festival of Music.

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

Mr. Dicklich from the Committee on Public Utilities and Energy, to which was referred

S.F. No. 2456: A bill for an act relating to energy; creating a legislative advisory task force on energy policies for low-income persons and providing for the duties of the task force.

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

Mr. Dicklich from the Committee on Public Utilities and Energy, to which was referred

S.F. No. 1834: A bill for an act relating to utilities; prohibiting water utilities from imposing additional standby charges on owners of structures

containing fire protection systems; proposing coding for new law in Minnesota Statutes, chapter 444.

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

Page 1, line 26, after the period, insert *"Nothing in this section prohibits a water utility from recovering the cost of supplying water to an area when the cost is spread proportionately among all the structures in the benefitted area."*

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1632: A bill for an act relating to the metropolitan area; authorizing coordinated erosion and sediment control programs by water management organizations and the Association of Metropolitan Soil and Water Conservation Districts.

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

Delete everything after the enacting clause and insert:

"Section 1. [LEGISLATIVE FINDINGS.]

The legislature finds that the lands and waters of Ramsey county are great natural resources; that as a result of erosion of lands and sediment deposition in waters of the region, waters are being polluted and despoiled to a degree that fish, aquatic life, recreation, and other uses of lands and waters are being adversely affected; that the rapid shift in land use from agricultural to nonagricultural uses has accelerated the processes of soil erosion and sedimentation. Implementation of the metropolitan surface water planning act in Ramsey county requires a coordinated effort in that county, and the state of Minnesota may benefit from a pilot program within that county. The legislature further finds it is necessary to establish and implement through the soil and water conservation district in cooperation with water management organizations, cities, towns, and other public and private entities in that county, a county-wide coordinated erosion and sediment control pilot program to conserve and to protect the land, water, and other natural resources of Ramsey county.

Sec. 2. [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 1 to 4.

Subd. 2. [CONSERVATION SPECIFICATIONS.] "Conservation specifications" means the management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by the district board.

Subd. 3. [DISTRICT.] "District" means the soil and water conservation district operating under Minnesota Statutes, chapter 40.

Subd. 4. [DISTRICT PROGRAM.] "District program" means the erosion and sediment control program adopted by the district consisting of conservation specifications to minimize erosion and sedimentation and a

model ordinance for adoption by the district.

Subd. 5. [LAND DISTURBANCE ACTIVITY.] "*Land disturbance activity*" means land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands of Ramsey county, including clearing, grading, excavating, transporting, and filling of land. Land disturbance activity does not mean:

(1) minor land disturbance activities such as home gardens and individual home landscaping, repairs, and maintenance work;

(2) construction, installation, maintenance of electric and telephone utility lines or individual service connection to the utility lines;

(3) septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system;

(4) tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops;

(5) preparation for single-family residences separately built, unless in conjunction with multiple construction in subdivision development;

(6) disturbed land areas for commercial or noncommercial uses of less than 10,000 square feet in size, except that the governing body of the statutory or home rule charter city, town, or organization may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception applies;

(7) installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; and

(8) emergency work to protect life, limb, or property and emergency repairs, except if the land disturbing activity would have required an approved erosion and sediment control plan except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan-approving authority or the district when applicable.

Subd. 6. [ORGANIZATION.] "*Organization*" means a watershed district established under Minnesota Statutes, chapter 112, or a joint powers entity under Minnesota Statutes, section 471.59, within Ramsey county that has the characteristics and the authority specified in Minnesota Statutes, section 473.877, and has more than 25 percent of its area within Ramsey county. Lake improvement or conservation districts are not watershed management organizations.

Subd. 7. [ORGANIZATION SOIL EROSION AND SEDIMENT CONTROL PROGRAM.] "*Organization soil erosion and sediment control program*" means the soil erosion and sediment control program of the organization. The program must set forth the elements or methods to be employed by a watershed management organization to regulate land disturbance activities to minimize erosion and sedimentation in compliance with the program.

Sec. 3. [EROSION AND SEDIMENT CONTROL PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] *The district shall develop a pilot program that contains a model ordinance and conservation specifications for the effective control of soil erosion and sediment deposition that must*

be met in an organization soil erosion and sediment control program. To assist in the development of the pilot program, the district shall seek the advice of appropriate state and federal agencies, local units of government, and representatives of interests such as residential development and non-residential development.

Subd. 2. [PROGRAM CONTENTS.] *The district pilot program shall contain:*

(1) *relevant physical and developmental information concerning the region, including data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;*

(2) *a model ordinance;*

(3) *principles for protecting existing vegetation, adequate revegetation schedules, and run-off control measures; and*

(4) *conservation specifications and alternative methods for the control of erosion and sediment resulting from land disturbance activities.*

Subd. 3. [PROGRAM IMPLEMENTATION.] *To implement the district pilot program, the district shall develop and adopt by January 1989 a model ordinance and conservation specifications for soil erosion and sediment control. The district may revise its pilot program as necessary. The district shall give due notice and conduct at least one public hearing on the proposed pilot program before addition or revision.*

Subd. 4. [INSPECTION OF PROGRAM.] *The program shall be made available for public inspection at the office of the district.*

Sec. 4. [ORGANIZATION SOIL EROSION AND SEDIMENT CONTROL PROGRAMS.]

Subdivision 1. [ADOPTION.] *Each organization in the district must, within nine months after the adoption of the district program, develop and adopt an organization soil erosion and sediment control program consistent with the district program. Upon written request of an organization, the district shall assist in the preparation of the organization program. The organization shall adopt an organization soil erosion and sediment control program as approved by the district.*

Subd. 2. [FAILURE TO ADOPT AN ORGANIZATION PROGRAM.] *If an organization fails to adopt an organization soil erosion and sediment control program within the required period, the board of water and soil resources may not approve the watershed plan prepared under Minnesota Statutes, chapter 473. For currently approved plans, an amendment shall be submitted to the board of water and soil resources within one year for approval. If the amendment is not submitted, plan approval must be withdrawn.*

Subd. 3. [HEARING REQUIREMENT.] (a) *Notwithstanding any other provision of sections 1 to 4, organizations that have adopted local erosion and sediment control programs are not required to conduct public hearings to amend their local programs to conform with the district program except as provided in paragraph (b).*

(b) *Organizations that choose to adopt conservation specifications or an ordinance that are more stringent than the district program must conduct a public hearing after due notice.*

Sec. 5. [RULES.]

Any rules promulgated by the board of water and soil resources pursuant to statute shall supersede any plans, rules, or ordinances enacted pursuant to this section to the extent they may be in conflict.

Sec. 6. [APPLICABILITY.]

This act applies in Ramsey county and is effective upon approval by the Ramsey county board and soil and water conservation district as provided in Minnesota Statutes, section 645.02."

Delete the title and insert:

"A bill for an act relating to Ramsey County; authorizing a coordinated erosion and sediment control pilot program."

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

S.F. No. 2355: A bill for an act relating to the city of Bloomington; authorizing the city to expend and loan public funds for flood mitigation measures to protect residential structures.

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

Page 1, line 21, delete "city" and insert "cities" and after "Bloomington" insert "and West St. Paul"

Page 2, line 1, delete "city" and insert "cities" and after "Bloomington" insert "and West St. Paul"

Page 2, line 4, after "effect" insert "for the city of Bloomington"

Page 2, line 6, after the period, insert "This act takes effect for the city of West St. Paul the day following compliance with Minnesota Statutes, section 645.021, subdivision 3, by the West St. Paul city council."

Amend the title as follows:

Page 1, line 2, delete "city" and insert "cities" and after "Bloomington" insert "and West St. Paul"

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

S.F. No. 2411: A bill for an act relating to local government; authorizing issuance of bonds for repair, restoration, and modernization of the Saint Paul City Hall and Ramsey County Courthouse building.

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

Page 1, line 10, delete "\$48,400,000" and insert "\$48,800,000"

Page 2, line 2, after the second comma, insert "expansion,"

Page 2, after line 10, insert:

"Sec. 3. [ASSUMPTION OF DEBT.]

Ramsey county is authorized to assume all remaining debt service on bonds issued by the city of St. Paul for construction of St. Paul-Ramsey Medical Center under Laws 1957, chapter 938, section 6. The obligation authorized to be assumed under this section is not subject to election requirements nor to the debt or tax levy limitations applicable to the county and shall not be considered in calculating amounts subject to any other debt or tax levy limitations. Any levies by the county for debt servicing payment for the retirement of these bonds shall be exempt from all tax levy limitations applicable to the county."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the second comma, insert "expansion,"

Page 1, line 5, before the period, insert "; authorizing Ramsey county to assume certain bonded indebtedness"

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

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

S.F. No. 2308: A bill for an act relating to environment; repealing the requirement for installation of aircraft noise suppression equipment at the Minneapolis-St. Paul International Airport; repealing Minnesota Statutes 1986, section 473.608, subdivision 20.

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

S.F. No. 2149: A bill for an act relating to local government; increasing the maximum amount of capital notes home rule charter cities may issue for capital equipment; amending Minnesota Statutes 1986, section 410.32.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Report adopted.

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

S.F. No. 1885: A bill for an act relating to commerce; motor fuel franchises; regulating certain building alterations; providing remedies; amending Minnesota Statutes 1986, section 80C.146, subdivisions 2 and 3; repealing Laws 1984, chapter 444, section 4, as amended by Laws 1986, chapter 343, section 1.

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 1986, section 80C.146, subdivision 2,

is amended to read:

Subd. 2. [BUILDING ALTERATIONS.] No motor fuel franchisor shall alter a full-service station building for the purpose of eliminating the service bays unless the motor fuel franchisee operating the full-service station consents in writing to the alterations. (a) A motor fuel franchise agreement entered into or renewed, extended, or modified, after the effective date of this section, must comply with this subdivision if it allows the franchisor to modify, remodel, or alter a full-service station operated by a franchisee by eliminating one or more service bays. The agreement must provide that if the motor fuel franchisor eliminates one or more service bays during the term of the agreement, the franchisor must first pay to the franchisee in cash an amount that fairly and adequately compensates the franchisee for the loss of the service and repair business. The amount of compensation must be determined without regard to:

(1) the income or loss the franchisee may realize as a result of any subsequent or replacement business the franchisee may be entitled to operate on the premises leased from the motor fuel franchisor; or

(2) the income or loss the franchisee may realize by relocating the franchisee service and repair business or by acquiring another service and repair business.

(b) The commissioner shall require inclusion of the provision specified in paragraph (a) in the franchise agreement as a condition of registration of the agreement. An agreement subject to this subdivision that does not contain the provision is deemed to contain the provision. The provision may not be waived or modified except in a writing signed by the franchisee that is executed at least 30 days after the execution of the franchise agreement, is separate and independent from the franchise agreement, and is based upon adequate consideration. Adequate consideration may include, without limitation, an agreement to purchase the entire business operated by the franchisee or an agreement to provide equivalent repair facilities for use by the franchisee.

(c) If the franchisor and the franchisee are unable to agree on the amount of compensation, and either the franchisor or the franchisee demands arbitration, the matter must be submitted to binding arbitration in accordance with sections 572.08 to 572.30 and the rules of the American Arbitration Association. Within 30 days after the demand for arbitration, the franchisor and the franchisee shall each select an arbitrator. The two arbitrators shall select a third arbitrator within 45 days after the demand for arbitration. The franchisor and the franchisee shall pay the fees and expenses of the arbitrator each selects, and the franchisor and franchisee shall share equally the fees and expenses of the third arbitrator.

(d) Nothing in this subdivision prohibits a motor fuel franchisor from altering, modifying, or remodeling a full-service station that is not operated by a, without payment to the franchisee, following the expiration of the franchise relationship based upon termination or nonrenewal of the franchise relationship in accordance with United States Code, title 15, section 2802(b)(3)(D).

Sec. 2. Minnesota Statutes 1986, section 80C.146, subdivision 3, is amended to read:

Subd. 3. [ENFORCEMENT.] The attorney general or any aggrieved party may institute a civil action in the district court for an injunction prohibiting

any violation of subdivision 2 and an award of costs, disbursements, and reasonable attorney's fees. It ~~shall be~~ is no defense to ~~such an~~ the action that the state or aggrieved party may have adequate remedies at law.

Sec. 3. [REPEALER.]

Laws 1984, chapter 444, section 4, as amended by Laws 1986, chapter 343, section 1, is repealed.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment."

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

Mrs. Lantry from the Committee on General Legislation and Public Gaming, to which was referred

S.F. No. 1661: A bill for an act relating to charitable gambling; changing the definition of lawful purpose expenditures; amending Minnesota Statutes 1987 Supplement, section 349.12, subdivision 11.

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 1987 Supplement, section 349.12, subdivision 11, is amended to read:

Subd. 11. "Lawful purpose" means one or more of the following: (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (c) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or (d) the ~~improving, expanding, maintaining or repairing~~ real property owned or leased by an organization that does not exceed \$10,000 in a calendar year; or (e) payment of taxes imposed under this chapter, and other taxes imposed by the state or the United States on receipts from lawful gambling.

"Lawful purpose" does not include the erection ~~or~~, acquisition, improvement, or expansion of any real property owned or leased by the organization, unless the board specifically authorizes the expenditures after finding that the property will be used ~~exclusively~~ predominantly for one or more of the purposes specified in ~~this clause~~ clauses (a) to (c), or the property is or will be used predominantly for the purposes of conducting lawful gambling, meetings, or social events. The board may by rule adopt procedures and standards to administer this subdivision.

Sec. 2. Minnesota Statutes 1987 Supplement, section 349.12, subdivision 12, is amended to read:

Subd. 12. "Organization" means any fraternal, religious, veterans, or other nonprofit organization which has been in existence for at least three

years and has at least 15 active members, or a bona fide affiliate or chapter of a national organization that is tax-exempt under section 501(c) of the Internal Revenue Code of 1986, as amended through December 31, 1987.

Sec. 3. Minnesota Statutes 1987 Supplement, section 349.15, is amended to read:

349.15 [USE OF PROFITS.]

(a) Profits from lawful gambling may be expended only for lawful purposes or expenses as authorized at a regular meeting of the conducting organization. *Except as provided that in this section, an organization may expend no more than 55 percent of profits from bingo, and no more than 45 percent for other forms of lawful gambling, may be expended for necessary expenses related to lawful gambling.*

(b) *An organization that has less than \$60,000 in profit from lawful gambling in a year may expend up to 70 percent of its profits for allowable expenses related to the lawful gambling if the organization expends no more than \$1,000 a month in compensation for persons to operate the lawful gambling and expends no more than \$400 a month for renting the premises where lawful gambling is conducted.*

(c) The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense from the gross receipts from lawful gambling. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross receipts which may be expended for certain expenses.

Sec. 4. [349.164] [BINGO HALL LICENSES.]

Subdivision 1. [LICENSE REQUIRED.] No person may lease a facility to more than one licensed organization to conduct bingo without having obtained a bingo hall license under this section, unless the person is a licensed organization.

Subd. 2. [LICENSE APPLICATION.] The board may issue a bingo hall license to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes.

Subd. 3. [QUALIFICATIONS.] A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, or other person in a supervisory or management position, who:

(1) has been convicted of a felony in a state or federal court within the past five years or who has a felony charge pending; or

(2) has been convicted in a state or federal court of a gambling-related offense within ten years of the date of license application.

Subd. 4. [FEES.] The annual fee for a bingo hall license is \$250.

Subd. 5. [CRIMINAL HISTORY.] The board may request the assistance of the bureau of criminal apprehension in investigating the background of

an applicant for a bingo hall license and may reimburse the bureau for the costs. The board has access to all criminal history data compiled by the bureau on licensees and applicants.

Subd. 6. [PROHIBITION.] No bingo hall licensee may also be a licensed distributor or registered manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163.

Subd. 7. [RESTRICTIONS.] A bingo hall licensee or affiliate of the licensee may not:

(1) provide any staff to conduct bingo or any other form of lawful gambling during the bingo occasion;

(2) acquire, provide storage or inventory control, or report the use of any gambling equipment used by an organization that conducts bingo on the premises;

(3) provide accounting services to an organization conducting bingo on the premises;

(4) make any expenditures of gross receipts of an organization from lawful gambling; or

(5) charge any admission fee for entering the premises where the bingo occasion will be held.

Subd. 8. [LEASES.] All of the remuneration to be received from the organization for the conduct of lawful gambling must be stated in the lease. No amount may be paid by the organization or received by the operator of the bingo hall based on the number of participants attending the bingo occasion or on the gross receipts or profit received by the organization.

Subd. 9. [REVOCATION AND SUSPENSION.] A license under this section may be suspended by the board for a violation of law or board rule or for failure to meet the qualifications in subdivision 3 at any time or revoked for what the board determines to be a pattern of willful violations of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Sec. 5. Minnesota Statutes 1987 Supplement, section 349.17, subdivision 1, is amended to read:

Subdivision 1. [BINGO OCCASIONS.] Not more than six bingo occasions each week may be conducted by an organization. At least 15 bingo games must be held at each occasion and a bingo occasion may not must continue for at least one and one-half hours but not more than four consecutive hours.

Sec. 6. Minnesota Statutes 1987 Supplement, section 349.17, subdivision 2, is amended to read:

Subd. 2. [BINGO ON LEASED PREMISES.] (a) A person or corporation, other than an organization, which leases any premises that it owns to two or more organizations for purposes including the conduct of bingo occasions, may not allow more than 18 bingo occasions to be conducted on the premises in any week.

(b) If an organization conducts bingo on premises it does not own, the organization must provide the board with the name of the owner and lessor of the premises, copies of all agreements between the organization and the owner or lessor, and the names of employees of the owner or lessor who

will be responsible for the premises during the bingo occasion held by the organization.

(c) During any bingo occasion held by an organization on premises it does not own, the organization shall be directly responsible for the:

- (1) staffing of the bingo occasion;*
- (2) conducting of lawful gambling during the bingo occasion;*
- (3) acquiring, storage, inventory control, and reporting of all gambling equipment used by the organization; and*
- (4) receipt, accounting, and all expenditures of gross receipts from lawful gambling.*

Sec. 7. Minnesota Statutes 1986, section 349.19, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED RECORD OF RECEIPTS.] A licensed organization must keep a record of each occasion on which it conducts gambling, including each bingo occasion and each day on which other forms of lawful gambling are conducted. The record must include gross receipts, quantities of free plays if any, expenses, and profits. The board may by rule provide for the methods by which expenses are documented. *Gross receipts for bingo include any amount received by the organization which has been paid by a person at the bingo occasion to play the game, without which the player could not play the game.* In the case of bingo, gross receipts must be compared to the checkers' records for the occasion by a person who did not sell cards for the occasion. Separate records must be kept for bingo and all other forms of lawful gambling.

Sec. 8. Minnesota Statutes 1986, section 349.211, subdivision 1, is amended to read:

Subdivision 1. [BINGO.] *Except as provided by this subdivision, prizes for a single bingo game may not exceed \$100 except prizes for a cover-all game, which may exceed \$100 if the aggregate value of all cover-all prizes in a bingo occasion does not exceed \$500. \$500 and total prizes awarded at a bingo occasion may not exceed \$2,500, unless a cover-all game is played in which case the limit is \$3,000. For purposes of this subdivision, a cover-all game is one in which a player must cover all spaces except a single free space to win. An organization may award a prize between \$500 and \$1,000 on one game per occasion up to 14 times per calendar year.*

Sec. 9. [REPEALER.]

Minnesota Statutes 1986, section 349.211, subdivision 2, is repealed.

Sec. 10. [EFFECTIVE DATE.]

Section 3 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to charitable gambling; changing the definition of lawful purpose expenditures; clarifying the definition of organization; increasing the percentage of profit that may be used for expenses for certain organizations; licensing bingo halls; changing the definition of bingo occasion; requiring organizations to be directly responsible for the conducting of bingo; changing the definition of gross receipts for the purposes of bingo; changing the prize limits for bingo; amending Minnesota Statutes

1986, sections 349.19, subdivision 1; 349.211, subdivision 1; Minnesota Statutes 1987 Supplement, sections 349.12, subdivisions 11 and 12; 349.15; 349.17, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 349; repealing Minnesota Statutes 1986, section 349.211, subdivision 2."

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

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1940: A bill for an act relating to transportation; excluding certain publicly owned transit buses from certain definitions of school bus; amending Minnesota Statutes 1986, sections 169.01, subdivision 6; and 171.01, subdivision 21.

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

Delete everything after the enacting clause and insert:

"Section 1. [DULUTH TRANSIT BUSES ARE NOT SCHOOL BUSES.]

Notwithstanding Minnesota Statutes, sections 169.01, subdivision 6, and 171.01, subdivision 21, the Duluth transit authority may transport children to or from a school, or to or from school-related activities within the city of Duluth, on fixed routes and schedules or under an agreement with independent school district No. 709, in a publicly owned transit bus; and when the authority does so, the bus is not a school bus."

Delete the title and insert:

"A bill for an act relating to transportation; excluding certain publicly owned transit buses in Duluth from certain definitions of school bus."

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

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 2089: A bill for an act relating to metropolitan government; regulating financing and duties of the regional transit board; amending Minnesota Statutes 1986, section 473.39, as amended; and Minnesota Statutes 1987 Supplement, section 473.446, subdivision 1; repealing Minnesota Statutes 1987 Supplement, sections 473.393 and 473.398.

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

Page 1, after line 9, insert:

"Section 1. Minnesota Statutes 1986, section 473.375, subdivision 8, is amended to read:

Subd. 8. [GIFTS; GRANTS.] The board may apply for, accept and disburse gifts, grants, or loans from the United States, the state, or from any person on behalf of itself or any of its contract recipients, for any of its purposes. It may enter into an agreement required for the gifts, grants, or loans and may hold, use, and dispose of money or property received therefrom according to the terms of the gift, grant, or loan. ~~When the board has adopted an approved implementation plan and has certified to the governor~~

~~that it is ready to receive federal funds, the governor shall take whatever steps are necessary to designate~~ The board ~~as may be~~ a recipient of federal transit assistance for the metropolitan area ~~except that the metropolitan transit commission is the recipient for federal operating and capital assistance designated for use by the commission.~~

No political subdivision within the metropolitan area may apply for federal transit assistance unless its application has been submitted to and approved by the board."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "section" and insert "sections 473.375, subdivision 8; and"

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

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1932: A bill for an act relating to transportation; exempting private carriers from certain hazardous materials regulations; amending Minnesota Statutes 1986, section 221.033, 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. Minnesota Statutes 1986, section 221.033, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] Except as provided in subdivisions 2 and 3 to 4, no person may transport or have transported or shipped within the state of Minnesota a hazardous material, hazardous substance, or hazardous waste except in compliance with United States Code, title 49, sections 1801 to 1811 and the provisions of Code of Federal Regulations, title 49, sections 171 to 199.

Sec. 2. Minnesota Statutes 1986, section 221.033, is amended by adding a subdivision to read:

Subd. 4. [EXCEPTION.] A private carrier transporting gasoline, diesel fuel, or aviation fuel in a tank, that is securely mounted on a motor vehicle owned by the private carrier and has a capacity not exceeding 1,000 gallons, for use in fueling equipment owned and used by the private carrier in an agriculture-related business, is not subject to the requirements of the Code of Federal Regulations, title 49, sections 173.33(a), 173.119(a)(17), 178.340, 178.341, and 391.11(b)(1). This exception applies only to private carriers engaged in intrastate commerce."

Delete the title and insert:

"A bill for an act relating to transportation; exempting certain private carriers of fuel for use in agriculture-related businesses from certain hazardous materials regulations; amending Minnesota Statutes 1986, section 221.033, subdivision 1, and by adding a subdivision."

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

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1908: A bill for an act relating to motor vehicles; extending time for dealers to transfer motor vehicle title certificate; amending Minnesota Statutes 1986, section 168A.04, subdivision 2.

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

Page 1, line 15, after "15" insert "*working*"

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

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 2427: A bill for an act relating to vocational rehabilitation; regulating community based employment program services; appropriating money; amending Minnesota Statutes 1987 Supplement, section 129A.08, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Bertram from the Committee on Veterans, to which was referred

S.F. No. 1463: A bill for an act relating to veterans; requiring the commissioner of veterans affairs to establish a veterans outreach center; authorizing the commissioner to establish a veterans home; providing for the operation of the center and home; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 196 and 198.

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

Page 1, line 15, after "*commissioner*" insert "*, in conjunction with area county veterans service officers,*"

Page 1, line 27, before the semicolon, insert "*. The director of the veterans outreach center in Sioux Falls, South Dakota, on the effective date of this act, shall be transferred by the commissioner to the southwestern Minnesota veterans outreach center and be designated director of the center*"

Page 2, line 23, delete "2" and insert "3"

Page 2, after line 28, insert:

"Sec. 2. [198.056] [BOARD OF DIRECTORS; SOUTHWESTERN MINNESOTA VETERANS HOME.]

Subdivision 1. [CREATION.] There is created in the department of veterans affairs a board of directors of the southwestern Minnesota veterans home. The board consists of nine members appointed by the commissioner.

Subd. 2. [MEMBERSHIP] One member of the board shall be a county veterans service officer, one a registered nurse, one a licensed nursing home administrator, one a hospital administrator, one a mental health professional, and four shall be members of congressionally chartered veterans organizations or auxiliary organizations. At least five members of the board shall be veterans as defined by section 197.447.

Subd. 3. [MEMBERSHIP TERMS; COMPENSATION; REMOVAL.] The membership, terms, compensation, and removal authority for the board are as provided in section 15.0575.

Subd. 4. [OFFICERS; QUORUM; RECORDS.] The board shall elect a chair, vice-chair, and other officers it considers necessary from its members. A majority of the board constitutes a quorum, and concurrence of a majority of its quorum is required for the board to act on any matter. The board shall meet at least once every three months or at the call of a quorum and hold other public hearings it considers necessary for the conduct of its business. The board shall keep a full and accurate record of its official acts.

Subd. 5. [ADMINISTRATIVE SERVICES.] The commissioner shall provide the board with office space, clerical assistance, and other administrative services necessary for the board to conduct its business."

Page 2, line 30, delete "COMMISSIONER" and insert "BOARD"

Page 2, line 31, delete "commissioner" and insert "board"

Page 3, lines 8, 11, 14, 23, 30, and 36, delete "commissioner" and insert "board"

Page 3, line 10, after the period, insert "The location of the home shall be determined by the commissioner."

Page 4, line 2, delete "commissioner" and insert "board"

Page 4, after line 11, insert:

"Sec. 4. [198.312] [BOARD POWERS AND DUTIES.]

Subdivision 1. [POWERS.] The board may review and comment to the commissioner on any policy, rule, procedure, or guideline governing the southwestern Minnesota veterans home proposed or adopted by the commissioner or any other officer or employee of the department or home.

Subd. 2. [DUTIES.] The board shall:

(1) recommend to the commissioner a site for the southwestern Minnesota veterans home;

(2) review and comment to the commissioner on any internal or external audit or review of any operation or function of the southwestern Minnesota veterans home;

(3) at the times it determines, but at least annually, conduct an on-site tour of the southwestern Minnesota veterans home, for which purpose the board shall be permitted access to all buildings and facilities of the home, and make recommendations to the commissioner concerning any aspect of the operations of the home viewed by the board;

(4) adopt rules under chapter 14 establishing policies and procedures for the admission and discharge of persons eligible for admission to the southwestern Minnesota veterans home; and

(5) conduct a performance review of the administrator."

Page 4, line 16, delete "2" and insert "3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "establishing a board of directors of the southwestern Minnesota veterans home;" and delete "commissioner" and insert "board"

Page 1, line 5, after "for" insert "the powers and duties of the board and"

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

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

S.F. No. 2463: A bill for an act relating to human services; clarifying the administration of human services programs; establishing a compliance system for certain public assistance programs; establishing a public assistance incentive fund; appropriating money; amending Minnesota Statutes 1986, sections 256.72; 256.81; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256.991; 256B.041, subdivisions 5 and 7; 256B.05, subdivision 1; 256B.19, subdivision 2; 256D.03, subdivision 6; 256D.04; 256D.36, subdivision 1; and 393.07, subdivision 2; Minnesota Statutes 1987 Supplement, sections 256.01, subdivision 2; 256B.091, subdivision 8; 256B.19, subdivision 1; 256D.03, subdivision 2; 393.07, subdivision 10; proposing coding for new law in Minnesota Statutes, chapter 256; repealing Minnesota Statutes 1987 Supplement, sections 245.775; and 256D.22.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

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

S.F. No. 2187: A bill for an act relating to human services; eliminating certain limitations on reimbursement to providers; appropriating money; amending Minnesota Statutes 1986, section 256B.03, by adding a subdivision; Minnesota Statutes 1987 Supplement, sections 256.969, subdivision 2; and 256D.03, subdivision 4.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

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

S.F. No. 2138: A bill for an act relating to human services; providing exceptions to the moratorium on beds in intermediate care facilities for persons with mental retardation or related conditions; amending Minnesota Statutes 1986, sections 252.291, subdivisions 1 and 2; and 256B.092, subdivisions 5 and 7; Minnesota Statutes 1987 Supplement, sections 252.291, subdivision 3; and 256B.501, subdivision 1.

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

Page 2, line 15, after "*established*" insert "*publicly or privately operated community*"

Page 2, line 36, after the period, insert "*One-half of the first 70 newly*

constructed or newly established intermediate care beds for persons with mental retardation or related conditions approved by the commissioner under this subdivision in the biennium ending June 30, 1989, may be state operated community intermediate care beds for persons with mental retardation or related conditions. Funds appropriated to operate and expand state operated community-based program pilot projects pursuant to Laws 1987, chapter 403, article 1, section 2, subdivision 9, may be used to establish state operated community intermediate care beds for persons with mental retardation or related conditions."

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. 2243: A bill for an act relating to vocational rehabilitation; providing employment program rights to persons with disabilities; requiring inclusion of these programs in county social services plans; amending Minnesota Statutes 1987 Supplement, section 256E.09, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 129A.

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

Page 1, delete section 1

Page 2, after line 31, insert:

"Sec. 2. [256E.13] [RIGHT TO RECEIVE SERVICES IN ANOTHER COUNTY.]

A person who is eligible for extended employment services under this chapter has the right to request and receive services outside the county of financial responsibility. The county shall consider the request and shall not disapprove a request for extended employment services solely on the basis that the service is located outside the county."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, delete "129A" and insert "256E"

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

Mr. Davis from the Committee on Agriculture, to which was re-referred

S.F. No. 1442: A bill for an act relating to railroads; providing reporting and disclosure requirements for railroad acquisitions; preserving contracts between acquiring railroad carriers and shippers, governmental entities, and labor organizations; providing compensation to nonacquired employees; establishing priority order for hiring by the acquiring carrier; proposing coding for new law in Minnesota Statutes, chapter 222.

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

Page 1, line 14, delete "5" and insert "4"

Page 2, delete section 2 and insert:

"Sec. 2. [222.86] [ACQUISITION REPORTING AND DISCLOSURE.]

Subdivision 1. [NOTICE OF EXEMPT TRANSACTION.] An acquiring carrier shall submit written notification to the attorney general and the commissioner of transportation of their intent to initiate an exempt transaction under Code of Federal Regulations, title 49, section 1150, at least 14 days before filing a notice of exemption with the Interstate Commerce Commission.

Subd. 2. [IDENTITY AND FINANCIAL INFORMATION.] The notification must designate the complete private or corporate identity of the acquiring carrier, the complete identity of the divesting carrier, and a thorough description of the line of railroad involved.

Subd. 3. [APPLICABILITY TO REQUIREMENTS OF LAW.] Acquiring and divesting carriers shall attend conferences with the attorney general or the commissioner of transportation prior to filing a notice of exemption with the Interstate Commerce Commission. The divesting and acquiring carriers shall respond to questions and requests for information related to the issue of whether the proposed transaction is consistent with the requirements of the Interstate Commerce Act, other applicable federal law, and state law. Copies of the sale contract, market and feasibility studies, and full financial information as to the acquiring carrier must be provided at those conferences.

All information, submitted by the acquiring and divesting carriers as confidential, shall remain nonpublic data and private data on individuals in accordance with chapter 13 and shall not be divulged to any outside parties, except to the Interstate Commerce Commission as a part of a filing in relation to the proposed transaction. The attorney general and the commissioner of transportation shall take the necessary steps to assure confidentiality."

Page 3, delete section 4

Page 3, line 31, delete "222.89" and insert "222.88"

Page 3, line 32, delete "Any" and insert "Except carriers acquiring an abandoned line, an" and delete "4" and insert "3"

Amend the title as follows:

Page 1, line 6, delete everything after the semicolon

Page 1, line 7, delete "nonacquired employees;"

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

S.F. No. 722: A bill for an act relating to state investments; limiting investments in companies doing business in Northern Ireland; proposing coding for new law in Minnesota Statutes, chapter 11A.

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

Page 1, delete lines 7 to 25 and insert:

"BE IT RESOLVED by the Legislature of the State of Minnesota that

Congress should speedily enact legislation to encourage companies doing business in Northern Ireland and trading with the United States to take affirmative action to eliminate religious and ethnic discrimination in Northern Ireland.

BE IT FURTHER RESOLVED that the Secretary of State of Minnesota shall transmit enrolled copies of this memorial to the President of the United States, the President and the Secretary of the United States Senate, the Speaker and the Clerk of the United States House of Representatives, and to Minnesota's Senators and Representatives in Congress."

Page 2, delete lines 1 to 35

Delete the title and insert:

"A resolution memorializing the President and Congress to encourage companies doing business in Northern Ireland to take affirmative action to eliminate religious and ethnic discrimination there."

And when so amended the bill do pass. Mr. Moe, D.M. questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1982: A bill for an act relating to state lands; authorizing private sale of tax-forfeited land in St. Louis county.

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

Delete everything after the enacting clause and insert:

"Section 1. [TAX-FORFEITED LAND SALE; ST. LOUIS COUNTY.]

Notwithstanding Minnesota Statutes, section 282.018, and the public sale requirements of Minnesota Statutes, section 282.01, St. Louis county may sell and convey the tax-forfeited land described in this section to Louie Kolar by private sale for consideration of the amount of unpaid property taxes, assessments, and penalties as certified by the St. Louis county auditor, but otherwise in accordance with Minnesota Statutes, chapter 282.

The land that may be sold is tax-forfeited land that borders public water in St. Louis county in the Southwest Quarter of the Southwest Quarter of Section 7, Township 54 North, Range 15 West and described as: Lots 7 and 8 of Vildskogen Beach.

Mr. Kolar is the former owner of the land. While he was temporarily out of the state, Mr. Kolar entrusted the property to a person who did not pay the taxes and did not inform Mr. Kolar of the failure to pay the taxes.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2216: A bill for an act relating to land exchange; authorizing the exchange of certain state lands free from reservations of public travel under certain conditions; amending Minnesota Statutes 1986, section 94.342, subdivision 3.

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 1986, section 94.342, subdivision 3, is amended to read:

Subd. 3. [CLASS C.] No land specifically designated by law as a state park shall be given in exchange hereunder unless expressly authorized by the legislature. No land bordering on or adjacent to any meandered or other public waters and withdrawn from sale by law shall be given in exchange unless expressly authorized by the legislature or unless through the same exchange the state acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public; provided, that any exchange with the United States or any agency thereof may be made free from this limitation upon condition that the state land given in exchange bordering on public waters shall be subject to reservations by the state for public travel along the shores as provided by Minnesota Statutes 1945, section 92.45, *unless waived as provided in this subdivision*, and that there shall be reserved by the state such additional rights of public use upon suitable portions of such state land as the commissioner of natural resources, with the approval of the land exchange board, may deem necessary or desirable for camping, hunting, fishing, access to the water, and other public uses. *In regard to Class B land that is contained within that portion of the Superior National Forest that is designated as the Boundary Waters Canoe Area Wilderness and is also located within Cook county, the condition that state land given in exchange bordering on public waters must be subject to the public travel reservations provided in Minnesota Statutes, section 92.45, may be waived by the land exchange board upon the recommendation of the county board which has the concurrence of the commissioner of natural resources.*

Sec. 2. [CONVEYANCE OF STATE LAND; COOK COUNTY.]

Subdivision 1. [AUTHORIZATION.] Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may offer for sale and sell, in the manner provided for the sale of other trust fund lands, the land described in subdivision 3, except that the value of the improvements on the land must be appraised separately. The conveyance must be in a form approved by the attorney general.

Subd. 2. [CONDITIONS OF SALE.] (a) If at the sale of the land Wilbur C. Nemitz, Robert W. Nemitz, and Marlene Kadrie are the purchasers, they are not required to pay for the improvements on furnishing an affidavit showing that the improvements were paid by any or all of them.

(b) If a person other than Wilbur C. Nemitz, Robert W. Nemitz, and Marlene Kadrie purchases the land, the purchaser shall pay in cash to the state at the time of sale, in addition to all required payments, the full

amount for which improvements are appraised. The amount received by the state for the improvements must be paid by the commissioner of natural resources, with the approval of the commissioner of finance, to Wilbur C. Nemitz, Robert W. Nemitz, and Marlene Kadrie or their successors in interest as compensation for the improvements. The money required for the payment is appropriated from the fund to which the sale proceeds are credited to the commissioner of natural resources for this purpose.

Subd. 3. [LAND DESCRIPTION.] The commissioner may offer for sale and sell the land described as: the north 100.00 feet of government lot 4 of Section 10, Township 62 North, Range 1 East, Cook county, Minnesota, lying easterly of the centerline of the existing United States Forest Service road.

Subd. 4. [REASON FOR SALE.] A cabin was inadvertently built on this state property and has been owned, occupied, and improved since it was built.

Sec. 3. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state lands; authorizing the exchange of certain state lands free from reservations of public travel under certain conditions; authorizing sale of certain land in Cook county; appropriating money; amending Minnesota Statutes 1986, section 94.342, subdivision 3."

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was re-referred

S.F. No. 1955: A bill for an act relating to Ramsey county; authorizing the county to use certain land dedicated as open space for highway purposes.

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

Page 1, line 9, delete "*or other law*"

Page 1, delete line 20 and insert "*beginning; thence to the beginning; and except that part of said Northeast Quarter of the Northeast Quarter which lies within a distance of 50 feet on each side of the following described line: From a point on the north line of said Section 17, distant 897.5 feet west of the northeast corner, run northwesterly at an angle of 54 degrees 53 minutes 00 seconds from said north section line for 169.29 feet to the point of beginning of the line to be described; thence deflect to the left at an angle of 90 degrees 00 minutes 00 seconds for 223.41 feet; thence deflect to the right on a 10 degrees 00 minutes 00 seconds curve (delta angle 38 degrees 30 minutes 00 seconds) for 385 feet and there terminating; and*"

Page 2, line 21, delete the period and insert a semicolon

Page 3, delete section 2 and insert:

"Sec. 2. [RAMSEY COUNTY LAND SALE.]

Notwithstanding any contrary provision of Minnesota Statutes, section 373.01, Ramsey county may sell the land described in this section by private, negotiated sale for a price not less than its appraised value.

The land that may be sold is described as: a part of Government Lot three (3) in Section thirty-six (36), Township thirty (30) North of Range twenty-three (23) West of the Fourth Principal Meridian.

The land to be sold is appropriate for development and is in excess of that needed by the county for other purposes."

Amend the title as follows:

Page 1, line 4, before the period, insert "; authorizing the sale of certain land"

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2141: A bill for an act relating to natural resources; ratifying and affirming the settlement agreement arising from litigation concerning certain treaty related claims of Chippewa Indians; prescribing powers and duties of the commissioner of natural resources in relation to the settlement agreement; proposing coding for new law in Minnesota Statutes, chapter 97A.

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

Page 2, line 9, delete everything after "AGREEMENT.]"

Page 2, line 10, delete "*the contrary*,"

Page 2, line 13, delete everything after "DUTIES.]"

Page 2, line 14, delete "*contrary*,"

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1722: A bill for an act relating to state lands; permitting the sale of certain tax-forfeited lands that border public waters in the city of Aitkin.

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

Page 1, lines 8 and 9, delete "*or other law*"

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1983: A bill for an act relating to state lands; authorizing private sale of tax-forfeited land in St. Louis county.

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

Delete everything after the enacting clause and insert:

"Section 1. [SALE OF TAX-FORFEITED LAND; ST. LOUIS COUNTY.]

Notwithstanding the public sale requirements of Minnesota Statutes, section 282.01, or the watercourse restriction under section 282.018, St. Louis county may sell tax-forfeited land described in this section to Clifford Olafson of Saginaw, Minnesota.

The land described in this section may be sold by private sale for a consideration not less than its appraised value and in accordance with the applicable provisions of Minnesota Statutes, chapter 282.

The conveyance must be in a form approved by the attorney general.

The land consists of about 20 acres in St. Louis county and is described as: the East 1/2 of the Southwest Quarter of the Northeast Quarter of Section 34, Township 52 North, Range 16 West.

Clifford Olafson has occupied the property for several years under a lease arrangement with St. Louis county. The county land department has determined that the leased property would be of greater benefit in private ownership.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1713: A bill for an act relating to state lands; authorizing private sale of certain tax-forfeited lands in Carlton county.

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

Delete everything after the enacting clause and insert:

"Section 1. [SALE OF TAX-FORFEITED LAND; CARLTON COUNTY.]

Notwithstanding the public sale, appraisal, and consideration requirements of Minnesota Statutes, chapter 282, Carlton county may sell certain tax-forfeited land, located in Carlton county and described in this section, to independent school district No. 95.

The land described in this section must be sold by private sale for a consideration of \$25 in a form approved by the attorney general.

The land to be sold is located in Carlton county and described as follows:

Beginning at a point 241-3/4 feet west of the north 1/4 post of Section

4, Township 48, Range 20 and thence south 450-4/12 feet to starting point; thence south 61-4/12 feet; thence east 208-8/12 feet; thence north 61-4/12 feet; thence west 208-8/12 feet to starting point.

The property, on which part of a school football field in Cromwell lies, was inadvertently forfeited to the state in 1953 for nonpayment of a \$25 sewer assessment.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2238: A bill for an act relating to state land; conveying title to state land in Kittson county.

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2367: A bill for an act relating to natural resources; eliminating a diversion of game and fish license fee money; repealing Laws 1987, chapter 373, section 15.

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2283: A bill for an act relating to local government; enacting an equalization grants program for wastewater treatment facilities; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2368: A bill for an act relating to state lands; authorizing sale of certain tax-forfeited lands that border public water in Pine county.

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

Page 2, delete lines 1 and 2

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2292: A bill for an act relating to state lands; authorizing sale of certain tax-forfeited lands that border public water in Pine county.

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

Page 2, delete lines 3 to 5

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2410: A bill for an act relating to the city of Farmington; permitting the sale of certain tax-forfeited land.

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

Page 1, line 8, delete "*or any other contrary provision of law.*"

Page 1, delete lines 22 to 24

Page 2, delete section 2 and insert:

"Sec. 2. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2010: A bill for an act relating to environment; exempting innocent landowners from liability; amending Minnesota Statutes 1987 Supplement, section 115C.02, subdivision 13.

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 1987 Supplement, section 115C.04, subdivision 1, is amended to read:

Subdivision 1. [CORRECTIVE ACTION LIABILITY.] (a) A responsible person is liable for the cost of the corrective action taken by the agency under section 115C.03, subdivisions 2 and 3, including the cost of investigating the release and administrative and legal expenses, if:

(1) the responsible person has failed to take a corrective action ordered by the director and the agency has taken the action;

(2) the agency has taken corrective action in an emergency under section 115C.03, subdivision 3; or

(3) the agency has taken corrective action because a responsible person could not be identified.

(b) A responsible person is liable for the reimbursement paid by the petroleum tank release compensation board under section 115C.09, subdivision 4, to the extent the reimbursement is for corrective action that the responsible person could have been ordered to perform under section 115C.03, subdivision 1.

Sec. 2. Minnesota Statutes 1987 Supplement, section 115C.04, subdivision 3, is amended to read:

Subd. 3. [AGENCY COST RECOVERY.] Reasonable and necessary expenses incurred by the agency in taking a corrective action, including costs of investigating a release ~~and~~, administrative and legal expenses, *and reimbursement costs described in subdivision 1, paragraph (b),* may be recovered in a civil action in district court brought by the attorney general against a responsible person. The agency's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. Expenses that are recovered under this section must be deposited in the fund.

Sec. 3. Minnesota Statutes 1987 Supplement, section 115C.09, subdivision 1, is amended to read:

Subdivision 1. [REIMBURSABLE CORRECTIVE ACTIONS.] The board shall provide partial reimbursement for the cost of corrective action to eligible responsible persons for ~~releases reported~~ *costs incurred after June 4, 1987.*

Sec. 4. Minnesota Statutes 1987 Supplement, section 115C.09, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBLE PERSON ELIGIBILITY.] (a) A responsible person who has taken corrective action *and incurred costs after June 4, 1987,* in response to a release ~~reported after June 4, 1987,~~ may apply to the board for partial reimbursement under subdivision 3 and rules adopted by the board.

(b) A reimbursement may not be made unless the board determines that:

(1) the director has determined that the corrective action has adequately addressed the release and that the release no longer poses a threat to public health and welfare or the environment;

(2) at the time of the release the tank was in compliance with state and federal rules and regulations applicable to the tank, including rules or regulations relating to financial responsibility;

(3) the agency was given notice of the release as required by section 115.061;

(4) the responsible person, to the extent possible, fully cooperated with the agency in responding to the release; and

(5) if the responsible person is an operator, the person exercised due care with regard to operation of the tank, including maintaining inventory control procedures.

Sec. 5. Minnesota Statutes 1987 Supplement, section 115C.09, is amended by adding a subdivision to read:

Subd. 3a. [ELIGIBILITY OF OTHER PERSONS.] *Notwithstanding the provisions of subdivisions 1 to 3, the board shall provide full reimbursement to a person who has taken corrective action if the board determines that:*

(1) *the person took the corrective action in response to a request or order of the director made under this chapter;*

(2) *the director has determined that the person was not a responsible person under section 115C.02; and*

(3) *the costs for which reimbursement is requested were actually incurred and were reasonable."*

Delete the title and insert:

"A bill for an act relating to environment; providing for reimbursement for certain costs incurred for corrective actions; amending Minnesota Statutes 1987 Supplement, sections 115C.04, subdivisions 1 and 3; and 115C.09, subdivisions 1, 2, and by adding a subdivision."

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2079: A bill for an act relating to natural resources; regulating fish spearing on lakes within Indian reservations; amending Minnesota Statutes 1986, section 97C.371, by adding a subdivision.

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 1986, section 97C.011, is amended to read:

97C.011 [MUSKELLUNGE LAKES.]

(a) The commissioner may, after *preparing a statement of need and reasonableness and holding a public meeting*, designate waters with muskellunge as muskellunge waters.

(b) The commissioner may prescribe rules for each designated muskellunge waters that:

(1) restrict spearing from a dark house;

(2) restrict angling from a dark house;

(3) limit the open season to take fish;

(4) limit the size of fish that may be kept; and

(5) limit the number of each species of fish that may be kept.

(c) The commissioner must give notice and hold a hearing before adopting rules under this subdivision. The rules must have a termination date and may only be extended upon a showing by the commissioner, at a hearing, that the muskellunge population in the designated waters has been enhanced.

(d) The provisions of section 97C.385, subdivision 1, requiring the angling season on a lake to be closed in proportion to the spearing season do not apply to designated muskellunge lakes.

Sec. 2. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; providing for a statement of need and reasonableness before designating muskellunge waters; amending Minnesota Statutes 1986, section 97C.011."

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2289: A bill for an act relating to the environment; authorizing the waste management board to enter agreements providing for the development and operation of a wholly or partially state owned stabilization and containment facility; directing the board to make recommendation for legislative changes needed to implement facility development and operation; proposing coding for new law in Minnesota Statutes, chapter 115A.

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

Delete everything after the enacting clause and insert:

"Section 1. [115A.195] [PUBLIC PARTICIPATION IN OWNERSHIP AND MANAGEMENT OF FACILITY.]

The stabilization and containment facility developed under sections 115A.18 to 115A.30 may be wholly owned by the state or jointly owned by the state and a developer selected by the board under section 115A.191. The board chair may negotiate and the board may enter agreements with a selected developer providing terms and conditions for the development and operation of the facility. If the agreements provide for capital improvements or equipment, or for payment of state money, the agreements may be implemented only if funds are appropriated and available to the board for those purposes.

Sec. 2. [RECOMMENDATIONS TO LEGISLATURE.]

By January 15, 1989, the board shall submit to the legislative commission on waste management a copy of its agreements with the selected developer concerning the development and operation of the stabilization and containment facility. The board shall also submit its recommendations concerning the legislative actions necessary to develop and operate the facility as provided in the agreements, including the types and amounts of necessary state financial assistance. The recommendations must also include a proposal for the financial assurance requirements necessary to provide for the payment of claims for damages and response costs that may result from the facility during operation and after closure. The financial assurance proposal must be designed to cover claims that may reasonably be anticipated based upon an analysis of the type and magnitude of the risks posed by the facility.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

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

S.F. No. 2259: A bill for an act relating to local government; the city of Cook and Koochiching and St. Louis counties; providing for the establishment of a hospital district in portions of those counties.

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

Page 1, line 13, after "Cook" insert "and the city of Orr"

Page 2, after line 14, insert:

"Subd. 4. [EXCEPTION TO VOTING REQUIREMENT.] Notwithstanding Minnesota Statutes, section 447.31, subdivision 3, resolutions authorizing the establishment of a hospital district under this act may be adopted by a majority vote."

Page 2, line 35, after "incurred" insert "prior to the transfer"

Page 3, after line 6, insert:

"This act is effective for the city of Orr the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the city of Orr."

Amend the title as follows:

Page 1, line 2, after "Cook" insert ", the city of Orr,"

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

Mr. Davis from the Committee on Agriculture, to which was referred

S.F. No. 2327: A bill for an act relating to agriculture; appropriating money for sustainable agriculture; repealing Laws 1987, chapter 396, article 12, section 6, subdivision 2.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Davis from the Committee on Agriculture, to which was referred

S.F. No. 2406: A bill for an act relating to agriculture; repealing Laws 1984, chapter 509, section 2.

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

Mr. Davis from the Committee on Agriculture, to which was referred

S.F. No. 1984: A bill for an act relating to agriculture; regulating veterinary drug distribution; imposing a penalty; proposing coding for new law in Minnesota Statutes, chapter 156.

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

Page 1, delete lines 8 to 11

Delete page 3, line 34, to page 4, line 8, and insert:

"Sec. 3. [156.17] [POSSESSION PROHIBITED.]

A person may not possess a prescription veterinary drug unless the person is a licensed veterinarian or pharmacist, a client holding a prescription drug by or on the order of a veterinarian, a manufacturer or wholesaler of veterinary drugs, a valid researcher, or a person performing official state or federal regulatory duties.

Sec. 4. [156.18] [PRESCRIPTION; LABELS; RECORDS.]

Subdivision 1. [PRESCRIPTION.] (a) A person may not dispense a prescription veterinary drug to a client without a prescription or other veterinary authorization. A client may not make extra-label use of a prescription veterinary drug without a prescription from a veterinarian. A veterinarian or the veterinarian's authorized agent may dispense a prescription veterinary drug to a client or oversee the extra-label use of a veterinary drug directly by a client without a prescription. A veterinarian may not authorize the refilling of a prescription beyond three months without reexamining the animal."

Page 4, line 12, delete "it must be reduced" and insert "the veterinarian must reduce it"

Page 4, line 24, after "or" insert "prescribing"

Page 4, delete line 31 and insert "A veterinarian must maintain complete records of receipt"

Page 5, after line 7, insert:

"Records must not use a code or euphemism that causes the true nature of a veterinary drug to be concealed."

Page 5, delete line 11 and insert:

"Sec. 5. [156.19] [INSPECTIONS AND SAMPLES.]"

Page 5, line 12, after the comma, insert "a veterinarian must permit"

Page 5, line 15, delete "may" and insert "to"

Pages 5 and 6, delete sections 5 and 6 and insert:

"Sec. 6. [156.20] [EXTRA-LABEL USE.]

A person, other than a veterinarian or a person working under the control of a veterinarian, must not make extra-label use of a veterinary drug in or on a food-producing animal, unless permitted by the prescription of a veterinarian. A veterinarian may prescribe the extra-label use of a veterinary drug if:

(1) the veterinarian makes a careful medical diagnosis within the context of a valid veterinarian-client-patient relationship;

(2) the veterinarian determines that there is no marketed drug specifically labeled to treat the condition diagnosed, or that drug therapy as recommended by the labeling has, in the judgment of the attending veterinarian, been found to be clinically ineffective in the animal to be treated;

(3) the veterinarian institutes procedures to ensure that the identity of the treated animal will be carefully maintained; and

(4) the veterinarian prescribes a significantly extended time period for drug withdrawal before marketing meat, milk, or eggs; the veterinarian

ensures that the recommended withdrawal times are met; and no illegal residues occur as determined by the United States Department of Agriculture and Food and Drug Administration and the Minnesota department of agriculture."

Amend the title as follows:

Page 1, line 3, delete "imposing a penalty;"

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2192: A bill for an act relating to economic development; permitting certain development authorities to hold certain licenses; amending Minnesota Statutes 1987 Supplement, section 469.155, subdivision 13.

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2370: A bill for an act relating to local government; including certain parcels in a tax increment financing district located in the city of Virginia.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Report adopted.

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2380: A bill for an act relating to the city of Chanhassen; extending certain tax increment financing.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1784 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for 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.
1784	1663				

and that the above 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. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1941 for comparison with companion Senate File, reports the following House File was found not identical with 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.
1941	1764				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1941 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1941 and insert the language after the enacting clause of S.F. No. 1764, the first engrossment; further, delete the title of H.F. No. 1941 and insert the title of S.F. No. 1764, the first engrossment.

And when so amended H.F. No. 1941 will be identical to S.F. No. 1764, and further recommends that H.F. No. 1941 be given its second reading and substituted for S.F. No. 1764, 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. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 2008 for comparison with companion Senate File, reports the following House File was found not identical with 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.
2008	1780				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2008 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2008 and insert the language after the enacting clause of S.F. No. 1780, the first engrossment; further, delete the title of H.F. No. 2008 and insert the title of S.F. No. 1780, the first engrossment.

And when so amended H.F. No. 2008 will be identical to S.F. No. 1780, and further recommends that H.F. No. 2008 be given its second reading and substituted for S.F. No. 1780, 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. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 2045 for comparison with companion Senate File, reports the following House File was found not identical with 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.
		2045	1947		

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2045 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2045 and insert the language after the enacting clause of S.F. No. 1947, the first engrossment; further, delete the title of H.F. No. 2045 and insert the title of S.F. No. 1947, the first engrossment.

And when so amended H.F. No. 2045 will be identical to S.F. No. 1947, and further recommends that H.F. No. 2045 be given its second reading and substituted for S.F. No. 1947; 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 February 15, 1988:

STATE ETHICAL PRACTICES BOARD

Douglas R. Ewald
Mary Smith

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. Bertram from the Committee on Veterans, to which was referred

S.F. No. 1833: A bill for an act relating to veterans; authorizing a tax to defray the cost of a veterans service officer in any county where the officer may be employed; amending Minnesota Statutes 1986, section 197.60, subdivision 4.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Report adopted.

Mr. Bertram from the Committee on Veterans, to which was referred

S.F. No. 2172: A bill for an act relating to veterans; requiring the commissioner of veterans affairs to provide certain grave markers; appropriating money; amending Minnesota Statutes 1986, section 197.23.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Bertram from the Committee on Veterans, to which was referred

S.F. No. 2239: A resolution memorializing the heads of the federal departments and agencies holding records concerning reported live sightings of American military personnel classified as prisoners of war or missing in action in Southeast Asia to make the records available to the public.

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. Bertram from the Committee on Veterans, to which was referred

S.F. No. 2272: A resolution memorializing the Congress of the United States to investigate the connection between Agent Orange and health problems of Vietnam veterans.

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. Bertram from the Committee on Veterans, to which was referred

S.F. No. 2092: A bill for an act relating to veterans; providing for state veterans' cemeteries; requiring land donated to state for use as veterans' cemetery in Morrison county to be returned to donors if not used as veterans' cemetery; amending Minnesota Statutes 1986, section 197.235.

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

Delete everything after the enacting clause and insert:

"Section 1. [APPROPRIATION.]

\$15,000 is appropriated from the general fund to the commissioner of veterans affairs to study the anticipated cost of site development and ongoing operational costs of an additional state veterans' cemetery. The feasibility of utilizing Minnesota granite wherever possible shall also be included in the study.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Amend the title as follows:

Page 1, line 2, delete "for" and insert "an appropriation to study the feasibility of an additional"

Page 1, delete lines 3 to 6 and insert "cemetery."

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

Mr. Davis from the Committee on Agriculture, to which was referred

S.F. No. 1851: A bill for an act relating to public safety; providing for certain emergency use telephone service at tank farms; proposing coding for new law in Minnesota Statutes, chapter 17.

Reports the same back with the recommendation that the bill be amended

as follows:

Page 1, lines 8 and 9, delete “; EMERGENCY USE PHONES”

Page 1, delete lines 15 to 21 and insert:

“Subd. 2. [EMERGENCY PROCEDURES AVAILABLE.] While transferring anhydrous ammonia from a transport vehicle to a bulk storage facility, the operator must have available at the site:

- (1) a citizens band radio in the transport vehicle; or*
- (2) a mobile telephone in the transport vehicle; or*
- (3) a working telephone located on the tank farm property and readily accessible to the transport vehicle driver; or*
- (4) one person in addition to the transport vehicle driver.”*

Amend the title as follows:

Page 1, line 3, delete “use telephone service” and insert “communications procedures”

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

Mr. Davis from the Committee on Agriculture, to which was referred

S.F. No. 552: A bill for an act relating to agriculture; investigating and promoting use of state agricultural commodities by establishments selling prepared food in the state; amending Minnesota Statutes 1986, section 17.03, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

“Section 1. [16B.103] [PREFERENCE FOR AGRICULTURAL FOOD PRODUCTS GROWN IN STATE.]

Subdivision 1. [PREFERENCE IN STATE CONTRACTS.] The commissioner must require that state contracts by an agency for purchase of food products or food service contracts provide that the supplier make a reasonable attempt to identify and purchase food products that are grown in this state.

Subd. 2. [PREFERENCE FOR SUPPLIERS.] Agencies must give preference to the lowest responsible bidders for contracts that provide food products grown in this state over bidders that provide food products grown and raised outside of this state.

Subd. 3. [REPORT.] The commissioner shall prepare a report at the end of each biennium and submit it to the committees on agriculture in the house of representatives and senate on the total food products purchased or contracted for by agencies and the amounts of fruits, vegetables, grains, meats, poultry, and other food products purchased or contracted for that are grown in this state.

Sec. 2. [REPORT.]

The commissioner of agriculture shall investigate the use of agricultural

products to discern the opportunity for expansion of market share by agricultural producers in the state. This investigation shall include franchised food chain and restaurant establishments selling prepared food in this state. The commissioner must submit a report of the investigation to the house of representatives and senate agriculture committees of the legislature by January 31, 1989.

Sec. 3. [APPROPRIATION.]

\$ is appropriated from the general fund to the commissioner of agriculture to contract for an investigation and report on the use of state agricultural products within the state and opportunities for expanded markets for state agricultural products within the state to be available until expended.

Sec. 4. [EFFECTIVE DATE.]

This act is effective the day following final enactment. Section 1 applies to contracts entered into by the state after June 30, 1988."

Delete the title and insert:

"A bill for an act relating to agriculture; providing for preference in state contracts for agricultural products grown in the state; investigating use of state agricultural products by establishments selling prepared food; requiring reports; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16B."

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. 2106: A bill for an act relating to vocational rehabilitation; changing terminology; regulating funding allocations; providing for facility governance; amending Minnesota Statutes 1986, section 129A.02, subdivision 3; 129A.09; and 129A.10; Minnesota Statutes 1987 Supplement, sections 129A.01, subdivisions 5, 6, and 7; 129A.03; 129A.06, subdivision 1; 129A.07, subdivision 1; 129A.08, subdivisions 1, 4, 5, and by adding a subdivision; repealing Minnesota Statutes 1987 Supplement, sections 129A.01, subdivision 8; 129A.07, subdivision 2; and 129A.08, subdivision 3.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

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

S.F. No. 1757: A bill for an act relating to human services; establishing grants for community initiatives for children; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 245.

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

Page 2, after line 12, insert:

"(4) demonstrate that the organization is using and coordinating existing resources of the community;

(5) demonstrate that the organization has applied to private foundations for funding.”

Renumber the clauses in sequence

Page 2, delete lines 23 to 30 and insert:

“Subd. 5. [GRANT AWARD.] *The commissioner shall award one demonstration grant under this section to a project in the seven-county metropolitan area. The amount of the grant may not exceed the lesser of \$... or 50 percent of the capital costs incurred within a two-year period.*”

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 re-referred

S.F. No. 308: A bill for an act relating to animals; permitting establishments that seize dogs or cats to decide whether to convey unredeemed dogs and cats to institutions for research; prohibiting establishments from transferring dogs or cats to dealers; requiring establishments to post a notice that the animals may be conveyed to institutions for research; amending Minnesota Statutes 1986, section 35.71, subdivision 3, and by adding subdivisions.

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

Page 2, lines 11 and 12, reinstate the stricken language and delete the new language

Page 2, line 13, reinstate the stricken “animals.”

Page 2, line 18, reinstate the stricken “If a request is made by a licensed institution”

Page 2, lines 19 to 36, reinstate the stricken language

Page 3, lines 1 to 8, reinstate the stricken language

Page 3, line 16, before “An” insert “*An establishment shall check for identification on each dog or cat, identify the owner by the identification whenever possible, and promptly notify the owner of the location of the animal by the most expedient means.*”

Page 4, after line 8, insert:

“Sec. 7. [REPEALER.]

Minnesota Statutes 1986, section 346.54, is repealed.”

Amend the title as follows:

Page 1, line 2, delete “permitting” and insert “establishing requirements for”

Page 1, line 3, delete everything before “convey”

Page 1, line 10, after “subdivisions” insert “; repealing Minnesota Statutes 1986, section 346.54”

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. 2104: A bill for an act relating to domestic abuse; requiring recording of all domestic abuse protection hearings; amending Minnesota Statutes 1986, section 518B.01, by adding a subdivision.

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

Page 1, delete lines 10 to 12 and insert:

"Subd. 19. [RECORDING REQUIRED.] Proceedings under this section must be recorded."

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. 1553: A bill for an act relating to crimes; prohibiting unauthorized use of computer information; prohibiting denial of access to a computer; prohibiting use of a computer to commit a felony; authorizing persons injured by computer crime to collect treble civil damages; requiring the reporting of computer crimes; imposing penalties; amending Minnesota Statutes 1986, sections 609.531, subdivision 1; 609.87, subdivisions 3, 4, 5, and by adding subdivisions; and 609.88, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 609.

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 1987 Supplement, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of this section, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation in connection with a designated offense and includes, but is not limited to, motor vehicles, trailers, snowmobiles, airplanes, and vessels. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Primary container" means a fundamental receptacle other than a conveyance device used to store or transport property.

(c) "Weapon used" means weapons used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(d) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(e) "Contraband property" means property which is illegal to possess under Minnesota law.

(f) "Appropriate agency" means either the bureau of criminal apprehension, Minnesota state patrol, county sheriffs and their deputies, or city police departments.

(g) "Designated offense" includes:

(1) For weapons used: any violation of this chapter;

(2) For all other purposes: violation of, or an attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.521; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; section 609.671, subdivisions 3, 4, and 5; 609.687; 609.825; 609.86; 609.88; 609.89; or 617.246, when the violation constitutes a felony; or a gross misdemeanor or felony violation of section 4.

(h) "Communications device or component" means a device or system used to facilitate in any manner the creation, storage, dissemination, or transmission of data in connection with a designated offense and includes computers and computer-related components as defined in section 609.87 and any other device or system that by means of electric, electronic or magnetic impulses may be used to facilitate in any manner the creation, storage, dissemination, or transmission of data.

Sec. 2. Minnesota Statutes 1986, section 609.87, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] For purposes of sections 609.87 to 609.89, and sections 4 and 5, the terms defined in this section have the meanings given them.

Sec. 3. Minnesota Statutes 1986, section 609.87, is amended by adding a subdivision to read:

Subd. 9a. [COMPUTER SECURITY SYSTEM.] "Computer security system" means a software program or computer device that:

(1) is intended to protect the confidentiality and secrecy of data and information stored in or accessible through the computer system; and

(2) displays a conspicuous warning to a user that the user is entering a secure system, or requires a person seeking access to knowingly respond by use of an authorized code to the program or device in order to gain access.

Sec. 4. [609.891] [UNAUTHORIZED COMPUTER ACCESS.]

Subdivision 1. [CRIME.] A person is guilty of unauthorized computer access if the person intentionally and without authority attempts to or does penetrate a computer security system.

Subd. 2. [FELONY.] (a) A person who violates subdivision 1 in a manner that creates a grave risk of causing the death of a person is guilty of a felony and may be sentenced to a term of imprisonment of not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person who is convicted of a second or subsequent gross misdemeanor violation of subdivision 1 is guilty of a felony and may be sentenced under paragraph (a).

Subd. 3. [GROSS MISDEMEANOR.] (a) A person who violates subdivision 1 in a manner that creates a risk to public health and safety is guilty of a gross misdemeanor and may be sentenced to imprisonment for

a term of not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) A person who violates subdivision 1 in a manner that compromises the security of data that are protected under section 609.52, subdivision 2, clause (8), or are not public data as defined in section 13.02, subdivision 8a, is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

(c) A person who is convicted of a second or subsequent misdemeanor violation of subdivision 1 within five years is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

Subd. 4. [MISDEMEANOR.] A person who violates subdivision 1 is guilty of a misdemeanor and may be sentenced to imprisonment for a term of not more than 90 days or to payment of a fine of not more than \$700, or both.

Sec. 5. [609.892] [SELLING PROTECTED DATA.]

Subdivision 1. [CRIME.] A person is guilty of selling protected data if the person:

(1) makes contact with a computer system and thereby gains access to data that are not public data as defined in section 13.02, subdivision 8a;

(2) transfers the data to a person who is not authorized to receive the data; and

(3) receives money or any other thing of value in exchange for the data.

Subd. 2. [SENTENCE.] A person who violates subdivision 1 is guilty of a felony and may be sentenced to a term of imprisonment of not more than five years or to payment of a fine of not more than \$10,000, or both.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective August 1, 1988, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; prohibiting unauthorized access to computers; imposing penalties; amending Minnesota Statutes 1986, section 609.87, subdivision 1, and by adding a subdivision; Minnesota Statutes 1987 Supplement, section 609.531, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 609."

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. 2107: A bill for an act relating to crimes; expanding aggravated robbery and burglary in the first degree to include crimes committed with an article that appears to be a dangerous weapon; creating a felony offense of terrorizing with a replica firearm; amending Minnesota Statutes 1986, sections 609.245; 609.582; and 609.713, by adding a subdivision.

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

Page 2, line 21, delete everything after "object"

Page 2, line 22, delete "other material,"

Page 2, line 25, before the period, insert "*that is not otherwise defined as a dangerous weapon*"

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. 1615: A bill for an act relating to real property; providing a restriction on the duration of conditions affecting certain real property; providing an exemption for the city of North Oaks; amending Minnesota Statutes 1986, section 500.20, by adding a subdivision.

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

Page 1, line 20, delete "1987" and insert "1988"

Page 1, delete line 24 and insert:

"(2) that were created before August 1, 1959, under which a person who owns or has an interest in real property against which the covenants, conditions, or restrictions have been filed claims a benefit of the"

Page 2, line 2, delete "1988" and insert "1989"

Page 2, line 6, delete "affirmatively showing" and insert "stating that"

Page 2, line 7, delete "why" and delete "or has not"

Page 2, line 8, delete "become" and delete "so that it" and insert "and" and after "may" insert "not"

Page 2, line 19, delete "nonprofit" and delete the comma and insert "of which"

Page 2, line 20, delete "membership of which" and insert "being a stockholder or member"

Page 2, line 22, delete "or"

Page 2, line 28, delete the period and insert "; or

(7) that were created after July 31, 1959, and before August 1, 1982, under which a person who owns or has an interest in real estate against which covenants, conditions, or restrictions have been filed claims a benefit of the covenants, conditions, or restrictions if the person records in the office of the county recorder or files in the office of the registrar of titles in the county in which the real estate affected is located during the period commencing on the 28th anniversary of the date of the deed or instrument, or the date of the probate of the will, creating them and ending on the 30th anniversary, a notice as described in clause (2).

A notice filed in accordance with clause (2) or (7) is effective for ten years and may be renewed for additional ten-year periods by filing a sworn affidavit of the claimant or claimant's attorney stating that the covenant, condition, or restriction is not nominal and may not be disregarded under subdivision 1."

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. 1871: A bill for an act relating to family law; prohibiting certain false allegations of child abuse; regulating child custody hearings; providing a penalty; amending Minnesota Statutes 1986, section 518.17, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 609.

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

Page 1, delete lines 16 to 19 and insert:

"A person is guilty of a misdemeanor who:

- (1) informs another person that a person has committed child abuse;*
- (2) knows that the allegation is false or is without reason to believe that the alleged abuser committed child abuse; and*
- (3) has the intent that the information influence a child custody hearing."*

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. 2119: A bill for an act relating to child abuse reporting; clarifying the assessment duties of the local welfare agency; providing for the retention of records in certain circumstances; amending Minnesota Statutes 1986, section 626.556, subdivision 5, and by adding subdivisions; and Minnesota Statutes 1987 Supplement, section 626.556, subdivision 11.

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

Page 1, line 13, after "**MALICIOUS**" insert "**AND RECKLESS**"

Page 1, after line 17, insert:

"Sec. 2. Minnesota Statutes 1986, section 626.556, subdivision 10d, is amended to read:

Subd. 10d. [NOTIFICATION OF NEGLECT OR ABUSE IN A FACILITY.] (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a facility required to be licensed pursuant to sections 245.781 to 245.812, the commissioner or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has

occurred. In determining whether to exercise this authority, the commissioner or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, or sexual abuse; the number of children allegedly neglected, physically abused, or sexually abused; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner or local welfare agency has completed its investigation, every parent, guardian, or legal custodian notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigation findings; a statement whether ~~the report maltreatment~~ was found to be ~~substantiated, inconclusive, or false~~; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if ~~the report is substantiated. The commissioner or local welfare agency may also provide the written memorandum to the parent, guardian, or legal custodian of any other child in the facility if the investigation is inconclusive.~~ The facility shall be notified whenever this discretionary authority is exercised ~~maltreatment is determined to exist.~~

Page 1, line 20, delete "FINDINGS" and insert "DETERMINATIONS"

Page 1, line 22, delete "findings" and insert "determinations"

Page 2, line 6, after the semicolon, insert "or"

Page 2, line 8, delete everything after "(a)" and insert a period

Page 2, delete lines 9 to 15

Page 2, line 16, delete "finding" and insert "determination"

Page 2, line 28, delete "FINDINGS" and insert "DETERMINATIONS"

Page 2, line 31, delete "findings" and insert "determinations"

Page 2, line 35, delete "findings" in both places and insert "determinations" in both places

Page 3, line 1, delete "subdivision 11a" and insert "section 6" and delete "finding" and insert "determination"

Page 3, line 3, delete "subject's" and insert "alleged perpetrator's"

Page 3, lines 12 to 15, reinstate the stricken language

Page 5, line 5, after "maintained" insert "or records derived from reports of abuse" and after "welfare agencies" insert ", county sheriffs or police departments,"

Page 5, line 8, delete "finding" and insert "determination"

Page 5, line 11, delete "subject" and insert "individual alleged to have maltreated a child" and delete "subdivision 10f" and insert "section 4"

Page 5, line 12, delete "findings" and insert "determinations"

Page 5, line 13, delete "*the subject's*" and insert "*that individual's*"

Page 5, line 14, before the period, insert "*within 10 days*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "subdivision" and insert "subdivisions" and after "5" insert ", 10d"

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

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

S.F. No. 1879: A bill for an act relating to agriculture; providing penalties and liability for damages for unauthorized release of domestic animals; proposing coding for new law in Minnesota Statutes, chapter 346.

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

Delete everything after the enacting clause and insert:

"Section 1. [346.56] [UNAUTHORIZED RELEASE OF ANIMALS.]

Subdivision 1. [CRIMINAL PENALTY.] A person who intentionally and without permission releases an animal lawfully confined for science, research, commerce, or education is guilty of a misdemeanor.

Subd. 2. [LIABILITY FOR DAMAGES.] A person who without permission releases an animal lawfully confined for science, research, commerce, or education is liable to the owner of the animal for damages and costs of restoring the animal to confinement.

Sec. 2. [EFFECTIVE DATE.]

This act is effective August 1, 1988, and applies to unauthorized releases committed on or after that date."

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. 2451: A bill for an act relating to claims against the state; clarifying that a public defender appointed by the state board of public defense is an employee of the state; amending Minnesota Statutes 1987 Supplement, section 3.732, subdivision 1.

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

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

S.F. No. 1830: A bill for an act relating to crimes; making it a crime for athletic agents to induce student athletes to enter into agent contracts or professional sport services contracts before the athletes' collegiate eligibility expires; making it a crime for athletic agents to offer anything of value to employees of institutions of higher education in return for referral of student athlete clients; prescribing penalties; proposing coding for new

law in Minnesota Statutes, chapter 609.

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

Delete everything after the enacting clause and insert:

"Section 1. [609.857] [MISCONDUCT OF ATHLETIC AGENTS.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Student athlete" means a person who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program. The term includes any individual who may be eligible to engage in collegiate sports in the future.

(c) "Athletic director" means the person discharging the duties of coordinating and administering the overall athletic program for the educational institution attended by the student athlete.

(d) "Educational institution" means the public or private high school, college, junior college, or university that the student athlete last attended or to which the student athlete has expressed written intention to attend.

Subd. 2. [WAIVER OF ELIGIBILITY.] A student athlete's waiver of intercollegiate athletic eligibility is not effective until the waiver of eligibility form prescribed by this subdivision has been filed with the secretary of state for seven days. The waiver is considered to have been on file seven days as of the eighth day after the receipt by the office of the secretary of state of the completed waiver of eligibility form prescribed by this subdivision. The original waiver is to be filed with the secretary of state and must be available for public inspection in the office of the secretary of state during normal business hours. The secretary of state must send a copy of the waiver to the athletic director upon receipt, but failure to do so does not make the waiver ineffective. The waiver form must provide:

"WAIVER OF INTERCOLLEGIATE ATHLETIC ELIGIBILITY

I,, hereby waive any and all intercollegiate athletic eligibility. This waiver is not effective until seven days after it has been received by the Minnesota secretary of state.

This waiver is revocable until my intercollegiate athletic eligibility is terminated as a result of my entering either a contract with an athletic agent or a professional sports contract.

.....
STUDENT ATHLETE

.....
EDUCATIONAL INSTITUTION

.....
DATE"

Subd. 3. [FELONY.] (a) A person is guilty of a felony and may be sentenced under this subdivision if, before the effective date of a student athlete's waiver of intercollegiate athletic eligibility, the person enters into a contract, written or oral, with the student athlete to:

(1) serve as the agent of the student athlete in obtaining a professional sports contract; or

(2) represent the student athlete or a professional sports organization in obtaining a professional sports contract for or with a student athlete.

(b) A person who violates this subdivision may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than the greater of \$100,000 or an amount equal to three times the amount given, offered, or promised as an inducement for the student athlete to enter the agency contract or professional sports contract, exclusive of the compensation provided by the professional sports contract, or both.

Subd. 4. [GROSS MISDEMEANOR.] (a) A person is guilty of a gross misdemeanor and may be sentenced under this subdivision if the person offers, gives, or promises to give to an employee of an educational institution, directly or indirectly, any benefit, reward, or consideration to which the employee is not legally entitled with the intent that:

(1) the employee will influence a student athlete to enter into a contract with the person to serve as the athlete's agent or to enter into a professional sports contract; or

(2) the employee will refer student athletes to the person.

(b) A person who violates this subdivision may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than the greater of \$100,000, or an amount equal to three times the value offered to the employee in violating this subdivision, or to both imprisonment and a fine.

Subd. 5. [VOIDABILITY OF CONTRACT.] A contract entered into in violation of subdivision 3 is voidable by the student athlete. If voided by the student athlete, the athletic agent shall return to the student athlete any compensation received under the contract. The athletic agent shall also pay reasonable attorney fees and costs incurred by a student athlete in any action or defense under this subdivision.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 1988, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; making it a crime to enter into a contract to serve as the agent of a student athlete or represent a student athlete or professional sports organization in obtaining a professional sports contract with a student athlete before expiration of the student athlete's collegiate eligibility unless the athlete has executed an effective waiver of eligibility; making it a crime to offer anything of value to an employee of an educational institution in return for the employee's influence on a student athlete to enter into contracts with agents or professional sports contracts or for the referral of student athlete clients; imposing penalties; proposing coding for new law in Minnesota Statutes, chapter 609."

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. 2278: A bill for an act relating to civil process; specifying property exempt from final process issued by a court; modifying the exemption for employee benefits; amending Minnesota Statutes 1986, section 550.37, subdivision 24.

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

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

S.F. No. 1628: A bill for an act relating to human services; revising and clarifying the duties and powers of the ombudsman for mental health and mental retardation; transferring money; amending Minnesota Statutes 1987 Supplement, sections 245.91, subdivisions 2, 3, and 4; 245.92; 245.94, subdivisions 1, 2, 3, and 4; 245.95, subdivision 1; 245.97, subdivision 1; 626.556, subdivisions 9 and 10; and 626.557, subdivision 9.

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

Page 3, lines 25 and 26, strike "to which the client is entitled to access"

Page 3, line 28, delete "or" and strike "confidential"

Page 3, line 30, after the period, insert "*The ombudsman is not required to obtain consent for access to private data on clients with mental retardation or a related condition.*"

Page 4, line 5, before the period, insert "*. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with mental retardation or a related condition*"

Page 4, line 6, delete everything after "(h)"

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

S.F. No. 1790: A bill for an act relating to probate; providing for payment to certain persons for benefit of incapacitated persons; proposing coding for new law in Minnesota Statutes, chapter 525.

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

Page 1, line 10, delete "adult" and insert "incapacitated"

Page 1, line 11, delete "designated" and insert "as defined"

Page 1, line 12, delete "\$5,000" and insert "\$3,000"

Page 2, line 2, delete "or"

Page 2, line 3, before the period, insert "*or any other person upon written demand*"

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

adopted.

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

S.F. No. 1735: A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; providing for civil penalties for wild animals killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1986, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

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

Page 2, line 28, before "*preponderance*" insert "*a*"

Page 3, line 14, delete everything after "*(b)*"

Page 3, line 15, delete everything before "*In*"

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. 2257: A bill for an act relating to statute of limitations; providing relief for certain individuals denied a remedy due to the unconstitutionality of a statute of limitation relating to real property improvement.

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

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

S.F. No. 1675: A bill for an act relating to actions; restoring pre-1986 status to computing awards of future damages; repealing Minnesota Statutes 1986, section 604.07.

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

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

S.F. No. 2156: A bill for an act relating to criminal procedure; defining "crime" in the law governing issuance of search warrants to include violations of municipal ordinances; amending Minnesota Statutes 1986, section 626.05, by adding a subdivision.

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

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

S.F. No. 1532: A bill for an act relating to civil actions; modifying the statute of limitations for damages based on services or construction to improve real property; amending Minnesota Statutes 1986, section 541.051, subdivision 1.

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 1986, section 541.051, subdivision 1, is amended to read:

Subdivision 1. (a) Except where fraud is involved, no action by any person in contract, tort, or otherwise to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of the injury, shall be brought against any person performing or furnishing the design, planning, supervision, materials, or observation of construction or construction of the improvement to real property or against the owner of the real property more than two years after discovery ~~thereof of the injury or, in the case of an action for contribution or indemnity, accrual of the cause of action~~, nor, in any event shall such a cause of action accrue more than ten years after substantial completion of the construction. Date of substantial completion shall be determined by the date when construction is sufficiently completed so that the owner or the owner's representative can occupy or use the improvement for the intended purpose.

(b) *For purposes of paragraph (a), a cause of action accrues upon discovery of the injury or, in the case of an action for contribution or indemnity, upon payment of a final judgment, arbitration award or settlement arising out of the defective and unsafe condition.*

(c) Nothing in this section shall apply to actions for damages resulting from negligence in the maintenance, operation or inspection of the real property improvement against the owner or other person in possession.

Sec. 2. Minnesota Statutes 1987 Supplement, section 541.22, subdivision 2, is amended to read:

Subd. 2. [LIMITATION ON CERTAIN ASBESTOS ACTIONS.] Notwithstanding any other law to the contrary, an action ~~against a manufacturer or supplier of asbestos or material containing asbestos~~ to recover for (1) removal of asbestos or materials containing asbestos from a building, (2) other measures taken to locate, correct, or ameliorate any problem related to asbestos in a building, or (3) reimbursement for removal, correction, or amelioration of an asbestos problem that would otherwise be barred before July 1, 1990, as a result of expiration of the applicable period of limitation, is revived or extended. An asbestos action revived or extended under this subdivision may be begun before July 1, 1990.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment and apply to matters pending on or instituted on or after the effective date."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "modifying the statute of limitations for asbestos actions;"

Page 1, line 6, before the period, insert "; and Minnesota Statutes 1987 Supplement, section 541.22, subdivision 2"

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. 30: A bill for an act relating to crimes; requiring health professionals to report certain burn injuries; amending Minnesota Statutes 1986, sections 626.52, by adding a subdivision; and 626.53.

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 1986, section 626.52, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in ~~subdivision 2~~ *this section*, "health professional" means a physician, surgeon, person authorized to engage in the practice of healing, superintendent or manager of a hospital, nurse, or pharmacist.

Sec. 2. Minnesota Statutes 1986, section 626.52, is amended by adding a subdivision to read:

Subd. 3. [REPORTING BURNS.] A health professional shall immediately report a burn injury or wound that the professional is called upon to treat, dress, or bandage, if the victim has sustained second- or third-degree burns to five percent or more of the body, the victim has sustained burns to the upper respiratory tract or sustained laryngeal edema from inhaling superheated air, or the victim has sustained a burn injury or wound that may result in the victim's death. The health professional shall make the initial report by telephoning the burn hotline in order to allow the proper law enforcement or other investigatory authority to be notified. Within 72 hours, the professional shall also file a written report with the state fire marshal, on a form provided by the fire marshal.

Sec. 3. Minnesota Statutes 1986, section 626.53, is amended to read:

626.53 [REPORT BY TELEPHONE AND LETTER.]

The report required by section 626.52, *subdivision 2*, shall be made forthwith by telephone or in person, and shall be promptly supplemented by letter, enclosed in a securely sealed, postpaid envelope, addressed to the sheriff of the county in which the wound is examined, dressed, or otherwise treated; except that, if the place in which the patient is treated for such injury or the patient's wound dressed or bandaged be in a city of the first, second, or third class, such report shall be made and transmitted as herein provided to the chief of police of such city instead of the sheriff. The office of any such sheriff and of any such chief of police shall keep ~~such~~ *the* report as a confidential communication and shall not disclose the name of the person making the same, and the party making the report shall not by reason thereof be subpoenaed, examined, or forced to testify in court as a consequence of having made such a report.

Sec. 4. Minnesota Statutes 1986, section 626.55, subdivision 1, is amended to read:

Subdivision 1. Any person who violates any provision of sections 626.52 to 626.55, *other than section 2*, is guilty of a gross misdemeanor."

Delete the title and insert:

"A bill for an act relating to crimes; requiring health professionals to report certain burn injuries; amending Minnesota Statutes 1986, sections

626.52, subdivision 1, and by adding a subdivision; 626.53; and 626.55, subdivision 1."

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. 1937: A bill for an act relating to crimes; providing for seizure and forfeiture of property used in commission of crime, proceeds of crime, and contraband; creating a presumption that money, precious metals, and jewels found near controlled substances, and vehicles containing controlled substances, are subject to forfeiture; providing for administrative forfeiture of such property with opportunity for judicial determination; providing for summary forfeiture of contraband, certain controlled substances, weapons following a conviction, and certain plants; providing for forfeiture by judicial action of property and proceeds associated with controlled substance violations and designated offenses; eliminating the requirement that forfeiture actions be dismissed if no associated conviction results; providing that a conviction creates the presumption that after-acquired property constitutes forfeitable proceeds of the offense; eliminating the defense of an owner who negligently allowed the unlawful use of the owner's property; providing that the right to forfeitable property passes to law enforcement agencies upon commission of unlawful act; allowing seizure without process incident to a lawful search without a warrant and in other circumstances; allocating the proceeds of forfeitures to law enforcement agencies and county attorneys; amending Minnesota Statutes 1986, section 152.21, subdivision 6; 609.531, subdivisions 4, 5, and by adding subdivisions; Minnesota Statutes 1987 Supplement, section 609.531, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1986, sections 152.19; and 609.531, subdivisions 2, 3, and 6.

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

Page 1, after line 36, insert:

"Section 1. Minnesota Statutes 1986, section 152.205, is amended to read:

152.205 [LOCAL REGULATIONS.]

Sections 152.01, subdivision 18, and 152.092 to 152.095, and ~~152.19, subdivisions 1 and 3~~ do not preempt enforcement or preclude adoption of municipal or county ordinances prohibiting or otherwise regulating the manufacture, delivery, possession or advertisement of drug paraphernalia."

Page 2, line 13, delete "13" and insert "14"

Page 2, line 21, delete "4 to 13" and insert "5 to 14"

Page 3, line 6, after the first comma, insert "*the department of natural resources, enforcement division,*"

Page 3, line 7, delete "*sheriff, the*" and after "*sheriffs*" insert "*department*"

Page 3, line 8, delete "*deputy*" and delete "*an officer of*"

Page 3, lines 11 and 12, delete the new language and reinstate the stricken language

Page 3, line 35, delete "2 to 13" and insert "3 to 14"

Page 4, line 13, delete "2 to 13" and insert "3 to 14"

Page 5, lines 2, 6, and 30, delete "2 to 13" and insert "3 to 14"

Page 6, line 9, delete "*paragraph (b)*" and insert "*this subdivision*"

Page 6, line 12, delete "11" and insert "12"

Page 6, line 14, after "*evidence*" insert "*except that in cases arising under section 9, the standard of proof is clear and convincing evidence*"

Page 6, line 19, delete "8 or 9" and insert "9 or 10"

Page 6, after line 20, insert:

"(c) A court may not issue an order of forfeiture under section 11 while the alleged owner of the property is in custody or criminal proceedings are pending against the alleged owner. For forfeiture of a motor vehicle, the alleged owner is the registered owner according to records of the department of public safety. For real property, the owner is the owner of record. For other property, the owner is the person notified by the prosecuting authority in filing the forfeiture action."

Page 6, line 27, delete "13" and insert "14"

Page 7, line 34, delete "(a)"

Page 8, line 22, after the period, insert "*A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.*"

Page 8, line 25, delete "8 and 9" and insert "9 and 10"

Page 8, line 26, delete the first "*subdivision*" and insert "*section*" and delete everything after the period

Page 8, delete line 27

Page 8, line 28, delete everything before "A"

Page 10, line 1, delete "11" and insert "12"

Page 10, line 5, delete "20" and insert "60"

Page 10, line 28, delete "10" and insert "7"

Page 10, line 31, delete "10 or 11" and insert "11 or 12"

Page 10, line 32, after "*to*" insert a colon

Page 11, line 3, delete "*or*" and insert:

"(4) disburse money as provided under subdivision 5; or"

Page 11, line 4, delete "(4)" and insert "(5)"

Page 11, line 8, delete "11" and insert "12"

Page 11, line 18, delete "FORFEITED"

Page 11, line 20, delete the first comma

Page 11, line 22, delete "*disposed*" and insert "*disbursed as provided under*"

Page 11, line 23, delete everything before "*subdivision*"

Page 11, line 33, after the period, insert "*Any local police relief association organized under chapter 423 that received or was entitled to receive the proceeds of any sale under this section before August 1, 1984, shall continue to be entitled to receive and retain the proceeds of the sales.*"

Page 12, line 24, delete "2 to 12" and insert "3 to 13"

Page 12, line 29, delete "14" and insert "15"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 28, delete "section" and insert "sections 152.205;"

Page 1, line 29, after "6;" insert "and"

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. 2321: A bill for an act proposing an amendment to the Minnesota Constitution, article I, section 4; providing for six-member juries in non-felony cases; conforming statutes to either the approval or rejection of the proposed amendment.

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

Delete everything after the enacting clause and insert:

"Section 1. [CONSTITUTIONAL AMENDMENT PROPOSED.]

Subdivision 1. An amendment to the Minnesota Constitution, as provided by subdivisions 2 and 3, is proposed to the people.

Subd. 2. If the amendment is adopted, article I, section 4, will read as follows:

Sec. 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy. A jury trial may be waived by the parties in all cases in the manner prescribed by law. The legislature may provide that the agreement of five-sixths of a jury in a civil action or proceeding, after not less than six hours' deliberation, is a sufficient verdict. The legislature may provide for the number of jurors in a civil action or proceeding, provided that a jury have at least six members.

Subd. 3. If the amendment is adopted, article I, section 6, will read as follows:

Sec. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law. In all prosecutions of crimes defined by law as felonies, the accused has the right to a jury of 12 members. In all other criminal prosecutions, the legislature may provide for the number of jurors, provided that a jury have at least six members. The accused shall enjoy the right to be informed of the nature and cause of the

accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel in his defense.

Sec. 2. [SUBMISSION TO VOTERS.]

The proposed amendment must be submitted to the people at the 1988 general election. The question submitted shall be:

"Shall the Minnesota Constitution be amended to allow the use of juries of less than 12 members in civil and nonfelony cases?"

Yes
No"

Election procedures shall be as provided by law."

Delete the title and insert:

"A bill for an act proposing an amendment to the Minnesota Constitution, article I, sections 4 and 6; providing for six-member juries in civil and nonfelony cases."

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

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

S.F. No. 2426: A bill for an act relating to the state and local governments; providing immunity from civil liability for volunteers serving the state and local governments; amending Minnesota Statutes 1986, section 466.01, by adding a subdivision; Minnesota Statutes 1987 Supplement, section 3.736, subdivision 3; and proposing coding for new law in Minnesota Statutes, chapter 466.

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 1987 Supplement, section 3.736, subdivision 3, is amended to read:

Subd. 3. [EXCLUSIONS.] Without intent to preclude the courts from finding additional cases where the state and its employees should not, in equity and good conscience, pay compensation for personal injuries or property losses, the legislature declares that the state and its employees are not liable for the following losses:

(a) Any loss caused by an act or omission of a state employee exercising due care in the execution of a valid or invalid statute or rule;

(b) Any loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

(c) Any loss in connection with the assessment and collection of taxes;

(d) Any loss caused by snow or ice conditions on any highway or public sidewalk that does not abut a publicly-owned building or a publicly-owned parking lot, except when the condition is affirmatively caused by the negligent acts of a state employee;

(e) Any loss caused by wild animals in their natural state, except as

provided in section 3.7371;

(f) Any loss other than injury to or loss of property or personal injury or death;

(g) Any loss caused by the condition of unimproved real property owned by the state, which means land that the state has not improved, and appurtenances, fixtures, and attachments to land that the state has neither affixed nor improved;

(h) Any loss incurred by a user within the boundaries of the outdoor recreation system and arising from the construction, operation, or maintenance of the system, as defined in section 86A.04, or from the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, or from the construction, operation, or maintenance of a water access site created by the iron range resources and rehabilitation board, except that the state is liable for conduct that would entitle a trespasser to damages against a private person;

(i) Any loss of benefits or compensation due under a program of public assistance or public welfare, except where state compensation for loss is expressly required by federal law in order for the state to receive federal grants-in-aid;

(j) Any loss based on the failure of any person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents;

(k) Any loss based on the usual care and treatment, or lack of care and treatment, of any person at a state hospital or state corrections facility where reasonable use of available appropriations has been made to provide care;

(l) Any loss, damage, or destruction of property of a patient or inmate of a state institution;

(m) Any loss for which recovery is prohibited by section 169.121, subdivision 9; ~~and~~

(n) Any loss caused by an aeration, bubbler, water circulation, or similar system used to increase dissolved oxygen or maintain open water on the ice of public waters, that is operated under a permit issued by the commissioner of natural resources; ~~and~~

(o) Any loss caused by the act or omission of a person who provides volunteer services if that person was acting within the scope of the person's responsibility and is not guilty of malfeasance in office or willful or wanton actions or neglect of duty. This section does not limit the liability of a person who provides volunteer services for physical injury to a person or for wrongful death that is personally and directly caused by the person who provides volunteer services.

The state will not pay punitive damages.

Sec. 2. Minnesota Statutes 1987 Supplement, section 44A.02, subdivision 3, is amended to read:

Subd. 3. [EMPLOYEES.] The president may appoint employees and prescribe their duties. Employees and officers of the corporation are not state employees, but *are covered by section 3.736, subdivision 3, and at the option of the board may participate in the following plans for employees*

in the unclassified service: the state retirement plan, the state deferred compensation plan, and the health insurance and life insurance plans. The president may delegate to a subordinate the exercise of specified statutory powers or duties as the president deems advisable, subject to the control of the president.

Sec. 3. Minnesota Statutes 1987 Supplement, section 116O.03, is amended by adding a subdivision to read:

Subd. 10. [INDEMNIFICATION.] The corporation is a state agency for purposes of section 3.736, subdivision 9.

Sec. 4. Minnesota Statutes 1987 Supplement, section 116O.04, subdivision 2, is amended to read:

Subd. 2. [STATUS OF EMPLOYEES.] Employees, officers, and directors of the corporation are not state employees, but are covered by section 3.736, subdivision 3, and, at the option of the board, may participate in the state retirement plan and the state deferred compensation plan for employees in the unclassified service and an insurance plan administered by the commissioner of employee relations.

Sec. 5. Minnesota Statutes 1987 Supplement, section 317.201, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Except as provided in subdivision 2, no person who serves without compensation as a director, officer, trustee, member, or agent of an organization exempt from state income taxation under section 290.05, subdivision 2, or who serves without compensation as a fire chief of a nonprofit firefighting corporation or municipal volunteer fire department, or of a public corporation established by law but not considered a municipality, shall be held civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person's responsibilities as a director, officer, trustee, member, agent, or fire chief of the organization, and did not constitute willful or reckless misconduct.

Sec. 6. Minnesota Statutes 1986, section 466.01, is amended by adding a subdivision to read:

Subd. 6. [EMPLOYEE, OFFICER, OR AGENT.] For the purposes of sections 466.01 to 466.15, "employee," "officer," or "agent" means a present or former employee, officer, or agent of a municipality, or other person acting on behalf of the municipality in an official capacity, temporarily or permanently, with or without compensation, but does not include an independent contractor.

Sec. 7. [466.041] [VOLUNTEER IMMUNITY.]

A person who provides volunteer services to a municipality is immune from civil liability if the person was acting within the scope of the person's responsibility and is not guilty of malfeasance in office or willful or wanton neglect of duty. This section does not limit the liability of a person who provides volunteer services to a municipality for physical injury to a person or for wrongful death that is personally and directly caused by the person who provides volunteer services.

Sec. 8. Minnesota Statutes 1987 Supplement, section 604.08, subdivision 1, is amended to read:

Subdivision 1. [GRANT.] No individual who provides services or assistance without compensation as an athletic coach, manager, or official for a sports team that is organized or performing under a nonprofit charter, and no community-based, voluntary nonprofit athletic association, or any volunteer of the nonprofit athletic association, is liable for money damages to a player ~~or~~, participant, or *spectator* as a result of an individual's acts or omissions in the providing of that service or assistance.

This section applies to organized sports competitions and practice and instruction in that sport.

For purposes of this section, "compensation" does not include reimbursement for expenses."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "providing that employees and officers of the world trade center board and greater Minnesota corporation are state employees for purposes of immunity; providing that officers and directors of public corporations are immune from liability under standards for nonprofit corporations; clarifying immunity from civil liability for certain athletic officials;"

Page 1, line 7, delete "section" and insert "sections" and after the semicolon, insert "44A.02, subdivision 3; 116O.03, by adding a subdivision; 116O.04, subdivision 2; 317.201, subdivision 1; and 604.08, subdivision 1;"

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. 2068: A bill for an act relating to guardianship; permitting appointment of any number of guardians; permitting the appointment of guardians who reside outside the state; amending Minnesota Statutes 1986, section 525.54, by adding a subdivision.

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 1986, section 525.54, subdivision 1, is amended to read:

Subdivision 1. [ADULTS SUBJECT TO GUARDIANSHIP AND CONSERVATORSHIP] Upon petition as provided in this chapter, the court, if satisfied of the need therefor, may appoint one or ~~two~~ more persons suitable and competent to discharge the trust as guardians of the person or estate or of both or as conservators of the person or the estate or of both, of any incapacitated person.

Sec. 2. Minnesota Statutes 1986, section 525.544, subdivision 2, is amended to read:

Subd. 2. [OTHER CASES.] If the proposed ward or conservatee lacks capacity or fails to nominate a conservator or guardian, the court may appoint a qualified person if the court finds that the person's appointment is in the best interests of the proposed ward or conservatee. *A proposed*

guardian or conservator need not reside in this state if the proposed guardian or conservator is able to maintain a current understanding of the ward's or conservatee's physical and mental status and needs. If the proposed ward or conservatee lacks capacity or fails to give instructions, the court may give the guardian or conservator powers as required in accordance with section 525.56."

Amend the title as follows:

Page 1, delete lines 5 and 6 and insert "Minnesota Statutes 1986, sections 525.54, subdivision 1; and 525.544, subdivision 2."

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

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

H.F. No. 1659: A bill for an act relating to constables; authorizing town boards to form law enforcement agencies; abolishing the office of constable; authorizing the board of peace officer standards and training to issue peace officer licenses to persons possessing constable licenses; amending Minnesota Statutes 1986, sections 367.40, subdivision 3, and by adding a subdivision; and 367.42, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 367; repealing Minnesota Statutes 1986, sections 367.41, subdivisions 4 and 5; 367.42, subdivision 2; 626.843, subdivision 1a; and 626.845, subdivision 2; and Minnesota Statutes 1987 Supplement, sections 367.03, subdivision 3; and 367.41, subdivision 1.

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

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

H.F. No. 1773: A bill for an act relating to the statutes; directing the revisor of statutes to assign chapter numbers to enrollments and publish bills in Laws of Minnesota in the chapter number order; providing for showing on enrollments and publications of the time of final enactment of bills; maintaining existing law on determination of final enactment despite the change in the method of numbering chapters of enrollments and publications; amending Minnesota Statutes 1986, sections 3.19; 3C.04, subdivision 5; 3C.06, subdivision 1; and 645.01; proposing coding for new law in Minnesota Statutes, chapter 4.

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

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

S.F. No. 2394: A bill for an act relating to property interests; setting the effective date of the uniform statutory rule against perpetuities; amending Minnesota Statutes 1987 Supplement, section 501A.05; and Laws 1987, chapter 60, section 10.

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

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 2473: A bill for an act relating to workers' compensation; regulating self-insurance; establishing a self-insurer guaranty fund; proposing coding for new law as Minnesota Statutes, chapter 176C.

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

Delete everything after the enacting clause and insert:

"Section 1. [176C.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 1 to 17 the terms defined in this section have the meaning given them.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of commerce except where specifically stated otherwise.

Subd. 3. [INCURRED LIABILITIES FOR THE PAYMENT OF COMPENSATION.] "Incurred liabilities for the payment of compensation" means the sum of both of the following:

(1) an estimate of future workers' compensation benefits, including medical and indemnity; and

(2) an amount determined by the commissioner to be reasonably adequate to assure the administration of claims, including legal costs, but not to exceed ten percent of future workers' compensation benefits.

Subd. 4. [INSOLVENT SELF-INSURER.] "Insolvent self-insurer" means either a member private self-insurer who has failed to pay compensation as a result of a declaration of bankruptcy or insolvency by a court of competent jurisdiction and whose security deposit has been called by the commissioner pursuant to chapter 176, or a member self-insurer who has failed to pay compensation and who has been issued a certificate of default by the commissioner and whose security deposit has been called by the commissioner pursuant to chapter 176.

Subd. 5. [MEMBER.] "Member" means a private self-insurer which participates in the self-insurers' security fund.

Subd. 6. [PRIVATE SELF-INSURER.] "Private self-insurer" means a member private employer which is self-insured or group self-insured against liability for workers' compensation under chapter 176. It does not include the state of Minnesota or its political subdivisions.

Subd. 7. [SECURITY FUND.] "Security fund" means the self-insurers' security fund established pursuant to this chapter.

Subd. 8. [TRUSTEES.] "Trustees" means the board of trustees of the self-insurers' security fund.

Sec. 2. [176C.02] [SELF-INSURANCE APPLICATIONS.]

Subdivision 1. [PROCEDURE.] Each employer desiring to self-insure individually shall apply to the commissioner on forms available from the commissioner. The commissioner shall grant or deny the application within 30 days after a complete application is filed. The time limit may be extended for another 30 days upon 15 days' prior notice to the applicant. Any grant of authority to self-insure shall continue in effect until revoked by order of the commissioner or until such time as the employer becomes insured.

Subd. 2. [CERTIFIED FINANCIAL STATEMENT.] Each application for self-insurance shall be accompanied by a certified financial statement. Certified financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit, signed by a company officer under oath, stating that there has been no material lessening of the net worth nor other adverse changes in its financial condition since the end of the period.

Subd. 3. [NET WORTH.] Each individual self-insurer shall have and maintain a net worth at least equal to the greater of ten times the retention limit selected with the workers' compensation reinsurance association or one-third the amount of the self-insurer's current annual modified premium. The requirements of this subdivision shall be modified if the self-insurer can demonstrate through a reinsurance program, other than coverage provided by the workers' compensation reinsurance association, that it can pay expected losses without endangering the financial stability of the company.

Subd. 4. [ASSETS, NET WORTH, AND LIQUIDITY.] Each individual self-insurer shall have and maintain sufficient assets, net worth, and liquidity to promptly and completely meet all of its obligations that may arise under chapter 176 or this act. In determining whether a self-insurer meets this requirement, the commissioner shall consider the self-insurer's current ratio; its long-term and short-term debt to equity ratios; its net worth; financial characteristics of the particular industry in which the self-insurer is involved; any recent changes in the management and ownership of the company; any excess insurance purchased by the self-insurer from a licensed company or an authorized surplus line carrier, other than excess insurance from the workers' compensation reinsurance association; any other financial data submitted to the commissioner by the company; and the company's workers' compensation experience for the last four years.

Subd. 5. [GUARANTEE BY AFFILIATES.] Where an employer seeking to self-insure fails to meet the financial requirements set forth in subdivisions 3 and 4, the commissioner shall grant authority to self-insure provided that an affiliated company, whose financial statement is filed with the commissioner and meets the requirements set forth in subdivisions 3 and 4, provides a written guarantee adopted by resolution of its board of directors that it will pay all workers' compensation claims incurred by its affiliate, and that it will not terminate the guarantee under any circumstances without first giving the commissioner and its affiliate 30 days' written notice. If said guarantee is withdrawn or if the guarantor ceases being an affiliate, the affiliate shall give written notice to the commissioner and the self-insured. The self-insured's authority to self-insure shall automatically terminate upon expiration of the 30-day notice period.

Subd. 6. [APPLICATIONS FOR GROUP SELF-INSURANCE.] (a) Two or more employers may apply to the commissioner for the authority to self-insure as a group, using forms available from the commissioner. This initial application shall be accompanied by a copy of the bylaws or plan of operation adopted by the group. Such bylaws or plan of operation shall conform to the conditions prescribed by law or rule. The commissioner shall approve or disapprove the bylaws within 30 days unless a question as to the legality of a specific bylaw or plan provision has been referred to the attorney general's office. The commissioner shall make a determination as to the application within 15 days after receipt of the requested response from the attorney general's office.

(b) After the initial application and the bylaws or plan of operation have been approved by the commissioner or at the time of the initial application, the group shall submit the names of employers that will be members of the group; an indemnity agreement providing for joint and several liability for all group members for any and all workers' compensation claims incurred by any member of the group, as set forth in Minnesota Rules, part 2780.9920, signed by an officer of each member; and an accounting review performed by a certified public accountant. A certified financial audit may be filed in lieu of an accounting review.

Subd. 7. [FINANCIAL STANDARDS.] A group proposing to self-insure shall have and maintain:

(a) A combined net worth of all of the members of an amount at least equal to the greater of ten times the retention selected with the workers' compensation reinsurance association or one-third of the current annual modified premium of the members. The requirements of this item shall be modified if the self-insurer can demonstrate that through excess insurance, other than coverage provided by the workers' compensation reinsurance association, it can pay expected losses.

(b) Sufficient assets, net worth, and liquidity to promptly and completely meet all obligations of its members under chapter 176 or this act. In determining whether a group is in sound financial condition, consideration shall be given to the combined net worth of the member companies; the consolidated long-term and short-term debt to equity ratios of the member companies; any excess insurance other than reinsurance with the workers' compensation reinsurance association, purchased by the group from an insurer licensed in Minnesota or from an authorized surplus line carrier; other financial data requested by the commissioner or submitted by the group; and the combined workers' compensation experience of the group for the last four years.

Subd. 8. [PROCESSING APPLICATION.] The commissioner shall grant or deny the group's application to self-insure within 60 days after a complete application has been filed, provided that the time may be extended for an additional 30 days upon 15 days' prior notice to the applicant. The commissioner shall grant approval for self-insurance upon a determination that the financial ability of the self-insurer's group is sufficient to fulfill all joint and several obligations of the member companies that may arise under chapter 176 or this act; the gross annual premium of the group members is at least \$300,000; the group has established a fund pursuant to Minnesota Rules, parts 2780.4100 to 2780.5000; the group has contracted with a licensed workers' compensation service company to administer its program; and the required securities or surety bond shall be on deposit prior to the effective date of coverage for any member. Approval shall be effective until revoked by order of the commissioner or until the employer members of the group become insured.

Subd. 9. [FILING REPORTS.] (a) Incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on a calendar year basis, in a manner and on forms available from the commissioner. Payroll information must be filed by April 1 of the following year, and loss information and total workers' compensation liability must be filed by August 1 of the following year.

(b) Each self-insurer shall, under oath, attest to the accuracy of each report submitted pursuant to paragraph (a). Upon sufficient cause, the commissioner shall require the self-insurer to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors: where the losses reported appear significantly different from similar types of businesses; where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of that employer. If any discrepancy is found, the commissioner shall require changes in the self-insurer's or workers' compensation service company record keeping practices.

(c) With the annual loss report due August 1, each self-insurer shall report to the commissioner any workers' compensation claim from the previous year where the full, undiscounted value is estimated to exceed \$50,000, in a manner and on forms prescribed by the commissioner.

(d) Each individual self-insurer shall, within four months after the end of its fiscal year, annually file with the commissioner its latest 10K report required by the Securities and Exchange Commission. If an individual self-insurer does not prepare a 10K report, it shall file an annual certified financial statement, together with such other financial information as the commissioner may require to substantiate data in the financial statement.

(e) Each group self-insurer shall, within four months after the end of the fiscal year for that group, annually file a statement showing the combined net worth of its members based upon an accounting review performed by a certified public accountant, together with such other financial information the commissioner may require to substantiate data in the group's summary statement.

(f) In addition to the financial statements required by paragraphs (d) and (e), interim financial statements or 10Q reports required by the Securities and Exchange Commission may be required by the commissioner upon an indication that there has been deterioration in the self-insurer's financial condition, including a worsening of current ratio, lessening of net worth, net loss of income, the downgrading of the company's bond rating, or any other significant change that may adversely affect the self-insurer's ability to pay expected losses. Any self-insurer that files an 8K report with the Securities and Exchange Commission shall also file a copy of the report with the commissioner within 30 days of the filing with the Securities and Exchange Commission.

Subd. 10. [ANNUAL AUDIT.] The accounts and records of the group self-insurer's fund shall be audited annually. Audits shall be made by certified public accountants, based on generally accepted accounting principles and generally accepted auditing standards, and supported by actuarial review and opinion of the future contingent liabilities, in order to determine the solvency of the self-insurer's fund. All audits required by this subdivision shall be filed with the commissioner 90 days after the close of the fiscal year for the group self-insurer. The commissioner may require a special audit to be made at other times if the financial stability of the fund or the adequacy of its monetary reserves is in question.

Subd. 11. [JOINT AND SEVERAL LIABILITY.] All members of a private self-insurer group shall be jointly and severally liable for the obligations incurred by any member of the same group under chapter 176.

Subd. 12. [COMMISSIONER REVIEW.] The commissioner shall annually review the documents and reports filed by the private self-insurer.

Sec. 3. [176C.03] [PRIVATE SELF-INSURING EMPLOYER; ANNUAL RENEWAL OR DEPOSIT OF NEW SECURITY FOR PAYMENT OF COMPENSATION.]

Subdivision 1. [ANNUAL SECURING OF LIABILITY.] Each year every private self-insuring employer shall secure incurred liabilities for the payment of compensation and the performance of the obligations of employers imposed under chapter 176 by renewing the prior year's security deposit or by making a new deposit of security. If a new deposit is made, it must be posted within 60 days of the filing of the self-insured employer's annual report with the commissioner, but in no event later than July 1.

Subd. 2. [MINIMUM DEPOSIT.] The minimum deposit is 110 percent of the private self-insurer's estimated future liability. Up to ten percent of that deposit may be used to secure payment of all administrative and legal costs relating to or arising from the employer's self-insuring. As used in this section, "private self-insurers' estimated future liability" means the private self-insurers' total of estimated future liability as determined by a member of the casualty actuarial society every two years for non-group member private self-insurers, and every year for group member private self-insurers. Estimated future liability is determined by first taking the total amount of the self-insured's future liability of workers' compensation claims and then deducting the total amount which is estimated to be returned to the self-insurer from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits or second injury benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits or second injury benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the reports required thereunder are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the last retention limit selected by the self-insurer with the workers' compensation reinsurance association. The posting or depositing of security pursuant to this section shall release all previously posted or deposited securities from any obligations under the posting or depositing.

Subd. 3. [TYPE OF ACCEPTABLE SECURITY.] The commissioner may only accept as security, and the employer shall deposit as security, cash, approved government securities, surety bonds, or irrevocable letters of credit in any combination. Interest or dividend income or other income generated by the security shall be paid to the member or, at the member's direction, applied to the member's security requirement. The current deposit shall include within its coverage all amounts covered by terminated surety bonds. As used in this chapter, an irrevocable letter of credit shall be accepted only if it is clean, irrevocable, and contains an evergreen clause.

(a) "Clean" means a letter of credit that is not conditioned on the delivery of any other documents or materials.

(b) "Irrevocable" means a letter of credit that cannot be modified or revoked without the consent of the beneficiary, once the beneficiary is established.

(c) "Evergreen clause" means one which specifically states that expiration of a letter of credit will not take place without a 60-day notice by the insurer and one which allows the issuer to conduct an annual review of the account party's financial condition. If prior notice of expiration is not given by the issuer, the letter of credit is automatically extended for one year.

A clean irrevocable letter of credit shall be accepted only if it is in the form prescribed by statute and is issued by a financial institution that is authorized to engage in banking in any of the 50 states or under the laws of the United States and whose business is substantially confined to banking and supervised by the state commissioner of commerce or banking or similar official, and which has a long-term debt rating by a recognized national rating agency of investment grade or better. If no long-term debt rating is available, the financial institution must have the equivalent investment grade financial characteristics.

Subd. 4. [EXONERATION OF SECURITY.] Surety bonds, irrevocable letters of credit, and documents showing issuance of any irrevocable letter of credit shall be deposited with, and, except where specified by statute, in a form approved by the commissioner.

Subd. 5. [DEPOSIT WITH STATE TREASURER.] Securities shall be deposited on behalf of the commissioner by the self-insured employer with the state treasurer or a financial institution approved by the commissioner. Securities shall be accepted by the state treasurer for deposit and shall be withdrawn only upon written order of the commissioner.

Subd. 6. [CASH DEPOSITS.] Cash shall be deposited in a financial institution approved by the commissioner, and in the account assigned to the state treasurer. Cash shall be withdrawn only upon written order of the commissioner.

Subd. 7. [PERFECTION OF SECURITY.] Upon the commissioner sending a request to renew, request to post, or request to increase a security deposit, a perfected security interest is created in the private self-insured's assets in favor of the commissioner to the extent of any then unsecured portion of the self-insured's incurred liabilities. That perfected security interest is transferred to any cash or securities thereafter posted by the private self-insured with the state treasurer and is released only upon either of the following:

(1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation; or

(2) the return of cash or securities by the commissioner.

The private self-insured employer loses all right, title, and interest in and any right to control all assets or obligations posted or left on deposit as security. In the event of a declaration of bankruptcy or insolvency by a court of competent jurisdiction, or in the event of the issuance of a certificate of default by the commissioner, the commissioner shall liquidate the deposit as provided in this chapter, and transfer it to the self-insurer's security fund for application to the self-insured employer's incurred liability.

Subd. 8. [RETURN OF EXCESS AMOUNTS OF SECURITY TO PRIVATE SELF-INSURED EMPLOYER.] *The commissioner shall return on an annual basis to a private self-insured employer all amounts of security determined by the commissioner to be in excess of the statutory requirements to self-insure, including that necessary for administrative costs and legal fees, and the payment of any future workers' compensation claims.*

Subd. 9. [INSOLVENCY, BANKRUPTCY, OR DEFAULT; UTILIZATION OF SECURITY DEPOSIT.] *The commissioner of labor and industry shall notify the commissioner and the security fund if the commissioner of labor and industry has knowledge that any private self-insurer has failed to pay workers' compensation benefits as required by chapter 176. If the commissioner determines that a court of competent jurisdiction has declared the private self-insurer to be bankrupt or insolvent, and the private self-insurer has failed to pay workers' compensation as required by chapter 176 or, if the commissioner issues a certificate of default against a private self-insurer for failure to pay workers' compensation as required by chapter 176, then the security deposit shall be utilized to administer and pay the private self-insurers' workers' compensation obligations.*

Subd. 10. [NOTICE; OBLIGATION OF FUND.] *In the event of bankruptcy, insolvency, or certificate of default, the commissioner shall immediately notify the state treasurer, the surety, the issuer of an irrevocable letter of credit, and any custodian of the security required in this chapter. At the time of notification, the commissioner shall also call the security and transfer and assign it to the self-insurers' security fund. The commissioner shall also immediately notify the self-insurers' security fund, and order the security fund to assume the insolvent self-insurers' obligations for which it is liable under chapter 176. The security fund shall commence payment of these obligations within 14 days of this notification and order. Payments shall be made to claimants whose entitlement to benefits can be ascertained by the security fund, with or without proceedings before the department of labor and industry, the office of administrative hearings, the workers' compensation court of appeals, or the Minnesota supreme court. Upon the assumption of obligations by the security fund pursuant to the commissioner's notification and order, the security fund has the right to immediate possession of any posted or deposited security and the custodian, surety, or issuer of any irrevocable letter of credit or the commissioner, if in possession of it, shall turn over the security, proceeds of the surety bond, or letter of credit to the security fund together with the interest that has accrued since the date of the self-insured employer's insolvency. The self-insurers' security fund may administer payment of benefits, or it may retain a third-party administrator to do so.*

Subd. 11. [PRIORITY.] *Notwithstanding anything in this chapter to the contrary, any cash, securities, irrevocable letter of credit, specific excess or aggregate excess insurance proceeds, or any other security deposited or posted in accordance with this section shall be used first, when due, to pay workers' compensation claims. After that security has been exhausted, the payment of workers' compensation claims from self-insurers' security fund members' assessments may be made. Where the self-insurers' security fund member assessment account is used to pay workers' compensation claims on an emergency or an interim basis, pending receipt by the self-insurers' security fund of security which is due but not yet received, then the member assessment account shall be reimbursed for payment from the security when it is received, and the priorities stated above shall thereafter*

apply.

Subd. 12. [DUTY TO INFORM.] The commissioner shall be provided with any relevant information by the employer, any excess insurer, any third party administrator, or any issuer of any irrevocable letter of credit, issuer of any surety bond, or custodian of any security necessary for the commissioner to carry out the commissioner's obligations under this chapter. The commissioner shall provide this information to the self-insurers' security fund if necessary for the security fund to carry out its obligations under this chapter.

Subd. 13. [DISCHARGE AND RELEASE.] The payment of benefits by the self-insurers' security fund from security deposit proceeds shall release and discharge any custodian of the security deposit, surety, any issuer of a letter of credit, and the self-insured employer from liability to fulfill obligations to provide those same benefits as compensation, but does not release any person or entity from any liability to the security fund for full reimbursement. Any decision or determination made or any settlement approved by the commissioner or by an administrative law judge under subdivision 15 shall conclusively be presumed valid and binding as to all known claims arising out of the underlying dispute, unless an appeal is made pursuant to chapter 14. No security shall be exchanged more often than once every 90 days.

Subd. 14. [NOTICE TO SECURITY FUND.] The commissioner shall advise the self-insurers' security fund promptly after the receipt of information indicating that a private self-insurer may be unable to meet its compensation obligations. The commissioner shall advise the self-insurers' security fund of all determinations and directives and orders made or issued pursuant to this section.

Subd. 15. [DISPUTE RESOLUTION; APPEALS.] Disputes concerning the posting, renewal, termination, exoneration, or return of all or any portion of the security deposit, or any liability arising out of the posting or failure to post security, or adequacy of the security or reasonableness of administrative costs, including legal fees, and arising between or among a surety, the issuer of an agreement of assumption and guarantee of workers' compensation liabilities, the issuer of a letter of credit, any custodian of the security deposit, a private self-insurer, or the self-insurers' security fund shall be resolved by the commissioner. An appeal from the commissioner's written decision, determination, or order may be instituted pursuant to the contested case procedures of chapter 14. Payment of claims from the security deposit or by the self-insurers' security fund shall not be stayed pending the resolution of the disputes unless and until the administrative law judge issues a determination staying a payment of claims decision or determination of the commissioner or the self-insurers' security fund.

Subd. 16. [CERTIFICATE TO SELF-INSURE; REVOCATION.] If, following a private self-insurer's bankruptcy, insolvency, or certificate of default, the commissioner calls its security and proceeds in accordance with this section, the commissioner shall revoke the certificate to self-insure of the private self-insurer as soon as practicable but no later than 30 days after its security has been called.

Sec. 4. [176C.04] [REVOCATION OF CERTIFICATE TO SELF-INSURE.]

A certificate to self-insure may be revoked by the commissioner at any

time for good cause. After revocation, the self-insurer may request a hearing. Good cause includes, among other things, failure to maintain a security deposit as required by this chapter, failure to pay assessments of the self-insurers' security fund, or the failure or inability of the employer to fulfill obligations under chapter 176 or this chapter. Good cause also includes failure to provide proof of renewal of the security 15 days before its expiration.

A self-insured employer must comply with section 176.181 and all applicable rules to operate during the pendency of its appeal of a decision under this section.

Sec. 5. [176C.05] [THIRD-PARTY ADMINISTRATOR.]

Subdivision 1. [CERTIFICATE TO SELF-INSURE.] No person, firm, or corporation, other than an insurer admitted to transact workers' compensation insurance in this state, shall contract to administer claims of self-insured employers as a third-party administrator unless qualified to do so pursuant to section 60A.23, subdivision 8.

Subd. 2. [LOCAL OFFICE.] A third-party administrator who contracts to administer claims of a self-insured employer shall maintain an office in the state of Minnesota and shall be subject to regulation under this chapter and chapters 60A and 72A with respect to the adjustment, administration, and management of workers' compensation claims for any self-insured employer.

Subd. 3. [ANNUAL ESTIMATE OF LIABILITY.] A third-party administrator retained by a self-insured employer to administer the employer's workers' compensation claims shall estimate the total accrued liability of the employer for the payment of compensation for the employer's annual report to the commissioner and shall make the estimate both in good faith and with the exercise of a reasonable degree of care. The use of a third-party administrator does not discharge or alter the employer's responsibilities with respect to the report.

Subd. 4. [FAILURE TO SUBMIT REPORTS OR INFORMATION; PENALTY.] Failure to submit reports to the commissioner as required by this chapter may result in the assessment of a penalty which shall not exceed \$3,000 for each month or fraction thereof the report is past due. Failure to submit reports required by statute within 60 days from the due date without written consent of the commissioner shall result in the revocation of the certificate to self-insure. Penalties shall be deposited in the self-insurers security fund.

Subd. 5. [PRIVATE EMPLOYERS WHO HAVE CEASED TO BE SELF-INSURED.] Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of sections 1 to 17 by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides

coverage of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period, the policy will discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy. The policy may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (a) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (b) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the last full calendar year of self-insurance on claims incurred during that year.

In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14, within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 303.13, subdivision 1, clause (3), or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

Sec. 6. [176C.06] [PREFERRED SUBROGATION RIGHTS OF SELF-INSURERS' SECURITY FUND OR SURETY.]

The self-insurers' security fund by making payment of compensation under this chapter has the same preference over the other debts of the principal or the principal's estate as is given by law to the person directly entitled to the compensation.

Sec. 7. [176C.07] [LEGISLATIVE INTENT.]

It is the intent of the legislature in enacting sections 7 to 9 to provide for the continuation of workers' compensation benefits delayed due to the failure of a private self-insured employer to meet its compensation obligations, whenever the commissioner of commerce issues a certificate of default or there is a declaration of bankruptcy or insolvency by a court of competent jurisdiction. With respect to the continued liability of a surety for claims that arise under a bond after termination of that bond and to a surety's liability for the cost of administration of claims, it is the intent of the legislature to provide that that liability ceases upon lawful termination of that bond. This applies to all surety bonds which are purchased by the self-insured employer after the effective date of this section. The legislature finds and declares that the establishment of the self-insurers' security fund is a necessary component of a complete system of workers'

compensation, required by chapter 176, to have adequate provisions for the comfort, health, safety, and general welfare of any and all workers and their dependents to the extent of relieving the consequences of any industrial injury or death, and full provision for securing the payment of compensation.

Sec. 8. [176C.08] [SECURITY FUND.]

Subdivision 1. [CREATION.] The self-insurers' security fund is established as a nonprofit corporation pursuant to the Minnesota nonprofit corporation act, sections 317.01 to 317.69. If any provision of the Minnesota nonprofit corporation act conflicts with any provision of this chapter, the provisions of this chapter apply. Each private self-insurer who is self-insured on the effective date of this act, or who becomes self-insured thereafter, shall participate as a member in the security fund. This participation shall be a condition of maintaining its certificate to self-insure.

Subd. 2. [BOARD OF TRUSTEES.] The security fund shall be governed by a nine-member board of trustees. Five of the trustees shall be representatives of private self-insurers who shall be elected by the members of the security fund, other than group self-insurers, each member having one vote. One of the trustees shall be a representative of the private group self-insurers who shall be elected by the members of the security fund who are group self-insurers, each group having one vote. Three of the trustees, including the group self-insurer trustee, initially elected by the members shall serve two-year terms, and three shall serve four-year terms. Thereafter, trustees shall be elected to four-year terms, and shall serve until their successors are elected and assume office pursuant to the bylaws of the security fund. Three additional trustees shall be appointed by the commissioner. Two of these trustees shall serve four-year terms. One of these trustees shall serve a two-year term. Thereafter, the trustees shall be appointed to four-year terms, and shall serve until their successors are appointed and assume office pursuant to the bylaws of the security fund. In addition to the nine trustees elected by the members or appointed by the commissioner, the commissioner or the commissioner's designee shall be an ex officio, nonvoting member of the board of trustees. A member of the board of trustees may designate another person to act in the member's place as though the member were acting and the designee's actions shall be deemed those of the member.

Subd. 3. [BYLAWS.] The security fund shall establish bylaws and a plan of operation, subject to the prior approval of the commissioner, necessary to the purposes of this chapter and to carry out the responsibilities of the security fund. The security fund may carry out its responsibilities directly or by contract, and may purchase services and insurance and borrow funds as it deems necessary for the protection of the members and their employees.

Subd. 4. [CONFIDENTIAL INFORMATION.] The security fund may receive private data concerning the financial condition of private self-insurers whose liabilities to pay compensation have become its responsibility and shall adopt bylaws to prevent dissemination of that information.

Subd. 5. [EMPLOYEES.] Security fund employees are not state employees and are not subject to any state civil service regulations.

Sec. 9. [176C.09] [ASSUMPTION OF WORKERS' COMPENSATION OBLIGATIONS OF INSOLVENT SELF-INSURER.]

Subdivision 1. [ORDER OF COMMISSIONER.] Upon order of the commissioner of commerce pursuant to section 3, subdivision 10, the security fund shall assume the workers' compensation obligations of an insolvent private self-insurer.

Subd. 2. [ACT OR OMISSIONS; PENALTIES.] Notwithstanding subdivision 1, the security fund shall not be liable for the payment of any penalties assessed for any act or omission on the part of any person other than the security fund or its appointed administrator, including, but not limited to, the penalties provided in chapter 176 unless the security fund or its appointed administrator would be subject to penalties under chapter 176 as the result of the actions of the security fund or its administrator.

Subd. 3. [PARTY IN INTEREST.] The security fund shall be a party in interest in all proceedings involving compensation claims against an insolvent self-insurer whose compensation obligations have been paid or assumed by the security fund. The security fund shall have the same rights and defenses as the insolvent private self-insurer, including, but not limited to, all of the following:

- (1) to appear, defend, and appeal claims;*
- (2) to receive notice of, investigate, adjust, compromise, settle, and pay claims; and*
- (3) to investigate, handle, and deny claims.*

Subd. 4. [PAYMENTS TO SECURITY FUND.] Notwithstanding anything in this chapter or chapter 176 to the contrary, in the event that the self-insurers' security fund assumes the obligations of any bankrupt or insolvent private self-insurer pursuant to this section, then the proceeds of any surety bond, workers' compensation reinsurance association, specific excess insurance or aggregate excess insurance policy, and any special compensation fund payment or second injury fund or supplementary benefit reimbursements shall be paid to the self-insurers' security fund instead of the bankrupt or insolvent private self-insurer or its successor in interest. No special compensation fund reimbursements shall be made to the security fund unless the special compensation fund assessments pursuant to section 176.129 are paid and the reports required thereunder are made to the special compensation fund.

Sec. 10. [176C.10] [REIMBURSEMENT FOR OBLIGATIONS PAID AND ASSUMED.]

Subdivision 1. [INSOLVENT INSURER.] The security fund shall have the right and obligation to obtain reimbursement from an insolvent private self-insurer up to the amount of the private self-insurer's workers' compensation obligations paid and assumed by the security fund, including reasonable administrative and legal costs. This right includes, but is not limited to, a right to claim for wages and other necessities of life advanced to claimants as subrogee of the claimants in any action to collect against the private self-insurer as debtor.

Subd. 2. [SECURITY DEPOSITS.] The security fund shall have the right and obligation to obtain from the security deposit of an insolvent private self-insurer the amount of the private self-insurer's compensation obligations, including reasonable administrative and legal costs, paid or assumed by the security fund. Reimbursement of administrative costs, including legal costs, shall be subject to approval by a majority of the

security fund's voting trustees. The security fund shall be a party in interest in any action to obtain the security deposit for the payment of compensation obligations of an insolvent self-insurer.

Subd. 3. [LEGAL ACTIONS.] The security fund shall have the right to bring an action against any person or entity to recover compensation paid and liability assumed by the security fund, including, but not limited to, any excess insurance carrier of the insolvent private self-insurer, and any person or entity whose negligence or breach of any obligation contributed to any underestimation of the private self-insurer's total accrued liability as reported to the commissioner.

Subd. 4. [PARTY IN INTEREST.] The security fund may be a party in interest in any action brought by any other person seeking damages resulting from the failure of an insolvent private self-insurer to pay workers' compensation required pursuant to this subdivision.

Sec. 11. [176C.11] [MAINTENANCE OF ASSETS OR LINE OF CREDIT TO CONTINUE PAYMENT OF COMPENSATION OBLIGATIONS.]

Subdivision 1. [ASSETS MAINTAINED.] The security fund shall maintain cash, readily marketable securities, or other assets, or a line of credit, approved by the commissioner, sufficient to immediately continue the payment of the compensation obligations of an insolvent private self-insurer pending receipt of the security deposit, surety bond proceeds, irrevocable letter of credit, or, if necessary, assessment of the members. The commissioner may establish the minimum amount to be maintained by, or immediately available to, the security fund for this purpose.

Subd. 2. [ASSESSMENT.] The security fund may assess each of its members a pro rata share of the funding necessary to carry out its obligation and the purposes of this chapter. Total annual assessments in any calendar year shall not exceed four percent of the workers' compensation benefits paid under sections 176.101 and 176.111 during the previous calendar year. The annual assessment calculation shall not include workers' compensation benefits paid which will be reimbursed by the special compensation fund. Funds obtained by assessments pursuant to this subdivision may only be used for the purposes of this chapter. The trustees shall certify to the commissioner the collection and receipt of all money from assessments, noting any delinquencies. The trustees shall take any action deemed appropriate to collect any delinquent assessments.

Sec. 12. [176C.12] [AUDIT; ANNUAL REPORT.]

The trustees shall annually contract for an independent certified audit of the financial activities of the fund. An annual report on the financial status of the fund as of June 30 shall be submitted to the commissioner and to each member.

The security fund shall be established on July 1, 1988, or 90 days after the effective date of this act, whichever occurs later. All applications for new and renewal private self-insurers which are made after the effective date of this act, prior to the establishment of the security fund, shall comply with all requirements of this chapter. Applications for new and renewal private self-insurers which are made after January 1, 1988, but prior to the effective date of this act shall, prior to the establishment of the security fund, comply with the requirements of this chapter. The security fund shall be liable for payment of benefits only for members where there has been

a declaration of bankruptcy or insolvency by a court of competent jurisdiction after the date on which the security fund is established, or where the commissioner has issued a certificate of default which has occurred after the date on which the security fund is established.

Sec. 13. [176C.13] [LETTER OF CREDIT FORM.]

The form for the letter of credit under this chapter shall be:

Effective Date

State of Minnesota (Beneficiary)

(Address)

Dear Sirs:

By order of (Self-Insurer) we are instructed to open a clean irrevocable Letter of Credit in your favor for United States \$ (Amount).

We undertake that drawings under this Letter of Credit will be honored upon presentation of your draft drawn on (Self-Insurer), at (Address) prior to expiration date.

The Letter of Credit expires on, but will automatically extend for an additional one year if you have not received by registered mail notification of intention not to renew 60 days prior to the original expiration date and each subsequent expiration date.

Except as expressly stated herein, this undertaking is not subject to any condition or qualification. The obligation of (issuing bank) under this letter of credit shall be the individual obligation of (issuing bank), in no way contingent upon reimbursement with respect thereto.

Very truly yours,

..... (Signature)

Sec. 14. [176C.14] [SURETY BOND FORM.]

The form for the surety bond hereunder shall be:

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SURETY BOND OF SELF-INSURER OF WORKERS' COMPENSATION
IN THE MATTER OF THE CERTIFICATE OF)

) SURETY BOND
) NO.
) PREMIUM:
)
)

Employer, Certificate No:)

KNOW ALL PERSONS BY THESE PRESENTS:

That
(Employer)

whose address is
as Principal, and
(Surety)

a corporation organized under the laws of
and authorized to transact a general surety business in the State of Min-
nesota, as Surety, are held and firmly bound to the State of Minnesota in
the penal sum of dollars (\$) for which
payment we bind ourselves, our heirs, executors, administrators, succes-
sors, and assigns, jointly and severally, firmly by these presents.

WHEREAS in accordance with Minnesota Statutes, chapter 176, the
principal elected to self-insure, and made application for, or received from
the commissioner of commerce of the state of Minnesota, a certificate to
self-insure, upon furnishing of proof satisfactory to the commissioner of
commerce of ability to self-insure and to compensate any or all employees
of said principal for injury or disability, and their dependents for death
incurred or sustained by said employees, pursuant to the terms, provisions,
and limitations of said statute;

NOW THEREFORE, the conditions of this bond or obligation are such
that if principal shall pay and furnish compensation, pursuant to the terms,
provisions, and limitations of said statute to its employees for injury or
disability, and to the dependents of its employees, then this bond or obli-
gation shall be null and void; otherwise to remain in full force and effect.

FURTHERMORE, it is understood and agreed that:

1. This bond may be amended, by agreement between the parties hereto
and the commissioner of commerce as to the identity of the principal herein
named and, by agreement of the parties hereto, as to the premium or rate
of premium. Such amendment must be by endorsement upon, or rider to,
this bond, executed by the surety and delivered to or filed with the
commissioner.

2. The surety does, by these presents, undertake and agree that the
obligation of this bond shall cover and extend to all past, present, existing,
and potential liability of said principal, as a self-insurer, to the extent of
the penal sum herein named without regard to specific injuries, date or
dates of injuries, happenings or events.

3. *The penal sum of this bond may be increased or decreased, by agreement between the parties hereto and the commissioner of commerce, without impairing the obligation incurred under this bond for the overall coverage of the said principal, for all past, present, existing, and potential liability, as a self-insurer, without regard to specific injuries, date or dates of injuries, happenings or events, to the extent, in the aggregate, of the penal sum as increased or decreased. Such amendment must be by endorsement.*
4. *This bond shall be continuous in form and shall remain in full force and effect unless terminated in the manner provided by law.*
5. *The aggregate liability of the surety hereunder on all claims whatsoever shall not exceed the penal sum of this bond in any event.*
6. *In the event of a change in the proprietorship of the principal or the appointment of a receiver or trustee for said principal and 30 days after the receipt of notice by the commissioner of commerce, state of Minnesota, given by registered or certified mail, by the principal or surety, herein named, the obligation of this bond shall terminate, save and except as to all past, present, existing, and potential liability of the principal incurred as a self-insurer. This bond shall also terminate upon the revocation of the certificate to self-insure, save and except as to all past, present, existing, and potential liability of the principal, incurred as a self-insurer; and the principal and the surety, herein named, shall be notified in writing by said commissioner, in the event of such revocation.*
7. *If the said principal shall suspend payment of workers' compensation benefits or shall become insolvent or a receiver shall be appointed for its business, the undersigned surety will become liable for the workers' compensation obligations of the principal on the date benefits are suspended and the surety shall begin payments within 30 days after receipt of written notification by the commissioner of commerce of Minnesota to begin payments under the terms of this bond.*
8. *When the surety exercises its obligation to pay claims, it shall pay benefits due to the principal's injured workers without a form award of a compensation judge, the commissioner of labor and industry, the workers' compensation court of appeals, or the Minnesota supreme court, and such payment will be a credit against the penal sum of the bond. Administrative and legal costs incurred by the surety in discharging its obligations shall also be a charge against the penal sum of the bond; however, the total amount of this surety bond set aside for the payment of said administrative and legal expenses shall be limited to a maximum of ten percent of the total penal sum of the bond pursuant to Minnesota Statutes. Payment by the surety of the principal's obligation for administrative and legal expenses under said statute in an amount not to exceed ten percent of the penal sum of the bond shall satisfy in full the surety's obligation to pay said administrative and legal expenses of the principal.*
9. *If any part or provision of this bond shall be declared unenforceable or held to be invalid by a court of proper jurisdiction, such determination shall not affect the validity or enforceability of the other provisions or parts of this bond.*
10. *If the commissioner of commerce directs the self-insurers' security fund to assume the payment of the workers' compensation obligations of the principal pursuant to Minnesota Statutes, chapter 176, the surety shall pay upon written demand by the commissioner and within 30 days of receipt*

of such demand to the self-insurers' security fund the entire penal sum of the bond that remains unpaid.

11. Disputes concerning the posting, renewal, termination, exoneration, or return of all or any portion of the principal's security deposit or any liability arising out of the posting or failure to post security, or the adequacy of the security or the reasonableness of administrative costs, including legal costs, arising between or among a surety, the issuer of an agreement of assumption and guarantee of workers' compensation liabilities, the issuer of a letter of credit, any custodian of the security deposit, the principal, or the self-insurers' security fund shall be resolved by the commissioner of commerce pursuant to Minnesota Statutes, chapter 176 and sections 1 to 17.

12. This bond is executed by the surety to comply with Minnesota Statutes, chapter 176 and sections 1 to 17, and said bond shall be subject to all terms and provisions thereof.

.....
Name of Surety

.....
Address

.....
City, State, Zip

THIS bond is executed under an unrevoked appointment or power of attorney.

I certify (or declare) under penalty of perjury under the laws of the state of Minnesota that the foregoing is true and correct.

.....
Date

.....
Signature of Attorney-In-Fact

.....
Printed or Typed Name of
Attorney-In-Fact

A copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the bond to do so for and in behalf of the insurer, must be filed in the office of the commissioner of commerce or must be included with this bond for such filing.

Sec. 15. [176C.15] [OPEN MEETING; ADMINISTRATIVE PROCEDURE ACT.]

The security fund and its board of trustees shall not be subject to the open meeting law, the open appointments law, the data privacy law, or, except where specifically set forth, the administrative procedure act.

Sec. 16. [176C.16] [RULES.]

The commissioner may adopt, amend, and repeal rules reasonably necessary to carry out the purposes of sections 1 to 16. This authorization includes, but is not limited to, the adoption of rules to do all of the following:

(1) except as otherwise specifically provided by statute, specifying what

constitutes ability to self-insure and to pay any compensation which may become due under chapter 176;

(2) specifying what constitutes a failure or inability to fulfill an insolvent self-insurer's obligations under this chapter;

(3) interpreting and defining the terms used in this chapter;

(4) establishing procedures and standards for hearing and determinations, and providing for those determinations to be appealed;

(5) except where otherwise specifically provided by statute, specifying the standards, forms, and content of agreements, forms, and reports between parties who have obligations pursuant to this chapter;

(6) providing for the combinations and relative liabilities of security deposits, assumptions, and guarantees used pursuant to this chapter; and

(7) disclosing otherwise private data concerning self-insurers to courts or the self-insurers' security fund and specifying appropriate safeguards for that information.

Sec. 17. [EXISTING RULES.]

If there is any inconsistency among any rule or statute and this act, this act shall govern.

Sec. 18. [EFFECTIVE DATE.]

This act is effective July 1, 1988."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "prescribing a penalty;"

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1971: A bill for an act relating to the town of White Bear; authorizing the town of White Bear to establish an economic development authority; giving the town of White Bear the powers of a city with respect to the authority.

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

Page 2, after line 1, insert:

"Sec. 2. [TOWN OF WHITE BEAR; DEVELOPMENT DISTRICT.]

Subdivision 1. [DEVELOPMENT DISTRICT.] The town of White Bear may establish one or more economic development districts to facilitate development within the town and for such purpose may exercise all of the powers granted to a city under Minnesota Statutes, sections 469.124 to 469.134.

Subd. 2. [TAX INCREMENT FINANCING.] The town of White Bear and its governing body have all the powers and duties granted to or imposed on a city and the governing body of a city under Minnesota Statutes, sections 469.174 to 469.179, with respect to any development undertaken in a development district created pursuant to subdivision 1.

Sec. 3. [469.1741] [TOWN AUTHORITY.]

No town may be authorized to exercise powers under sections 469.174 to 469.179 unless the town has the authority to exercise powers under section 368.01, is located within the metropolitan area as defined in section 473.121, subdivision 2, and has a population in excess of 5,000 persons."

Page 2, line 4, delete "section 1 is" and insert "sections 1 to 3 are"

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to economic development, authorizing the town of White Bear to establish an economic development authority and economic development districts, and to exercise tax increment financing powers; prohibiting the authorization of tax increment financing powers for certain towns; proposing coding for new law in Minnesota Statutes 1987 Supplement, chapter 469."

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2170: A bill for an act relating to housing; requiring a landlord to pay damages for renting condemned residential premises; proposing coding for new law in Minnesota Statutes, chapter 504.

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

Delete everything after the enacting clause and insert:

"Section 1. [504.245] [RENTAL OF CONDEMNED RESIDENTIAL PREMISES.]

A landlord, agent of a landlord, or other person acting under the landlord's direction or control may not accept rent or a security deposit for residential rental property from a tenant during a period in which the leased premises have been condemned or declared unfit for human habitation under the applicable state or local authority, if the tenancy commenced after the premises were condemned or declared unfit for human habitation. If a landlord, agent, or person acting under the landlord's direction or control violates this section, the landlord is liable to the tenant for actual damages and an amount equal to three times the amount of any money collected after the date of condemnation or declaration, plus costs, and attorney fees."

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1297: A bill for an act relating to the city of Redwood Falls; authorizing an economic development authority to construct and furnish buildings; authorizing the authority to issue general obligation bonds subject to a reverse referendum; authorizing the establishment of certain economic development districts.

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

Delete everything after the enacting clause and insert:

"Section 1. [PORT AUTHORITY.]

The city of Redwood Falls may, by adoption of an enabling resolution in compliance with the procedural requirements of section 3, establish a port authority commission that, subject to section 2, has the same powers as a port authority established under Minnesota Statutes, section 458.09, or other law, and a housing and redevelopment authority established under Minnesota Statutes, chapter 462, or other law, and is an agency that may administer one or more municipal development districts under Minnesota Statutes, section 472A.10. The port authority commission may exercise any of these powers within industrial development districts or within other property under the jurisdiction of the commission. The port authority commission may enter into agreements with nonprofit organizations or corporations, limited to joint venture and limited partnership agreements, in order to carry out its purposes. If the city establishes a port authority commission under this section, the city shall exercise all the powers in dealing with a port authority that are granted to a city by Minnesota Statutes, chapter 458, and all powers in dealing with a housing and redevelopment authority that are granted to a city by Minnesota Statutes, chapter 462, or other law.

Sec. 2. [LIMITATION OF POWERS.]

Subdivision 1. [IN THIS SECTION.] The enabling resolution may impose the limits listed in this section on the actions of the port authority.

Subd. 2. [NOT USE SPECIFIED POWERS.] The enabling resolution may require that the port authority must not use specified powers contained in Minnesota Statutes, chapters 458 and 462, or that the port authority must not use powers without the prior approval of the city council.

Subd. 3. [TRANSFER RESERVES.] The enabling resolution may require the port authority to transfer a portion of the reserves generated by activities of the port authority that the city council determines is not necessary for the successful operation of the port authority, to the city general fund, to be used for any general purpose of the city. Reserves previously pledged by the port authority must not be transferred.

Subd. 4. [BOND APPROVAL.] The enabling resolution may require that the sale of bonds or obligations other than general obligation tax supported bonds or obligations issued by the port authority be approved by the city council before issuance.

Subd. 5. [BUDGET PROCESS.] The enabling resolution may require that the port authority follow the budget process for city departments as provided by the city and as implemented by the city council and mayor.

Subd. 6. [LEVY APPROVAL.] The enabling resolution may require that the port authority must not levy a tax for its benefit without approval of the city council.

Subd. 7. [CONSISTENT WITH CITY PLAN.] The enabling resolution may require that all official actions of the port authority must be consistent with the adopted comprehensive plan of the city, and official controls implementing the comprehensive plan.

Subd. 8. [PROJECT APPROVAL.] The enabling resolution may require that the port authority submit to the city council for approval by resolution any proposed project as defined in Minnesota Statutes, section 273.73, subdivision 8.

Subd. 9. [GOVERNMENTAL RELATIONS.] The enabling resolution may require that the port authority submit all planned activities for influencing the action of any other governmental agency, subdivision, or body to the city council for approval.

Subd. 10. [ADMINISTRATION, MANAGEMENT.] The enabling resolution may require that the port authority submit its administrative structure and management practices to the city council for approval.

Subd. 11. [EMPLOYEE APPROVAL.] The enabling resolution may require that the port authority must not employ anyone without the approval of the city council.

Subd. 12. [OTHER LIMITS.] The enabling resolution may impose any other limit or control established by the city council.

Subd. 13. [MODIFICATIONS.] The enabling resolution may be modified at any time, subject to subdivision 16. A modification must be made according to the procedural requirements of section 3.

Subd. 14. [MODIFICATION PROCEDURE.] Each year, within 60 days of the anniversary date of the first adoption of the enabling resolution, the port authority shall submit a report to the city council stating whether and how it wishes the enabling resolution to be modified. Within 30 days of receipt of the recommendation, the city council shall review the enabling resolution, consider the recommendations of the port authority, and make any modification it considers appropriate. A modification must be made according to the procedural requirements of section 3. The petition requirement does not limit the right of the port authority to petition the city council at any time.

Subd. 15. [COUNCIL ACTION CONCLUSIVE.] A determination by the city council that the limits imposed under this section have been complied with by the port authority is conclusive.

Subd. 16. [NOT TO IMPAIR BONDS, CONTRACTS.] Limits imposed under this section must not be applied in a manner that impairs the security of any bonds issued or contracts executed before the limit is imposed. The city council must not modify any limit in effect at the time any bonds or obligations are issued or contracts executed to the detriment of the holder of the bonds or obligations or any contracting party.

Sec. 3. [PROCEDURAL REQUIREMENT.]

(a) The creation of a port authority by the city of Redwood Falls must be by written resolution known as the enabling resolution. Before adoption of the enabling resolution, the city council shall conduct a public hearing. Notice of the time and place of hearing, a statement of the purpose of the hearing, and a summary of the resolution must be published in a newspaper of general circulation within the city once a week for two consecutive weeks. The first publication must appear within 30 days before the public hearing.

(b) A modification to the enabling resolution must be by written resolution and must be adopted after notice is given and a public hearing

conducted as required for the original adoption of the enabling resolution.

Sec. 4. [GENERAL OBLIGATION BONDS.]

The port authority must not proceed with the sale of general obligation tax supported bonds until the city council by resolution approves the proposed issuance. The resolution must be published in the official newspaper. If, within 30 days after the publication, a petition signed by voters equal in number to ten percent of the number of voters at the last regular city election is filed with the city clerk, the city and port authority must not issue the general obligation tax supported bonds until the proposition has been approved by a majority of the votes cast on the question at a regular or special election.

Sec. 5. [NAME.]

The city may choose the name of the port authority commission.

Sec. 6. [REMOVAL OF COMMISSIONERS FOR CAUSE.]

A commissioner of the port authority may be removed by the city council for inefficiency, neglect of duty, or misconduct in office. A commissioner may be removed only after a hearing. A copy of the charges must be given to the commissioner at least ten days before the hearing. The commissioner must be given an opportunity to be heard in person or by counsel at the hearing. After the charges have been submitted to a commissioner, the city council may temporarily suspend the commissioner. If the city council finds that the charges have not been substantiated, the commissioner shall be immediately reinstated. If a commissioner is removed, a record of the proceedings, together with the charges and findings, must be filed in the office of the city clerk.

Sec. 7. [LOCAL APPROVAL.]

Sections 1 to 6 are effective for the city of Redwood Falls the day after the city complies with Minnesota Statutes, section 645.021, subdivision 3."

Delete the title and insert:

"A bill for an act relating to local government; granting the city of Redwood Falls the authority to establish a port authority; authorizing the port authority to exercise the power of a municipal housing and redevelopment authority; authorizing the city to impose restrictions and limitations upon the powers and procedures of the port authority; permitting the city to choose the name of the port authority; providing for removal of port authority commissioners; requiring local approval."

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

S.F. No. 1969: A bill for an act relating to retirement; state university and community college faculty; establishing a Minnesota individual retirement plan; proposing coding for new law as Minnesota Statutes, chapters 354B, and 356A.

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 1986, section 354.05, is amended by adding a subdivision to read:

Subd. 2a. [EXCEPTIONS.] Notwithstanding subdivision 2, a person who is employed as a teacher in the state university system or the state community college system after June 30, 1989, is not a member of the fund unless the person is covered by section 4, subdivision 2, and has exercised an option under that paragraph to remain a member of the fund.

Sec. 2. Minnesota Statutes 1986, section 354.50, subdivision 1, is amended to read:

Subdivision 1. When ~~any~~ a member accepts a refund provided in section 354.49 or elects to transfer to the individual retirement account plan established by sections 3 to 8, all existing service credits to which the member was entitled ~~prior to before~~ the acceptance of ~~such~~ the refund ~~shall~~ or the transfer terminate ~~and shall~~. For a member who accepted a refund, service credits may not again be restored until the former member acquires not less than two years allowable service credit subsequent to taking the last refund. In that event the former member may repay ~~such~~ the refund. If more than one refund has been taken, all refunds must be repaid.

Sec. 3. [354B.01] [DEFINITIONS.]

Subdivision 1. [PLAN.] "*Plan*" means the individual retirement account plan established by sections 3 to 8.

Subd. 2. [COVERED EMPLOYMENT, STATE UNIVERSITIES.] "*Covered employment*," with respect to employment by the state university system, means employment in a position included in the definition of teacher under section 354.05, subdivision 2, other than that of an administrator covered by or eligible for coverage in the Minnesota state retirement system unclassified employees retirement plan.

Subd. 3. [COVERED EMPLOYMENT, COMMUNITY COLLEGES.] "*Covered employment*," with respect to employment by the community college system, means employment in a position included in the definition of teacher under section 354.05, subdivision 2.

Sec. 4. [354B.02] [COVERED PERSONS.]

Subdivision 1. [PLAN PARTICIPANTS.] *The following persons shall participate in the plan:*

(1) a person, other than a person covered by subdivision 2, who was first employed in covered employment after June 30, 1989; or

(2) a person who was first employed in covered employment before July 1, 1989, and who transferred retirement coverage to the plan under section 5.

Subd. 2. [PERSONS WITH CERTAIN PRIOR SERVICE.] A person with prior service as a member of the teachers retirement association other than in covered employment under section 3, subdivision 2 or 3, who is first employed in covered employment after June 30, 1989, may, at the person's option remain a member of the teacher's retirement association or participate in the plan.

Sec. 5. [354B.03] [COVERAGE TRANSFER.]

(a) A person who was first employed in covered employment before July 1, 1989, or a person covered by section 4, subdivision 2, may elect to transfer retirement coverage to the plan.

(b) If a person elects a transfer, the executive director of the teachers retirement association shall transfer from the teachers retirement fund to the plan the person's member contributions and an equal amount representing the matching employer contributions plus interest compounded annually at the rates established by the board of trustees for the purpose of determining retirement annuities under section 354.44, subdivision 2, but not to exceed eight percent a year. The transfer must be made within 90 days from the date that the executive director receives notification of the election. The employer contribution transfer may not include any amount representing an employer additional contribution, nor may it include any money representing the repayment of a refund received by the association after the date of enactment of this act.

(c) A transfer to the plan under this section is a transfer to the financial institution that will administer the account of the person electing the transfer, and must be made through the governing board of the system in which the person is employed in covered employment. No amount may be distributed to the person electing the transfer.

Sec. 6. [354B.04] [CONTRIBUTIONS.]

Subdivision 1. [MEMBER CONTRIBUTIONS.] Persons in covered employment shall make a member contribution in an amount equal to the amount prescribed by section 354.42, subdivision 2. The contribution must be made by payroll deduction each pay period.

Subd. 2. [EMPLOYER CONTRIBUTIONS.] The employer of persons in covered employment shall make an employer contribution in an amount equal to the amount prescribed by section 354.42, subdivision 3, and shall continue to make an additional employer contribution to the teachers retirement association in an amount equal to the amount prescribed by section 354.42, subdivision 5.

Subd. 3. [MANNER OF EMPLOYER CONTRIBUTIONS.] The employer of persons in covered employment shall make employer contributions from any available revenue sources. The employer contribution must be made each pay period.

Sec. 7. [354B.05] [ADMINISTRATION.]

Subdivision 1. [GOVERNING BOARDS.] The state university board shall administer the plan for persons in covered employment under section 3, subdivision 2. The community college board shall administer the plan for persons in covered employment under section 3, subdivision 3.

Subd. 2. [PURCHASE OF CONTRACTS.] The state university board and the community college board shall arrange for the purchase of annuity contracts, fixed, variable, or a combination of fixed and variable, or custodial accounts to provide retirement and death benefits to members of the plan. The contracts or accounts must be purchased with money transferred to the plan under section 5, contributions under section 6, or money or assets otherwise provided by law or by authority of the state university board or community college board and acceptable by the financial institutions from which the contracts or accounts are purchased.

Subd. 3. [SELECTION OF FINANCIAL INSTITUTIONS.] The state

university board and the community college board shall select no more than three financial institutions to provide annuity contracts or custodial accounts. Investment programs offered by the institutions must meet the requirements of section 401(a) or 403(b) of the Internal Revenue Code of 1986, as amended. In making their selections, the boards shall consider these criteria:

- (1) the experience and ability of the financial institution to provide retirement and death benefits suited to the needs of the covered employees;
- (2) the relationship of the benefits to their cost; and
- (3) the financial strength and stability of the institution.

Subd. 4. [BENEFITS OWNED BY MEMBERS.] The retirement and death benefits provided by the annuity contracts or custodial accounts are owned by the members of the plan and must be paid in accordance with the provisions of the annuity contracts or custodial accounts.

Sec. 8. [TRANSFER LIMITATION.]

The coverage transfer election authorized by section 5 may first be exercised on July 1, 1989, and must be exercised before June 30, 1991.

Sec. 9. Minnesota Statutes 1986, section 356.24, is amended to read:

356.24 [SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.]

It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan ~~which that~~ is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than to a supplemental pension plan ~~which that~~ was established, maintained and operated ~~prior to before~~ May 6, 1971, to ~~any~~ a plan ~~which that~~ provides solely for group health, hospital, disability, or death benefits, to the individual retirement account plan established by sections 3 to 8, or to ~~any~~ a plan ~~which that~~ provides solely for severance pay as authorized ~~pursuant to~~ by section 465.72 to a retiring or terminating employee. No change in benefits or employer contributions in any plan to which this section applies after May 6, 1971 ~~shall be~~, is effective without prior legislative authorization.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 9 are effective July 1, 1988."

Delete the title and insert:

"A bill for an act relating to retirement; state university and community college faculty; establishing an individual retirement account plan; amending Minnesota Statutes 1986, sections 354.05, by adding a subdivision; 354.50, subdivision 1; and 356.24; proposing coding for new law as Minnesota Statutes, chapter 354B."

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

S.F. No. 2465: A bill for an act relating to state agencies; amending the authority of the Minnesota amateur sports commission; correcting references; exempting rulemaking from chapter 14; authorizing the commission to establish nonprofit corporations and charitable foundations; amending Minnesota Statutes 1987 Supplement, sections 16A.661, subdivision 3; 240A.02, subdivision 2; 240A.03, subdivisions 10, 12, and by adding a subdivision; and 297A.44, subdivision 1; and Laws 1987, chapter 400, section 13.

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

Pages 2 and 3, delete section 4

Page 4, after line 25, insert:

"Sec. 7. [ADVISORY TASK FORCE TO PREPARE RULES.]

The chair of the Minnesota amateur sports commission shall appoint an advisory task force composed of those commission members and members of the martial arts community as the chair determines. The task force shall prepare and recommend to the commission rules necessary for the safety of nonfull contact martial arts instruction. The expiration and removal of task force members are governed by Minnesota Statutes, section 15.059, subdivision 6. The task force members shall not receive per diem or reimbursement for expenses. Rules recommended by the task force must, if adopted by the commission, be adopted under the rulemaking provisions of Minnesota Statutes, chapter 14."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete everything after the first semicolon

Page 1, line 6, after the semicolon, insert "providing for an advisory task force on martial arts instruction;"

Page 1, line 9, delete "subdivisions" and insert "subdivision" and delete "12,"

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

S.F. No. 2074: A bill for an act relating to retirement; Minneapolis employees retirement fund; adding state representatives to the retirement board of the fund; transferring administration of the fund from the retirement board to the public employees retirement association effective June 30, 1990; amending Minnesota Statutes 1986, sections 422A.02; and 422A.03, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 422A; repealing Minnesota Statutes 1986, sections 422A.01, subdivision 13; 422A.02; 422A.03; 422A.04, subdivisions 1 and 4; 422A.05; and 422A.06, subdivisions 1, 3, 4, and 6; Minnesota Statutes 1987 Supplement, sections 422A.04, subdivisions 2 and 3; and 422A.06, subdivisions 2, 5, 7, and 8.

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

Page 2, delete section 2

Page 3, delete section 4

Page 3, line 9, delete "3" and insert "2"

Page 3, line 10, delete everything after the first period

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete everything after the semicolon

Page 1, delete lines 5 and 6

Page 1, line 7, delete everything before "amending"

Page 1, line 8, delete the second semicolon and insert a period

Page 1, delete lines 9 to 15

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

S.F. No. 2017: A bill for an act relating to Gillette children's hospital; authorizing the hospital board to affiliate with Minneapolis children's medical center and its parent corporation; authorizing the delegation of powers and functions to the parent corporation; amending Minnesota Statutes 1986, section 250.05, subdivisions 1, 3, 3a, 4, 5, and 6.

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

Delete everything after the enacting clause and insert:

"Section 1. [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of sections 1 to 3, the following terms have the meanings given them in this section.

Subd. 2. [BOARD.] "Board" means the Gillette children's hospital board established by Minnesota Statutes, section 250.05, subdivision 1.

Subd. 3. [NONPROFIT CORPORATION.] "Nonprofit corporation" means the entity formed in accordance with section 2, subdivision 1.

Sec. 2. [INCORPORATION AS NONPROFIT CORPORATION.]

Subdivision 1. [INCORPORATION.] The board may incorporate as a nonprofit corporation under Minnesota Statutes, chapter 317. Upon incorporating in accordance with this subdivision, the resulting nonprofit corporation ceases to be a public corporation in the executive branch of state government.

Subd. 2. [EMPLOYEES.] (a) Employees of the nonprofit corporation are not state employees. A person who is an employee of the board and a member of the Minnesota state employees retirement association at the time of an incorporation under subdivision 1 may, however, at the person's

option:

(1) continue the person's membership in the association; or

(2) terminate the person's membership in the association and become a member of a retirement system established and maintained by the nonprofit corporation.

(b) For a person who elects continuing membership in the Minnesota state retirement system, the nonprofit corporation shall pay the employer contributions required by Minnesota Statutes, section 352.04, subdivision 3, and shall deduct from the person's salary and transmit to the association the employee contribution required by section 352.04, subdivision 2.

(c) A person who elects to transfer to the nonprofit corporation's retirement plan may, at the person's option, receive from the association a refund of the employer and employee contributions made on the person's behalf, plus interest at the rate of six percent compounded annually, or elect a deferred annuity under Minnesota Statutes, section 352.22, subdivision 3.

(d) An election under this subdivision must be made within two years of the date of the incorporation. An election is irrevocable.

Subd. 3. [PROPERTY.] Personal property of the board other than fixtures becomes property of the nonprofit corporation upon incorporation in accordance with subdivision 1. The board's interest in the buildings constituting St. Paul-Ramsey hospital under the agreement among the board, the city of St. Paul, and Ramsey county made on February 19, 1975, is transferred upon incorporation to the city and the county in proportion to their current interests.

Subd. 4. [LEASEHOLD INTEREST.] Notwithstanding subdivision 3, the city of St. Paul and Ramsey county shall grant the nonprofit corporation a leasehold interest in the areas of buildings owned by the board under article 2 of the February 19, 1975, agreement. Except as otherwise provided in this act or agreed to by the nonprofit corporation, the city, and the county, the terms of the lease must be no less favorable to the nonprofit corporation than the terms of the board's occupancy. The lease must be for a term of 30 years, but is terminable by the nonprofit corporation if the nonprofit corporation vacates those areas entirely or partially, by the nonprofit corporation or the city and county if the nonprofit corporation ceases to provide hospital or medical services in the leased areas, or upon mutual agreement of the parties. Unless agreed to by the city and the county, the leasehold interest under this subdivision may be transferred by the nonprofit corporation only to a successor nonprofit corporation into which the nonprofit corporation may merge, of which it may become a subsidiary, or that may be formed by the nonprofit corporation and another nonprofit corporation.

Sec. 3. [AFFILIATION.]

Along with the other powers of a nonprofit corporation, the nonprofit corporation may agree to affiliate with Minneapolis children's medical center or its parent corporation, Minneapolis ChildCare, to improve the coordination and efficiency of the two institutions in providing comprehensive health care to children. The nonprofit corporation may become subsidiary of, and delegate management powers and functions to, Minneapolis ChildCare.

Sec. 4. [REPEALER.]

Minnesota Statutes 1986, section 250.05, subdivisions 1, 2a, 3, 4, 5, and 6, are repealed. Minnesota Statutes 1987 Supplement, section 250.05, subdivisions 2 and 7, are repealed.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment. Section 4 is effective upon the filing of the articles of incorporation with the secretary of state effecting an incorporation under section 2, subdivision 1."

Delete the title and insert:

"A bill for an act relating to Gillette children's hospital; authorizing the hospital board to incorporate as a nonprofit corporation; terminating its status as a public corporation; transferring its ownership of hospital property to the city of St. Paul; repealing Minnesota Statutes 1986, section 250.05, subdivisions 1, 2a, 3, 4, 5, and 6; and Minnesota Statutes 1987 Supplement, section 250.05, subdivisions 2 and 7."

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 2152: A bill for an act relating to higher education; establishing the university center at Rochester; providing for its governance; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 135A.

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

Page 1, line 9, delete "[ESTABLISHMENT.]" and insert "[PURPOSE.]" and delete "A" and insert "*The purpose of the*"

Page 1, line 10, delete "*established*"

Page 1, line 11, delete "*shall be*" and insert "*is*"

Page 1, line 22, after the period, insert "*Terms, compensation, and removal of members and the filling of membership vacancies are governed by section 15.0575.*"

Page 2, line 1, after the period, insert "*The administrator and staff are in the unclassified service of the state. In addition, the board shall seek ways to coordinate and expand higher education programs offered in the greater Rochester area. The board may acquire property, by purchase, lease, or other means, for its own use and for the use of institutions offering higher education programs in its area and may establish and collect fees for the use of its property.*"

Page 2, line 2, delete "COMMITTEE" and insert "TASK FORCE"

Page 2, line 3, delete "*committee*" and insert "*task force under section 15.014*"

Page 2, line 9, delete "[APPROPRIATIONS.]" and insert "[APPROPRIATION.]"

Page 2, line 10, delete "*Subdivision 1. [COORDINATION.]*"

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

S.F. No. 1888: A bill for an act relating to state and local governments; extending the requirement that vendors be paid promptly for goods and services to cover providers of medical and social services; setting a deadline for the resolution of disputed obligations by municipalities; amending Minnesota Statutes 1986, sections 16A.124, subdivisions 1 and 5; and 471.425, subdivisions 1 and 4.

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

Page 1, delete lines 19 to 25 and insert:

"(c) "Vendor" means a provider of goods or services to the state and includes a provider of day care and other services to children, day or residential services to persons who are mentally ill or mentally retarded or who have related conditions, services to persons who are chemically dependent, and nursing home care. "Vendor" includes providers of services that are licensed or authorized under Minnesota Rules, parts 9502.0300 to 9502.0445, 9510.1020 to 9510.1140, 9525.0500 to 9525.0660, 9525.0750 to 9525.0830, 9525.1800 to 9525.1930, 9540.1000 to 9540.1500, 9545.0010 to 9545.0260, 9545.0510 to 9545.0670, 9545.0900 to 9545.1090, 9545.1400 to 9545.1500, 9553.0010 to 9553.0080, 9549.0010 to 9549.0080, 9555.6100 to 9555.6400, and 9570.2000 to 9570.3600."

Pages 1 to 3, delete section 2

Page 3, delete lines 24 to 30 and insert:

"(e) "Vendor" means a provider of goods or services to the state and includes a provider of day care and other services to children, day or residential services to persons who are mentally ill or mentally retarded or who have related conditions, services to persons who are chemically dependent, and nursing home care. "Vendor" includes providers of services that are licensed or authorized under Minnesota Rules, parts 9502.0300 to 9502.0445, 9510.1020 to 9510.1140, 9525.0500 to 9525.0660, 9525.0750 to 9525.0830, 9525.1800 to 9525.1930, 9540.1000 to 9540.1500, 9545.0010 to 9545.0260, 9545.0510 to 9545.0670, 9545.0900 to 9545.1090, 9545.1400 to 9545.1500, 9553.0010 to 9553.0080, 9549.0010 to 9549.0080, 9555.6100 to 9555.6400, and 9570.2000 to 9570.3600."

Page 4, line 19, delete everything after "period"

Page 4, lines 20 to 23, delete the new language

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, delete "subdivisions" and insert "subdivision" and delete "and 5"

And when so amended the bill do pass. Mr. Samuelson questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 980: A bill for an act relating to retirement; public pension plans; establishing, codifying, clarifying, and revising the obligations, responsibilities, and liabilities of public pension plan fiduciaries; amending Minnesota Statutes 1986, sections 11A.01; 11A.04; 11A.07, subdivision 4; 11A.08, subdivisions 5 and 6; 11A.09; 11A.13, subdivision 1; 69.30; 69.77, subdivision 2g; 69.775; 136.80, subdivision 1; 136.84; 352.03, subdivisions 1, 4, 6, 7, and 11; 352.05; 352.116, by adding a subdivision; 352.92, by adding a subdivision; 352.96, subdivision 3; 352B.03; 352B.05; 352B.07; 352C.091, subdivision 1; 352D.09, subdivision 1; 353.03, subdivisions 1 and 3a; 353.05; 353.06; 353.08; 353.68, subdivision 1; 354.06, subdivisions 1, 2a, and 3; 354.07, subdivisions 3 and 4; 354.44, subdivision 6; 354A.021, subdivision 6; 354A.08; 354A.31, subdivisions 5 and 6; 422A.05, subdivisions 2a, 2c, and 2d; 423.374; 423.45; 423.805; 423A.21, subdivision 4; 424.06; 424A.001, subdivision 7; 424A.04, subdivision 2; 490.122; and 490.123, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3A and 490; proposing coding for new law as Minnesota Statutes, chapter 356A; repealing Minnesota Statutes 1986, sections 69.051, subdivision 2; 69.30, subdivision 3; 356.71; 423.374, subdivision 3; 423.45, subdivision 3; 423.812; and 424.06, subdivision 3.

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

Delete everything after the enacting clause and insert:

“ARTICLE 1

MINNESOTA PUBLIC PENSION PLAN

FIDUCIARY RESPONSIBILITY AND LIABILITY ACT

Section 1. [356A.01] [DEFINITIONS.]

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

Subd. 2. [BENEFIT.] “Benefit” means an amount, other than an administrative expense, paid or payable from a pension plan, including a retirement annuity, service pension, disability benefit, survivor benefit, death benefit, funeral benefit, or refund.

Subd. 3. [BENEFIT PLAN.] “Benefit plan” means the portion of a pension plan that deals specifically with the benefit coverage provided by the plan, including the kinds of coverage, the eligibility for and entitlement to benefits, and the amount of benefits.

Subd. 4. [BENEFIT RECIPIENT.] “Benefit recipient” means a person who has received a benefit from a pension plan or to whom a benefit is payable under the terms of the plan document of the pension plan.

Subd. 5. [BUSINESS ENTITY.] “Business entity” means a corporation, business trust, trust, partnership, firm, group of two or more persons having a joint or common interest, or any other legal or commercial enterprise.

Subd. 6. [CHIEF ADMINISTRATIVE OFFICER.] “Chief administrative officer” means the person who has primary responsibility for the execution of the administrative or management affairs of a pension plan.

Subd. 7. [COFIDUCIARY.] "Cofiduciary" means a fiduciary of a pension plan, other than a fiduciary directly undertaking a fiduciary activity or directly and primarily responsible for a fiduciary activity, who serves in a position or exercises a function covered by section 2.

Subd. 8. [COVERED GOVERNMENTAL ENTITY.] "Covered governmental entity" means a governmental subdivision or other governmental entity that employs persons who are plan participants in a covered pension plan and who are eligible for that participation because of their employment.

Subd. 9. [COVERED PENSION PLAN.] "Covered pension plan" means a pension plan or fund listed in section 356.20, subdivision 2, or 356.30, subdivision 3, or any other retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or supported by the state, a governmental subdivision, or another public body whose revenues are derived from taxes, fees, or other public sources.

Subd. 10. [DIRECT OR INDIRECT PROFIT.] "Direct or indirect profit" means a payment of money, the provision of a service or an item of other than nominal value, an extension of credit, a loan, or any other special consideration to a fiduciary or a direct relative of a fiduciary on behalf of the fiduciary in consideration for the performance of a fiduciary activity or a failure to perform a fiduciary activity.

Subd. 11. [DIRECT RELATIVE.] "Direct relative" means any of the persons or spouses of persons related to one another within the third degree of kindred under civil law.

Subd. 12. [EXERCISE OR PERFORMANCE.] "Exercise or performance" means the completion of an act or of a substantial step consistent with the eventual completion of an act, even if short of actual completion.

Subd. 13. [FIDUCIARY.] "Fiduciary" means a person described in section 2.

Subd. 14. [FIDUCIARY ACTIVITY.] "Fiduciary activity" means an activity described in section 2, subdivision 2.

Subd. 15. [FIDUCIARY POSITION.] "Fiduciary position" means a position listed in section 2, subdivision 3.

Subd. 16. [FINANCIAL INSTITUTION.] "Financial institution" means a bank, savings institution, or credit union organized under federal or state law.

Subd. 17. [GOVERNING BOARD OF A PENSION PLAN.] "Governing board of a pension plan" means the body of a pension plan that is assigned or that undertakes the chief policy-making powers and management duties of the plan.

Subd. 18. [LIABILITY.] "Liability" means a secured or unsecured debt or an obligation for a future payment of money, including an actuarial accrued liability or an unfunded actuarial accrued liability, except where the context clearly indicates another meaning.

Subd. 19. [LOCAL PENSION PLAN.] "Local pension plan" means a pension plan not included in the definition of a statewide plan in subdivision 26.

Subd. 20. [MODIFICATION IN BENEFIT PLAN.] "Modification in benefit plan" means a change in a benefit plan of a pension plan that

results in an increase or decrease in benefit coverage provided to current or future plan participants or benefit recipients.

Subd. 21. [OFFICE OF THE PENSION PLAN.] "Office of the pension plan" means an administrative facility or portion of a facility where the primary business or administrative affairs of a pension plan are conducted and the primary and permanent records and files of the plan are retained.

Subd. 22. [PENSION FUND.] "Pension fund" means the assets amassed and held by a pension plan, other than the general fund, as reserves for present and future payment of benefits and administrative expenses.

Subd. 23. [PENSION PLAN.] "Pension plan" means all aspects of an arrangement between a public employer and its employees concerning the pension benefit coverage provided to the employees.

Subd. 24. [PLAN DOCUMENT.] "Plan document" means a written document or series of documents containing the eligibility requirements and entitlement provisions constituting the benefit coverage of a pension plan, including any articles of incorporation, bylaws, governing body rules and policies, municipal charter provisions, municipal ordinance provisions, or general or special state law.

Subd. 25. [PLAN PARTICIPANT.] "Plan participant" means a person who is an active member of a pension plan by virtue of the person's employment or who is making a pension plan member contribution.

Subd. 26. [STATEWIDE PLAN.] "Statewide plan" means any of the following pension plans:

(1) the Minnesota state retirement system or a pension plan administered by it;

(2) the public employees retirement association or a pension plan administered by it; and

(3) the teachers retirement association or a pension plan administered by it.

Sec. 2. [356A.02] [FIDUCIARY STATUS, ACTIVITIES, AND POSITIONS.]

Subdivision 1. [GENERAL RULE.] A person is a fiduciary if the person is in a fiduciary position and exercises discretion over a fiduciary activity in connection with a covered pension plan.

Subd. 2. [FIDUCIARY ACTIVITY.] Fiduciary activity includes, but is not limited to:

(1) the investment of plan assets;

(2) the determination of benefits;

(3) the determination of eligibility for membership or benefits;

(4) the determination of the amount or duration of benefits;

(5) the determination of funding requirements or the amounts of contributions;

(6) the determination of actuarial assumptions;

(7) the maintenance of membership or financial records; and

(8) the direct or indirect expenditure of plan assets.

Subd. 3. [FIDUCIARY POSITION.] *A person serves in a fiduciary position if the person is:*

(1) a member of the governing board of a covered pension plan or of the state board of investment;

(2) an investment broker, investment advisor, investment manager, investment manager selection consultant, or investment performance evaluation consultant who provides services directly to a covered pension plan and is not an employee of the plan or of the state board of investment or a member of the investment advisory council of the state board of investment;

(3) an investment security custodian, depository, or nominee who provides services directly to a covered pension plan;

(4) an actuary, accountant, auditor, medical advisor, or legal counsel who provides services directly or indirectly to a covered pension plan and is not an employee of the plan or of the state board of investment; or

(5) the chief administrative officer of a covered pension plan or of the state board of investment.

Sec. 3. [356A.03] [PROHIBITION OF CERTAIN PERSONS FROM FIDUCIARY STATUS.]

Subdivision 1. [INDIVIDUAL PROHIBITION.] *For the prohibition period established by subdivision 3, a person, other than a constitutional officer of the state, who has been convicted of a violation listed in subdivision 4 may not assume a fiduciary position, engage in a fiduciary activity, or accept a position that is connected with a covered pension plan, including that of employee, consultant, manager, or advisor.*

Subd. 2. [BUSINESS PROHIBITION.] *For the prohibition period established by subdivision 3, a business entity that is not a publicly held corporation and for which more than five percent of the equity or ownership interest is held by a person who, in an individual capacity, would be prohibited under subdivision 1 may not provide consulting, management, or advisory services to a covered pension plan.*

Subd. 3. [PROHIBITION PERIOD.] *A prohibition under subdivision 1 or 2 is for a period of five years, beginning on the day following conviction for a violation listed in subdivision 4 or, if the person convicted is incarcerated, the day following unconditional release from incarceration.*

Subd. 4. [APPLICABLE VIOLATIONS.] *A prohibition under subdivision 1 or 2 is imposed as a result of any of the following violations of law:*

(1) a violation of federal law specified in United States Code, title 29, section 1111, as amended;

(2) a violation of Minnesota law that is a felony under Minnesota law; or

(3) a violation of the law of another state, United States territory or possession, or federally recognized Indian tribal government, or of the Uniform Code of Military Justice, that would be a felony under the offense definitions and sentences in Minnesota law.

Subd. 5. [DOCUMENTATION.] *In determining the applicability of this section, the state board of investment or a public pension plan may rely on a disclosure form meeting the requirements of the federal Investment Adviser Act of 1940, as amended through the effective date of this section,*

and filed with the state board of investment or the pension plan.

Sec. 4. [356A.04] [GENERAL STANDARD OF FIDUCIARY CONDUCT.]

Subdivision 1. [DUTY.] A fiduciary of a covered pension plan, in performing a fiduciary duty or serving in a fiduciary position, owes a fiduciary duty to:

- (1) the state of Minnesota, which established the plan;*
- (2) the taxpayers of the state or political subdivision, who help to finance the plan; and*
- (3) the active, deferred, and retired members of the plan, who are its beneficiaries.*

Subd. 2. [PRUDENT PERSON STANDARD.] (a) A fiduciary shall act in good faith, shall exercise that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, and shall undertake steps reasonably calculated to gain and to retain the capacity to make informed fiduciary judgments and to undertake an informed exercise of fiduciary discretion.

(b) If a fiduciary activity involves the investment of plan assets, a fiduciary shall act for the purpose of investment, not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets.

Sec. 5. [356A.05] [DUTIES APPLICABLE TO ALL ACTIVITIES.]

(a) A fiduciary activity of a covered pension plan must be carried out solely for the following purposes:

- (1) to provide authorized benefits to plan participants and beneficiaries;*
- (2) to incur and pay reasonable and necessary administrative expenses;*
or
- (3) to manage a covered pension plan in accordance with the purposes and intent of the plan document.*

(b) A fiduciary activity must be carried out faithfully, without prejudice, and in a manner consistent with law and the plan document.

Sec. 6. [356A.06] [INVESTMENTS; ADDITIONAL DUTIES.]

Subdivision 1. [TITLE TO ASSETS.] Assets of a covered pension plan may be held only by the plan treasurer, the state board of investment, or the depository agent of the plan or of the state board of investment. Legal title to plan assets must be vested in the plan, the state board of investment, the governmental entity that sponsors the plan, or the nominee of the plan or the depository agent. The holder of legal title shall function as a trustee for a person or entity with a beneficial interest in the assets of the plan.

Subd. 2. [DIVERSIFICATION.] The investment of plan assets must be diversified to minimize the risk of substantial investment losses unless the circumstances at the time an investment is made clearly indicate that diversification would not be prudent.

Subd. 3. [ABSENCE OF PERSONAL PROFIT.] No fiduciary may personally profit, directly or indirectly, as a result of the investment or management of plan assets. This subdivision, however, does not preclude the

receipt by a fiduciary of reasonable compensation, including membership in or the receipt of benefits from a pension plan, for the fiduciary's position with respect to the plan.

Subd. 4. [ECONOMIC INTEREST STATEMENT.] A member of the governing board of a covered pension plan and the chief administrative officer of the plan shall file with the plan a statement of economic interest. The statement must contain the information required by section 10A.09, subdivision 5, and any other information that the fiduciary or the governing board of the plan determines is necessary to disclose a reasonably foreseeable potential or actual conflict of interest. The statement must be filed annually with the chief administrative officer of the plan and be available for public inspection during regular office hours at the office of the pension plan. A disclosure form meeting the requirements of the federal Investment Adviser Act of 1940, as amended, and filed with the state board of investment or the pension plan meets the requirements of this subdivision.

Subd. 5. [INVESTMENT BUSINESS RECIPIENT DISCLOSURE.] The chief administrative officer of a covered pension plan, with respect to investments made by the plan, and the executive director of the state board of investment, with respect to investments of plan assets made by the board, shall annually disclose in writing the recipients of investment business placed with or investment commissions allocated among commercial banks, investment bankers, brokerage organizations, or other investment managers. The disclosure document must be prepared within 60 days after the close of the fiscal year of the plan and must be available for public inspection during regular office hours at the office of the plan. The disclosure document must also be filed with the executive director of the legislative commission on pensions and retirement within 90 days after the close of the fiscal year of the plan. For the state board of investment, a disclosure document included as part of a regular annual report of the board is considered to have been filed on a timely basis.

Subd. 6. [LIMITED LIST OF AUTHORIZED INVESTMENT SECURITIES.] (a) A covered pension plan may invest its assets only in investment securities authorized by this subdivision if the plan does not:

- (1) have assets with a book value in excess of \$1,000,000;
- (2) use the services of an investment advisor registered with the Securities and Exchange Commission in accordance with the federal Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21, as amended, or licensed as an investment advisor in accordance with sections 80A.04, subdivision 3, and 80A.14, subdivision 9, for the investment of at least 60 percent of its assets, calculated on book value;
- (3) use the services of the state board of investment for the investment of at least 60 percent of its assets, calculated on book value; or
- (4) use a combination of the services of an investment advisor meeting the requirements of clause (2) and the services of the state board of investment for the investment of at least 75 percent of its assets, calculated on book value.

(b) Investment securities authorized for a pension plan covered by this subdivision are:

- (1) certificates of deposit issued, to the extent of available insurance or collateralization, by a financial institution that is a member of the Federal

Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is insured by the National Credit Union Administration, or is authorized to do business in this state and has deposited with the chief administrative officer of the plan a sufficient amount of marketable securities as collateral in accordance with section 118.01;

(2) savings accounts, to the extent of available insurance, with a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(3) governmental obligations, including bonds, notes, bills, or other fixed obligations, issued by the United States, an agency or instrumentality of the United States, an organization established and regulated by act of Congress or by a state, state agency or instrumentality, municipality, or other governmental or political subdivision that:

(i) for the obligation in question, issues an obligation that equals or exceeds the stated investment yield of debt securities not exempt from federal income taxation and of comparable quality; and

(ii) for an obligation that is a revenue bond, has been completely self-supporting for the last five years; or

(iii) for an obligation other than a revenue bond, has issued an obligation backed by the full faith and credit of the applicable taxing jurisdiction and has not been in default on the payment of principal or interest on the obligation in question or any other nonrevenue bond obligation during the preceding ten years;

(4) corporate obligations, including bonds, notes, debentures, or other regularly issued and readily marketable evidences of indebtedness issued by a corporation organized under the laws of any state that during the preceding five years has had on average annual net pretax earnings at least 50 percent greater than the annual interest charges and principal payments on the total issued debt of the corporation during that period and that, for the obligation in question, has issued an obligation rated in one of the top three quality categories by Moody's Investors Service, Incorporated, or Standard and Poor's Corporation; and

(5) shares in an open-end investment company registered under the federal Investment Company Act of 1940, if the portfolio investments of the company are limited to investments that meet the requirements of clauses (1) to (4).

Subd. 7. [EXPANDED LIST OF AUTHORIZED INVESTMENT SECURITIES.] *A covered pension plan not described by subdivision 6, paragraph (a), may invest its assets only in investment securities authorized by section 11A.24.*

Subd. 8. [MINIMUM LIQUIDITY REQUIREMENTS.] *A covered pension plan described by subdivision 6, paragraph (a), shall invest a portion of its assets in authorized short-term debt obligations that can be immediately liquidated without accrual of a substantial determinable penalty or loss and that have an average maturity of no more than 90 days. The portion of assets to be invested in accordance with this subdivision must be an amount equal to the actual or potential benefits reasonably anticipated as payable over the succeeding two years to current benefit recipients and to active members who are within two years of their normal retirement*

ages or, if they are older, of their assumed retirement age. The chief administrative officer of the plan shall determine the minimum liquidity requirement of the plan as of the first day of each quarter. Documentation of each quarterly determination must be retained in the permanent records of the plan for three years after the date of the documentation.

Subd. 9. [PROHIBITED TRANSACTIONS.] (a) No fiduciary or plan participant of a covered pension plan may engage in a prohibited transaction. No plan fiduciary may allow the plan to engage in a transaction that the fiduciary knows or should know is a prohibited transaction.

(b) A prohibited transaction is any of the following transactions, whether direct or indirect:

(1) the sale, exchange, or lease of real estate between the pension plan and a fiduciary of the plan;

(2) the lending of money or other extension of credit between the plan and a fiduciary of the plan or a plan participant;

(3) the furnishing to a plan by a fiduciary, for compensation or remuneration, of goods, services other than those performed in the capacity of fiduciary, or facilities;

(4) the furnishing to a fiduciary by a plan of goods, services, or facilities other than office and related space, office equipment and supplies, and administrative services appropriate to the recipient's fiduciary position;

(5) the transfer of plan assets to a plan fiduciary or participant for use by or the benefit of the fiduciary or participant, other than the payment of benefits to which a fiduciary or participant is entitled or the payment to a fiduciary of a reasonable salary and of necessary and reasonable expenses incurred by the fiduciary in the performance of fiduciary duties; and

(6) the sale, exchange, loan, or lease of any item of value between a plan and a fiduciary of the plan other than for a fair market value and as a result of an arms-length transaction.

Sec. 7. [356A.07] [BENEFIT COVERAGE; ADDITIONAL DUTIES.]

Subdivision 1. [BENEFIT PROVISIONS SUMMARY.] The chief administrative officer of a covered pension plan shall prepare and provide each plan participant and benefit recipient with a summary of the benefit provisions of the plan document. The summary must be provided within 30 days of the start or resumption of a participant's membership in the plan, or within 30 days of the date on which the start or resumption of membership was reported, whichever is later. The summary must contain a notice that it is a summary of the plan document but is not itself the plan document and that, in the event of a discrepancy between the summary and the plan document, the plan document governs. A copy of the plan document covering the plan must be furnished to a plan participant or benefit recipient upon request. Amendments to the plan document must be communicated to plan participants and benefit recipients in a manner specified by the governing body of the pension plan. The chief administrative officer may utilize the services of the covered governmental entity in providing the summary. The summary must be in a form reasonably calculated to be understood by an average plan participant or benefit recipient.

Subd. 2. [DISTRIBUTION.] A covered pension plan may distribute the summaries required by this section and section 8 through covered governmental entities so long as the plan has made arrangements with the entities to assure, with reasonable certainty, that the summaries will be distributed, or easily available, to plan participants.

Subd. 3. [REVIEW PROCEDURE.] If a review procedure is not specified by law for a covered pension plan, the chief administrative officer of the plan shall propose, and the governing board of the plan shall adopt and implement, a procedure for reviewing a board determination of eligibility, benefits, or other rights under the plan that is adverse to a plan participant or benefit recipient. A statewide plan for which a review procedure is not specified by law shall adopt a review procedure by rule. The review procedure may afford the plan participant or benefit recipient an opportunity to present views at any review proceeding conducted and may, but need not be, a contested case under chapter 14. The chief administrative officer of the plan shall prepare a summary of the review procedure. A copy of the summary must be furnished to a plan participant at the participant's request and must be included in the summary required by subdivision 1. The summary must be in a form reasonably calculated to be understood by an average plan participant or benefit recipient.

Sec. 8. [356A.08] [FUNDING; ADDITIONAL DUTIES.]

Subdivision 1. [DEFINED BENEFIT PLAN FUNDING PROCEDURE SUMMARY.] The chief administrative officer of a covered pension plan shall prepare a summary of the method used in funding the plan, the procedure for calculating the rate of funding, and the timing of the funding. The summary must be provided to each plan participant and benefit recipient along with the benefit summary required by section 7, subdivision 1, and may be combined with it.

Subd. 2. [ANNUAL FINANCIAL REPORT.] A covered pension plan shall provide each plan participant and benefit recipient with a copy of the most recent annual financial report required by section 356.20 and a copy of the most recent actuarial valuation, if any, required by section 69.77, 69.773, 356.215, or 356.216, or a synopsis of those reports.

Sec. 9. [356A.09] [PLAN ADMINISTRATION; ADDITIONAL DUTIES.]

Subdivision 1. [PUBLIC MEETINGS.] A meeting of the governing board of a covered pension plan or of a committee of the plan is governed by section 471.705.

Subd. 2. [LIMIT ON COMPENSATION.] No fiduciary of a covered pension plan or a direct relative of a fiduciary may receive any direct or indirect compensation, fee, or other item of more than nominal value from a third party in consideration for a pension plan disbursement.

Sec. 10. [356A.10] [FIDUCIARY BREACH.]

Subdivision 1. [OCCURRENCE OF BREACH.] A fiduciary breach occurs if a fiduciary of a covered pension plan engaging in a fiduciary activity is directly responsible for a violation of the general standard of fiduciary conduct with respect to a specific fiduciary duty or any other fiduciary activity.

Subd. 2. [INTENTIONAL AND UNINTENTIONAL BREACH.] (a) An intentional fiduciary breach is a breach that is the result of bad intent and that is willful, deliberate, or the product of gross negligence.

(b) *An unintentional fiduciary breach is a breach that results from negligence.*

Sec. 11. [356A.11] [FIDUCIARY LIABILITY.]

Subdivision 1. [AVAILABLE REMEDIES.] Remedies potentially available for a fiduciary breach by a fiduciary of a covered pension plan are compensatory damages or equitable remedies.

Subd. 2. [COMPENSATORY DAMAGES.] A fiduciary other than a public employee who serves as legal counsel to a covered pension plan or the state board of investment is personally liable to restore the monetary amount of a loss incurred or to turn over a profit earned as a result of an intentional breach of the fiduciary's duty. Liability for compensatory damages is to the plan that has suffered the loss or was entitled to the assets used to make the profit, and may be joint and several. Damages must be based on the measurable amount of any monetary loss or profit or, if the amount is not measurable or readily determinable, the liability that would be imposed by the court in a substantially equivalent tort action. Compensatory damages are subject to the limits imposed by section 14, subdivision 6.

Subd. 3. [EQUITABLE REMEDIES.] In addition to or instead of awarding compensatory damages, the district court may determine equitable remedies as would be appropriate.

Sec. 12. [356A.12] [COFIDUCIARY RESPONSIBILITY AND LIABILITY.]

Subdivision 1. [COFIDUCIARY RESPONSIBILITY IN GENERAL.] A cofiduciary has a general responsibility to oversee the fiduciary activities of all other fiduciaries unless the activity has been allocated or delegated in accordance with subdivision 3. A cofiduciary also has a general responsibility to correct or alleviate a fiduciary breach of which the cofiduciary had or ought to have had knowledge.

Subd. 2. [COFIDUCIARY LIABILITY.] A cofiduciary is liable for a fiduciary breach committed by another fiduciary when the cofiduciary has a responsibility to oversee the fiduciary activities of the other fiduciary or to correct or alleviate a breach by that fiduciary.

Subd. 3. [LIMITATION ON COFIDUCIARY RESPONSIBILITY.] A cofiduciary may limit cofiduciary responsibility and liability through the allocation or delegation of fiduciary activities if the allocation or delegation:

- (1) follows appropriate procedures;*
- (2) is made to an appropriate person or to appropriate persons; and*
- (3) is subject to continued monitoring of performance.*

Subd. 4. [BAR TO LIABILITY IN CERTAIN INSTANCES.] A properly made delegation or allocation of a fiduciary activity is a bar to liability on the part of a fiduciary making the delegation or allocation unless the fiduciary has or ought to have knowledge of the breach and takes part in the breach, conceals it, or fails to take reasonable steps to remedy it.

Subd. 5. [EXTENT OF COFIDUCIARY LIABILITY.] (a) Unless liability is barred under subdivision 4, a cofiduciary is jointly and severally liable with a responsible fiduciary for compensatory damages, but has the right to recover from the responsible fiduciary any compensatory damages paid

by the cofiduciary.

(b) If a cofiduciary had or ought to have had knowledge of a fiduciary breach and took part in the breach, concealed the breach, or failed to take reasonable steps to remedy it, the cofiduciary may be subject to any equitable remedies imposed on the responsible fiduciary.

Sec. 13. [356A.13] [FIDUCIARY INDEMNIFICATION.]

Subdivision 1. [GENERAL PROHIBITION OF INDEMNIFICATION.] Except as provided in subdivision 2, an arrangement or plan provision that would exculpate or indemnify a fiduciary of a covered pension plan, or otherwise relieve the fiduciary of liability for a fiduciary breach, is prohibited as contrary to public policy.

Subd. 2. [INDEMNIFIED FIDUCIARIES.] A fiduciary who is a member of the governing board of a pension plan, an employee of a covered pension plan or of the state board of investments, or an attorney who provides legal advice to a covered pension plan or to the state board of investments in the capacity of an employee of the state or of a governmental subdivision may at the discretion of the governing board of the plan or of the state board of investments be indemnified from liability for an unintentional fiduciary breach. A board decision to indemnify a fiduciary must apply to all eligible fiduciaries of similar rank and must be prospective.

Subd. 3. [ALLOWABLE INDEMNIFICATION.] An indemnified fiduciary of a covered pension plan must be held harmless from reasonable costs or expenses incurred as a result of any actual or threatened litigation or other proceedings arising from the good-faith performance of fiduciary duties.

Sec. 14. [356A.14] [LEGAL CHALLENGES TO FIDUCIARY ACTIONS.]

Subdivision 1. [JURISDICTION.] The district court has jurisdiction over a challenge of a fiduciary action or inaction.

Subd. 2. [VENUE.] (a) Venue for a legal action challenging a fiduciary action or inaction of a statewide plan is Ramsey county.

(b) Venue for a legal action challenging a fiduciary action or inaction of a covered pension plan other than a statewide plan is the county in which the governmental entity that established and maintains the plan is located or predominantly located.

Subd. 3. [SERVICE OF PROCESS.] (a) For a fiduciary alleged in the complaint to be wholly or primarily responsible for an alleged breach, personal service of process must be obtained.

(b) For a fiduciary alleged in the complaint to have, or who may have, cofiduciary responsibility and liability, service of process may be obtained by certified or registered mail on the chief administrative officer of the pension plan on behalf of the fiduciary. The chief administrative officer, within ten days of service, shall provide written notice of the legal action to all affected fiduciaries who were not personally served.

Subd. 4. [STANDING.] (a) The following persons and no others have standing to bring a legal action challenging a fiduciary action or inaction:

(1) a fiduciary of the plan;

(2) for a statewide plan, the Ramsey county attorney;

(3) for a plan other than a statewide plan, the attorney general or the county attorney of the county in which the governmental entity that established and maintains the plan is located or predominantly located; and

(4) the commissioner of finance.

(b) The legislative auditor shall investigate an alleged fiduciary breach at the request, by majority vote, of the senate finance committee, the house of representatives appropriations committee, the governmental operations committees of both houses, or the legislative commission on pensions and retirement. The legislative auditor shall file a report of an investigation with the appropriate county attorney. Upon receiving the report, the county attorney shall take whatever legal action the attorney deems appropriate to remedy a fiduciary breach substantiated by the report.

Subd. 5. [LIMITATIONS ON LEGAL ACTIONS.] A legal action challenging a fiduciary action or inaction must be timely. Notwithstanding any limitation in chapter 541, an action is timely if it is brought within the earlier of the following periods:

(1) the period ending three years after the date of the last demonstrable act representing the alleged fiduciary breach or after the final date for performance of the act the failure to perform which constitutes the alleged breach; or

(2) the period ending one year after the date of the discovery of the alleged fiduciary breach.

Subd. 6. [LIMITATION ON FIDUCIARY DAMAGES.] (a) For a legal action challenging an alleged fiduciary breach other than one involving theft, embezzlement, or other conversion of money or property, compensatory damages may not exceed \$250,000 for an individual who is a prevailing party or \$1,000,000 for a covered pension plan that is a prevailing party or on behalf of which a legal action was brought.

(b) For a legal action challenging a fiduciary breach involving theft, embezzlement, or other conversion of money or property, compensatory damages may not exceed the greater of the amounts specified in paragraph (a) or the amount of money or value of the property stolen, embezzled, or otherwise converted.

(c) Costs and reasonable attorney fees may be awarded to a prevailing party, to be paid by a nonprevailing party, for all or part of a legal action challenging a fiduciary breach.

Subd. 7. [OTHER RIGHTS PRESERVED.] Nothing in this section abrogates or limits a person's right to bring an action under other statutory or common law.

Sec. 15. [356A.15] [CONTINUING FIDUCIARY EDUCATION.]

Subdivision 1. [OBLIGATION OF FIDUCIARIES.] A fiduciary of a covered pension plan shall make all reasonable efforts to obtain knowledge and skills sufficient to enable the fiduciary to perform fiduciary duties adequately. At a minimum, the fiduciary shall comply with the program established in accordance with subdivision 2.

Subd. 2. [CONTINUING FIDUCIARY EDUCATION PROGRAM.] The governing board of each covered pension plan shall develop, monitor, and periodically revise a program for the continuing education of members of its governing board and of its fiduciary employees who are not reasonably

considered to be expert in fiduciary activities. The program must be designed to provide those persons with knowledge and skills sufficient to enable them to perform fiduciary duties adequately. By January 1 of each year, a statewide plan must file the program and revisions of the program with the executive director of the legislative commission on pensions and retirement, and a local pension plan must file the program and revisions of the program with the state auditor.

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 15 are effective the day following final enactment.

ARTICLE 2

CONFORMING AMENDMENTS TO FIDUCIARY PROVISIONS

Section 1. [3A.011] [ADMINISTRATION OF PLAN.]

The Minnesota state retirement system shall administer the legislators retirement plan in accordance with article 1.

Sec. 2. Minnesota Statutes 1986, section 11A.01, is amended to read:

11A.01 [STATEMENT OF PURPOSE.]

The purpose of ~~sections 11A.01 to 11A.25~~ this chapter is to establish standards ~~which will~~, in addition to the applicable standards of article 1, to insure that state and pension assets subject to this legislation will be responsibly invested to maximize the total rate of return without incurring undue risk.

Sec. 3. Minnesota Statutes 1987 Supplement, section 11A.04, is amended to read:

11A.04 [DUTIES AND POWERS.]

The state board shall:

(1) Act as trustees for each fund for which it invests or manages money in accordance with the standard of care set forth in section 11A.09 *if state assets are involved or in accordance with article 1 if pension assets are involved.*

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board ~~shall~~ *must* allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board ~~shall~~ *are not be* subject to the administrative procedure act.

(3) Employ an executive director as provided in section 11A.07.

(4) Employ investment advisors and consultants as it deems necessary.

(5) Prescribe policies concerning personal investments of all employees of the board to prevent conflicts of interest.

(6) Maintain a record of its proceedings.

(7) As it deems necessary, establish advisory committees subject to ~~the provisions of~~ section 15.059 to assist the board in carrying out its duties.

(8) Not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent.

(9) Direct the state treasurer to sell property other than money ~~which~~

that has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property ~~shall~~ *must* be sold to the highest bidder in the manner and upon terms and conditions prescribed by the board.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this section.

(11) Establish a formula or formulas to measure management performance and return on investment. ~~All~~ Public pension funds in the state shall utilize the formula or formulas developed by the state board.

(12) Except as otherwise provided in article XI, section 8, of the constitution of the state of Minnesota, employ, at its discretion, qualified private firms to invest and manage the assets of funds over which the state board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board utilizes a private investment manager, sums sufficient to pay the costs ~~therefor of employing private firms~~. Each year, by January 15, the board shall report to the governor and legislature on the cost and the investment performance of each investment manager employed by the board.

(13) Adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement fund assets under its control. The statement may be revised at the discretion of the state board. The state board shall seek the advice of the council regarding its investment policy statement. Adoption of the statement is not subject to chapter 14.

Sec. 4. Minnesota Statutes 1986, section 11A.07, subdivision 4, is amended to read:

Subd. 4. [DUTIES AND POWERS.] The director, at the direction of the state board, shall:

(1) Plan, direct, coordinate and execute administrative and investment functions in conformity with the policies and directives of the state board *and the requirements of this chapter and of article 1.*

(2) Employ ~~such~~ professional and clerical staff as is necessary within the complement limits established by the legislature. Employees whose primary responsibility is to invest or manage money or employees who hold positions designated as unclassified ~~pursuant to~~ *under* section 43A.08, subdivision 1a ~~shall be, are~~ in the unclassified service of the state. Other employees ~~shall be~~ *are* in the classified service.

(3) Report to the state board on all operations under the director's control and supervision.

(4) Maintain accurate and complete records of securities transactions and official activities.

(5) Establish a policy relating to the purchase and sale of ~~all~~ securities on the basis of competitive offerings or bids. The policy is subject to board approval.

(6) Cause ~~all~~ securities acquired to be kept in the custody of the state treasurer or ~~such~~ other depositories *consistent with article 1*, as the state board deems appropriate.

(7) Prepare and file with the director of the legislative reference library

~~on or before~~, by December 31 of each year, a report summarizing the activities of the state board, the council, and the director during the preceding fiscal year. The report ~~shall~~ *must* be prepared so as to provide the legislature and the people of the state with a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return, and the yield to the state treasury and to each of the funds whose assets are invested by the state board, and the recipients of business placed or commissions allocated among the various commercial banks, investment bankers, and brokerage organizations. ~~This~~ *The* report ~~shall~~ *must* contain financial statements for funds managed by the board prepared in accordance with generally accepted accounting principles.

(8) Require state officials from any department or agency to produce and provide access to any financial documents the state board deems necessary in the conduct of ~~their~~ *its* investment activities.

(9) Receive and expend legislative appropriations.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this subdivision *consistent with article 1*.

Sec. 5. Minnesota Statutes 1986, section 11A.08, subdivision 6, is amended to read:

Subd. 6. [CONFLICT OF INTEREST; ECONOMIC INTEREST STATEMENT.] No member of the council may participate in deliberations or vote on any matter before the council which *violates article 1 or which will or is likely to result in direct, measurable economic gain to the member.* Additionally, no member of the council appointed by the state board may participate in deliberations or vote on any matter before the council which will or is likely to result in direct, measurable economic gain to that member's employer. Members of the council shall file with the board of ethical practices an economic interest statement in a manner ~~as~~ prescribed by section 10A.09, subdivisions 5 and 6.

Sec. 6. Minnesota Statutes 1986, section 11A.09, is amended to read:

11A.09 [STANDARD OF CARE.]

In the discharge of their respective duties, the members of the state board, director, board staff, *and members of the council and any other person charged with the responsibility of investing money pursuant to the standards set forth in sections 11A.01 to 11A.25, for the investment of funds other than pension fund assets,* shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom *and, for the investment of pension fund assets, shall act in accordance with article 1.*

Sec. 7. Minnesota Statutes 1986, section 11A.13, subdivision 1, is amended to read:

Subdivision 1. [LEGAL TITLE TO FUND ASSETS.] Legal title to the assets of state funds to be invested by the state board ~~shall~~ *must* be in the state of Minnesota, or its nominees. Legal title to pension funds to be invested by the state board ~~shall~~ *must* be ~~in the state board, or its nominees,~~ *as trustees for any person having a beneficial interest in the applicable*

fund subject to the rights of the particular funds maintaining shares, investment participation or units in the accounts to their credit as specified in article 1, section 6.

Sec. 8. Minnesota Statutes 1986, section 69.30, is amended to read:

69.30 [OFFICERS, DUTIES, BONDS.]

Subdivision 1. [RELIEF ASSOCIATION OFFICERS.] The officers of a relief association ~~shall be~~ are a president, one or more vice-presidents, a secretary, and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such association.

Subd. 2. [RELIEF ASSOCIATION MANAGEMENT.] The affairs of ~~such~~ the association ~~shall must~~ be managed by a board of trustees elected in the manner prescribed by the articles of incorporation of the association ~~and in accordance with article 1.~~

Subd. 3. [BONDING.] The secretary and the treasurer of each such relief association shall each furnish a corporate bond to the association for the faithful performance of duties in ~~such an~~ amount as the association ~~from time to time~~ may determine. Each relief association shall, ~~and it is hereby authorized to,~~ pay the premiums on these bonds from its general fund.

Sec. 9. Minnesota Statutes 1986, section 69.77, subdivision 2g, is amended to read:

Subd. 2g. [INVESTMENT OF RELIEF ASSOCIATION FUNDS.] The funds of the association ~~shall must~~ be invested in securities ~~which that~~ are proper authorized investments pursuant to under article 1, section 11A.24. Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the fund may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment by section 11A.24, subdivisions 2 to 5 6, subdivision 6 or 7. Securities held by the association before March 20, 1986, ~~which the effective date of this section that~~ do not meet the requirements of this paragraph subdivision may be retained after that date if they were proper investments for the association on that date.

The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify funds for investment by the state board of investment under the provisions of section 11A.17. The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall use the formula or formulas developed by the state board pursuant to under section 11A.04, clause (11).

Sec. 10. Minnesota Statutes 1986, section 69.775, is amended to read:

69.775 [INVESTMENTS.]

The special fund assets of the relief associations governed by sections 69.771 to 69.776 ~~shall must~~ be invested in securities ~~which that~~ are proper authorized investments pursuant to under article 1, section 11A.24. Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the fund may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment by section 11A.24, subdivisions 2 to

~~§ 6, subdivision 6 or 7. Securities held by the associations before March 20, 1986, which the effective date of this section that do not meet the requirements of this section may be retained after that date if they were proper investments for the association on that date. The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify funds for investment by the state board of investment under the provisions of section 11A.17. The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall use the formula or formulas developed by the state board under section 11A.04, clause (11).~~

Sec. 11. Minnesota Statutes 1986, section 136.80, subdivision 1, is amended to read:

Subdivision 1. A supplemental retirement plan for personnel employed by the state university board and the state board for community colleges who are in the unclassified service of the state commencing July 1 following the completion of the second year of their full time contract is hereby established and shall be. ~~The supplemental retirement plan is governed pursuant to by sections 136.81 to 136.85 136.87 and must be administered by the teachers retirement association in accordance with article 1. Any~~ An unclassified employee who is employed by the state university board or the state board for community colleges in subsidized on-the-job training, work experience, or public service employment as an enrollee under the federal comprehensive employment and training act shall may not be included in the supplemental retirement plan provided for in sections 136.81 to ~~136.85 from and~~ 136.87 after March 30, 1978, unless the unclassified employee has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund providing primary retirement coverage to meet the minimum vesting requirements for a deferred retirement annuity, or the board agrees in writing to make the employer contribution required by section 136.81 on account of ~~that the~~ the unclassified employee from revenue sources other than funds provided under the federal comprehensive employment and training act, or the unclassified employee agrees in writing to make the employer contribution required by section 136.81 in addition to the member contribution.

Sec. 12. Minnesota Statutes 1986, section 136.84, is amended to read:

136.84 [TITLE TO ASSETS, PERSONAL RIGHTS.]

The right of a person who has shares to the credit of the person's employee's share account record to redeem the shares or any portion thereof of the shares is a personal right only and shall is not be assignable. Legal title to the assets of the supplemental retirement investment fund shall be in the state of Minnesota or the state board of investment or the nominee of either is as specified in article 1, section 6, subdivision 1, subject to the rights of the teachers retirement fund. ~~Any~~ An assignment or attempted assignment of shares to the credit of an employee's share account record by any person is null and void. Such Shares are exempt from garnishment or levy under attachment or execution and from all taxation by the state of Minnesota, except that none shall be but are not exempt from taxation under chapter 291, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

Sec. 13. Minnesota Statutes 1987 Supplement, section 352.03, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP OF BOARD; ELECTION; TERM.] (a) The policy-making function of the system is vested in a board of 11 members, ~~who shall be~~ known as the board of directors.

(b) ~~This~~ The board ~~shall consist~~ consists of three members appointed by the governor, one of whom must be a constitutional officer or appointed state official and two of whom must be public members knowledgeable in pension matters, four state employees elected by state employees covered by the system excluding employees in categories specifically authorized to designate or elect a member by this subdivision, one employee of the transit operating division of the metropolitan transit commission designated by the executive committee of the labor organization that is the exclusive bargaining agent representing employees of the transit division, one member of the state patrol retirement fund elected by members of that fund at a time and in a manner fixed by the board, one employee covered by the correctional employees plan elected by employees covered by that plan, and one retired employee elected by retired employees at a time and in a manner to be fixed by the board. Two state employee members, whose terms of office begin on the first Monday in March after their election, must be elected biennially. Elected members and the appointed transit operating division member hold office for a term of four years, except the retired member, whose term is two years, and until their successors are elected or appointed, and have qualified. A state employee on leave of absence is not eligible for election or reelection to membership on the board of directors. The term of any board member who is on leave for more than six months automatically ends on expiration of this period.

(c) *The board shall act in accordance with article 1.*

Sec. 14. Minnesota Statutes 1987 Supplement, section 352.03, subdivision 4, is amended to read:

Subd. 4. [DUTIES AND POWERS OF BOARD OF DIRECTORS.] The board shall:

- (1) elect a chair;
- (2) appoint an executive director;
- (3) establish rules to administer this chapter and chapters 3A, 352B, 352C, 352D, and 490 *and article 1* and transact the business of the system, subject to the limitations of law;
- (4) consider and dispose of, or take any other action the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system; and
- (5) advise the director on any matters relating to the system and carrying out functions and purposes of this chapter. The board's advice shall control.

The director and assistant director ~~must be~~ are in the unclassified service, but appointees may be selected from civil service lists if desired. The salary of the executive director ~~must be~~ is as provided by section 15A.081, subdivision 1. The salary of the assistant director must be set in accordance with section 43A.18, subdivision 3.

Sec. 15. Minnesota Statutes 1987 Supplement, section 352.03, subdivision 6, is amended to read:

Subd. 6. [DUTIES AND POWERS OF EXECUTIVE DIRECTOR.] The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director with the approval of the board;
- (5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter *and chapters 3A, 352B, 352C, 352D, and 490*;
- (6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe; ~~and so long as appointments to exercise delegated power must be~~ *are* by written order and ~~shall be~~ *are* filed with the secretary of state;
- (7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. ~~The contracts are not subject to competitive bidding under chapter 16B. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission, and to the legislative auditor at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director.~~
- (8) with the advice and consent of the board provide in-service training for the employees of the system;
- (9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter *or chapter 3A, 352B, 352C, 352D, or 490*;
- (10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter *or chapter 3A, 352B, 352C, 352D, or 490*;

(11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board request the state board of investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and quarterly budgets to the board and with the approval of the board submit the budgets to the department of finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

Contracts are not subject to competitive bidding under chapter 16B. An approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies must be filed with the executive director of the legislative commission on pensions and retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, the legislative reference library as provided by section 3.195, the executive director of the commission, and the legislative auditor at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director.

Sec. 16. Minnesota Statutes 1987 Supplement, section 352.03, subdivision 7, is amended to read:

Subd. 7. [DIRECTORS' FIDUCIARY OBLIGATION.] The board and, the director, and any other fiduciary of the Minnesota state retirement system shall administer the law faithfully without prejudice and undertake their activities consistent with the expressed intent of the legislature. They shall act in their respective capacities with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers who aid in financing it, and the state employees who are its beneficiaries article 1.

Sec. 17. Minnesota Statutes 1987 Supplement, section 352.03, subdivision 11, is amended to read:

Subd. 11. [LEGAL ADVISER, ATTORNEY GENERAL.] The attorney general shall be is the legal adviser of the board and of the director. The board may sue or be sued in the name of the board of directors of the system. In actions brought by it or against it, the board shall must be represented by the attorney general. Venue of actions shall be in the Ramsey county district court is as provided in article 1, section 14, subdivision 2.

Sec. 18. Minnesota Statutes 1987 Supplement, section 352.05, is amended

to read:

352.05 [STATE TREASURER TO BE TREASURER OF SYSTEM.]

The state treasurer is ex officio treasurer of the retirement funds of the system. The general bond to the state ~~shall~~ must cover all liability for actions as treasurer of these funds, *including liability imposed by article 1.* Funds of the system received by the treasurer must be set aside in the state treasury to the credit of the proper fund. The treasurer shall deliver to the director copies of all payroll abstracts of the state together with the commissioner of finance's warrants covering the deductions made on these payroll abstracts for the retirement fund. The director shall have a list made of the commissioner of finance's warrants. These warrants must then be deposited with the state treasurer to be credited to the retirement fund. The treasurer shall pay out of this fund only on warrants issued by the commissioner of finance, upon abstracts signed by the director, or by the finance officer designated by the director during the disability or the absence of the director from the city of St. Paul, Minnesota. Abstracts for investments may be signed by the executive director of the state board of investment.

Sec. 19. Minnesota Statutes 1987 Supplement, section 352.92, is amended by adding a subdivision to read:

Subd. 3. [PLAN ADMINISTRATION.] The Minnesota state retirement system shall administer the correctional employees retirement plan established by sections 352.90 to 352.951 in accordance with this chapter and chapter 356 and article 1.

Sec. 20. Minnesota Statutes 1987 Supplement, section 352.96, subdivision 3, is amended to read:

Subd. 3. [EXECUTIVE DIRECTOR TO ADMINISTER SECTION.] This section shall must be administered by the executive director of the system under subdivision 4. Fiduciary activities of the deferred compensation plan must be undertaken in a manner consistent with article 1. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (2) and (3). All contracts must be approved before execution by the state board of investment. Contracts must provide that all options in subdivision 2 must: be presented in an unbiased manner; ~~be presented and~~ in a manner ~~conforming that conforms~~ to applicable rules adopted by the executive director, be reported on a periodic basis to all employees participating in the deferred compensation program, and not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of money invested by state employees under this section. All costs or fees in relation to the options provided under subdivision 2, clause (3), must be paid by the underwriting companies ultimately selected by the state board of investment.

Sec. 21. Minnesota Statutes 1987 Supplement, section 352B.03, subdivision 1, is amended to read:

Subdivision 1. [OFFICERS.] The policy-making, management, and administrative functions governing the operation of the state patrol retirement fund are vested in the board of directors and executive director of the Minnesota state retirement system with duties, authority, and responsibility as provided in chapter 352. Fiduciary activities of the fund must be undertaken in a manner consistent with article 1.

Sec. 22. Minnesota Statutes 1987 Supplement, section 352B.07, is amended to read:

352B.07 [ACTIONS BY OR AGAINST.]

The board may sue or be sued in the name of the board of directors of the state retirement system. In all actions brought by or against it, the board ~~shall~~ *must* be represented by the attorney general. The attorney general shall also be the legal adviser for the board. Venue of all actions is ~~in the Ramsey county district court~~ *as provided in article 1, section 14, subdivision 2.*

Sec. 23. Minnesota Statutes 1986, section 352C.091, subdivision 1, is amended to read:

352C.091 [ADMINISTRATION.]

Subdivision 1. [ADMINISTRATIVE AGENCY AND STANDARDS.] ~~The provisions of This chapter shall~~ *must* be administered by the Minnesota state retirement system. ~~The elected state officers retirement plan must be administered consistent with this chapter and chapter 356 and article 1.~~

Sec. 24. Minnesota Statutes 1986, section 352D.09, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATIVE AGENCY AND STANDARDS.] The unclassified employees retirement plan and the provisions of this chapter ~~shall~~ *must* be administered by the Minnesota state retirement system. The provisions of chapter 352 ~~shall~~ govern in all instances where not inconsistent with the provisions of this chapter. *Fiduciary activities of the unclassified employees retirement plan must be undertaken in a manner consistent with article 1.*

Sec. 25. Minnesota Statutes 1986, section 353.03, subdivision 1, is amended to read:

Subdivision 1. [MANAGEMENT; COMPOSITION; ELECTION.] The management of the public employees retirement fund is vested in a board of trustees consisting of the state auditor and eight members. The governor shall appoint five trustees to four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who ~~shall be~~ *is* a retired annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association shall elect three trustees for terms of four years. Trustees elected by the membership of the association shall be public employees and members of the association. For seven days beginning November 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund. No name may be withdrawn from nomination by the nominee after November 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. Disputes between the board and a candidate concerning application of these policies to a particular statement ~~shall must~~ be resolved by the secretary of state. A candidate who:

(a) (1) receives contributions or makes expenditures in excess of \$100; or

(b) (2) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100;

for the purpose of bringing about the candidate's election, ~~must~~ *shall* file a report with the ethical practices board disclosing the source and amount of all contributions to the candidate's campaign. The ethical practices board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate ~~must~~ *shall* file a report within 30 days from the day that the results of the election are announced. The ethical practices board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position ~~shall be~~ *is* void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund ~~shall be~~ *is* January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes ~~shall~~ *must* be so designed and the ballots shall be counted in such a manner as to insure that each vote is secret.

The elections shall be supervised by the secretary of state. It ~~shall be~~ *is* the duty of the board of trustees, ~~the executive director, and any other fiduciary of the public employees retirement association to faithfully administer the law without prejudice and undertake their activities consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers of the governmental subdivisions which aid in financing it and the public employees who are its beneficiaries. They shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs~~ *article 1.*

Sec. 26. Minnesota Statutes 1987 Supplement, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. [EXECUTIVE DIRECTOR.] (a) [APPOINTMENT.] The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.081, subdivision 1.

(b) [DUTIES.] The management of the association is vested in the executive director who ~~shall be~~ *is* the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director, with the approval of the board, ~~who shall~~ to serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;
- (6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. ~~All contracts are subject to chapter 16B. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission and to the legislative auditor at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;~~
- (7) with the approval of the board provide in-service training for the employees of the association;
- (8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;
- (9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;
- (10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;
- (11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner; and

(13) with the approval of the board, perform ~~such~~ other duties ~~as that~~ may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Contracts made by the executive director under clause 6 are subject to chapter 16B. The commissioner of administration may not approve, and the association may not enter into, a contract to provide lobbying services or legislative advocacy of any kind. An approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. A supplemental actuarial valuation or experience study must be filed with the executive director of the legislative commission on pensions and retirement. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, the legislative reference library as provided by section 3.195, the executive director of the commission, and the legislative auditor at the same time as reports are furnished to the board. Only a management firm experienced in conducting management surveys of federal, state, or local public retirement systems is qualified to contract with the director.

Sec. 27. Minnesota Statutes 1986, section 353.05, is amended to read:

353.05 [CUSTODIAN OF FUNDS.]

The state treasurer ~~shall be~~ is ex officio treasurer of the retirement funds of the association, and the treasurer's general bond to the state ~~shall must~~ be so conditioned as to cover all liability for acts as treasurer of these funds, *including liability imposed by article 1*. All ~~moneys~~ money of the association received by the treasurer ~~shall must~~ be set aside in the state treasury to the credit of the proper fund. The treasurer shall transmit monthly to the executive director a detailed statement of all amounts so received and credited to the fund. Payments out of the fund ~~shall may~~ be made only on warrants issued by the commissioner of finance, upon abstracts signed by the executive director; provided that abstracts for investment may be signed by the secretary of the state board of investment.

Sec. 28. Minnesota Statutes 1986, section 353.06, is amended to read:

353.06 [STATE BOARD OF INVESTMENT TO INVEST FUNDS.]

The executive director shall from time to time certify to the state board of investment for investment such portions of the retirement fund as in ~~its~~ *the executive director's* judgment may not be required for immediate use. Assets from the public employees retirement fund ~~shall must~~ be transferred to the Minnesota postretirement investment fund as provided in section 11A.18. The state board of investment shall ~~thereupon~~ invest and reinvest the sum so certified, or transferred, in ~~such~~ securities ~~as that are~~ *authorized as legal investments for state employees retirement fund under section 11A.24 and shall have authority to* may sell, convey, and exchange such securities and invest and reinvest the securities when it deems it desirable to do so and shall sell securities upon request of the board of trustees when such funds are needed for its purposes. ~~All of the~~ Provisions regarding accounting procedures and restrictions and conditions for the

purchase and sale of securities for the state employees retirement fund ~~shall~~ apply to the accounting, purchase, and sale of securities for the public employees retirement fund.

Sec. 29. Minnesota Statutes 1986, section 353.08, is amended to read:
353.08 [LEGAL ADVISER, ATTORNEY GENERAL; VENUE.]

The attorney general ~~shall be~~ is the legal adviser of the board of trustees. The board may sue or be sued in the name of the board of trustees of the public employees retirement association ~~and~~. In all actions brought by it or against it, the board ~~shall must~~ be represented by the attorney general. The venue of all actions against and by the public employees retirement association ~~shall be Ramsey county~~ is as provided in article 1, section 14, subdivision 2.

Sec. 30. Minnesota Statutes 1986, section 353.68, subdivision 1, is amended to read:

Subdivision 1. [GENERAL LAW APPLICABILITY.] The general provisions of this chapter apply to all police officers and firefighters who are members of the police and fire fund and also to all governmental subdivisions employing such members except where otherwise specifically provided in sections 353.63 to 353.68. *Fiduciary activities of the public employees police and fire fund must be undertaken in a manner consistent with article 1.*

Sec. 31. Minnesota Statutes 1987 Supplement, section 354.06, subdivision 1, is amended to read:

Subdivision 1. The management of the fund ~~shall be~~ is vested in a board of eight trustees ~~which shall be~~ known as the board of trustees of the teachers retirement fund. It ~~shall be~~ is composed of the following persons: the commissioner of education, the commissioner of finance, the commissioner of commerce, four members of the fund ~~who shall be~~ elected by the members of the fund, and one retiree ~~who shall be~~ elected by the retirees of the fund. The five elected members of the board of trustees ~~shall must~~ be chosen by mail ballot in a manner ~~which shall be~~ fixed by the board of trustees of the fund. In every odd-numbered year ~~there shall be~~ elected two members of the fund ~~must be elected~~ to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every odd-numbered year ~~there shall be~~ elected one retiree of the fund ~~must be elected~~ to the board of trustees for a term of two years commencing on the first of July next succeeding the election. The filing of candidacy for a retiree election must include a petition of endorsement signed by at least ten retirees of the fund. Each election ~~shall must~~ be completed by June first of each succeeding odd-numbered year. In the case of elective members, any vacancy ~~shall must~~ be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the fund at the next regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree ~~shall may~~ be appointed by the board, or elected by the members of the fund as a trustee, if the person is not a member or retiree of the fund in good standing at the time of the appointment or election.

Subd. 1a. [FIDUCIARY DUTY.] It shall be is the duty of the board of trustees, the executive director, and any other fiduciary of the teachers retirement association to ~~faithfully administer the law without prejudice~~

~~and undertake their duties consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it and the teachers who are its beneficiaries article 1.~~

Sec. 32. Minnesota Statutes 1987 Supplement, section 354.06, subdivision 2a, is amended to read:

Subd. 2a. [DUTIES OF EXECUTIVE DIRECTOR.] The management of the association is vested in the executive director, who shall be the executive and administrative head of the association. The executive director shall act as advisor to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said chapter;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the director's control and under such conditions as the director may prescribe;
- (6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as may be necessary and fix the compensation therefor. ~~Such contracts shall not be subject to the competitive bidding procedure prescribed by chapter 16B. Professional management services may not be contracted for more often than once in every six years. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission and to the legislative auditor at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder for those services;~~
- (7) with the approval of the board, provide in-service training for the employees of the association;
- (8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased members or deceased former members, as provided in

this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board, request the state board of investment to sell securities on determining that funds are needed for the purposes of the association;

(14) prepare and submit biennial and annual budgets to the board and with the approval of the board submit those budgets to the department of finance; and

(15) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Contracts are not subject to the competitive bidding procedure prescribed by chapter 16B. Professional management services may not be contracted for more often than once in every six years. An approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. A supplemental actuarial valuation or experience study must be filed with the executive director of the legislative commission on pensions and retirement. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, the legislative reference library as provided by section 3.195, the executive director of the commission, and the legislative auditor at the same time as reports are furnished to the board. Only a management firm experienced in conducting management surveys of federal, state, or local public retirement systems is qualified to contract with the director.

Sec. 33. Minnesota Statutes 1986, section 354.06, subdivision 3, is amended to read:

Subd. 3. [TREASURER.] The state treasurer ~~shall be~~ is ex officio treasurer of the fund ~~and~~. The treasurer's general bond to the state ~~shall must~~ cover any liabilities for acts as treasurer of the fund, *including liabilities imposed by article 1*. The state treasurer shall receive all ~~moneys~~ money payable to the fund and pay out the same only on warrants issued by the commissioner of finance upon forms signed by the executive director.

Sec. 34. Minnesota Statutes 1987 Supplement, section 354.07, subdivision 3, is amended to read:

Subd. 3. The attorney general shall be legal advisor to the board and the executive director. The board may sue or be sued in the name of the board of trustees of the teachers retirement fund and in all actions brought

by or against it the board ~~shall~~ *must* be represented by the attorney general. Venue of all actions is ~~in the Ramsey county district court as provided in article 1, section 14, subdivision 2.~~

Sec. 35. Minnesota Statutes 1986, section 354.07, subdivision 4, is amended to read:

Subd. 4. [INVESTMENT OF ASSETS.] ~~It shall be the duty of The board from time to time to shall certify to the state board of investment for investment as much of the funds in its hands as shall are not be needed for current purposes. Such Funds that are certified to the variable annuity division shall must include employee deductions as well as an equal amount for state's matching. Such Funds that are certified as to investment in the postretirement investment fund shall must include the amount as required for the total reserves needed for the purposes described in section 354.63. The state board of investment shall thereupon transfer such assets to the appropriate fund provided herein, in accordance with the procedure set forth in sections 354.62 and 354.63, or invest and reinvest an amount equal to the sum so certified in such the securities as that are now or may hereafter be duly authorized legal investments for state employees retirement fund under section 11A.24, and all such securities so transferred or purchased shall must be deposited with the state treasurer. All Interest from these investments shall must be credited to the appropriate funds and used for current purposes or investments, except as hereinafter provided by this section. The state board of investment shall have authority to may sell, convey, and exchange such securities and invest and reinvest the funds when it deems it desirable to do so, and shall sell securities upon request of the officers of the association when such officers determine funds are needed for its the association's purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the state employees retirement fund shall apply to the accounting, purchase, and sale of securities for the teachers' retirement fund.~~

Sec. 36. Minnesota Statutes 1986, section 354A.021, subdivision 6, is amended to read:

Subd. 6. [TRUSTEES' FIDUCIARY OBLIGATION.] ~~It is the duty of The trustees or directors of each teachers retirement fund association to shall administer each fund in accordance with the applicable portions of this chapter, of the articles of incorporation, and of the bylaws, and of article 1. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it, and the teachers who are its beneficiaries. The purpose of this subdivision is to establish each teachers retirement fund association as a trust under the laws of the state of Minnesota for all purposes related to section 401(a) of the Internal Revenue Code of the United States, including all amendments.~~

Sec. 37. Minnesota Statutes 1986, section 354A.08, is amended to read:

354A.08 [AUTHORIZED INVESTMENTS.]

~~Any A teachers retirement fund association may receive, hold, and dispose of real estate or personal property acquired by it, whether the acquisition was by gift, purchase or any other lawful means, as provided in this chapter or in the association's articles of incorporation. In addition to other authorized real estate investments, an association may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured~~

~~by mortgages or deeds of trust only in investments authorized by article 1, section 6. Types and amounts at cost or book of investment securities or other investments held by the association before the effective date of this section may be retained after that date if they were proper investments for the teachers retirement fund association on that date.~~

Sec. 38. Minnesota Statutes 1986, section 422A.05, subdivision 2a, is amended to read:

Subd. 2a. [FIDUCIARY DUTY.] In the discharge of their respective duties, the members of the board, the executive director, the board staff, and any other person charged with the responsibility of investing money ~~pursuant to the standards set forth in accordance with this chapter or engaging in any other fiduciary activity shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom a manner consistent with article 1.~~

Sec. 39. Minnesota Statutes 1986, section 422A.05, subdivision 2c, is amended to read:

Subd. 2c. [INVESTMENTS.] The board may invest funds ~~only~~ in investments authorized by ~~article 1, section 11A.24 6. In addition to other authorized real estate investments, the board may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust.~~

Sec. 40. Minnesota Statutes 1986, section 422A.05, subdivision 2d, is amended to read:

Subd. 2d. [ACCOUNT TRANSFERS.] Notwithstanding any law to the contrary, the retirement board, subject to ~~the standards of subdivision 2a of this section~~ *article 1*, may transfer assets between accounts established by section 422A.06.

Sec. 41. Minnesota Statutes 1986, section 423.374, is amended to read:
423.374 [OFFICERS OF ASSOCIATION.]

Subdivision 1. [RELIEF ASSOCIATION OFFICERS.] The officers of the relief association ~~shall be~~ *are* a president, one or more vice-presidents, a secretary, and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations.

Subd. 2. [RELIEF ASSOCIATION MANAGEMENT.] The affairs of each association ~~shall must~~ be managed by a board of directors elected in the manner prescribed by the articles of incorporation of the association ~~and article 1.~~

Subd. 3. [BONDING.] The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in such amounts as the association from time to time may determine. Each relief association shall ~~and is hereby authorized to~~ pay the premiums on such bonds from its special fund.

Sec. 42. Minnesota Statutes 1986, section 423.45, is amended to read:
423.45 [OFFICERS; DIRECTORS; BOND.]

Subdivision 1. [RELIEF ASSOCIATION OFFICERS.] The officers of

the relief association ~~shall be~~ are a president, one or more vice-presidents, a secretary, and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations.

Subd. 2. [RELIEF ASSOCIATION MANAGEMENT.] The affairs of each association ~~shall must~~ be managed by a board of directors elected in the manner prescribed by the articles of incorporation of the association *and article 1.*

Subd. 3. [BONDING.] The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in such amounts as the association from time to time may determine. Each relief association shall ~~and is hereby authorized to~~ pay the premiums on such bonds from its special fund.

Sec. 43. Minnesota Statutes 1986, section 423.805, is amended to read:
423.805 [POLICE PENSION FUND.]

The association shall establish a police pension fund or continue to maintain the police pension fund now existing in the city and shall ~~have the management manage and control of the fund. Fiduciary activities of the fund must be undertaken in a manner consistent with article 1.~~

Sec. 44. Minnesota Statutes 1986, section 423A.21, subdivision 4, is amended to read:

Subd. 4. [FIDUCIARY RESPONSIBILITY.] In the discharge of their respective duties, the officers and trustees ~~shall be~~ are held to the *general* standard of care ~~enumerated in section 423A.09 and specific duties of article 1.~~

Each member of the board is a fiduciary *and shall undertake all fiduciary activities in a manner consistent with article 1. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:*

- (1) sale or exchange or leasing of any real property between the relief association and a board member;
- (2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;
- (3) furnishing of goods, services, or facilities between the relief association and a board member; or
- (4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Sec. 45. Minnesota Statutes 1986, section 424.06, is amended to read:
424.06 [OFFICERS; TRUSTEES.]

Subdivision 1. [RELIEF ASSOCIATION OFFICERS.] The officers of the relief association ~~shall be~~ are a president, one or more vice-presidents, a secretary, and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations.

Subd. 2. [RELIEF ASSOCIATION MANAGEMENT.] The affairs of each association ~~shall must~~ be managed by a board of trustees elected in the

manner prescribed by the articles of incorporation of the association *and article 1.*

Subd. 3. [BONDING.] The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in amounts as the association from time to time may determine. Each relief association ~~shall be and is hereby authorized to may~~ pay the premiums on such bonds from its general fund.

Sec. 46. Minnesota Statutes 1986, section 424A.001, subdivision 7, is amended to read:

Subd. 7. [FIDUCIARY RESPONSIBILITY.] In the discharge of their respective duties, the officers and trustees ~~shall be and any other fiduciary of the association are~~ held to the general standard of care ~~enumerated in section 41A.09 provided in article 1.~~

Each member of the board is a fiduciary *and shall undertake all fiduciary activities in a manner consistent with article 1.* ~~No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:~~

(1) sale or exchange or leasing of any real property between the relief association and a board member;

(2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;

(3) furnishing of goods, services, or facilities between the relief association and a board member; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. ~~Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.~~

Sec. 47. Minnesota Statutes 1986, section 424A.04, subdivision 2, is amended to read:

Subd. 2. [FIDUCIARY DUTY.] It shall be the duty of The board of trustees to faithfully administer any provisions of statute or special law applicable to the relief association without prejudice and ~~any other fiduciary of the relief association shall undertake their activities consistent with the expressed intent of the legislature. The members of the board shall act as trustees with a fiduciary obligation to the state of Minnesota which authorized the creation of the relief association, to the taxpayers who aid in its financing, and to the firefighters who are its beneficiaries article 1.~~

Sec. 48. [490.021] [ADMINISTRATION OF VARIOUS JUDGES RETIREMENT PLANS.]

The Minnesota state retirement system shall administer the judges retirement plans established by sections 490.025 to 490.12 in accordance with article 1.

Sec. 49. Minnesota Statutes 1986, section 490.122, is amended to read:
490.122 [ADMINISTRATION OF JUDGES' RETIREMENT.]

The policymaking, management, and administrative functions governing

the operation of the judges' retirement fund and the administration of sections ~~490.025~~ 490.121 to 490.132 ~~shall be~~ are vested in the board of directors and executive director of the Minnesota state retirement system with such duties, authority, and responsibility as are provided in chapter 352. Except as otherwise specified, no provision of chapter 352 ~~shall apply~~ applies to the judges' retirement fund or any judge. *Fiduciary activities of the uniform retirement and survivors' annuities for judges must be undertaken in a manner consistent with article 1.*

Sec. 50. Minnesota Statutes 1986, section 490.123, subdivision 2, is amended to read:

Subd. 2. [TREASURER.] The state treasurer ~~shall be~~ is ex officio treasurer of the judges' retirement fund, and the treasurer's general bond to the state ~~shall must~~ be so conditioned as to cover all liability for acting as treasurer of this fund, *including liability imposed by article 1.* All ~~moneys~~ money received by the treasurer pursuant to this section ~~shall must~~ be set aside in the state treasury to the credit of the judges' retirement fund. The treasurer shall transmit monthly to the executive director described in section 352.03, subdivision 5, a detailed statement of all amounts so received and credited to the fund. The treasurer shall pay out the fund only on warrants issued by the commissioner of finance, upon vouchers signed by ~~said~~ the executive director; provided that vouchers for investment may be signed by the secretary of the state board of investment.

Sec. 51. [REPEALER.]

Minnesota Statutes 1986, sections 356.71 and 423.812, are repealed.

Sec. 52. [EFFECTIVE DATE.]

Sections 1 to 51 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; public pension plans; establishing, codifying, clarifying, and revising the obligations, responsibilities, and liabilities of public pension plan fiduciaries; amending Minnesota Statutes 1986, sections 11A.01; 11A.07, subdivision 4; 11A.08, subdivision 6; 11A.09; 11A.13, subdivision 1; 69.30; 69.77, subdivision 2g; 69.775; 136.80, subdivision 1; 136.84; 352C.091, subdivision 1; 352D.09, subdivision 1; 353.03, subdivision 1; 353.05; 353.06; 353.08; 353.68, subdivision 1; 354.06, subdivision 3; 354.07, subdivision 4; 354A.021, subdivision 6; 354A.08; 422A.05, subdivisions 2a, 2c, and 2d; 423.374; 423.45; 423.805; 423A.21, subdivision 4; 424.06; 424A.001, subdivision 7; 424A.04, subdivision 2; 490.122; and 490.123, subdivision 2; Minnesota Statutes 1987 Supplement, sections 11A.04; 352.03, subdivisions 1, 4, 6, 7, and 11; 352.05; 352.92, by adding a subdivision; 352.96, subdivision 3; 352B.03, subdivision 1; 352B.07; 353.03, subdivision 3a; 354.06, subdivisions 1 and 2a; and 354.07, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 3A and 490; proposing coding for new law as Minnesota Statutes, chapter 356A; repealing Minnesota Statutes 1986, sections 356.71; and 423.812."

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2417: A bill for an act relating to well abandonment; authorizing cost sharing funds; amending Minnesota Statutes 1986, sections 40.036, subdivision 1; 40.07, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 40.

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 1986, section 40.036, is amended by adding a subdivision to read:

Subd. 1a. [ABANDONED WELLS.] (a) The state board shall provide cost-sharing funds for sealing abandoned wells and properly abandoning wells that are not subject to the abandonment requirements under chapter 156A. The cost share contracts must be based on a 75 percent state cost-share for the project.

(b) The abandonment project must be implemented under procedures adopted by the state board that protects groundwater from further contamination from the well. The district board must certify the location of the wells that have been properly sealed with cost-share funds and forward the certification to the state board.

(c) The owner of a well that has been certified as being properly sealed is not liable for contamination of groundwater from the well that occurs after the well has been sealed.

Sec. 2. [40.0371] [COST-SHARING CONTRACTS TO SEAL ABANDONED WELLS.]

The board shall establish a program to share the cost of projects to identify and permanently seal abandoned wells. The abandoned wells projects must protect groundwater from pollution. The wells must be abandoned and sealed under chapter 156A.

Sec. 3. [40.0372] [STATEWIDE ASSESSMENT.]

The board shall assess geographical areas for a potential for groundwater pollution caused by abandoned wells. The assessment must include notice of the program and assessment that is published in newspapers of general circulation and opportunities for persons to report abandoned wells to the district board. Districts having staff trained in groundwater resources must assess areas within their districts, in cooperation with the board. The board shall provide financial and technical assistance to districts for projects that have been assessed as areas with a high potential for groundwater pollution caused by abandoned wells.

Sec. 4. [40.0373] [FINANCIAL AND TECHNICAL ASSISTANCE.]

Subdivision 1. [FINANCIAL ASSISTANCE.] (a) The board must allocate at least 70 percent of available well abandonment cost-sharing funds to districts to share the cost of identifying or properly sealing abandoned wells in high-priority areas. Areas must be selected based on statewide priorities established by the board.

(b) Remaining cost-sharing funds may be allocated to districts for administrative expenses, not exceeding 20 percent of the funds, and sealing wells

in lower-priority areas.

Subd. 2. [TECHNICAL ASSISTANCE.] The board may provide technical assistance to districts to efficiently and effectively develop and implement projects.

Sec. 5. [40.0374] [ELIGIBILITY FOR ASSISTANCE.]

Subdivision 1. [GENERALLY.] Only projects that are a part of, or responsive to, a district comprehensive or annual work plan are eligible for the assistance provided in section 4. After July 1, 1991, only projects that are a part of, or responsive to, a local water plan under chapter 110B or section 473.8785 are eligible for the assistance provided in section 4.

Subd. 2. [DOCUMENTS REQUIRED.] To be eligible for the assistance provided in section 4, a district must provide the board with:

- (1) an application prescribed by the board;*
- (2) evidence that the district has consulted the local health department in preparing the application;*
- (3) one of the following documents:*
 - (i) the comprehensive water plan authorized under chapter 110B;*
 - (ii) the county groundwater plan authorized under section 473.8785; or*
 - (iii) the district comprehensive or annual work plan that provides an inventory of existing physical and hydrologic information about the area, that provides general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement.*

Sec. 6. [40.0375] [BOARD REVIEW OF APPLICATIONS.]

Subdivision 1. [RANKING OF APPLICATIONS.] The district boards must rank applications for technical and financial assistance in order of priority and within the limits of available funding and grant applications with the highest priority.

Subd. 2. [RANKING CRITERIA.] The state board must by rule adopt appropriate criteria for the district boards to determine the priority of projects. The criteria used to rank projects must include:

- (1) current use of the affected aquifer or aquifers for water supply;*
- (2) projected water demand;*
- (3) availability of alternate sources of drinking water;*
- (4) proximity of potential contaminant sources;*
- (5) aquifer susceptibility to contamination;*
- (6) current contamination of the wells and the aquifer; and*
- (7) present and anticipated land use in the area.*

Sec. 7. [40.0376] [IMPLEMENTATION.]

Subdivision 1. [CONTRACTS BY DISTRICTS.] A district may contract on a cost-share basis to furnish financial aid to a land occupier to seal abandoned wells. Payment to a land occupier must not be made until the well, or wells, specified in the contract has been properly sealed by a licensed water well contractor.

Subd. 2. [REVIEW BY BOARD.] The board or its designated representative may inspect a project at any reasonable time and must audit the cost-sharing funds expended by the district.

Sec. 8. [40.0377] [RULES FOR COST-SHARING PROGRAM.]

The board, in consultation with the commissioner of the department of health, must adopt rules specifying:

(1) procedures and criteria for allocating funds to districts for cost-sharing contracts;

(2) standards and guidelines for all cost-sharing contracts;

(3) scope and content of comprehensive plans, plan amendments, and annual work plans which districts submit under section 40.07, subdivision 9;

(4) standards and methods necessary to plan and implement a priority cost-sharing program, including guidelines to identify high-priority areas;

(5) the share of the cost of sealing abandoned wells to be paid from cost-sharing funds; and

(6) requirements for districts to document their efforts to identify and contact land occupiers in high-priority areas.

Sec. 9. [APPROPRIATION.]

Subdivision 1. [BOARD OF WATER AND SOIL RESOURCES.] \$4,000,000 is appropriated from the general fund to the board of water and soil resources to be available until June 30, 1990, for:

(1) cost-share projects for well sealing \$

(2) conservation easements on susceptible recharge areas \$

(3) identification of susceptible recharge areas \$

Subd. 2. [DEPARTMENT OF NATURAL RESOURCES.] \$ is appropriated from the general fund to the commissioner of natural resources to identify wells on state property."

Amend the title as follows:

Page 1, line 3, after "funds" insert "and technical assistance" and after the semicolon, insert "determining susceptible groundwater recharge areas; appropriating money;" and delete "sections" and insert "section"

Page 1, line 4, delete "subdivision 1; 40.07,"

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 2046 for comparison with companion Senate File, reports the following House File was found not identical with 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.
2046	1931				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2046 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2046 and insert the language after the enacting clause of S.F. No. 1931, the first engrossment; further, delete the title of H.F. No. 2046 and insert the title of S.F. No. 1931, the first engrossment.

And when so amended H.F. No. 2046 will be identical to S.F. No. 1931, and further recommends that H.F. No. 2046 be given its second reading and substituted for S.F. No. 1931, 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.

SECOND READING OF SENATE BILLS

S.F. Nos. 2203, 2224, 2264, 2134, 1717, 2340, 2215, 1998, 2025, 2358, 2471, 2456, 1834, 1632, 2355, 2308, 1885, 1661, 1940, 2089, 1932, 1908, 2243, 1442, 1982, 2216, 1955, 1722, 1983, 1713, 2238, 2367, 2368, 2292, 2410, 2010, 2079, 2289, 2406, 1984, 2192, 1851, 308, 2104, 1553, 2107, 1615, 1871, 2119, 1879, 2451, 1830, 2278, 1790, 1735, 2257, 1675, 2156, 1532, 30, 1937, 2426, 2068, 2394, 2473, 2170, 2074, 2017 and 980 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1784, 1941, 2008, 2045, 1659, 1773 and 2046 were read the second time.

MOTIONS AND RESOLUTIONS

Ms. Reichgott moved that the name of Mr. Storm be added as a co-author to S.F. No. 1134. The motion prevailed.

Mr. Cohen moved that the name of Mr. Johnson, D.J. be added as a co-author to S.F. No. 1514. The motion prevailed.

Ms. Berglin moved that the name of Mr. Marty be added as a co-author to S.F. No. 1680. The motion prevailed.

Mrs. Lantry moved that the name of Mr. Marty be added as a co-author to S.F. No. 1857. The motion prevailed.

Mr. Wegscheid moved that the name of Mr. Beckman be added as a co-author to S.F. No. 1910. The motion prevailed.

Mr. Ramstad moved that his name be stricken as a co-author to S.F. No. 2124. The motion prevailed.

Mr. Pehler moved that the name of Mr. Bertram be added as a co-author to S.F. No. 2303. The motion prevailed.

Mr. Berg moved that his name be stricken as a co-author to S.F. No. 2317. The motion prevailed.

Mr. Samuelson moved that his name be stricken as a co-author to S.F. No. 2317. The motion prevailed.

Mr. Luther moved that the name of Mr. Hughes be added as a co-author to S.F. No. 2398. The motion prevailed.

Mr. Luther moved that the name of Mr. Ramstad be added as a co-author to S.F. No. 2426. The motion prevailed.

Mr. Chmielewski moved that the name of Mr. Pehler be added as a co-author to S.F. No. 2427. The motion prevailed.

Mr. Chmielewski moved that the name of Mr. Pehler be added as a co-author to S.F. No. 2428. The motion prevailed.

Mr. Merriam moved that the names of Messrs. Bernhagen, Berg and Stumpf be added as co-authors to S.F. No. 2444. The motion prevailed.

Mr. Chmielewski moved that the name of Mr. Pehler be added as a co-author to S.F. No. 2473. The motion prevailed.

Ms. Olson introduced—

Senate Resolution No. 122: A Senate resolution congratulating the Mound-Westonka High School Mohawks Wrestling Team for being a participant in the 1988 State High School Class AA Wrestling Tournament.

Referred to the Committee on Rules and Administration.

Mr. Dahl moved that S.F. No. 2399 be withdrawn from the Committee on Judiciary and re-referred to the Committee on Commerce. The motion prevailed.

Mr. Freeman moved that S.F. No. 2025, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Solon moved that S.F. No. 1940, on General Orders, be stricken and re-referred to the Committee on Education. The motion prevailed.

Mr. Benson moved that S.F. No. 1908, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Spear moved that S.F. No. 762 be withdrawn from the Committee on Judiciary and re-referred to the Committee on Rules and Administration. The motion prevailed.

Mr. Davis moved that S.F. No. 1998, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Ms. Berglin moved that S.F. No. 2463 be withdrawn from the Committee on Finance and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

CONSENT CALENDAR

H.F. No. 1884: A bill for an act relating to state lands; authorizing private conveyance of tax-forfeited land in Beltrami county.

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 57 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.J.	Moe, D.M.	Samuelson
Anderson	Davis	Jude	Moe, R.D.	Schmitz
Beckman	DeCramer	Knaak	Morse	Spear
Belanger	Diessner	Kroening	Novak	Storm
Benson	Frank	Langseth	Pehler	Stumpf
Berg	Frederick	Lantry	Peterson, D.C.	Taylor
Berglin	Frederickson, D.J.	Luther	Peterson, R.W.	Vickerman
Bernhagen	Frederickson, D.R.	Marty	Piper	Waldorf
Bertram	Freeman	McQuaid	Purfeerst	Wegscheid
Brandl	Gustafson	Mehrken	Ramstad	
Chmielewski	Hughes	Merriam	Reichgott	
Cohen	Johnson, D.E.	Metzen	Renneke	

So the bill passed and its title was agreed to.

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. Hughes reported that the committee had considered the following:

S.F. No. 1607 and H.F. No. 1740, which the committee recommends to pass.

S.F. No. 1623, which the committee recommends to pass with the following amendment offered by Mr. Morse:

Page 1, line 9, after "*deer*" insert ", *Odocoileus virginianus*,"

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.

INTRODUCTION AND FIRST-READING OF SENATE BILLS

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

Messrs. Beckman and Frank introduced—

S.F. No. 2496: A bill for an act relating to jobs and training; establishing demonstration projects to create housing for homeless people; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 268.

Referred to the Committee on Employment.

Messrs. Solon, Gustafson and Purfeerst introduced—

S.F. No. 2497: A bill for an act relating to taxation; income; excluding certain compensation for military services; amending Minnesota Statutes 1987 Supplement, section 290.01, subdivision 19b.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Solon, Gustafson and Purfeerst introduced—

S.F. No. 2498: A bill for an act relating to taxation; income; allowing a subtraction from federal taxable income for income from military services

performed outside Minnesota; amending Minnesota Statutes 1987 Supplement, section 290.01, subdivision 19b.

Referred to the Committee on Taxes and Tax Laws.

Mrs. Adkins introduced—

S.F. No. 2499: A bill for an act relating to health; excepting certain beds from the nursing home moratorium; amending Minnesota Statutes 1987 Supplement, section 144A.071, subdivision 3.

Referred to the Committee on Health and Human Services.

Mr. Cohen introduced—

S.F. No. 2500: A bill for an act relating to insurance; no-fault auto; clarifying eligibility for economic loss benefits; amending Minnesota Statutes 1986, sections 65B.51, subdivision 2; and 65B.64, subdivisions 2 and 3.

Referred to the Committee on Commerce.

Messrs. Ramstad and Johnson, D.E. introduced—

S.F. No. 2501: A bill for an act relating to crimes; requiring mandatory minimum terms of imprisonment for soliciting, inducing, or promoting prostitution or receiving profits derived from prostitution; amending Minnesota Statutes 1986, sections 609.322, by adding subdivisions; and 609.323, by adding subdivisions.

Referred to the Committee on Judiciary.

Mr. Chmielewski introduced—

S.F. No. 2502: A bill for an act relating to retirement benefits for volunteer firefighters; providing a state paid supplemental benefit; proposing coding for new law in Minnesota Statutes, chapter 424A.

Referred to the Committee on Governmental Operations.

Messrs. Decker, Anderson and Stumpf introduced—

S.F. No. 2503: A bill for an act relating to state lands; creating the Paul Bunyan Trail; authorizing the use of previously appropriated state bond revenues to purchase land for a state trail; appropriating money; amending Minnesota Statutes 1986, section 85.015, by adding a subdivision.

Referred to the Committee on Environment and Natural Resources.

Messrs. Samuelson and Jude introduced—

S.F. No. 2504: A bill for an act relating to taxation; income; excluding certain volunteer firefighters lump sum distributions; amending Minnesota Statutes 1987 Supplement, section 290.01, subdivision 19b.

Referred to the Committee on Taxes and Tax Laws.

Mr. Frederickson, D.J. introduced—

S.F. No. 2505: A resolution memorializing Congress to more fairly and equitably assign reimbursement rates to rural counties under TEFRA risk contracts under Medicare.

Referred to the Committee on Health and Human Services.

Mr. Pogemiller introduced—

S.F. No. 2506: A bill for an act relating to family law; regulating child support; proposing coding for new law in Minnesota Statutes, chapter 518.

Referred to the Committee on Health and Human Services.

Mr. Luther introduced—

S.F. No. 2507: A bill for an act relating to insurance; insurance adjusters; permitting homeowners to cancel contracts with a public adjuster under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 72B.

Referred to the Committee on Commerce.

Messrs. Morse, Langseth, Beckman, Wegscheid and DeCramer introduced—

S.F. No. 2508: A bill for an act relating to workers' compensation; abolishing the workers' compensation court of appeals and transferring jurisdiction of that court to the court of appeals; amending Minnesota Statutes 1986, section 480A.06, subdivision 4; repealing Minnesota Statutes 1986, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07, subdivisions 1, 3, and 4; 175A.08; 175A.09; and 175A.10; and Minnesota Statutes 1987 Supplement, section 175A.07, subdivision 2.

Referred to the Committee on Employment.

Messrs. Johnson, D.J. and Dicklich introduced—

S.F. No. 2509: A bill for an act relating to state agencies; authorizing the iron range resources and rehabilitation board to purchase fire insurance for facilities operated by the board; amending Minnesota Statutes 1986, section 15.38, by adding a subdivision.

Referred to the Committee on Economic Development and Housing.

Messrs. Johnson, D.J. and Dicklich introduced—

S.F. No. 2510: A bill for an act relating to taxation; authorizing the allocation of additional tax reductions for an enterprise zone; amending Minnesota Statutes 1987 Supplement, section 469.169, by adding a subdivision.

Referred to the Committee on Economic Development and Housing.

Messrs. Johnson, D.J. and Dicklich introduced—

S.F. No. 2511: A bill for an act relating to labor; providing for conformity with federal minimum wage; amending Minnesota Statutes 1987 Supplement, section 177.24, subdivision 1.

Referred to the Committee on Employment.

Mr. Johnson, D.J. introduced—

S.F. No. 2512: A bill for an act relating to taxation; sales and use; exempting used motor oil; exempting certain pollution control and other equipment used for hauling or processing used motor oils; amending Minnesota Statutes 1986, sections 297A.15, subdivision 5; and 297A.25, by adding subdivisions.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Marty and Luther introduced—

S.F. No. 2513: A bill for an act relating to metropolitan government; creating a legislative task force to monitor performance of metropolitan agencies in complying with certain laws; prescribing the contents of affirmative action plans for metropolitan agencies and a process for approval and reporting of those plans; requiring purchases from small businesses and businesses owned by socially or economically disadvantaged persons; amending Minnesota Statutes 1986, sections 473.141, subdivision 9, and by adding a subdivision; and 473.406, subdivisions 2, 5, 6, and 7; proposing coding for new law in Minnesota Statutes, chapters 3 and 473; repealing Minnesota Statutes 1986, section 473.556, subdivision 14.

Referred to the Committee on Governmental Operations.

Mr. Dahl introduced—

S.F. No. 2514: A bill for an act relating to agriculture; prohibiting the sale of irradiated foods; proposing coding for new law in Minnesota Statutes, chapter 31.

Referred to the Committee on Agriculture.

Mr. Gustafson introduced—

S.F. No. 2515: A bill for an act relating to the iron range resources and rehabilitation board; expanding its project area to include independent school district No. 704; amending Minnesota Statutes 1986, section 298.2211, subdivision 2.

Referred to the Committee on Economic Development and Housing.

Mr. Knutson introduced—

S.F. No. 2516: A bill for an act relating to metropolitan government; regulating the finances of the metropolitan council; amending Minnesota Statutes 1986, sections 473.13, subdivisions 1 and 4; and 473.249, subdivision 1.

Referred to the Committee on Local and Urban Government.

Mr. Belanger introduced—

S.F. No. 2517: A bill for an act relating to authorities; permitting a waiver of contractor's payment and performance bond on certain parking facilities; making chapter 514 applicable if waiver is permitted; amending Minnesota Statutes 1987 Supplement, sections 469.015, subdivision 4; and 469.068,

by adding a subdivision.

Referred to the Committee on Economic Development and Housing.

Mr. Frederickson, D.J. introduced—

S.F. No. 2518: A bill for an act relating to retirement benefits for volunteer firefighters; providing a state paid supplemental benefit; proposing coding for new law in Minnesota Statutes, chapter 424A.

Referred to the Committee on Governmental Operations.

Messrs. Novak, Berg, Lessard, Merriam and Bernhagen introduced—

S.F. No. 2519: A resolution memorializing the Congress of the United States to adequately fund the Fish and Wildlife Service.

Referred to the Committee on Environment and Natural Resources.

Mr. Chmielewski introduced—

S.F. No. 2520: A bill for an act relating to capital improvements; authorizing recovery of losses and expenses resulting from an arbitration award for a construction project at Ironworld; appropriating money.

Referred to the Committee on Economic Development and Housing.

Messrs. Beckman and Vickerman introduced—

S.F. No. 2521: A bill for an act relating to state government; eliminating the compensation council; repealing Minnesota Statutes 1986, section 15A.082.

Referred to the Committee on Governmental Operations.

Messrs. Waldorf and Wegscheid introduced—

S.F. No. 2522: A bill for an act relating to retirement; consolidating local police and salaried firefighters relief associations; providing a benefit increase for retirees and beneficiaries of consolidating relief associations; amending Minnesota Statutes 1987 Supplement, section 353A.08, subdivisions 1 and 2.

Referred to the Committee on Governmental Operations.

Mr. Gustafson, Mrs. Brataas, Messrs. Decker, Renneke and Bernhagen introduced—

S.F. No. 2523: A bill for an act relating to workers' compensation; regulating workers' compensation benefits and administration; regulating workers' compensation insurance; requiring certain reports relating to workers' compensation; amending Minnesota Statutes 1986, sections 79.251, subdivisions 2, 3, 4, and 5; 79.252, subdivision 1; 176.011, subdivisions 3 and 18, and by adding a subdivision; 176.021, subdivision 3; 176.061, subdivision 10; 176.101, subdivisions 1, 2, 4, and 5, and by adding a subdivision; 176.102, subdivisions 1, 7, and 11; 176.105, subdivision 1; 176.111, subdivisions 6, 7, 8, 12, 14, and 20; 176.131, subdivisions 1a, 2, 3, 4, and 5, and by adding a subdivision; 176.132, subdivisions 1 and 2; 176.645, subdivision 2; 176.66, subdivision 11; 480A.06, subdivision 4; Minnesota

Statutes 1987 Supplement, sections 176.102, subdivisions 3, 3a, and 4; 176.111, subdivisions 15 and 21; 176.131, subdivisions 1 and 8; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1986, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07, subdivisions 1, 3, and 4; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; and 176.101, subdivisions 3a to 3u and 6; Minnesota Statutes 1987 Supplement, section 175A.07, subdivision 2.

Referred to the Committee on Employment.

Mrs. Adkins and Mr. Metzen introduced—

S.F. No. 2524: A bill for an act relating to local government; changing a procedure for detachment and annexation of incorporated land; repealing Minnesota Statutes 1986, section 414.061, subdivision 5.

Referred to the Committee on Local and Urban Government.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 12:00 noon, Tuesday, March 15, 1988. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate