

## TWENTY-EIGHTH DAY

St. Paul, Minnesota, Thursday, April 6, 1989

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

Prayer was offered by the Chaplain, Rev. Fred Stroebel.

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

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

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. Langseth and Moe, R.D. were excused from the Session of today. Mr. Lessard was excused from the Session of today at 2:35 p.m.

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 4, 1989

The Honorable Jerome M. Hughes  
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 25.

Sincerely,  
Rudy Perpich, Governor

April 5, 1989

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 1989 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.	Time and Date Approved 1989	Date Filed 1989
25		19	1403 hours April 4	April 4
	27	20	1402 hours April 4	April 4
	14	21	1401 hours April 4	April 4

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 227: A bill for an act relating to health; enacting the uniform determination of death act; proposing coding for new law in Minnesota Statutes, chapter 145.

Senate File No. 227 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 3, 1989

Mr. Luther moved that S.F. No. 227 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 707, 770, 489, 520 and 1056.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 3, 1989

### FIRST READING OF HOUSE BILLS

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

H.F. No. 707: A bill for an act relating to horse racing; allowing a licensed racetrack to conduct pari-mutuel betting on televised races on days when races are not conducted at the licensed racetrack; allowing the licensed racetrack to commingle pari-mutuel pools with the sending racetrack; amending Minnesota Statutes 1988, sections 240.01, subdivision 10, and by adding a subdivision; 240.10; 240.13, subdivisions 1, 3, 6, and by adding a subdivision; 240.14, by adding a subdivision; and 240.29.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 588, now on General Orders.

H.F. No. 770: A bill for an act relating to state lands; directing conveyance of a certain tract in Beltrami county.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 740, now on General Orders.

H.F. No. 489: A bill for an act relating to employment; regulating fair share fees, unfair labor practices, arbitration procedures and grievance procedures; amending Minnesota Statutes 1988, sections 179.02, by adding a subdivision; 179A.03, subdivision 7; 179A.05, subdivision 6; 179A.06, subdivision 3; 179A.13, subdivision 1; 179A.14, subdivision 1; 179A.16, subdivisions 1, 2, 3, and 4; and 179A.20, subdivision 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1260.

H.F. No. 520: A bill for an act relating to state government; permitting additional types of payroll deductions for state employees; proposing coding for new law in Minnesota Statutes, chapter 16A.

Referred to the Committee on Governmental Operations.

H.F. No. 1056: A bill for an act relating to utilities; regulating noncompetitive and competitive telephone services; amending Minnesota Statutes 1988, sections 237.07; 237.081; 237.295, subdivisions 1 and 2; 237.57, subdivision 1; 237.58, subdivision 1; 237.59, subdivisions 1, 2, 3, and 6; 237.60, subdivisions 1 and 2; 237.62, subdivisions 1 and 2, and by adding a subdivision; 237.63, subdivision 1, and by adding subdivisions; and 237.64, subdivisions 1 and 2; Laws 1987, chapter 340, section 26; proposing coding for new law in Minnesota Statutes, chapter 237; repealing Minnesota Statutes 1988, sections 237.075, subdivision 1a; and 237.081, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 901, now on General Orders.

## REPORTS OF COMMITTEES

Mr. Luther moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 262. The motion prevailed.

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

S.F. No. 1060: A bill for an act relating to utilities; providing for assessment of costs related to certain certificate of need applications; proposing coding for new law in Minnesota Statutes, chapter 216B.

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. 1144: A bill for an act relating to Anoka county; permitting the appointment of the auditor, recorder, and treasurer; authorizing the reorganization of county offices.

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. 500: A bill for an act relating to Olmsted county; exempting the county from operation of a public morgue.

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. 1106: A bill for an act relating to adoption; changing the minimum age at which an adopted person may request original birth certificate information; changing time periods during which birth parents may consent to disclosure; authorizing disclosure of information on the consenting parent when only one birth parent consents; amending Minnesota Statutes 1988, section 259.49, subdivisions 1, 2, and 4.

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

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

S.F. No. 832: A bill for an act relating to employment; providing training and employment for low-income seniors; creating a hospitality host older worker tourism promotion program; prescribing duties for the commissioner of the department of jobs and training; proposing coding for new law in Minnesota Statutes, chapter 268.

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

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

S.F. No. 1270: A bill for an act relating to unemployment compensation; making various technical corrections; amending Minnesota Statutes 1988, sections 268.04, subdivisions 12 and 25; 268.06, subdivisions 1, 8a, and 28; 268.07, subdivisions 2 and 3; 268.09, subdivision 1; 268.10, subdivisions 1 and 2; 268.12, subdivision 12; 268.16, subdivision 4; 268.162, subdivision 1; 268.163, subdivision 1; and 268.165, subdivisions 1 and 2.

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. 856: A bill for an act relating to housing; expanding the Minnesota housing financing agency's shared housing program to include handicapped persons; authorizing the provision of technical assistance to sponsors; appropriating money; amending Minnesota Statutes 1988, section 462A.05, subdivision 24.

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

Page 1, line 9, delete "426A.05" and insert "462A.05"

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

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

S.F. No. 526: A bill for an act relating to housing; establishing a home equity conversion loan counseling program for senior homeowners; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 462A.

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

Page 2, line 5, delete "and"

Page 2, line 6, delete the period and insert "; and

(5) review alternatives to home equity conversion loans."

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

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

S.F. No. 119: A bill for an act relating to local government; authorizing towns to establish subordinate service districts; proposing coding for new law as Minnesota Statutes, chapter 365B.

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. 695: A bill for an act relating to education; requiring school boards to report certain teacher discharges and resignations to the board of teaching; providing for immunity from liability; amending Minnesota Statutes 1988, section 125.09, by adding subdivisions.

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

Page 1, line 17, delete "who" and insert "when a teacher is suspended or"

Page 1, line 20, after "discharge" insert ", suspension."

Page 2, line 5, after "*faith*" insert "*and with due care*"

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. 506: A bill for an act relating to gambling; creating a division of gaming enforcement; providing for its powers and duties; changing size and membership of charitable gambling control board; making changes in the manner in which charitable gambling is conducted; requiring audits; changing the requirement relating to distributors and manufacturers of gambling equipment; appropriating money; amending Minnesota Statutes 1988, sections 10A.01, subdivision 18; 15A.081, subdivision 1; 240.02, subdivision 1; 240.06, subdivision 3; 240.07, subdivision 2; 240.08, subdivision 3; 240.21; 349.11; 349.12, subdivisions 3, 11, 12, 13, 15, 17, 20, and by adding subdivisions: 349.15; 349.151; 349.16, subdivision 4; 349.161; 349.162; 349.163; 349.164; 349.17, subdivision 2a; 349.18, subdivision 1, and by adding a subdivision; 349.19, subdivisions 2, 3, 6, and by adding subdivisions: 349.20; 349.21; 349.212, subdivision 1, and by adding subdivisions: 349.2121, subdivisions 2 and 3; 349.2122; 349.2125, subdivisions 1, 2, and 3; 349.2127, subdivision 2; 349.213, subdivision 2; 349.214, subdivision 2; and 349.22, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 349; proposing coding for new law as Minnesota Statutes, chapter 299K; repealing Minnesota Statutes 1988, sections 349.151, subdivisions 3 and 5; 349.212, subdivisions 2 and 4; and 349.2121, subdivision 4.

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

Page 3, line 32, after "*the*" insert "*regulated business*" and delete everything after "*premises*" and insert "*, and may conduct the*"

Page 3, line 34, after the period, insert "*For purposes of this subdivision, 'regulated business premises' means premises where:*

(1) *lawful gambling is conducted by an organization licensed under chapter 349 or by an organization exempt from licensing under section 349.214;*

(2) *gambling equipment is manufactured, sold, distributed, or serviced by a manufacturer or distributor licensed under chapter 349;*

(3) *records required to be maintained under chapter 240, 349, or 349A are prepared or retained;*

(4) *lottery tickets are sold by a lottery retailer under chapter 340A; or*

(5) *races are conducted by a person licensed under chapter 240."*

Page 3, line 36, delete "*any*" and insert "*an*"

Page 4, line 14, after the third "*a*" insert "*gambling*"

Page 4, line 18, delete "*violates*" and insert "*is suspected of violating*"

Page 4, line 19, delete "*commits*" and insert "*is suspected of committing*"

Page 4, lines 28, 29, and 33, after "*of*" insert "*not more than*"

Page 4, line 35, after the first "*of*" insert "*not more than*"

Page 5, line 29, delete “any” and insert “*a direct or indirect financial*”

Page 6, after line 3, insert:

“Sec. 5. [299K.05] [GAMBLING VIOLATIONS; RESTRICTIONS ON FURTHER ACTIVITY.]

*An owner of an establishment is prohibited from having lawful gambling under chapter 349 conducted on the premises, selling any lottery tickets under chapter 349A, or having a video game of chance as defined under section 349.50 located on the premises, if a person was convicted of violating section 609.76, subdivision 1, clause (7), for an activity occurring on the owner's premises.*

Sec. 6. Minnesota Statutes 1988, section 609.76, subdivision 1, is amended to read:

Subdivision 1. [GROSS MISDEMEANORS.] Whoever does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both:

(1) maintains or operates a gambling place or operates a bucket shop;

(2) intentionally participates in the income of a gambling place or bucket shop;

(3) conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;

(4) sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;

(5) with intent that it shall be so used, manufactures, sells or offers for sale, in whole or any part thereof, any gambling device including those defined in section 349.30, subdivision 2, and any facility for conducting a lottery, except as provided by section 349.40; ~~or~~

(6) receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so; *or*

(7) *pays any compensation for game credits earned on or otherwise rewards players of video games of chance as defined under section 349.50, subdivision 8.”*

Page 6, line 5, delete “4” and insert “5” and after the period, insert “*Section 6 is effective July 1, 1989, and applies to crimes committed on or after that date.*”

Renumber the sections of article 1 in sequence

Page 32, delete lines 28 to 31 and insert:

“(b) *A person, other than a licensed distributor, a licensed organization, or an exempt organization under section 349.214, may not possess with the intent to sell, pull-tabs or tipboards that are stamped in accordance with the provisions of this chapter, except for pull-tabs or tipboards to be sold by a licensed or exempt organization.*”

Page 34, line 36, delete the new language

Page 35, line 1, delete the new language and insert “, *or a combination of more than ten deals of pull-tabs or tipboards.*”

Amend the title as follows:

Page 1, line 8, after the semicolon, insert "increasing the penalty for paying off on video games of chance;"

Page 1, line 22, delete "and"

Page 1, line 23, after the semicolon, insert "and 609.76, subdivision 1;"

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

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

S.F. No. 1082: A bill for an act relating to administrative procedure; clarifying the applicability of the requirement that agencies consider the impact of proposed rules on small business; amending Minnesota Statutes 1988, section 14.115, subdivision 7.

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

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

S.F. No. 489: A bill for an act relating to human services; clarifying and expanding the duties of the ombudsman for older Minnesotans; appropriating money; amending Minnesota Statutes 1988, sections 256.974; 256.9741, subdivisions 3 and 5, and by adding a subdivision; 256.9742; 256.9744, subdivision 1; and 256.975, 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. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 773: A bill for an act relating to the city of Roseville; authorizing the city to use certain taxes to establish and operate a sports and recreation facility.

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

Page 1, delete lines 6 to 10 and insert:

"Section 1. [CITY OF ROSEVILLE; LODGING TAX.]

*The city of Roseville may impose a lodging tax of up to two percent on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of 30 days or more, located in the city. The tax shall be collected as provided in Minnesota Statutes, section 469.190, subdivision 7. The proceeds of the tax may be used to finance a sports and recreation facility. The sum of the rate of the tax imposed under this section and the tax imposed by the city of Roseville under Minnesota Statutes, section 469.190, shall not exceed three percent."*



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

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

S.F. No. 808: A bill for an act relating to credit unions; authorizing the elimination or limitation of a director's liability in certain circumstances; amending Minnesota Statutes 1988, section 52.09, by adding a subdivision.

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

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

S.F. No. 1302: A resolution memorializing the Board of Governors of the Federal Reserve Board to reject amendments to its rules that would govern permissible activities of state-chartered banks.

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

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

S.F. No. 789: A bill for an act relating to child care; amending certain provisions of the child care fund; amending provisions of the child care resource and referral grant program; amending provisions of the child care services grant program; amending Minnesota Statutes 1988, sections 256H.01, subdivisions 1, 2, 7, 8, 11, and 12; 256H.02; 256H.03; 256H.05; 256H.07; 256H.08; 256H.09; 256H.10, subdivision 3, and by adding a subdivision; 256H.11; 256H.12; 256H.13; 256H.15; 256H.18; and 256H.20, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 256H; repealing Minnesota Statutes 1988, sections 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 256H.04; 256H.05, subdivision 4; 256H.06; and 256H.07, subdivision 4.

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

Page 2, lines 12 and 25, delete "*federal reimbursement programs*" and insert "*other programs that provide federal reimbursement for child care services*"

Page 3, lines 31 and 32, delete "*federal reimbursement programs*" and insert "*programs that provide federal reimbursement for child care services*"

Page 3, line 36, delete "*federal*"

Page 4, line 1, delete "*reimbursement programs*" and insert "*programs that provide federal reimbursement for child care services*"

Page 4, lines 4 and 5, delete "*federal reimbursement programs*" and insert "*programs that provide federal reimbursement for child care services*"

Page 5, line 19, after "*recent*" insert "*census or*"

Page 5, line 22, delete "*caseloads of AFDC for the preceding*" and insert "*each county's portion of the AFDC caseload for the preceding state fiscal*"

Page 5, line 27, delete "*are*" and insert "*is*"

Page 6, line 1, delete "may" and insert "shall"

Page 6, line 2, delete "reimburse" and insert "pay"

Page 6, line 3, after "expenses" insert "on a reimbursement basis"

Page 6, delete lines 4 to 14 and insert:

*"Subd. 2b. [FUNDING PRIORITY.] (a) First priority for child care assistance under the basic sliding fee program must be given to eligible recipients who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment. Priority for child care assistance under the basic sliding fee program must be given to non-AFDC families for this first priority unless a county can demonstrate that funds available in the AFDC child care program allocation are inadequate to serve all AFDC families needing child care services. Within this priority, the following subpriorities must be used:*

*(1) child care needs of minor parents;*

*(2) child care needs of parents under 21 years of age; and*

*(3) child care needs of other parents within the priority group described in this paragraph.*

*(b) Second priority must be given to all other parents who are eligible for the basic sliding fee program."*

Page 7, line 9, after "preceding" insert "state"

Page 7, line 11, strike "March" and insert "December"

Page 7, line 12, before "fiscal" insert "state"

Page 7, line 24, delete everything after "employment" and insert a period

Page 7, delete line 25

Page 7, line 26, delete the paragraph coding

Page 7, line 28, after the period, insert *"If a family meets the eligibility requirements of the AFDC child care program and the parent or legal guardian has an approved employability plan that meets the requirements of appropriate federal reimbursement programs, that family is eligible for child care assistance."*

Page 8, line 4, delete "are to" and insert "must"

Page 8, line 16, delete the new language and strike "for"

Page 8, line 17, delete "If a"

Page 8, delete lines 18 to 21

Page 9, delete lines 18 to 24

Page 10, line 10, after "funds" insert *"under an agreement between the commissioner of human services and the designated administering agency, using the sliding fee scale developed by the commissioner of human services"*

Page 10, line 13, strike "for"

Page 10, lines 14 and 15, delete the new language

Page 10, line 23, delete "a" and after "public" insert *"and private nonprofit"*

Page 11, line 23, strike "If by May 15 of any year" and delete "non-"

Page 11, lines 24 and 25, delete the new language and strike the old language

Page 11, line 26, strike "the money"

Page 11, line 27, strike "to the counties."

Page 15, line 4, before "The" insert "*The commissioner shall notify counties within 60 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan.*"

Page 15, line 33, after the stricken "money," insert "*Counties that have established a priority must submit the policy in the annual allocation plan.*"

Page 16, line 4, after the period, insert "*Counties may require a parent to sign a release stating their knowledge and responsibilities in choosing a legal provider described under section 256H.01, subdivision 12. When a county knows that a particular provider is unsafe, or that the circumstances of the child care arrangement chosen by the parent are unsafe, the county may deny a child care subsidy. A county may not restrict access to a general category of provider allowed under section 256H.01, subdivision 12.*"

Page 17, line 34, after "rate" insert "*in that county*"

Page 17, line 35, strike "in that county" and insert "*for all types of care, including special needs and handicapped care,*"

Page 19, line 11, delete "start-up" and insert "start up"

Page 20, line 14, strike "have" and insert "make"

Page 20, line 23, after "to" insert "*employers and*"

Page 20, line 24, strike "and employers"

Page 22, line 2, delete "and"

Page 22, line 3, after "provider" insert "*, or a person who meets the standards established by the state board of education*"

Page 22, line 9, after "facility" insert "*or a child care program under the jurisdiction of the state board of education*"

Page 22, lines 15 and 16, delete "*following receipt of state licensing by*" and insert "*after*"

Page 22, line 17, after "center" insert "*becomes licensed or satisfies standards of the state board of education*"

Page 23, line 6, delete "*a child care worker needs to*"

Page 23, line 7, after "requirements" insert "*or requirements of the state board of education*"

Page 23, line 35, delete "*that the number*"

Page 23, line 36, delete "*is*"

Page 24, line 3, delete "*that the number*"

Page 24, line 4, delete "*is*"

Page 24, delete lines 21 to 31 and insert:

*"Subd. 3. [REGIONAL GRANT REVIEW COMMITTEES.] In each development region with a regional development commission, the commission shall appoint a child care advisory committee under section 462.394. In each region with no regional development commission, each county in the region shall designate a representative to a regional child care advisory committee. People appointed under this subdivision must be parents of children in child care, providers of child care, or citizens with a demonstrated interest in child care issues. Regional committees shall review and make recommendations to the commissioner on applications for grants under this section. Committee members may be reimbursed for their actual travel expenses for up to six committee meetings per year. Regional committees shall complete their reviews and forward their recommendations to the commissioner by the date set under subdivision 1."*

Page 25, line 5, delete "counties must give"

Page 25, line 6, after "priority" insert "must be given"

Page 27, after line 3, insert:

*"Subd. 10. [ADVISORY TASK FORCE.] The commissioner shall convene a statewide advisory task force which shall advise the commissioner on grants and other child care issues. Each regional grant review committee formed under subdivision 3 shall appoint a representative to the advisory task force. The commissioner may convene meetings of the task force as needed but shall convene no fewer than six meetings per year. Terms of office and removal from office are governed by the appointing body. The commissioner may compensate members for their expenses of travel to meetings of the task force."*

Page 29, line 1, after the period, insert "The commissioner shall reimburse licensed child care providers for one-half of the direct cost of accreditation (upon successful completion of accreditation) and shall develop a short form and an abbreviated procedure for renewing the license of an accredited provider."

Page 29, line 4, delete "July 1, 1988" and insert "January 1, 1990"

Page 29, after line 28, insert:

"Sec. 26. [256H.26] [CHILD CARE INFORMATION SERVICE.]

*The commissioner shall establish, on a pilot project basis, a toll-free information service for child care providers, potential providers, and parents to assist callers to find existing child care services at the state or local level and to facilitate expansion and marketing of child care services. The telephone must be staffed during regular business hours to respond promptly to questions and concerns. The information and assistance must be made available free to all callers. The commissioner shall report to the legislature by January 1, 1991, on the effectiveness of this service and shall recommend how and by whom the operation should be administered. The commissioner shall consult with local resource and referral agencies, both public and private, in making its recommendations.*

Sec. 27. [APPROPRIATIONS.]

*For the biennium ending June 30, 1991, funds received by the commissioner in license fees for group day centers licensed under Minnesota Rules, parts 9503.0005 to 9503.0170, are reappropriated to the commissioner of human services for purposes of funding child care information services*

*under section 26."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "appropriating money:"

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. 746: A bill for an act relating to human services; amending the comprehensive mental health act; establishing a mental health system for adults and for children; requiring case management; establishing mental health interagency coordinating councils; establishing task forces; allowing fees for mental health services; requiring family community support services and home-based family treatment; amending Minnesota Statutes 1988, sections 245.461; 245.462; 245.463, subdivision 2; 245.464; 245.465; 245.466, subdivisions 1, 2, 5, and 6; 245.467, subdivisions 3, 4, and 5; 245.468; 245.469; 245.470, subdivision 1; 245.472, subdivision 1, and by adding a subdivision; 245.473, subdivision 1; 245.474; 245.476, subdivisions 1 and 3, and by adding a subdivision; 245.477; 245.478, subdivisions 2 and 3; 245.479; 245.48; 245.482; 245.483; 245.484; 245.485; 245.486; 245.62, subdivisions 2, 3, and 4; 245.696, subdivision 2; 245.697, subdivision 2a; 245.713, subdivision 2; and 245.73, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 245; repealing Minnesota Statutes 1988, sections 245.462, subdivision 25; 245.471; 245.475; 245.61; 245.64; and 245.698.

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 1988, section 245.461, is amended to read:

245.461 [POLICY AND CITATION.]

Subdivision 1. [CITATION.] Sections 245.461 to 245.486 may be cited as the "Minnesota comprehensive *adult* mental health act."

Subd. 2. [MISSION STATEMENT.] The commissioner shall create and ensure a unified, accountable, comprehensive *adult* mental health service system that:

(1) recognizes the right of ~~people~~ *adults* with mental illness to control their own lives as fully as possible;

(2) promotes the independence and safety of ~~people~~ *adults* with mental illness;

(3) reduces chronicity of mental illness;

(4) ~~reduces~~ *eliminates* abuse of ~~people~~ *adults* with mental illness;

(5) provides services designed to:

(i) increase the level of functioning of ~~people~~ *adults* with mental illness or restore them to a previously held higher level of functioning;

- (ii) stabilize ~~individuals~~ *adults* with mental illness;
- (iii) prevent the development and deepening of mental illness;
- (iv) support and assist ~~individuals~~ *adults* in resolving ~~emotional~~ *mental health* problems that impede their functioning;
- (v) promote higher and more satisfying levels of emotional functioning; and
- (vi) promote sound mental health; and

(6) provides a quality of service that is effective, efficient, appropriate, and consistent with contemporary professional standards in the field of mental health.

Subd. 3. [REPORT.] By February 15, 1988, and annually after that until February 15, 1990, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

Sec. 2. Minnesota Statutes 1988, section 245.462, is amended to read:  
245.462 [DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] The definitions in this section apply to sections 245.461 to 245.486.

Subd. 2. [ACUTE CARE HOSPITAL INPATIENT TREATMENT.] "Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.

Subd. 3. [CASE MANAGEMENT ~~ACTIVITIES SERVICES~~.] "Case management ~~activities services~~" means activities that are coordinated with the community support services program as defined in subdivision 6 and are designed to help ~~people~~ *adults* with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services as they relate to the client's mental health needs. Case management ~~activities services~~ include developing a functional assessment, an individual community support plan, referring and assisting the person to obtain needed mental health and other services, ensuring coordination of services, and monitoring the delivery of services.

Subd. 4. [CASE MANAGER.] (a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide the case management ~~activities services~~ specified in ~~subdivision 3~~ and sections 245.471 and 245.475. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to ~~persons~~ *adults* with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to ~~persons~~ *adults* with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of

~~persons~~ *adults* with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

*(b) Until June 30, 1991, a refugee who does not have the qualifications specified in this subdivision may provide case management services to adult refugees with serious and persistent mental illness who are members of the same ethnic group as the refugee case manager if the refugee:*

*(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;*

*(2) completes 40 hours of training as specified in this subdivision; and*

*(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.*

*Subd. 4a. [CLINICAL SUPERVISION.] "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full- or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and by entries in the client's record regarding supervisory activities.*

*Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of human services.*

*Subd. 6. [COMMUNITY SUPPORT SERVICES PROGRAM.] "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help ~~people~~ *adults* with serious and persistent mental illness to function and remain in the community. A community support services program includes:*

- (1) client outreach,*
- (2) medication ~~management~~ monitoring,*
- (3) assistance in independent living skills,*
- (4) development of employability and ~~supportive work~~ work-related opportunities,*
- (5) crisis assistance,*
- (6) psychosocial rehabilitation,*
- (7) help in applying for government benefits, and*
- (8) the development, identification, and monitoring of living arrangements.*

*The community support services program must be coordinated with the case management ~~activities~~ services specified in ~~subdivision 3 and sections 245.474 and 245.475~~ section 245.4711.*

*Subd. 7. [COUNTY BOARD.] "County board" means the county board*

of commissioners or board established pursuant to the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.

Subd. 8. [DAY TREATMENT SERVICES.] "Day treatment services" means a structured program of intensive therapeutic and rehabilitative services at least one day a week for a minimum three-hour time block that is provided within a group setting by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment services are not a part of inpatient or residential treatment services, but may be part of a community support services program." "day treatment services," or "day treatment program" means a structured program of treatment and care provided to an adult in: (1) an outpatient hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55; (2) a community mental health center under section 245.62; or (3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4711, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475. Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided at least one day a week for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. The purpose of the services is to stabilize the adult's mental health status and develop and improve the adult's independent living and socialization skills, with the goal of reducing or relieving mental illness and enabling the adult to live in the community. Day treatment services are not a part of inpatient or residential treatment services. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services.

Subd. 9. [DIAGNOSTIC ASSESSMENT.] "Diagnostic assessment" means a written summary of the history, diagnosis, strengths, vulnerabilities, and general service needs of a ~~person~~ *an adult* with mental illness using diagnostic, interview, and other relevant mental health techniques provided by a mental health professional used in developing an individual treatment plan or individual community support plan.

Subd. 10. [EDUCATION AND PREVENTION SERVICES.] "Education and prevention services" means services designed to educate the general public or special high-risk target populations about mental illness, to increase the understanding and acceptance of problems associated with mental illness, to increase people's awareness of the availability of resources and services, and to improve people's skills in dealing with high-risk situations known to affect people's mental health and functioning. *The services include the distribution of information to individuals and agencies, identified by the county board and the local mental health advisory council, on predictors and symptoms of mental illness, where mental health services are available in the county, and how to gain access to the services.*

Subd. 11. [EMERGENCY SERVICES.] "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for persons having a psychiatric crisis, *a mental health crisis*, or emergency.

Subd. 11a. [FUNCTIONAL ASSESSMENT.] "*Functional assessment*" means an assessment by the case manager of the adult's:

(1) *mental health symptoms as presented in the adult's diagnostic assessment;*



- (2) *mental health needs as presented in the adult's diagnostic assessment;*
- (3) *use of drugs and alcohol;*
- (4) *vocational and educational functioning;*
- (5) *social functioning, including the use of leisure time;*
- (6) *interpersonal functioning, including relationships with the adult's family;*
- (7) *self-care and independent living capacity;*
- (8) *medical and dental health;*
- (9) *financial assistance needs;*
- (10) *housing and transportation needs; and*
- (11) *other needs and problems.*

Subd. 12. [INDIVIDUAL COMMUNITY SUPPORT PLAN.] "Individual community support plan" means a written plan developed by a case manager on the basis of a diagnostic assessment *and functional assessment*. The plan identifies specific services needed by a ~~person~~ *an adult* with serious and persistent mental illness to develop independence or improved functioning in daily living, health and medication management, social functioning, interpersonal relationships, financial management, housing, transportation, and employment.

Subd. 13. [INDIVIDUAL PLACEMENT AGREEMENT.] "Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of an individual ~~client~~ *adult* to provide residential treatment services.

Subd. 14. [INDIVIDUAL TREATMENT PLAN.] "Individual treatment plan" means a written plan of intervention, treatment, and services for a ~~person~~ *an adult* with mental illness that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individual responsible for providing treatment to the ~~person~~ *adult* with mental illness.

Subd. 15. [LOCAL MENTAL HEALTH PROPOSAL.] "Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.463.

Subd. 16. [MENTAL HEALTH FUNDS.] "Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Subd. 17. [MENTAL HEALTH PRACTITIONER.] "Mental health practitioner" means a person providing services to persons with mental illness who is qualified in at least one of the following ways:

- (1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and has at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness;

(2) has at least 6,000 hours of supervised experience in the delivery of services to persons with mental illness;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of mental illness.

Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse ~~with a master's degree in one of the behavioral sciences or related fields from an accredited college or university or its equivalent~~, who is licensed under sections 148.171 to 148.285, ~~with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness and who is certified as a clinical specialist by the American nurses association~~;

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Subd. 19. [MENTAL HEALTH SERVICES.] "Mental health services" means at least all of the treatment services and case management activities that are provided to ~~persons~~ *adults* with mental illness and are described in sections 245.461 to 245.486.

Subd. 20. [MENTAL ILLNESS.] (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-~~MD~~ *DSM-MD*), current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

(b) ~~A "person~~ An "adult with acute mental illness" means a ~~person~~ *adult* who has a mental illness that is serious enough to require prompt

intervention.

(c) For purposes of case management and community support services, a “person with serious and persistent mental illness” means a ~~person~~ *an adult* who has a mental illness and meets at least one of the following criteria:

(1) the ~~person~~ *adult* has undergone two or more episodes of inpatient care for a mental illness within the preceding 24 months;

(2) the ~~person~~ *adult* has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months’ duration within the preceding 12 months;

(3) the ~~person~~ *adult*:

(i) has a diagnosis of schizophrenia, bipolar disorder, major depression, or borderline personality disorder;

(ii) indicates a significant impairment in functioning; and

(iii) has a written opinion from a mental health professional stating that the ~~person~~ *adult* is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless an ongoing community support services program is provided; or

(4) the ~~person~~ *adult* has been committed by a court as a mentally ill person under chapter 253B, or the ~~person’s~~ *adult’s* commitment has been stayed or continued.

Subd. 21. [OUTPATIENT SERVICES.] “Outpatient services” means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to ~~persons~~ *adults* with a mental illness who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Subd. 22. [REGIONAL TREATMENT CENTER INPATIENT SERVICES.] “Regional treatment center inpatient services” means the *24-hour-a-day comprehensive* medical, nursing, or psychosocial services provided in a regional treatment center operated by the state.

Subd. 23. [RESIDENTIAL TREATMENT.] “Residential treatment” means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center *inpatient unit*, that must be licensed as a residential treatment *facility program* for ~~persons~~ *adults* with mental illness under Minnesota Rules, parts 9520.0500 to 9520.0690 ~~for adults, 9545.0900 to 9545.1090 for children~~, or other ~~rule~~ *rules* adopted by the commissioner.

Subd. 24. [SERVICE PROVIDER.] “Service provider” means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides *adult* mental health services funded by sections 245.461 to 245.486.

Subd. 25. [CLINICAL SUPERVISION.] “Clinical supervision” means the oversight responsibility for individual treatment plans and individual service delivery, including that provided by the case manager. Clinical

~~supervision must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and by entries in the client's record regarding supervisory activities.~~

Sec. 3. Minnesota Statutes 1988, section 245.463, subdivision 2, is amended to read:

Subd. 2. [TECHNICAL ASSISTANCE.] The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section ~~245.479~~ 245.478, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of ~~persons~~ *adults* with mental illness residing in the county and extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

Sec. 4. Minnesota Statutes 1988, section 245.464, is amended to read:  
245.464 [COORDINATION OF MENTAL HEALTH SYSTEM.]

Subdivision 1. ~~[SUPERVISION COORDINATION.]~~ The commissioner shall supervise the development and coordination of locally available *adult* mental health services by the county boards in a manner consistent with sections 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area. The commissioner shall review local mental health service proposals developed by county boards as specified in section 245.463 and provide technical assistance to county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's *adult* mental health proposals, ~~quarterly reports,~~ and other information as required by sections 245.461 to 245.486.

Subd. 2. [PRIORITIES.] By January 1, 1990, the commissioner shall require that each of the treatment services and management activities described in sections 245.469 to 245.477 are developed for ~~persons~~ *adults* with mental illness within available resources based on the following ranked priorities:

- (1) the provision of locally available emergency services;
- (2) the provision of locally available services to all ~~persons~~ *adults* with serious and persistent mental illness and all ~~persons~~ *adults* with acute mental illness;
- (3) the provision of specialized services regionally available to meet the special needs of all ~~persons~~ *adults* with serious and persistent mental illness and all ~~persons~~ *adults* with acute mental illness;
- (4) the provision of locally available services to ~~persons~~ *adults* with other mental illness; and
- (5) the provision of education and preventive mental health services targeted at high-risk populations.

Sec. 5. Minnesota Statutes 1988, section 245.465, is amended to read:  
245.465 [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

(1) develop and coordinate a system of affordable and locally available *adult* mental health services in accordance with sections 245.461 to 245.486;

(2) provide for case management services to ~~persons~~ *adults* with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; ~~245.471; 245.475 245.4711; and~~ 245.486;

(3) provide for screening of ~~persons~~ *adults* specified in section 245.476 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center; ~~and~~

(4) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486; *and*

(5) *assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services have experience and training in working with adults with mental illness.*

Sec. 6. Minnesota Statutes 1988, section 245.466, subdivision 1, is amended to read:

Subdivision 1. [DEVELOPMENT OF SERVICES.] The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable *adult* mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987, to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and the local mental health services proposal approved by the commissioner under section 245.478.

Sec. 7. Minnesota Statutes 1988, section 245.466, subdivision 2, is amended to read:

Subd. 2. [ADULT MENTAL HEALTH SERVICES.] The *adult* mental health service system developed by each county board must include the following services:

(1) education and prevention services in accordance with section 245.468;

(2) emergency services in accordance with section 245.469;

(3) outpatient services in accordance with section 245.470;

(4) community support program services in accordance with ~~sections~~

~~245.471 and 245.475~~ section 245.4711;

(5) residential treatment services in accordance with section 245.472;

(6) acute care hospital inpatient treatment services in accordance with section 245.473;

(7) regional treatment center inpatient services in accordance with section 245.474;

(8) screening in accordance with section 245.476; and

(9) case management in accordance with sections 245.462, subdivision 3; ~~245.471; and 245.475~~ 245.4711.

Sec. 8. Minnesota Statutes 1988, section 245.466, subdivision 5, is amended to read:

Subd. 5. [LOCAL ADVISORY COUNCIL.] The county board, individually or in conjunction with other county boards, shall establish ~~a~~ *an adult* local mental health advisory council or *adult* mental health subcommittee of an existing advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of ~~a person~~ *an adult* with mental illness, one mental health professional, and one community support services program representative. The local *adult* mental health advisory council or *adult* mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local *adult* mental health system. Annually, the local *adult mental health* advisory council or *adult* mental health subcommittee of an existing advisory council shall:

(1) arrange for input from the regional treatment center's mental illness program unit regarding coordination of care between the regional treatment center and community-based services; and

(2) *identify for the county board the individuals, providers, agencies, and associations as specified in section 245.462, subdivision 10.*

The county board shall consider the advice of its local *adult* mental health advisory council or *adult* mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

Sec. 9. Minnesota Statutes 1988, section 245.466, subdivision 6, is amended to read:

Subd. 6. [OTHER LOCAL AUTHORITY.] The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.461 to 245.486 regarding local *adult* mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.461 to 245.486.

Sec. 10. Minnesota Statutes 1988, section 245.467, subdivision 3, is amended to read:

Subd. 3. [INDIVIDUAL TREATMENT PLANS.] All providers of outpatient *services, day treatment services*, residential treatment, acute care hospital inpatient treatment, and all regional treatment centers must develop an individual treatment plan for each of their *adult* clients. The individual treatment plan must be based on a diagnostic assessment. To the extent possible, the *adult* client shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan

must be developed within ten days of client intake and reviewed every 90 days thereafter.

Sec. 11. Minnesota Statutes 1988, section 245.467, subdivision 4, is amended to read:

Subd. 4. [REFERRAL FOR CASE MANAGEMENT.] Each provider of emergency services, *day treatment services*, outpatient treatment, community support services, residential treatment, acute care hospital inpatient treatment, or regional treatment center inpatient treatment must inform each of its clients with serious and persistent mental illness of the availability and potential benefits to the client of case management. If the client consents, the provider must refer the client by notifying the county employee designated by the county board to coordinate case management activities of the client's name and address and by informing the client of whom to contact to request case management. The provider must document compliance with this subdivision in the client's record.

Sec. 12. Minnesota Statutes 1988, section 245.467, subdivision 5, is amended to read:

Subd. 5. [INFORMATION FOR BILLING.] Each provider of outpatient treatment, community support services, *day treatment services*, emergency services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each client for whom services are included on a bill submitted to a county, if the client has consented to the release of that information and if the county requests the information. Each provider shall attempt to obtain each client's consent and must explain to the client that the information can only be released with the client's consent and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the client's record.

Sec. 13. Minnesota Statutes 1988, section 245.468, is amended to read:  
245.468 [EDUCATION AND PREVENTION SERVICES.]

By July 1, 1988, county boards must provide or contract for education and prevention services to ~~persons~~ *adults* residing in the county. Education and prevention services must be designed to:

(1) convey information regarding mental illness and treatment resources to the general public ~~or~~ *and* special high-risk target groups;

(2) increase understanding and acceptance of problems associated with mental illness;

(3) improve people's skills in dealing with high-risk situations known to have an impact on ~~people's~~ *adults'* mental health functioning; ~~and~~

(4) prevent development or deepening of mental illness; *and*

(5) *refer adults with additional mental health needs to appropriate mental health services.*

Sec. 14. Minnesota Statutes 1988, section 245.469, is amended to read:  
245.469 [EMERGENCY SERVICES.]

Subdivision 1. [AVAILABILITY OF EMERGENCY SERVICES.] By July 1, 1988, county boards must provide or contract for enough emergency services within the county to meet the needs of ~~persons~~ *adults* in the county

who are experiencing an emotional crisis or mental illness. Clients may be required to pay a fee ~~based on their ability to pay~~ according to section 245.481. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:

(1) promote the safety and emotional stability of ~~people~~ adults with mental illness or emotional crises;

(2) minimize further deterioration of ~~people~~ adults with mental illness or emotional crises;

(3) help ~~people~~ adults with mental illness or emotional crises to obtain ongoing care and treatment; and

(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

Subd. 2. [SPECIFIC REQUIREMENTS.] The county board shall require that all service providers of emergency services to adults with mental illness provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll free telephone access to a mental health professional, a mental health practitioner, or a designated person with training in human services who receives clinical supervision from a mental health professional. Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for at least telephone consultation within 30 minutes. *By January 1, 1991, emergency services must be provided by a mental health agency operated by a county or a mental health agency under contract with the county board.*

Sec. 15. Minnesota Statutes 1988, section 245.470, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF OUTPATIENT SERVICES.] (a) By July 1, 1988, county boards must provide or contract for enough outpatient services within the county to meet the needs of ~~persons~~ adults with mental illness residing in the county. Clients may be required to pay a fee ~~based on their ability to pay~~ according to section 245.481. Outpatient services include:

(1) conducting diagnostic assessments;

(2) conducting psychological testing;

(3) developing or modifying individual treatment plans;

(4) making referrals and recommending placements as appropriate;

(5) treating ~~a person's~~ an adult's mental health needs through therapy;

(6) prescribing and managing medication *and evaluating the effectiveness of prescribed medication*; and

(7) preventing placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the client can best be served outside the county.

Sec. 16. [245.4711] [CASE MANAGEMENT AND COMMUNITY SUPPORT SERVICES.]



*Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.] (a) By January 1, 1989, the county board shall provide case management activities for all adults with serious and persistent mental illness residing in the county who request or consent to the services and to each adult for whom the court appoints a case manager. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.462, subdivision 4.*

*(b) Case management services provided to adults with serious and persistent mental illness eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.*

*Subd. 2. [NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY.] The county board shall notify the client of the person's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.467, subdivision 4. The county board shall send a written notice to the client and the client's representative, if any, that identifies the designated case management providers.*

*Subd. 3. [DUTIES OF CASE MANAGER.] (a) The case manager shall promptly arrange for a diagnostic assessment of the applicant when one is not available as described in section 245.467, subdivision 2, to determine the applicant's eligibility as an adult with serious and persistent mental illness for community support services. The county board shall notify in writing the applicant and the applicant's representative, if any, if the applicant is determined ineligible for community support services.*

*(b) Upon a determination of eligibility for community support services, the case manager shall develop an individual community support plan for an adult according to subdivision 4, paragraph (a), review the client's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.*

*Subd. 4. [INDIVIDUAL COMMUNITY SUPPORT PLAN.] (a) The case manager must develop an individual community support plan for each adult that incorporates the client's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual community support plan. The individual community support plan must be developed within 30 days of client intake and reviewed every 90 days after it is developed. The case manager is responsible for developing the individual community support plan based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual community support plan. To the extent possible, the adult with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual or family community support plan.*

*(b) The client's individual community support plan must state:*

*(1) the goals of each service;*

*(2) the activities for accomplishing each goal;*

(3) a schedule for each activity; and

(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual community support plan.

**Subd. 5. [COORDINATION BETWEEN CASE MANAGER AND COMMUNITY SUPPORT SERVICES.]** *The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the community support services program as well as other mental health services.*

**Subd. 6. [AVAILABILITY OF COMMUNITY SUPPORT SERVICES.]** *County boards must provide or contract for sufficient community support services within the county to meet the needs of adults with serious and persistent mental illness residing in the county. Clients may be required to pay a fee according to section 245.481. The community support services program must be designed to improve the ability of adults with serious and persistent mental illness to:*

(1) work in a regular or supported work environment;

(2) handle basic activities of daily living;

(3) participate in leisure time activities;

(4) set goals and plans;

(5) obtain and maintain appropriate living arrangements; and

(6) reduce the use of more intensive, costly, or restrictive placements both in number of admissions and lengths of stay as determined by client need.

**Subd. 7. [DAY TREATMENT SERVICES PROVIDED.]** (a) *By July 1, 1989, day treatment services must be developed as a part of the community support services available to adults with serious and persistent mental illness residing in the county. Clients may be required to pay a fee according to section 245.481. Day treatment services must be designed to:*

(1) provide a structured environment for treatment;

(2) provide community support;

(3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client need;

(4) coordinate with or be offered in conjunction with a local education agency's special education program; and

(5) operate on a continuous basis throughout the year.

(b) *County boards may request a waiver from including day treatment services if they can document that:*

(1) *an alternative plan of care exists through the county's community support services for clients who would otherwise need day treatment services;*

(2) *day treatment, if included, would be duplicative of other components of the community support services; and*

(3) *county demographics and geography make the provision of day treatment services cost ineffective and unfeasible.*

**Subd. 8. [BENEFITS ASSISTANCE.]** *The county board must offer help*

*to adults with serious and persistent mental illness in applying for federal benefits, including supplemental security income, medical assistance, and Medicare. The help must be offered as a part of the community support program available to adults with serious and persistent mental illness for whom the county is financially responsible and who may qualify for these benefits.*

Sec. 17. Minnesota Statutes 1988, section 245.472, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES.] By July 1, 1988, county boards must provide or contract for enough residential treatment services to meet the needs of all ~~persons~~ *adults* with mental illness residing in the county *and needing this level of care*. Residential treatment services include both intensive and structured residential treatment with length of stay based on client residential treatment need. Services must be as close to the county as possible. Residential treatment must be designed to:

(1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs;

(2) help clients achieve the highest level of independent living;

(3) help clients gain the necessary skills to ~~be referred to a community support services program or outpatient services~~ *return to the community*; and

(4) stabilize crisis admissions.

Sec. 18. Minnesota Statutes 1988, section 245.472, is amended by adding a subdivision to read:

*Subd. 3. [TRANSITION TO COMMUNITY.] Residential treatment facilities must plan for and assist clients in making a transition from residential treatment facilities to community-based services. Residential treatment facilities must also arrange for appropriate follow-up care in the community. Before a client is discharged, the residential treatment facility must notify the client's case manager, if any, so that the case manager can monitor the client's appropriate follow-up care in the community.*

Sec. 19. Minnesota Statutes 1988, section 245.473, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF ACUTE CARE INPATIENT SERVICES.] By July 1, 1988, county boards must make available through contract or direct provision enough acute care hospital inpatient treatment services as close to the county as possible ~~to meet the needs of persons~~ *for adults* with mental illness residing in the county. Acute care hospital inpatient treatment services must be designed to:

(1) stabilize the medical *and mental health* condition of ~~people with acute or serious and persistent mental illness~~ *for which admission is required*;

(2) improve functioning to the point where discharge to residential treatment or community-based mental health services is possible; and

(3) facilitate appropriate referrals, ~~for follow-up, and placements~~ *mental health care in the community*.

Sec. 20. Minnesota Statutes 1988, section 245.474, is amended to read:

## 245.474 [REGIONAL TREATMENT CENTER INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF REGIONAL TREATMENT CENTER INPATIENT SERVICES.] By July 1, 1987, the commissioner shall make sufficient regional treatment center inpatient services available to ~~people~~ *adults* with mental illness throughout the state *who need this level of care*. Regional treatment centers are responsible to:

(1) stabilize the medical *and mental health* condition of the ~~person with mental illness~~ *adult requiring the admission*;

(2) improve functioning to the point where discharge to community-based mental health services is possible;

(3) strengthen family and community support; and

(4) facilitate appropriate discharge, ~~aftercare,~~ and referrals for follow-up ~~placements~~ *mental health care* in the community.

Subd. 2. [QUALITY OF SERVICE.] The commissioner shall biennially determine the needs of all ~~mentally ill patients~~ *adults with mental illness who are served by regional treatment centers* by administering a client-based evaluation system. The client-based evaluation system must include at least the following independent measurements: behavioral development assessment; habilitation program assessment; medical needs assessment; maladaptive behavioral assessment; and vocational behavior assessment. The commissioner shall propose staff ratios to the legislature for the mental health and support units in regional treatment centers as indicated by the results of the client-based evaluation system. The proposed staffing ratios shall include professional, nursing, direct care, medical, clerical, and support staff based on the client-based evaluation system. The commissioner shall recompute staffing ratios and recommendations on a biennial basis.

Sec. 21. Minnesota Statutes 1988, section 245.476, subdivision 1, is amended to read:

Subdivision 1. [SCREENING REQUIRED.] No later than January 1, ~~1991~~ 1992, the county board shall screen all ~~persons~~ *adults* before they may be admitted for treatment of mental illness to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. Screening prior to admission must occur within ten days. If a ~~person~~ *an adult* is admitted for treatment of mental illness on an emergency basis to a residential facility or acute care hospital or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five days of the admission. ~~Persons~~ *Adults* must be screened within ten days before or within five days after admission to ensure that:

(1) an admission is necessary.

(2) the length of stay is as short as possible consistent with individual client need, and

(3) the case manager, if assigned, is developing an individual community support plan.

The screening process and placement decision must be documented in the client's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been

established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards specified in clauses (1) to (3).

Sec. 22. Minnesota Statutes 1988, section 245.476, subdivision 3, is amended to read:

Subd. 3. [INDIVIDUAL PLACEMENT AGREEMENT.] The county board shall enter into an individual placement agreement with a provider of residential treatment services to a ~~person~~ *an adult* eligible for services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.

Sec. 23. Minnesota Statutes 1988, section 245.476, is amended by adding a subdivision to read:

Subd. 4. [TASK FORCE ON RESIDENTIAL AND INPATIENT TREATMENT SERVICES FOR ADULTS.] *The commissioner of human services shall appoint a task force on residential and inpatient treatment services for adults that includes representatives from each of the mental health professional categories defined in section 245.462, subdivision 18, the Minnesota mental health association, the Minnesota alliance for the mentally ill, the Minnesota mental health law project, the Minnesota hospital association, the association of residential mental health facilities, department of human services staff, the department of education, the department of corrections, the ombudsman for mental health and mental retardation, and counties. The task force shall examine and evaluate existing mechanisms that have as their purpose review of appropriate admission and need for continued care for clients admitted to residential treatment, acute care hospital inpatient treatment, and regional treatment center inpatient treatment. These mechanisms shall include at least the following: precommitment screening, licensure and reimbursement rules, county monitoring, technical assistance, nursing home preadmission screening, hospital preadmission certification, and hospital retrospective reviews. The task force shall report to the legislature by February 15, 1990, on how existing mechanisms may be changed to accomplish the goals of screening as described in subdivision 1.*

Sec. 24. Minnesota Statutes 1988, section 245.477, is amended to read:  
245.477 [APPEALS.]

Any ~~person~~ *adult* who requests mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of the request and each time the *individual community service support plan or individual treatment plan* is reviewed. Any ~~person~~ *adult* whose request for mental health services under sections 245.461 to 245.486 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated *by action or inaction for which the county board is responsible under sections 245.461 to 245.486* may contest that action *or inaction* before the state agency as specified in section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 25. Minnesota Statutes 1988, section 245.478, subdivision 2, is amended to read:

Subd. 2. [PROPOSAL CONTENT.] The local *adult* mental health proposal must include:

(1) the local *adult* mental health advisory council's or *adult* mental health subcommittee of an existing advisory council's report on unmet needs of *adults* and any other needs assessment used by the county board in preparing the local *adult* mental health proposal;

(2) a description of the local *adult* mental health advisory council's or the *adult* mental health subcommittee of an existing advisory council's involvement in preparing the local *adult* mental health proposal and methods used by the county board to ~~obtain~~ *ensure adequate and timely* participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of clients who received each of the mental health services listed in sections 245.468 to 245.476, and actual expenditures for each mental health service and service waiting lists; and

(4) for the first proposal period only, information for the year during which the proposal is being prepared:

(i) a description of the current mental health system identifying each mental health service listed in sections 245.468 to 245.476;

(ii) a description of each service provider, including a listing of the professional qualifications of the staff involved in service delivery, that is either the sole provider of one of the mental health services described in sections 245.468 to 245.476 or that provides over \$10,000 of mental health services per year for the county;

(iii) a description of how the mental health services in the county are unified and coordinated;

(iv) the estimated number of clients receiving each mental health service;

(v) estimated expenditures for each mental health service; and

~~(5)~~ the following information describing how the county board intends to meet the requirements of sections 245.461 to 245.486 during the proposal period:

(i) specific objectives and outcome goals for each *adult* mental health service listed in sections ~~245.468~~ 245.461 to 245.476 245.486;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the *adult* mental health services described in sections 245.468 245.461 to 245.476 245.486 or to provide over \$10,000 of *adult* mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery for the county;

(iii) a description of how the *adult* mental health services in the county will be unified and coordinated;

(iv) the estimated number of clients who will receive each *adult* mental health service; and

(v) estimated expenditures for each *adult* mental health service and revenues for the entire proposal.

Sec. 26. Minnesota Statutes 1988, section 245.478, subdivision 3, is amended to read:

Subd. 3. [PROPOSAL FORMAT.] The local *adult* mental health proposal

must be made in a format prescribed by the commissioner.

Sec. 27. Minnesota Statutes 1988, section 245.479, is amended to read:  
245.479 [COUNTY OF FINANCIAL RESPONSIBILITY.]

For purposes of sections 245.461 to 245.486 and 245.487 to 245.4887, the county of financial responsibility is determined under section 256G.02, subdivision 4. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section 256G.09.

Sec. 28. Minnesota Statutes 1988, section 245.48, is amended to read:  
245.48 [MAINTENANCE OF EFFORT.]

Counties must continue to spend for mental health services *specified in sections 245.461 to 245.486 and 245.487 to 245.4887*, according to generally accepted budgeting and accounting principles, an amount equal to the total expenditures shown in the county's approved 1987 Community Social Services Act plan under "State CSSA, Title XX and County Tax" for services to persons with mental illness plus the comparable figure for Rule 5 facilities under target populations other than mental illness in the approved 1987 CSSA plan.

Sec. 29. [245.481] [FEES FOR MENTAL HEALTH SERVICES.]

*A client or, in the case of a child, the child or the child's parent may be required to pay a fee for mental health services provided under sections 245.461 to 245.486 and 245.487 to 245.4887. The fee must be based on the person's ability to pay according to the fee schedule adopted by the county board. In adopting the fee schedule for mental health services, the county board may adopt the fee schedule provided by the commissioner or adopt a fee schedule recommended by the county board and approved by the commissioner. Agencies or individuals under contract with a county board to provide mental health services under sections 245.461 to 245.486 and 245.487 to 245.4887 must not charge clients whose mental health services are paid wholly or in part from public funds fees which exceed the county board's adopted fee schedule. This section does not apply to regional treatment center fees, which are governed by sections 246.50 to 246.55.*

Sec. 30. Minnesota Statutes 1988, section 245.482, is amended to read:  
245.482 [REPORTING AND EVALUATION.]

Subdivision 1. [FISCAL REPORTS.] The commissioner shall develop a unified format for quarterly fiscal reports that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486, 245.487 to 245.4887, and section 256E.08. The county board shall submit a completed fiscal report in the required format no later than ~~15~~ 30 days after the end of each quarter.

Subd. 2. [PROGRAM REPORTS.] The commissioner shall develop a unified ~~format~~ *formats* for ~~an annual program report that reporting~~, which will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486, 245.487 to 245.4887, and section 256E.10. The county board shall submit ~~a completed program report~~ *reports* in the required format ~~by March 15 of each year according to the reporting schedule developed by the commissioner.~~

Subd. 3. [PROVIDER REPORTS.] The commissioner may develop ~~a~~

~~format~~ *formats* and procedures for direct reporting from providers to the commissioner to include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and 245.487 to 245.4887. In particular, the provider reports must include aggregate information by county of residence about mental health services paid for by funding sources other than counties.

Subd. 4. [COMMISSIONER'S CONSOLIDATED REPORTING RECOMMENDATIONS.] *The commissioner's reports of February 15, 1990, required under sections 245.461, subdivision 3, and 245.487, subdivision 4, shall include recommended measures to improve the efficiency of the mental health funding mechanisms and to standardize and consolidate fiscal and program reporting. The recommended measures must provide that client needs are met in an effective and accountable manner and that state and county resources are used as efficiently as possible.*

Subd. 4 5. [INACCURATE OR INCOMPLETE REPORTS.] The commissioner shall promptly notify a county or provider if a required report is clearly inaccurate or incomplete. The commissioner may delay all or part of a mental health fund payment if an appropriately completed report is not received as required by this section.

Subd. 5 6. [STATEWIDE EVALUATION.] The commissioner shall use the county and provider reports required by this section to complete the statewide report required in ~~section~~ sections 245.461 and 245.487.

Sec. 31. Minnesota Statutes 1988, section 245.483, is amended to read:

245.483 [TERMINATION OR RETURN OF AN ALLOCATION.]

Subdivision 1. [FUNDS NOT PROPERLY USED.] If the commissioner determines that a county is not meeting the requirements of sections 245.461 to 245.486 and 245.487 to 245.4887, or that funds are not being used according to the approved local proposal, all or part of the mental health and community social service act funds may be terminated upon 30 days notice to the county board. The commissioner may require repayment of any funds not used according to the approved local proposal. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing under the Minnesota administrative procedure act, chapter 14, must be provided before the allocation is terminated or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice by certified mail.

Subd. 2. [USE OF RETURNED FUNDS.] The commissioner may reallocate the funds returned.

Subd. 3. [DELAYED PAYMENTS.] If the commissioner finds that a county board or its contractors are not in compliance with the approved local proposal or sections 245.461 to 245.486 and 245.487 to 245.4887, the commissioner may delay payment of all or part of the quarterly mental health and community social service act funds until the county board and its contractors meet the requirements. The commissioner shall not delay a payment longer than three months without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid. After this notice is issued, the commissioner may continue to delay the payment until completion of the hearing in subdivision 2.

Subd. 4. [STATE ASSUMPTION OF RESPONSIBILITY.] If the commissioner determines that services required by sections 245.461 to 245.486



and 245.487 to 245.4887 will not be provided by the county board in the manner or to the extent required by sections 245.461 to 245.486 and 245.487 to 245.4887, the commissioner shall contract directly with providers to ensure that clients receive appropriate services. In this case, the commissioner shall use the county's community social service act and mental health funds to the extent necessary to carry out the county's responsibilities under sections 245.461 to 245.486 and 245.487 to 245.4887. The commissioner shall work with the county board to allow for a return of authority and responsibility to the county board as soon as compliance with sections 245.461 to 245.486 and 245.487 to 245.4887 can be assured.

Sec. 32. Minnesota Statutes 1988, section 245.484, is amended to read:  
245.484 [RULES.]

The commissioner shall adopt permanent rules as necessary to carry out ~~Laws 1987, chapter 403 sections 245.461 to 245.486 and sections 1 to 53.~~

Sec. 33. Minnesota Statutes 1988, section 245.485, is amended to read:  
245.485 [NO RIGHT OF ACTION.]

Sections 245.461 to 245.484 and 245.487 to 245.4887 do not independently establish a right of action on behalf of recipients of services or service providers against a county board or the commissioner. A claim for monetary damages must be brought under section 3.736 or 3.751.

Sec. 34. Minnesota Statutes 1988, section 245.486, is amended to read:  
245.486 [LIMITED APPROPRIATIONS.]

Nothing in sections 245.461 to 245.485 and 245.487 to 245.4887 shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

Sec. 35. [245.487] [CITATION; DECLARATION OF POLICY; MISSION.]

*Subdivision 1. [CITATION.] Sections 245.487 to 245.4887 may be cited as the "Minnesota comprehensive children's mental health act."*

*Subd. 2. [FINDINGS.] The legislature finds there is a need for further development of existing clinical services for emotionally disturbed children and their families and the creation of new services for this population. Although the services specified in sections 245.487 to 245.4887 are mental health services, sections 245.487 to 245.4887 emphasize the need for a child-oriented and family-oriented approach of therapeutic programming and the need for continuity of care with other community agencies. At the same time, sections 245.487 to 245.4887 emphasize the importance of developing special mental health expertise in children's mental health services because of the unique needs of this population.*

*Subd. 3. [MISSION OF CHILDREN'S MENTAL HEALTH SERVICE SYSTEM.] As part of the comprehensive children's mental health system established under sections 245.487 to 245.4887, the commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that is consistent with the provision of public social services for children as specified in section 256F.01 and that:*

*(1) identifies children who are eligible for mental health services;*

- (2) makes preventive services available to all children;
- (3) assures access to a continuum of services that:
  - (i) educate the community about the mental health needs of children;
  - (ii) address the unique physical, emotional, social, and educational needs of children;
  - (iii) are coordinated with other social and human services provided to children and their families;
  - (iv) are appropriate to the developmental needs of children; and
  - (v) are sensitive to cultural differences and special needs;
- (4) includes early screening and prompt intervention to:
  - (i) identify and treat the mental health needs of children in the least restrictive setting appropriate to their needs; and
  - (ii) prevent further deterioration;
- (5) provides mental health services to children and their families in the context in which the children live and go to school;
- (6) addresses the unique problems of paying for mental health services for children, including:
  - (i) access to private insurance coverage; and
  - (ii) public funding;
- (7) when clinically appropriate to the child's needs, includes the child and the child's family in planning the child's program of mental health services; and
- (8) when necessary, assures a smooth transition from mental health services appropriate for a child to mental health services needed by a person who is at least 18 years of age.

*Subd. 4. [IMPLEMENTATION.] (a) The commissioner shall begin implementing sections 245.487 to 245.4887 by February 15, 1990, and shall fully implement sections 245.487 to 245.4887 by January 1, 1992.*

*(b) Annually until February 15, 1992, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.487 to 245.4887 and on additional resources needed to further implement those sections.*

*Subd. 5. [CONTINUATION OF EXISTING MENTAL HEALTH SERVICES FOR CHILDREN.] A county must continue making available the categories of mental health services for children that were required to be available as of January 1, 1989, unless the county has requested and obtained the commissioner's approval to discontinue the mental health service.*

**Sec. 36. [245.4871] [DEFINITIONS.]**

*Subdivision 1. [DEFINITIONS.] The definitions in this section apply to sections 245.487 to 245.4887.*

*Subd. 2. [ACUTE CARE HOSPITAL INPATIENT TREATMENT.] "Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under*

*chapter 144.*

*Subd. 3. [CASE MANAGEMENT SERVICES.] "Case management services" means activities designed to help the child with severe emotional disturbance and the child's family obtain needed mental health services, social services, educational services, health services, vocational services, recreational services, and related services in the areas of volunteer services, advocacy, transportation, and legal services. Case management services include obtaining a comprehensive diagnostic assessment, developing a functional assessment, developing an individual family community support plan, and assisting the child and the child's family in obtaining needed services by coordination with other agencies and assuring continuity of care. Case managers must assess and reassess the delivery, appropriateness, and effectiveness of these services over time.*

*Subd. 4. [CASE MANAGER.] (a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family. A case manager must have experience and training in working with children.*

*(b) A case manager must:*

*(1) have at least a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;*

*(2) have at least 2,000 hours of supervised experience in the delivery of mental health services to children;*

*(3) have experience and training in identifying and assessing a wide range of children's needs; and*

*(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families.*

*(c) The case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.*

*(d) The case manager must meet in person with a mental health professional at least once each month to obtain clinical supervision.*

*(e) Case managers with a bachelor's degree but without 2,000 hours of experience in the delivery of services to children with emotional disturbance must:*

*(1) complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance; and*

*(2) receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of experience is met.*

*(f) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.*

*(g) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.*

*(h) Until June 30, 1991, a refugee who does not have the qualifications specified in this subdivision may provide case management services to child refugees with severe emotional disturbance of the same ethnic group as the refugee if the person:*

*(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;*

*(2) completes 40 hours of training as specified in this subdivision; and*

*(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.*

*Subd. 5. [CHILD.] "Child" means a person under 18 years of age.*

*Subd. 6. [CHILD WITH SEVERE EMOTIONAL DISTURBANCE.] (a) For purposes of eligibility for case management and family community support services, "child with severe emotional disturbance" means a child who has an emotional disturbance and who meets one of the following criteria:*

*(1) the child has been admitted within the last three years or is at risk of being admitted to inpatient treatment or residential treatment for an emotional disturbance;*

*(2) the child is a Minnesota resident and is receiving inpatient treatment or residential treatment for an emotional disturbance through the interstate compact;*

*(3) the child has one of the following as determined by a mental health professional:*

*(i) psychosis or a clinical depression;*

*(ii) risk of harming self or others as a result of an emotional disturbance;*  
*or*

*(iii) psychopathological symptoms as a result of being a victim of physical or sexual abuse or of psychic trauma within the past year; or*

*(4) the child, as a result of an emotional disturbance, has significantly impaired home, school, or community functioning that has lasted at least one year or that, in the written opinion of a mental health professional, presents substantial risk of lasting at least one year.*

*(b) The term "child with severe emotional disturbance" may be used only for purposes of county eligibility determinations. In all other written and oral communications, case managers, mental health professionals, mental health practitioners, and all other providers of mental health services shall use the term "child eligible for mental health case management" in place of "child with severe emotional disturbance."*

*Subd. 7. [CLINICAL SUPERVISION.] "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full- or part-time employment of or contracts with mental health professionals. The mental health professional must document the clinical supervision by cosigning individual treatment plans and by making entries in the client's record on supervisory activities.*

*Subd. 8. [COMMISSIONER.] "Commissioner" means the commissioner of human services.*

*Subd. 9. [COUNTY BOARD.] "County board" means the county board of commissioners or board established under the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.*

*Subd. 10. [DAY TREATMENT SERVICES.] "Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to a child in:*

*(1) an outpatient hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55;*

*(2) a community mental health center under section 245.62; or*

*(3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4881, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475.*

*Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. The services are aimed at stabilizing the child's mental health status and developing and improving the child's daily independent living and socialization skills. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. Day treatment services are not a part of inpatient hospital or residential treatment services. Day treatment services for a child are an integrated set of education, therapy, and family interventions.*

*A day treatment service must be available to a child at least five days a week throughout the year and must be coordinated with, integrated with, or part of an education program offered by the child's school.*

*Subd. 11. [DIAGNOSTIC ASSESSMENT.] "Diagnostic assessment" means a written evaluation by a mental health professional of:*

*(1) a child's current life situation and sources of stress, including reasons for referral;*

*(2) the history of the child's current mental health problem or problems, including important developmental incidents, strengths, and vulnerabilities;*

*(3) the child's current functioning and symptoms;*

*(4) the child's diagnosis including a determination of whether the child meets the criteria of severely emotionally disturbed as specified in subdivision 6; and*

*(5) the mental health services needed by the child.*

*Subd. 12. [EARLY IDENTIFICATION AND INTERVENTION SERVICES.] "Early identification and intervention services" means services that are designed to identify children who are at risk of needing or who need mental health services and that arrange for intervention and treatment.*

*Subd. 13. [EDUCATION AND PREVENTION SERVICES.] (a) "Education and prevention services" means services designed to:*

*(1) educate the general public and groups identified as at risk of developing emotional disturbance under section 245.4872, subdivision 3, about emotional disturbances and mental health needs;*

(2) increase the understanding and acceptance of problems associated with emotional disturbances;

(3) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning; and

(4) refer specific children or their families with mental health needs to mental health services.

(b) The services include distribution to individuals and agencies identified by the county board and the local children's mental health advisory council of information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services.

Subd. 14. [EMERGENCY SERVICES.] "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for each child having a psychiatric crisis, a mental health crisis, or a mental health emergency.

Subd. 15. [EMOTIONAL DISTURBANCE.] "Emotional disturbance" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that:

(1) is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III; and

(2) seriously limits a child's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, school, and recreation.

"Emotional disturbance" is a generic term and is intended to reflect all categories of disorder described in DSM-MD, current edition, as "usually first evident in childhood or adolescence."

Subd. 16. [FAMILY.] "Family" means a child and one or more of the following persons whose participation is necessary to accomplish the child's treatment goals: (1) a person related to the child by blood, marriage, or adoption; (2) a person who is the child's foster parent or significant other; (3) a person who is the child's legal representative.

Subd. 17. [FAMILY COMMUNITY SUPPORT SERVICES.] "Family community support services" means services provided under the clinical supervision of a mental health professional and designed to help each child with severe emotional disturbance to function and remain with the child's family in the community. Family community support services do not include acute care hospital inpatient treatment, residential treatment services, or regional treatment center services. Family community support services include:

(1) client outreach to each child with severe emotional disturbance and the child's family;

(2) medication monitoring where necessary;

(3) assistance in developing independent living skills;

(4) assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

- (5) assistance with leisure and recreational activities;
- (6) crisis assistance, including crisis placement and respite care;
- (7) professional home-based family treatment;
- (8) foster care with therapeutic supports;
- (9) day treatment;
- (10) assistance in locating respite care; and
- (11) assistance in obtaining potential financial resources.

*Subd. 18. [FUNCTIONAL ASSESSMENT.] "Functional assessment" means an assessment by the case manager of the child's:*

- (1) mental health symptoms as presented in the child's diagnostic assessment;*
- (2) mental health needs as presented in the child's diagnostic assessment;*
- (3) use of drugs and alcohol;*
- (4) vocational and educational functioning;*
- (5) social functioning, including the use of leisure time;*
- (6) interpersonal functioning, including relationships with the child's family;*
- (7) self-care and independent living capacity;*
- (8) medical and dental health;*
- (9) financial assistance needs;*
- (10) housing and transportation needs; and*
- (11) other needs and problems.*

*Subd. 19. [INDIVIDUAL FAMILY COMMUNITY SUPPORT PLAN.] "Individual family community support plan" means a written plan developed by a case manager in conjunction with the family and the child with severe emotional disturbance on the basis of a diagnostic assessment and a functional assessment. The plan identifies specific services needed by a child and the child's family to:*

- (1) treat the symptoms and dysfunctions determined in the diagnostic assessment;*
- (2) relieve conditions leading to emotional disturbance and improve the personal well-being of the child;*
- (3) improve family functioning;*
- (4) enhance daily living skills;*
- (5) improve functioning in education and recreation settings;*
- (6) improve interpersonal and family relationships;*
- (7) enhance vocational development; and*
- (8) assist in obtaining transportation, housing, health services, and employment.*

*Subd. 20. [INDIVIDUAL PLACEMENT AGREEMENT.] "Individual placement agreement" means a written agreement or supplement to a*

*service contract entered into between the county board and a service provider on behalf of a child to provide residential treatment services.*

**Subd. 21. [INDIVIDUAL TREATMENT PLAN.]** *"Individual treatment plan" means a written plan of intervention, treatment, and services for a child with an emotional disturbance that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. An individual treatment plan for a child must be developed in conjunction with the family unless clinically inappropriate. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment to the child with an emotional disturbance.*

**Subd. 22. [LEGAL REPRESENTATIVE.]** *"Legal representative" means a guardian, conservator, or guardian ad litem of a child with an emotional disturbance authorized by the court to make decisions about mental health services for the child.*

**Subd. 23. [LOCAL MENTAL HEALTH PROPOSAL.]** *"Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.4887.*

**Subd. 24. [LOCAL SYSTEM OF CARE.]** *"Local system of care" means services that are locally available to the child and the child's family. The services are mental health, social services, correctional services, education services, health services, and vocational services.*

**Subd. 25. [MENTAL HEALTH FUNDS.]** *"Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.*

**Subd. 26. [MENTAL HEALTH PRACTITIONER.]** *"Mental health practitioner" means a person providing services to children with emotional disturbances. A mental health practitioner must have training and experience in working with children. A mental health practitioner must be qualified in at least one of the following ways:*

*(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and has at least 2,000 hours of supervised experience in the delivery of services to children with emotional disturbances;*

*(2) has at least 6,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances;*

*(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or*

*(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of emotional disturbance.*

**Subd. 27. [MENTAL HEALTH PROFESSIONAL.]** *"Mental health professional" means a person providing clinical services in the diagnosis*



*and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:*

*(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in psychiatric or mental health nursing by the American nurses association;*

*(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;*

*(3) in psychology, the mental health professional must be a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;*

*(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or*

*(5) in allied fields, the mental health professional must be a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of emotional disturbances.*

**Subd. 28. [MENTAL HEALTH SERVICES.]** *"Mental health services" means at least all of the treatment services and case management activities that are provided to children with emotional disturbances and are described in sections 245.487 to 245.4887.*

**Subd. 29. [OUTPATIENT SERVICES.]** *"Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to children with emotional disturbances who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.*

**Subd. 30. [PARENT.]** *"Parent" means the birth or adoptive mother or father of a child. This definition does not apply to a person whose parental rights have been terminated in relation to the child.*

**Subd. 31. [PROFESSIONAL HOME-BASED FAMILY TREATMENT.]** *"Professional home-based family treatment" means intensive mental health services provided to children (1) who are at risk of out-of-home placement, (2) who are in out-of-home placement, or (3) who are returning from out-of-home placement because of an emotional disturbance. Services are provided to the child and the child's family primarily in the child's home environment or other location appropriate to the child. Examples of appropriate locations include, but are not limited to, the child's school, day care center, home, and any other living arrangement of the child. Services must be provided on an individual family basis, must be child-oriented and*

*family-oriented, and must be designed to meet the specific mental health needs of the child and the child's family. Services include family and individual therapy and family living skills training and must be coordinated with other service providers.*

**Subd. 32. [RESIDENTIAL TREATMENT.]** *"Residential treatment" means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center inpatient unit, that must be licensed as a residential treatment program for children with emotional disturbances under Minnesota Rules, parts 9545.0900 to 9545.1090, or other rules adopted by the commissioner.*

**Subd. 33. [SERVICE PROVIDER.]** *"Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides children's mental health services funded under sections 245.487 to 245.4887.*

**Subd. 34. [THERAPEUTIC SUPPORT OF FOSTER CARE.]** *"Therapeutic support of foster care" means the mental health training and mental health support services and clinical supervision provided under a mental health professional to foster families caring for children with severe emotional disturbance to provide a therapeutic family environment and support for the child's improved functioning.*

**Sec. 37. [245.4872] [PLANNING FOR A CHILDREN'S MENTAL HEALTH SYSTEM.]**

**Subdivision 1. [PLANNING EFFORT.]** *Starting on the effective date of sections 245.487 to 245.4887 and ending January 1, 1992, the commissioner and the county agencies shall plan for the development of a unified, accountable, and comprehensive statewide children's mental health system. The system must be planned and developed by stages until it is operating at full capacity.*

**Subd. 2. [TECHNICAL ASSISTANCE.]** *The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section 245.4887, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of children with emotional disturbances residing in the county and the extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.*

**Subd. 3. [INFORMATION TO COUNTIES.]** *By January 1, 1990, the commissioner shall provide each county with information about the predictors and symptoms of children's emotional disturbances and information about groups identified as at risk of developing emotional disturbance.*

**Sec. 38. [245.4873] [COORDINATION OF CHILDREN'S MENTAL HEALTH SYSTEM.]**

**Subdivision 1. [COORDINATION.]** *The commissioner shall supervise the development and coordination of locally available children's mental health services by the county boards in a manner consistent with sections 245.487 to 245.4887. The commissioner shall review local mental health service proposals developed by county boards as specified in section 245.4887*

*and provide technical assistance to county boards in developing and maintaining locally available children's mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's children's mental health proposals and other information as required by sections 245.487 to 245.4887. In meeting the requirements of section 245.696, subdivision 2, clause (6), the commissioner shall explore the interdepartmental methods of providing early identification and intervention for children with or at risk of emotional disturbances by January 1, 1991.*

*Subd. 2. [PRIORITIES.] By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4887 be developed for children with emotional disturbances within available resources based on the following ranked priorities:*

- (1) the provision of locally available mental health emergency services;*
- (2) the provision of locally available mental health services to all children with severe emotional disturbance;*
- (3) the provision of early identification and intervention services to children who are at risk of needing or who need mental health services;*
- (4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;*
- (5) the provision of locally available services to children with emotional disturbances; and*
- (6) the provision of education and preventive mental health services.*

**Sec. 39. [245.4874] [DUTIES OF COUNTY BOARD.]**

*The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local children's mental health service proposal required under section 245.4887, and approved by the commissioner. The county board must:*

- (1) develop and coordinate a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;*
- (2) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to section 245.4878;*
- (3) provide for case management services to each child with severe emotional disturbance according to sections 245.4871, subdivisions 3 and 4; 245.4881, subdivisions 1, 3, and 5; and 245.486;*
- (4) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility or acute care hospital inpatient treatment, or informal admission to a regional treatment center;*
- (5) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;*
- (6) assure that mental health professionals, mental health practitioners,*

*and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871; and*

*(7) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age.*

**Sec. 40. [245.4875] [LOCAL SERVICE DELIVERY SYSTEM.]**

*Subdivision 1. [DEVELOPMENT OF CHILDREN'S SERVICES.] The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable children's mental health services. The county board may provide some or all of the children's mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward fully implementing sections 245.487 to 245.4887 during the period July 1, 1989, to January 1, 1992. County boards must develop fully each of the treatment services prescribed by sections 245.487 to 245.4887 by January 1, 1992, according to the priorities established in section 245.4873 and the local children's mental health services proposal approved by the commissioner under section 245.4887.*

*Subd. 2. [CHILDREN'S MENTAL HEALTH SERVICES.] The children's mental health service system developed by each county board must include the following services:*

- (1) education and prevention services according to section 245.4877;*
- (2) early identification and intervention services according to section 245.4878;*
- (3) emergency services according to section 245.4879;*
- (4) outpatient services according to section 245.488;*
- (5) family community support services according to section 245.4881;*
- (6) day treatment services according to section 245.4881, subdivision 7;*
- (7) residential treatment services according to section 245.4882;*
- (8) acute care hospital inpatient treatment services according to section 245.4883;*
- (9) screening according to section 245.4885; and*
- (10) case management according to section 245.4881.*

*Subd. 3. [LOCAL CONTRACTS.] The county board shall review all proposed county agreements, grants, or other contracts related to children's mental health services from any local, state, or federal governmental sources. Contracts with service providers must:*

- (1) name the commissioner as a third party beneficiary;*

(2) identify monitoring and evaluation procedures not in violation of the Minnesota government data practices act, chapter 13, which are necessary to ensure effective delivery of quality services;

(3) include a provision that makes payments conditional on compliance by the contractor and all subcontractors with sections 245.487 to 245.4887 and all other applicable laws, rules, and standards; and

(4) require financial controls and auditing procedures.

*Subd. 4. [JOINT COUNTY MENTAL HEALTH AGREEMENTS.] To efficiently provide the children's mental health services required by sections 245.487 to 245.4887, counties are encouraged to join with one or more county boards to establish a multicounty local children's mental health authority under the joint powers act, section 471.59, the human service board act, sections 402.01 to 402.10, community mental health center provisions, section 245.62, or enter into multicounty mental health agreements. Participating county boards shall establish acceptable ways of apportioning the cost of the services.*

*Subd. 5. [LOCAL CHILDREN'S ADVISORY COUNCIL.] (a) By October 1, 1989, the county board, individually or in conjunction with other county boards, shall establish a local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council or shall include persons on its existing mental health advisory council who are representatives of children's mental health interests. The council's members must include:*

*(1) at least one person who was in a mental health program as a child;*

*(2) at least one parent of a child with severe emotional disturbance;*

*(3) one children's mental health professional;*

*(4) representatives of minority populations of significant size residing in the county;*

*(5) a representative of the children's mental health local coordinating council; and*

*(6) one family community support services program representative.*

*(b) The local children's mental health advisory council or children's mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council shall:*

*(1) arrange for input from the local system of care providers regarding coordination of care between the services; and*

*(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.4871, subdivision 12.*

*(c) The county board shall consider the advice of its local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council in carrying out its authorities and responsibilities.*

*Subd. 6. [LOCAL SYSTEM OF CARE; COORDINATING COUNCIL.] (a) The county board shall establish a council of representatives of all*

members of the local system of care, including mental health, social services, educational services, correctional services, health services, and vocational services. The county board shall include a representative of an Indian reservation authority if a reservation exists within the county. When possible, the council must include a representative of juvenile court or the court responsible for juvenile issues and law enforcement. The county shall establish mechanisms that provide at least: (1) written interagency agreements with the providers of the local system of care to coordinate the delivery of services to children; and (2) an annual report of the council to the local children's mental health advisory council about the children's unmet needs and service priorities. The members of the coordinating council shall meet at least quarterly to develop recommendations to improve coordination and funding of services to children with severe emotional disturbance. A county may use an existing child-focused interagency task force to fulfill the requirements of this subdivision if the representatives and duties of the existing task force are expanded to include those specified in this subdivision.

(b) Each coordinating council shall collect information about the local system of care and report annually to the commissioner of human services on forms and in the manner prescribed by the commissioner. The report must include a description of the services provided through each of the service systems represented on the council, the various sources of funding for services, and the amounts actually expended, a description of the numbers and characteristics of the children and families served during the previous year, and an estimate of unmet needs. Each service system represented on the council shall provide information to the council as necessary to compile the report.

Subd. 7. [OTHER LOCAL AUTHORITY.] The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.487 to 245.4887 regarding local children's mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.487 to 245.4887.

#### Sec. 41. [245.4876] [QUALITY OF SERVICES.]

Subdivision 1. [CRITERIA.] Children's mental health services required by sections 245.487 to 245.4887 must be:

- (1) based, when feasible, on research findings;
- (2) based on individual clinical, cultural, and ethnic needs, and other special needs of the children being served;
- (3) delivered in a manner that improves family functioning when clinically appropriate;
- (4) provided in the most appropriate, least restrictive setting available to the county board;
- (5) accessible to all age groups of children;
- (6) appropriate to the developmental age of the child being served;
- (7) delivered in a manner that provides accountability to the child for the quality of service delivered and continuity of services to the child during the years the child needs services from the local system of care;
- (8) provided by qualified individuals as required in sections 245.487 to 245.4887;

(9) coordinated with children's mental health services offered by other providers;

(10) provided under conditions that protect the rights and dignity of the individuals being served; and

(11) provided in a manner and setting most likely to facilitate progress toward treatment goals.

*Subd. 2. [DIAGNOSTIC ASSESSMENT.] All residential treatment facilities, acute care hospital inpatient treatment, and regional treatment centers that provide mental health services for children must complete a diagnostic assessment for each of their child clients within five working days of admission. Providers of outpatient and day treatment services for children must complete a diagnostic assessment within ten working days of admission. In cases where a diagnostic assessment is available and has been completed within 90 days preceding admission, only updating is necessary.*

*Subd. 3. [INDIVIDUAL TREATMENT PLANS.] All outpatient services, day treatment services, family community support services, professional home-based family treatment, residential treatment facilities, acute care hospital inpatient treatment facilities, and all regional treatment centers that provide mental health services for children must develop an individual treatment plan for each child client. The individual treatment plan must be based on a diagnostic assessment. To the extent appropriate, the child shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten working days of client intake or admission and reviewed every 90 days after that date, except that the administrative review of the treatment plan of a child placed in a residential facility shall be as specified in section 257.071, subdivisions 2 and 4.*

*Subd. 4. [REFERRAL FOR CASE MANAGEMENT.] Each provider of emergency services, outpatient treatment, community support services, family community support services, day treatment services, professional home-based family treatment services, residential treatment facilities, acute care hospital inpatient treatment facilities, or regional treatment center inpatient treatment must inform each child with severe emotional disturbance, and the child's parent or legal representative, of the availability and potential benefits to the child of case management. The information shall be provided in compliance with subdivision 5. If the child, child's parent, or legal representative consents to case management services in a manner consistent with the data practices act, and the provisions of subdivision 5, the provider must refer the child by notifying the county employee designated by the county board to coordinate case management activities of the child's name and address and by informing the child's family of whom to contact to request case management. The provider must document compliance with this subdivision in the child's record.*

*Subd. 5. [CONSENT FOR SERVICES OR FOR RELEASE OF INFORMATION.] (a) Although sections 245.487 to 245.4887 require each county board, within the limits of available resources, to make the mental health services listed in those sections available to each child residing in the county who needs them, the county board shall not provide any services, either directly or by contract, unless consent to the services is obtained under this subdivision. The case manager assigned to a child with a severe emotional disturbance shall not disclose to any person, other than the case*

manager's immediate supervisor and the mental health professional providing clinical supervision of the case manager, information on the child, the child's family, or services provided to the child or the child's family without informed written consent unless required to do so by statute or under the Minnesota government data practices act. Informed written consent must comply with section 13.05, subdivision 4, paragraph (d), and specify the purpose and use for which the case manager may disclose the information.

(b) The consent or authorization must be obtained from the child's parent unless:

(1) the parental rights are terminated; or

(2) otherwise provided under sections 144.341 to 144.347, 253B.04, subdivision 1, 260.133, 260.135, and 260.191, subdivision 1, the terms of appointment of a court-appointed guardian or conservator, or federal regulations governing chemical dependency services.

**Subd. 6. [INFORMATION FOR BILLING.]** Each provider of outpatient treatment, family community support services, day treatment services, emergency services, professional home-based family treatment services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each child for whom services are included on a bill submitted to a county, if the release of that information under subdivision 5 has been obtained and if the county requests the information. Each provider must try to obtain the consent of the child's family. Each provider must explain to the child's family that the information can only be released with the consent of the child's family and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the child's record.

**Subd. 7. [RESTRICTED ACCESS TO DATA.]** The county board shall establish procedures to ensure that the names and addresses of children receiving mental health services and their families are disclosed only to:

(1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; and

(2) staff who provide treatment services or case management and their clinical supervisors.

Release of mental health data on individuals submitted under subdivisions 4 and 5, to persons other than those specified in this subdivision, or use of this data for purposes other than those stated in subdivisions 4 and 5, results in civil or criminal liability under section 13.08 or 13.09.

**Sec. 42. [245.4877] [EDUCATION AND PREVENTION SERVICES.]**

Education and prevention services must be available to all children residing in the county. Education and prevention services must be designed to:

(1) convey information regarding emotional disturbances, mental health needs, and treatment resources to the general public and groups identified as at high risk of developing emotional disturbance under section 245.4872, subdivision 3;

(2) increase understanding and acceptance of problems associated with emotional disturbances;



*(3) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning;*

*(4) prevent development or deepening of emotional disturbances; and*

*(5) refer each child with emotional disturbance or the child's family with additional mental health needs to appropriate mental health services.*

**Sec. 43. [245.4878] [EARLY IDENTIFICATION AND INTERVENTION.]**

*By January 1, 1991, the county boards must provide or contract for early identification and intervention services to children and their families residing in the county, consistent with section 245.4873. Early identification and intervention services must be designed to identify children who are at risk of needing or who need mental health services. The county board must provide intervention and treatment services to each child who is identified as needing the mental health service. The county board must offer intervention and treatment services to each child who is identified as being at risk of needing the services.*

**Sec. 44. [245.4879] [EMERGENCY SERVICES.]**

**Subdivision 1. [AVAILABILITY OF EMERGENCY SERVICES.]** *County boards must provide or contract for enough mental health emergency services within the county to meet the needs of children in the county who are experiencing an emotional crisis or emotional disturbances. A child or the child's parent may be required to pay a fee according to section 245.481. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:*

*(1) promote the safety and emotional stability of children with emotional disturbances or emotional crises;*

*(2) minimize further deterioration of the child with emotional disturbance or emotional crisis;*

*(3) help each child with an emotional disturbance or emotional crisis to obtain ongoing care and treatment; and*

*(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs.*

**Subd. 2. [SPECIFIC REQUIREMENTS.]** *The county board shall require that all service providers of emergency services to the child with an emotional disturbance provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll-free telephone access to a mental health professional, a mental health practitioner, or a designated person with training in human services who receives clinical supervision from a mental health professional. When emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for at least telephone consultation within 30 minutes.*

*By January 1, 1991, emergency services must be provided by a mental health agency operated by or under contract with the county board.*

**Sec. 45. [245.488] [OUTPATIENT SERVICES.]**

**Subdivision 1. [AVAILABILITY OF OUTPATIENT SERVICES.]** *(a) County boards must provide or contract for enough outpatient services within the county to meet the needs of each child with emotional disturbance residing*

*in the county and the child's family. A child or a child's parent may be required to pay a fee in accordance with section 245.481. Outpatient services include:*

- (1) conducting diagnostic assessments;*
- (2) conducting psychological testing;*
- (3) developing or modifying individual treatment plans;*
- (4) making referrals and recommending placements as appropriate;*
- (5) treating the child's mental health needs through therapy; and*
- (6) prescribing and managing medication and evaluating the effectiveness of prescribed medication.*

*(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the child requires necessary and appropriate services that are only available outside the county.*

*(c) Outpatient services offered by the county board to prevent placement must be at the level of treatment appropriate to the child's diagnostic assessment.*

*Subd. 2. [SPECIFIC REQUIREMENTS.] The county board shall require that a service provider of outpatient services to children:*

*(1) meets the professional qualifications contained in sections 245.487 to 245.4887;*

*(2) uses a multidisciplinary mental health professional staff including at a minimum, arrangements for psychiatric consultation, licensed consulting psychologist consultation, and other necessary multidisciplinary mental health professionals;*

*(3) develops individual treatment plans; and*

*(4) provides initial appointments within three weeks, except in emergencies where there must be immediate access as described in section 245.4879.*

**Sec. 46. [245.4881] [CASE MANAGEMENT AND FAMILY COMMUNITY SUPPORT SERVICES.]**

*Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.] (a) By July 1, 1991, the county board shall provide case management activities for each child with severe emotional disturbance residing in the county and the child's family who request or consent to the services. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.*

*(b) Case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.*

*Subd. 2. [NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY.] The county board shall notify, as appropriate, the child, child's parent, or legal representative of the child's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.4876, subdivision*

4.

*The county board shall send a written notice that identifies the designated case management providers. The county board shall send the notice, as appropriate, to the child, the child's parent, or the child's legal representative, if any.*

**Subd. 3. [DUTIES OF CASE MANAGER.]** *(a) The case manager shall promptly arrange for a diagnostic assessment of the child when one is not available as described in section 245.4876, subdivision 2, to determine the child's eligibility as a child with severe emotional disturbance for family community support services. The county board shall notify in writing, as appropriate, the child, the child's parent, or the child's legal representative, if any, if the child is determined ineligible for family community support services.*

*(b) Upon a determination of eligibility for family support services, the case manager shall develop an individual family community support plan for a child as specified in subdivision 4, review the child's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.*

**Subd. 4. [INDIVIDUAL FAMILY COMMUNITY SUPPORT PLAN.]** *(a) For each child, the case manager must develop an individual family community support plan that incorporates the child's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual family community support plan. The case manager is responsible for developing the individual family community support plan within 30 days of intake based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual family community support plan. The case manager must review the plan every 90 calendar days after it is developed. To the extent appropriate, the child with severe emotional disturbance, the child's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual family community support plan.*

*(b) The child's individual family community support plan must state:*

*(1) the goals of each service;*

*(2) the activities for accomplishing each goal;*

*(3) a schedule for each activity; and*

*(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual family community support plan.*

**Subd. 5. [COORDINATION BETWEEN CASE MANAGER AND FAMILY COMMUNITY SUPPORT SERVICES.]** *The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the family community support services as well as other mental health services for each child.*

**Subd. 6. [AVAILABILITY OF FAMILY COMMUNITY SUPPORT SERVICES.]** *By July 1, 1991, county boards must provide or contract for sufficient family community support services within the county to meet the*

*needs of each child with severe emotional disturbance who resides in the county and the child's family. Children or their parents may be required to pay a fee in accordance with section 245.481.*

*Family community support services must be designed to improve the ability of children with severe emotional disturbance to:*

- (1) handle basic activities of daily living;*
- (2) improve functioning in school settings;*
- (3) participate in leisure time or community youth activities;*
- (4) set goals and plans;*
- (5) reside with the family in the community;*
- (6) participate in after school and summer activities; and*
- (7) make a smooth transition into the adult mental health system as appropriate.*

*In addition, family community support services must be designed to improve overall family functioning if clinically appropriate to the child's needs, and to reduce the use of more intensive, costly, or restrictive placements both in number of admissions and lengths of stay as determined by the child's need.*

*Subd. 7. [DAY TREATMENT SERVICES PROVIDED.] (a) By July 1, 1991, day treatment services must be developed as part of the family community support services available to each child with severe emotional disturbance residing in the county. A child or the child's parent may be required to pay a fee according to section 245.481. Day treatment services must be designed to:*

- (1) provide a structured environment for treatment;*
- (2) provide family and community support;*
- (3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's need;*
- (4) coordinate with or be offered in conjunction with the school's education program;*
- (5) provide therapy and family intervention for children that are coordinated with education services provided and funded by schools; and*
- (6) operate during all 12 months of the year.*

*(b) County boards may request a waiver from including day treatment services if they can document that:*

- (1) alternative services exist through the county's family community support services for each child who would otherwise need day treatment services; and*
- (2) county demographics and geography make the provision of day treatment services cost ineffective and unfeasible.*

*Subd. 8. [PROFESSIONAL HOME-BASED FAMILY TREATMENT PROVIDED.] (a) By January 1, 1991, county boards must provide or contract for sufficient professional home-based family treatment within the county to meet the needs of each child with severe emotional disturbance*

*who is at risk of out-of-home placement due to the child's emotional disturbances or who is returning to the home from out-of-home placement. The child or the child's parent may be required to pay a fee according to section 245.481. The county board shall require that all service providers of professional home-based family treatment set fee schedules approved by the county board that are based on the child's or family's ability to pay. The professional home-based family treatment must be designed to assist each child with severe emotional disturbance who is at risk of or who is returning from out-of-home placement and the child's family to:*

*(1) improve overall family functioning in all areas of life;*

*(2) reduce the child's symptoms of emotional disturbance that contribute to a risk of out-of-home placement;*

*(3) provide a positive change in the emotional, behavioral, and mental well-being of children and their families; and*

*(4) reduce risk of out-of-home placement for the identified child with severe emotional disturbance and other siblings or successfully reunify and reintegrate into the family a child returning from out-of-home placement due to emotional disturbance.*

*(b) Professional home-based family treatment must be provided by a team consisting of a mental health professional and others who are skilled in the delivery of mental health services to children and families in conjunction with other human service providers. The professional home-based family treatment team must maintain flexible hours of service availability and must provide or arrange for crisis services for each family, 24 hours a day, seven days a week. Caseloads for each professional home-based family treatment team must be small enough to permit the delivery of intensive services and to meet the needs of the family. Professional home-based family treatment providers shall coordinate services and service needs with case managers assigned to children and their families. Individual treatment plans must be developed that identify the specific treatment objectives for both the child and the family.*

**Subd. 9. [THERAPEUTIC SUPPORT OF FOSTER CARE.]** *By January 1, 1992, county boards must provide or contract for foster care with therapeutic support as defined in section 245.4871, subdivision 34. Foster families caring for children with severe emotional disturbance must receive training and supportive services, as necessary, at no cost to the foster families within the limits of available resources.*

**Subd. 10. [BENEFITS ASSISTANCE.]** *The county board must offer help to a child with severe emotional disturbance and the child's family in applying for federal benefits, including supplemental security income, medical assistance, and Medicare. The help must be offered as a part of the family community support services available to each child with severe emotional disturbance for whom the county is financially responsible, and the child's family.*

**Sec. 47. [245.4882] [RESIDENTIAL TREATMENT SERVICES.]**

**Subdivision 1. [AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES.]** *County boards must provide or contract for enough residential treatment services to meet the needs of each child with emotional disturbance residing in the county and needing this level of care. Length of stay is based on the child's residential treatment need and shall be*

subject to the six-month review process established in section 257.071, subdivisions 2 and 4. Services must be made available as close to the county as possible. Residential treatment must be designed to:

- (1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs;
- (2) help the child improve family living and social interaction skills;
- (3) help the child gain the necessary skills to return to the community;
- (4) stabilize crisis admissions; and
- (5) work with families throughout the placement to improve the ability of the families to care for children with emotional disturbance in the home.

Subd. 2. [SPECIFIC REQUIREMENTS.] A provider of residential services to children must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional.

Subd. 3. [TRANSITION TO COMMUNITY.] Residential treatment facilities and regional treatment centers serving children must plan for and assist those children and their families in making a transition to less restrictive community-based services. Residential treatment facilities must also arrange for appropriate follow-up care in the community. Before the child is discharged, the residential treatment facility must notify the child's case manager, if any, so that the case manager can monitor the transition and arrangements for the child's appropriate follow-up care in the community.

Sec. 48. [245.4883] [ACUTE CARE HOSPITAL INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF ACUTE CARE HOSPITAL INPATIENT SERVICES.] County boards must make available through contract or direct provision enough acute care hospital inpatient treatment services as close to the county as possible for children with emotional disturbances residing in the county needing this level of care. Acute care hospital inpatient treatment services must be designed to:

- (1) stabilize the medical and mental health condition for which admission is required;
- (2) improve functioning to the point where discharge to residential treatment or community-based mental health services is possible;
- (3) facilitate appropriate referrals for follow-up mental health care in the community; and
- (4) work with families to improve the ability of the families to care for these children with emotional disturbances at home.

Subd. 2. [SPECIFIC REQUIREMENTS.] Providers of acute care hospital inpatient services for children must meet applicable standards established by the commissioners of health and human services.

Sec. 49. [245.4885] [SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.]

Subdivision 1. [SCREENING REQUIRED.] The county board shall ensure that all children are screened before they are admitted for treatment of emotional disturbance to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. Screening shall be in compliance

with section 256F.07 or 257.071, whichever applies, to determine whether:

(1) an admission is necessary;

(2) the length of stay is as short as possible consistent with the individual child's need; and

(3) the case manager, if assigned, is developing an individual family community support plan.

The screening process and placement decision must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (3).

**Subd. 2. [QUALIFICATIONS.]** No later than January 1, 1992, screening of children for residential and inpatient services shall include participation of a mental health professional. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement for mental health professional participation in sparsely populated areas.

**Subd. 3. [INDIVIDUAL PLACEMENT AGREEMENT.]** The county board shall enter into an individual placement agreement with a provider of residential treatment services to a child eligible for county-paid services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.

**Subd. 4. [TASK FORCE ON RESIDENTIAL AND INPATIENT TREATMENT SERVICES FOR CHILDREN.]** The commissioner of human services shall appoint a task force on residential and inpatient treatment services for children that includes representatives from each of the mental health professional categories defined in section 245.4871, subdivision 27, the Minnesota mental health association, the Minnesota alliance for the mentally ill, the children's mental health initiative, the Minnesota mental health law project, department of human services staff, the department of education, the department of corrections, the ombudsman for mental health and mental retardation, residential treatment facilities for children, inpatient hospital facilities for children, and counties. The task force shall examine and evaluate existing mechanisms that have as their purpose review of appropriate admission and need for continued care for all children with emotional disturbances who are admitted to residential treatment, acute care hospital inpatient treatment, and regional treatment center inpatient treatment. These mechanisms shall include at least the following: precommitment screening, preplacement screening for children, licensure and reimbursement rules, county monitoring, technical assistance, hospital preadmission certification, and hospital retrospective reviews. The task force shall report to the legislature by February 15, 1990, on how existing mechanisms may be changed to accomplish the goals of screening as described in subdivision 1.

**Sec. 50. [245.4886] [APPEALS.]**

A child or a child's family, as appropriate, who requests mental health

*services under sections 245.487 to 245.4887 must be advised of services available and the right to appeal as described in this section at the time of the request and each time the individual family community support plan or individual treatment plan is reviewed. A child whose request for mental health services under sections 245.487 to 245.4887 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.487 to 245.4887 may contest that action or inaction before the state agency according to section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.*

**Sec. 51. [245.4887] [CHILDREN'S SECTION OF LOCAL MENTAL HEALTH PROPOSAL.]**

*Subdivision 1. [TIME PERIOD.] The county board shall submit its first complete children's section of its local mental health proposal to the commissioner by November 15, 1989. Subsequent proposals must be on the same two-year cycle as community social service plans. If a proposal complies with sections 245.487 to 245.4887, it satisfies the requirement of the community social service plan for the emotionally disturbed target population as required by section 256E.09. The proposal must be made available upon request to all residents of the county at the same time it is submitted to the commissioner.*

*Subd. 2. [PROPOSAL CONTENT.] The children's section of the local mental health proposal must include:*

*(1) a report of the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council on unmet needs of children and any other needs assessment used by the county board in preparing the local mental health proposal including the report of the local coordinating council or local interagency task force specified in section 245.4875, subdivision 6;*

*(2) a description of the involvement of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council in preparing the local mental health proposal and methods used by the county board to ensure adequate and timely participation of citizens, mental health professionals, and providers in development of the local mental health proposal;*

*(3) information for the preceding year, including the actual number of children who received each of the mental health services listed in sections 245.487 to 245.4887, and actual expenditures for each mental health service and service waiting lists; and*

*(4) the following information describing how the county board intends to meet the requirements of sections 245.487 to 245.4887 during the proposal period:*

*(i) specific objectives and outcome goals for each mental health service listed in sections 245.487 to 245.4887;*

*(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the mental health services described in sections 245.487 to 245.4887 or to provide over \$10,000 of mental health services per year, including a listing of the professional qualifications of the staff involved*



*in service delivery for the county;*

*(iii) a description of how the mental health services in the county will be unified and coordinated including the mechanism established by the county board providing for interagency coordination as specified in section 245.4875, subdivision 6;*

*(iv) the estimated number of children who will receive each mental health service; and*

*(v) estimated expenditures for each mental health service and revenues for the entire proposal.*

*Subd. 3. [PROPOSAL FORMAT.] The children's section of the local mental health proposal must be made in a format prescribed by the commissioner.*

*Subd. 4. [PROVIDER APPROVAL.] The commissioner's review of the children's section of the local mental health proposal must include a review of the qualifications of each service provider required to be identified in the children's section of the local mental health proposal under subdivision 2. The commissioner may reject a county board's proposal for a particular provider if:*

*(1) the provider does not meet the professional qualifications contained in sections 245.487 to 245.4887;*

*(2) the provider does not have adequate fiscal stability or controls to provide the proposed services as determined by the commissioner; or*

*(3) the provider is not in compliance with other applicable state laws or rules.*

*Subd. 5. [SERVICE APPROVAL.] The commissioner's review of the children's section of the local mental health proposal must include a review of the appropriateness of the amounts and types of children's mental health services in the children's section of the local mental health proposal. The commissioner may reject the county board's proposal if the commissioner determines that the amount and types of services proposed are not cost effective, do not meet children's needs, or do not comply with sections 245.487 to 245.4887.*

*Subd. 6. [PROPOSAL APPROVAL.] The commissioner shall review each children's section of the local mental health proposal within 90 days and work with the county board to make any necessary modifications to comply with sections 245.487 to 245.4887. After the commissioner has approved the proposal, the county board is eligible to receive an allocation of mental health and community social service act funds.*

*Subd. 7. [PARTIAL OR CONDITIONAL APPROVAL.] If the children's section of the local mental health proposal is in substantial compliance, but not in full compliance with sections 245.487 to 245.4887, and necessary modifications cannot be made before the proposal period begins, the commissioner may grant partial or conditional approval and withhold a proportional share of the county board's mental health and community social service act funds until full compliance is achieved.*

*Subd. 8. [AWARD NOTICE.] Upon approval of the county board proposal, the commissioner shall send a notice of approval for funding. The notice must specify any conditions of funding and is binding on the county board. Failure of the county board to comply with the approved proposal*

and funding conditions may result in withholding or repayment of funds according to section 245.483.

*Subd. 9. [PLAN AMENDMENT.] If the county board finds it necessary to make significant changes in the approved children's section of the local mental health proposal, it must present the proposed changes to the commissioner for approval at least 30 days before the changes take effect. "Significant changes" means:*

*(1) the county board proposes to provide a children's mental health service through a provider other than the provider listed for that service in the approved local proposal;*

*(2) the county board expects the total annual expenditures for any single children's mental health service to vary more than ten percent or \$5,000, whichever is greater, from the amount in the approved local proposal;*

*(3) the county board expects a combination of changes in expenditures per children's mental health service to exceed more than ten percent of the total children's mental health services expenditures; or*

*(4) the county board proposes a major change in the specific objectives and outcome goals listed in the approved local children's mental health proposal.*

Sec. 52. Minnesota Statutes 1988, section 245.62, subdivision 3, is amended to read:

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

Sec. 53. Minnesota Statutes 1988, section 245.696, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC DUTIES.] In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) review and evaluate local programs and the performance of administrative and mental health personnel and make recommendations to county boards and program administrators;

(2) provide consultative staff service to communities and advocacy groups to assist in ascertaining local needs and in planning and establishing community mental health programs;

(3) employ qualified personnel to implement this chapter;

(4) ~~as part of the biennial budget process, report to the legislature on staff use and staff performance, including in the report a description of duties performed by each person in the mental health division;~~

~~(5)~~ adopt rules for minimum standards in community mental health services as directed by the legislature;

~~(6)~~ (5) cooperate with the commissioners of health and jobs and training to coordinate services and programs for people with mental illness;

~~(7)~~ (6) convene meetings with the commissioners of corrections, health, education, and commerce at least four times each year for the purpose of coordinating services and programs for ~~children with mental illness and~~

children with emotional or behavioral disorders;

~~(8)~~ (7) evaluate the needs of people with mental illness as they relate to assistance payments, medical benefits, nursing home care, and other state and federally funded services;

~~(9)~~ (8) provide data and other information, as requested, to the advisory council on mental health;

~~(10)~~ (9) develop and maintain a data collection system to provide information on the prevalence of mental illness, the need for specific mental health services and other services needed by people with mental illness, funding sources for those services, and the extent to which state and local areas are meeting the need for services;

~~(11)~~ (10) apply for grants and develop pilot programs to test and demonstrate new methods of assessing mental health needs and delivering mental health services;

~~(12)~~ (11) study alternative reimbursement systems and make waiver requests that are deemed necessary by the commissioner;

~~(13)~~ (12) provide technical assistance to county boards to improve fiscal management and accountability and quality of mental health services, and consult regularly with county boards, public and private mental health agencies, and client advocacy organizations for purposes of implementing this chapter;

~~(14)~~ (13) promote coordination between the mental health system and other human service systems in the planning, funding, and delivery of services; entering into cooperative agreements with other state and local agencies for that purpose as deemed necessary by the commissioner;

~~(15)~~ (14) conduct research regarding the relative effectiveness of mental health treatment methods as the commissioner deems appropriate, and for this purpose, enter treatment facilities, observe clients, and review records in a manner consistent with the Minnesota government data practices act, chapter 13; and

~~(16)~~ (15) enter into contracts and promulgate rules the commissioner deems necessary to carry out the purposes of this chapter.

Sec. 54. Minnesota Statutes 1988, section 245.697, subdivision 2a, is amended to read:

Subd. 2a. [SUBCOMMITTEE ON CHILDREN'S MENTAL HEALTH.]  
(a) The state advisory council on mental health (the "advisory council") must have a subcommittee on children's mental health. The subcommittee must make recommendations to the advisory council on policies, laws, regulations, and services relating to children's mental health. Members of the subcommittee must include:

(1) the commissioners or designees of the commissioners of the departments of human services, health, education, and corrections;

(2) the commissioner of commerce or a designee of the commissioner who is knowledgeable about medical insurance issues;

(3) at least one representative of an advocacy group for children with ~~mental illness~~ *emotional disturbances*;

(4) providers of children's mental health services, including at least one

provider of services to preadolescent children, one provider of services to adolescents, and one hospital-based provider;

(5) parents of children who have ~~mental illness or emotional or behavioral disorders~~ *disturbances*;

(6) a present or former consumer of adolescent mental health services;

(7) educators ~~experienced in currently~~ working with emotionally disturbed children;

(8) people knowledgeable about the needs of emotionally disturbed children of minority races and cultures;

(9) people experienced in working with emotionally disturbed children who have committed status offenses;

(10) members of the advisory council; and

(11) county commissioners and social services agency representatives.

The chair of the advisory council shall appoint subcommittee members described in clauses (3) to (11) through the process established in section 15.0597. The chair shall appoint members to ensure a geographical balance on the subcommittee. Terms, compensation, removal, and filling of vacancies are governed by subdivision 1, except that terms of subcommittee members who are also members of the advisory council are coterminous with their terms on the advisory council. The subcommittee shall meet at the call of the subcommittee chair who is elected by the subcommittee from among its members. The subcommittee expires with the expiration of the advisory council.

*(b) The subcommittee members listed in paragraph (a), clauses (1) and (2), shall meet monthly through 1992 to:*

*(1) provide information about issues discussed;*

*(2) recommend policy and procedural changes needed in the agency or agencies they represent;*

*(3) educate members about each representative's agency policies, procedures, funding, and services for children;*

*(4) develop mechanisms for interagency coordination on behalf of children with emotional disturbances;*

*(5) identify barriers within all agencies represented that interfere with service delivery;*

*(6) identify barriers to service delivery at the state level;*

*(7) identify mechanisms for better use of federal and state funding; and*

*(8) prepare an annual report on the policy and procedural changes needed to implement a coordinated, effective, and efficient child mental health delivery system. This report shall be submitted to the commissioner of human services, the state mental health advisory council, and the children's subcommittee of the state mental health advisory council.*

Sec. 55, Minnesota Statutes 1988, section 245.713, subdivision 2, is amended to read:

Subd. 2. [TOTAL FUNDS AVAILABLE; ALLOCATION.] Funds granted to the state by the federal government under United States Code, title 42,

sections 300X to 300X-9 each federal fiscal year for mental health services must be allocated as follows:

(a) Any amount set aside by the commissioner of human services for American Indian organizations within the state, which funds shall not duplicate any direct federal funding of American Indian organizations and which funds shall be at least 25 percent of the total federal allocation to the state for mental health services; provided that sufficient applications for funding are received by the commissioner which meet the specifications contained in requests for proposals. Money from this source may be used for special committees to advise the commissioner on mental health programs and services for American Indians and other minorities or underserved groups. For purposes of this subdivision, "American Indian organization" means an American Indian tribe or band or an organization providing mental health services that is legally incorporated as a nonprofit organization registered with the secretary of state and governed by a board of directors having at least a majority of American Indian directors.

(b) An amount not to exceed ~~ten~~ five percent of the federal block grant allocation for mental health services to be retained by the commissioner for administration.

(c) Any amount permitted under federal law which the commissioner approves for demonstration or research projects for severely disturbed children and adolescents, the underserved, special populations or multiply disabled mentally ill persons. The groups to be served, the extent and nature of services to be provided, the amount and duration of any grant awards are to be based on criteria set forth in the Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9, and on state policies and procedures determined necessary by the commissioner. Grant recipients must comply with applicable state and federal requirements and demonstrate fiscal and program management capabilities that will result in provision of quality, cost-effective services.

(d) The amount required under federal law, for federally mandated expenditures.

(e) An amount not to exceed ~~ten~~ 15 percent of the federal block grant allocation for mental health services to be retained by the commissioner for planning and evaluation.

Sec. 56. Minnesota Statutes 1988, section 245.73, subdivision 4, is amended to read:

Subd. 4. [RULES; REPORTS.] The commissioner shall promulgate an emergency and permanent rule to govern grant applications, approval of applications, allocation of grants, and maintenance of service and financial records by grant recipients. The commissioner shall require collection of data for compliance, monitoring and evaluation purposes and shall require periodic reports to demonstrate the effectiveness of the services in helping adult mentally ill persons remain and function in their own communities. *As a part of the report required by section 245.461,* the commissioner shall report to the legislature ~~no later than December 31 of each even-numbered year~~ as to the effectiveness of this program and recommendations regarding continued funding.

Sec. 57. [STUDY.]

*The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding: (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.*

**Sec. 58. [USE OF GRANT MONEY FOR DEMONSTRATION PROJECTS FOR THERAPEUTIC FOSTER CARE.]**

*If money is appropriated to the commissioner of human services for the biennium ending June 30, 1991, for demonstration projects for therapeutic foster care programs, one grant must be awarded to an existing program in Olmsted county.*

**Sec. 59. [REPEALER.]**

*Minnesota Statutes 1988, sections 245.462, subdivision 25; 245.471; 245.475; 245.64; and 245.698, are repealed."*

Amend the title as follows:

Page 1, line 18, delete "subdivisions 2, 3, and 4" and insert "subdivision 3"

Page 1, line 24, delete "245.61;"

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

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

S.F. No. 879: A bill for an act relating to public safety; providing for authority to regulate pipelines; imposing penalties; amending Minnesota Statutes 1988, sections 116I.01, subdivision 3; 116I.05; 216D.01, subdivisions 9 and 10, and by adding a subdivision; 299F.56, subdivisions 5 and 6a; 299F.57; 299F.59, subdivision 1; 299F.60; 299F.61; 299F.62; 299F.63; 299F.631; 299F.641; 299J.01; 299J.03, subdivision 2; 299J.04; 299J.05; 299J.06, subdivision 2; 299J.08; 299J.10; 299J.11; 299J.12; and 299J.16; proposing coding for new law in Minnesota Statutes, chapter 216D; repealing Minnesota Statutes 1988, section 299J.09.

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

Page 2, line 12, delete "the department of"

Page 2, line 21, delete "its agencies" and insert "a state agency"

Page 2, line 35, after the period, insert "An operator subject to section 11 who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed under section 299F.60."

Page 3, after line 17, insert:

"Subd. 4. [RULES.] The commissioner shall adopt rules establishing reasonable guidelines for imposing penalties. The rules must provide for notice that a penalty is assessed and may exempt activities from penalties

*unless the excavator or operator as defined in this section has evidenced a course of action in disregard of this chapter."*

Page 3, line 31, after "*afford*" insert "*an*" and after "*opportunity*" insert "*to present views*"

Page 4, line 29, strike "*MINIMUM*"

Page 7, line 30, delete "*299.641*" and insert "*299F.641*"

Page 7, line 33, delete "*and*" and insert "*or*"

Page 9, line 9, strike "*299E.64*" and insert "*299F.641*"

Page 10, line 13, delete "*or*" and insert "*and*"

Page 10, line 17, after "*person*" insert "*subject to regulation under sections 299F.56 to 299F.641*"

Page 10, line 19, before "*sections*" insert "*those*" and strike "*299E.56 to*"

Page 10, line 20, delete "*299F.641*"

Page 10, line 21, before "*sections*" insert "*those*" and strike "*299E.56 to*" and delete the new language

Page 11, line 9, delete "*concerned with*" and insert "*authorized to*"

Page 11, line 10, delete "*enforcing*" and insert "*enforce*"

Page 12, line 34, delete "*the costs spent on*"

Page 18, line 9, delete "*, as amended,*" and after "*the*" insert "*federal*"

Page 18, line 10, delete "*, as amended*"

Page 18, line 35, reinstate the stricken "*all*"

Page 21, line 12, after "*adopt*" insert "*, by December 31, 1990,*"

Page 24, line 28, after the first "*the*" insert "*amount of the*"

Page 24, lines 32 and 33, delete "*spent on*" and insert "*incurred in*"

Page 25, line 8, delete "*to be*"

Page 25, line 9, after "*operator*" insert "*in Minnesota*"

Amend the title as follows:

Page 1, line 5, delete the first "*and*" and insert a comma

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

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

S.F. No. 143: A bill for an act relating to public safety; appropriating fees charged by state patrol and capitol complex security division for escort and contracted security services; proposing coding for new law in Minnesota Statutes, chapters 299D and 299E.

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

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1988, section 299D.03, subdivision 1, is amended to read:

Subdivision 1. [MEMBERS.] The commissioner is hereby authorized to employ and designate a chief supervisor, a chief assistant supervisor, and such assistant supervisors, sergeants and officers as are provided by law, who shall comprise the Minnesota state patrol. The members of the Minnesota state patrol shall have the power and authority:

(1) As peace officers to enforce the provisions of the law relating to the protection of and use of trunk highways.

(2) At all times to direct all traffic on trunk highways in conformance with law, and in the event of a fire or other emergency, or to expedite traffic or to insure safety, to direct traffic on other roads as conditions may require notwithstanding the provisions of law.

(3) To serve warrants and legal documents anywhere in the state.

(4) To serve orders of the commissioner of public safety or the commissioner's duly authorized agents issued under the provisions of the Drivers License Law, the Safety Responsibility Act, or relating to authorized brake and light testing stations, anywhere in the state and to take possession of any license, permit or certificate ordered to be surrendered.

(5) To inspect official brake and light adjusting stations.

(6) To make appearances anywhere within the state for the purpose of conducting traffic safety educational programs and school bus clinics.

(7) To exercise upon all trunk highways the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables and police officers.

(8) To cooperate, under instructions and rules of the commissioner of public safety, with all sheriffs and other police officers anywhere in the state, provided that said employees shall have no power or authority in connection with strikes or industrial disputes.

(9) To assist and aid any peace officer whose life or safety is in jeopardy.

(10) As peace officers to provide security and protection to the governor, governor elect, either or both houses of the legislature, and state buildings or property in the manner and to the extent determined to be necessary after consultation with the governor, or a designee. Pursuant to this clause, members of the state patrol, acting as peace officers have the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables and police officers have within their respective jurisdictions.

(11) To inspect school buses anywhere in the state for the purposes of determining compliance with vehicle equipment, pollution control, and registration requirements.

(12) As peace officers to make arrests for public offenses committed in their presence anywhere within the state. Persons arrested for violations other than traffic violations shall be referred forthwith to the appropriate local law enforcement agency for further investigation or disposition.

~~Notwithstanding any provision of law to the contrary.~~ The state may contract for state patrol members to render *the services described in this section* in excess of their regularly scheduled duty hours ~~to a governmental~~



~~unit pursuant to section 471.59,~~ and patrol members rendering such services shall be compensated in such amounts, manner and under such conditions as the agreement provides.

Employees thus employed and designated shall subscribe an oath and furnish a bond running to the state of Minnesota, said bond to be approved and filed in the office of the secretary of state."

Page 1, line 20, delete "and 2" and insert "to 3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "amending Minnesota Statutes 1988, section 299D.03, subdivision 1;"

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

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

S.F. No. 632: A bill for an act relating to credit unions; clarifying requirements for credit unions to maintain reserve funds; allowing private insurance of member share and deposit accounts; amending Minnesota Statutes 1988, sections 52.17, subdivision 1; and 52.24, subdivisions 1 and 2.

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

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1988, section 52.02, subdivision 1, is amended to read:

Subdivision 1. [AMENDMENTS BY MEMBERS.] (a) To amend the certificate of organization or bylaws, proposed amendments shall be set forth as follows:

(1) if balloting by mail has not been authorized by the board of directors, then *a statement of intent to amend which identifies* the proposed amendments shall be set forth in the notice of the meeting; or

(2) if balloting by mail has been authorized by the board of directors as either the exclusive means of voting or in conjunction with voting in person, *a statement of intent to amend which identifies* the proposed amendments shall be set forth in a notice mailed to all members eligible to vote at least ~~ten~~ 30 days prior to the close of balloting by mail. Any amendments to the certificate of organization or bylaws shall be approved by two-thirds vote of the members actually voting, if the members actually voting constitute a quorum.

(b) *A member receiving notice of a proposed bylaw amendment pursuant to this subdivision may request a written copy of the proposed bylaw amendment. This request must be made no later than ten days prior to the close of balloting by mail or the date set for the meeting. The credit union shall provide the member with a written copy of the proposed bylaw amendment upon receipt of a timely request and the original notice must inform the member of the right to make a request. A copy of the proposed amendments shall be posted in the credit union's office for member review 30 days prior to the close of balloting by mail or the date of the meeting.*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "providing members with written notice regarding proposed bylaw amendments;"

Page 1, line 5, after "sections" insert "52.02, subdivision 1;"

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. 863: A bill for an act relating to financial institutions; providing standards for determining transaction account service charges; permitting state banks to establish subsidiaries under certain circumstances; authorizing the commissioner to adopt rules regarding activities of banks and bank subsidiaries; amending Minnesota Statutes 1988, sections 48.512, by adding a subdivision; and 48.61, by adding a subdivision.

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

Page 2, line 19, after the semicolon, insert "and"

Page 2, line 21, delete " ; and" and insert a period

Page 2, delete line 22

Page 3, delete section 3

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

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

S.F. No. 631: A bill for an act relating to electric utilities; clarifying authority of public utilities commission to change boundaries of electric utility service areas; amending Minnesota Statutes 1988, section 216B.39, subdivisions 3, 5, and 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. [STUDY; ELECTRIC UTILITY SERVICE AREAS.]

*Subdivision 1. [TASK FORCE.] A task force consisting of five members of the house of representatives appointed by the speaker of the house, five members of the senate appointed by the subcommittee on committees of the committee on rules and administration, the chair of the public utilities commission or the chair's designate, and the commissioner of public service or the commissioner's designate shall study issues relating to changes in boundaries of electric utility service areas and shall report its findings and recommendations to the legislature by February 1, 1990. At least one member from each house of the legislature must be a member of the minority caucus.*

*Subd. 2. [DEFINITION.] For purposes of this section, "electric utility" or "utility" means a wholesale or retail cooperative electric association*

and a municipal electric utility as well as a public utility regulated under Minnesota Statutes, chapter 216B.

*Subd. 3. [STUDY.] The study must address all issues relating to the setting and changing of service area boundaries, including, but not limited to:*

*(1) the extent, if any, to which rates within service areas should be a factor in determining or changing service area boundaries;*

*(2) why and how excess capacity occurs and whether it should be reduced through short-term or long-term sale or lease, permanent sale of capacity, or other means;*

*(3) the extent, if any, to which excess capacity of a utility and the need of another utility for additional power should be a factor in determining or changing service areas;*

*(4) the effect on rates, and on the potential for equalization of rates among utilities, of capacity-reduction options;*

*(5) plant efficiency, including operating efficiency and operating costs, management practices, and the impact of any federal regulation or oversight;*

*(6) the impact on economic development;*

*(7) rate-making policies and procedures; and*

*(8) municipal authority and the relationship between service area boundaries and municipal boundaries.*

*Subd. 4. [AGENCY, UTILITY COOPERATION.] The public utilities commission and the department of public service shall cooperate with the task force. Utilities shall furnish information, including access to their financial and other records, to the task force, the public utilities commission, or the department of public service upon request.*

*Subd. 5. [STAFF] The task force shall use legislative staff, and the public utilities commission and department of public service shall make staff available to assist the task force.*

*Subd. 6. [CONSULTANTS; ASSESSMENT OF COSTS.] The public utilities commission may employ the services of consultants to assist the task force and may assess the costs associated with the task force study, but not more than \$200,000, to the affected utilities in proportion to their gross operating revenues. The commission shall use the proceeds of any assessment under this subdivision to cover its own costs and those incurred by the department of public service, including costs associated with providing staff assistance to the task force.*

*Subd. 7. [SUBPOENA POWER.] The task force may request the issuance of subpoenas, including subpoenas duces tecum, in the same manner as a standing or interim committee under Minnesota Statutes, section 3.153. A subpoena requested by the task force may be issued by either the chief clerk of the house of representatives or the secretary of the senate. Service and enforcement of a subpoena is governed by section 3.153.*

**Sec. 2. [EFFECTIVE DATE.]**

*Section 1 is effective the day following final enactment."*

Delete the title and insert:

"A bill for an act relating to electric utilities; service areas; establishing a task force to study issues relating to service area boundary changes; authorizing the public utilities commission to assess costs associated with the study."

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. 1189: A bill for an act relating to state buildings; establishing a state policy of barrier-free environments for state owned and leased buildings; appropriating money.

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

Page 2, line 1, delete "shall" and insert "must"

Page 2, line 3, delete "federal section 504"

Page 2, line 4, after "requirements" insert "of section 504 of the Rehabilitation Act of 1973, Public Law Number 93-112"

Page 2, line 9, delete from "No" through page 2, line 11, to "council."

Page 2, line 11, delete "shall be" and insert "is"

Page 2, line 12, delete ", major remodeling"

Page 2, line 13, delete the comma

Page 2, line 28, delete "I" and insert "I"

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. 855: A bill for an act relating to state employees; authorizing the department of transportation to permit the donation of vacation time for unreimbursed medical expenses; proposing coding for new law in Minnesota Statutes, chapter 174.

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

Delete everything after the enacting clause and insert:

"Section 1. [UNREIMBURSED MEDICAL COSTS VACATION DONATION PROGRAM.]

*Subdivision 1. [DONATION OF VACATION TIME.] A state employee may donate up to eight hours of accrued vacation time in calendar year 1989 to the account established by subdivision 2 for the benefit of another state employee. The employee must notify the employee's agency head of the amount of accrued vacation time the employee wishes to donate and the name of the other state employee who is to benefit from the donation. The agency head shall determine the monetary value of the donated time, using the gross salary of the employee making the donation. The agency head shall transfer that amount to the account established by subdivision*

2. A donation of accrued vacation time is irrevocable once its monetary value has been transferred to the account.

*Subd. 2. [BENEFIT ACCOUNT.] The vacation benefit account, consisting of money transferred under subdivision 1, is administered by the commissioner of employee relations. Money in the account is appropriated to the commissioner for purposes of this section until January 1, 1991. Any appropriation remaining in the account on that date is transferred to the commissioner of commerce to cover costs of the study required by subdivision 5.*

*Subd. 3. [USE OF ACCOUNT ASSETS.] Expenditures from the account may be made only to pay unreimbursed medical expenses when the total of those expenses is at least \$10,000 and the expenses are incurred because of the illness of or injury to a state employee or the employee's spouse or dependent. An expenditure on behalf of an employee may not exceed the total transferred into the account established by subdivision 2 because of a donation or donations of vacation time for the benefit of that employee.*

*Subd. 4. [TAX CONSEQUENCES.] So far as possible, the commissioner shall administer the account in such a way that no tax burden or benefit is imposed or granted to those who donate accrued vacation time or those who benefit from a donation.*

*Subd. 5. [STUDY; TRANSPLANT SURGERY.] The commissioner of commerce shall study the feasibility of:*

*(1) requiring all policies or plans of health, medical, hospitalization, or accident and sickness insurance, and all health maintenance organizations providing coverage of or reimbursement for inpatient hospital and medical expenses to cover the costs of nonexperimental transplant surgery; and*

*(2) defining experimental and nonexperimental transplant surgery for purposes of this subdivision.*

*The commissioner shall report the results of the study and any recommendations resulting from the study to the legislature by January 15, 1991.*

Sec. 2. [EFFECTIVE DATE.]

*Section 1 is effective the day following final enactment."*

Delete the title and insert:

"A bill for an act relating to state employees; authorizing the donation of accrued vacation time by state employees in 1989 to pay unreimbursed medical costs incurred by other state employees."

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. 109: A bill for an act relating to employment; requiring breaks during the work day; amending Minnesota Statutes 1988, sections 177.32, subdivision 1; and 177.33; proposing coding for new law in Minnesota Statutes, chapter 177.

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

Page 1, lines 7 and 8, delete "LUNCH" and insert "MEAL"

Page 1, line 8, delete "provide" and insert "permit"

Page 1, line 9, delete everything after "employee"

Page 1, line 10, delete "workday if the employee" and insert "who" and delete "eight" and insert "six"

Page 1, line 11, before the period, insert "sufficient time to eat a meal" and delete everything after the period

Page 1, delete lines 12 and 13

Page 1, lines 15 and 18, delete "lunch" and insert "meal"

Amend the title as follows:

Page 1, line 2, before "breaks" insert "meal"

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. 864: A bill for an act relating to corrections; authorizing a grant to support a statewide coalition of sexual assault programs, agencies, and providers; appropriating money.

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. 1031: A bill for an act relating to health; establishing notice requirements for emergency medical services personnel who are first responders; providing safeguards for first responders against exposure to infectious diseases; proposing coding for new law in Minnesota Statutes, chapter 144.

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

Page 2, line 7, delete "and"

Page 2, line 9, before the period, insert "": and

*(5) correctional guards employed by the state or a local unit of government who experience a significant exposure to an inmate who is transported to a facility for emergency medical care"*

Page 3, after line 26, insert:

*"Subd. 3. [IMMUNITY.] A facility is not civilly or criminally liable for actions relating to the notification of emergency medical services personnel if the facility has made a good faith effort to adopt and follow a notification protocol."*

Page 4, line 14, delete everything after the period

Page 4, delete lines 15 to 17

Page 5, line 13, after "release" insert ", by an individual or agency

*described in section 1, subdivision 4 or 5,” and before “information” insert “personally identifying”*

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

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

S.F. No. 237: A bill for an act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116.

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

Page 1, lines 10 and 11, delete *“and pathological”*

Page 2, delete lines 20 to 25 and insert:

*“Subd. 13. [LABORATORY WASTE.] “Laboratory waste” means waste cultures and stocks of agents that are infectious to humans; discarded contaminated items used to inoculate, transfer, or otherwise manipulate cultures or stocks of agents that are infectious to humans; wastes from the production of biological agents that are infectious to humans; and discarded live or attenuated vaccines that are infectious to humans.”*

Page 3, delete lines 4 to 8 and insert:

*“Subd. 17. [RESEARCH ANIMAL WASTE.] “Research animal waste” means carcasses, body parts, and blood derived from animals intentionally exposed to agents that are infectious to humans for the purpose of research, production of biologicals, or testing of pharmaceuticals.”*

Page 3, line 17, delete *“INFECTIOUS”*

Page 3, lines 19 and 20, delete *“and pathological”*

Page 3, lines 21, 23, 28, and 29, delete *“or pathological”*

Page 3, line 24, delete *“or “pathological waste””*

Page 4, after line 2, insert:

*“Subd. 4. [PATHOLOGICAL WASTE.] Pathological waste must be disposed of according to sanitary standards established by state and federal laws or regulations for the disposal of the waste.”*

Page 4, line 8, delete *“and pathological”*

Renumber the subdivisions in sequence

Page 5, line 2, delete *“pathological and”*

Page 6, line 19, delete *“OR PATHOLOGICAL”*

Page 6, lines 20 and 21, delete *“or pathological”*

Page 6, lines 23 and 24, delete *“or pathological”*

Page 6, lines 27 and 28, delete *“or pathological”*

Page 6, line 32, delete *“and pathological waste”*

Page 6, line 35, delete "*or pathological waste*"

Page 7, lines 1 and 12, delete "*and pathological*"

Page 7, line 4, delete "*or pathological wastes*" and insert " *waste*"

Page 7, lines 7 and 8, delete "*or pathological waste*"

Page 8, line 1, delete everything after "*transport*"

Page 8, lines 8 and 10, delete "*or pathological*"

Page 8, line 30, delete ", *pathological waste,*"

Amend the title as follows:

Page 1, line 5, after "Statutes" insert "1988"

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

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

S.F. No. 422: A bill for an act relating to child maltreatment; authorizing the commissioner of human services to provide for the establishment of a statewide 24-hour toll-free telephone helpline; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 626.

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. 1233: A bill for an act relating to human services; expanding the work readiness program; removing time limits on work readiness assistance; requiring participation in work readiness activities as a condition of receiving assistance; establishing notice and appeal requirements; establishing residency requirements; amending Minnesota Statutes 1988, sections 256D.01, subdivisions 1, 1a, 1b, and 1c; 256D.02, subdivisions 1, 4, and by adding a subdivision; 256D.03, subdivision 2; 256D.05, subdivision 1, and by adding a subdivision; 256D.051, subdivisions 1, 2, 3, 6, 8, 13, and by adding subdivisions; 256D.052, subdivisions 1, 2, 3, and 4; 256D.101; 2456D.111, subdivision 5; and 256G.03, subdivision 1; repealing Minnesota Statutes 1988, section 256D.052, subdivisions 5, 6, and 7.

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

Page 7, line 15, delete "*that term is*" and insert "*those terms are*"

Page 7, after line 16, insert:

"(4) *by participating in work readiness activities under section 256D.051; or*"

Page 7, line 17, delete "(4)" and insert "(5)"

Page 10, line 30, delete "(8)" and strike "a person who has substantial barriers to"

Page 10, strike lines 31 to 34



Page 10, line 35, strike “and training” and insert “(8) a person who has been assessed by a qualified professional as not being likely to obtain permanent employment. The assessment must consider the recipient’s age, physical and mental health, education, amenability to training, prior work experience, and the local labor market”

Page 12, line 15, delete “and”

Page 12, line 17, after “employment” insert “; and

(14) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day”

Page 13, line 22, after “children” insert “, unless requested by the assistance unit”

Page 13, line 36, after the stricken period, insert “A person, family, or couple who cannot demonstrate state residency but who meets all other eligibility requirements may participate in work readiness activities for purposes of demonstrating state residency under section 7, clause (4).”

Page 14, line 15, delete “initial participation is achieved” and insert “participation in the work readiness orientation”

Page 16, line 23, after “program” insert “, as provided in section 256D.051, subdivision 3b” and strike “A registrant who is”

Page 16, strike lines 24 to 27

Page 16, line 35, delete “18” and insert “19”

Page 17, lines 33 and 34, delete “for that pay period”

Page 17, line 36, delete “can” and insert “must”

Page 18, line 2, delete “can” and insert “must”

Page 18, line 34, delete “provide” and insert “receive”

Page 19, after line 1, insert:

“Sec. 19. Minnesota Statutes 1988, section 256D.051, subdivision 6a, is amended to read:

Subd. 6a. **[COUNTY MATCH AND USE OF FUNDS.]** Each county shall provide a 25 percent match for direct participation expenses and administrative costs of providing work readiness services. Funds may be used for the following direct participation expenses: transportation, clothes, tools, and other necessary work-related expenses. Funds may be used for administrative costs incurred providing the following services: employability assessments and employability development plans, employment search assistance, education, orientation, placement, on-the-job training, and other appropriate activities.”

Page 21, line 3, strike “GENERAL ASSISTANCE” and insert “WORK READINESS”

Page 21, line 25, after “local agency” insert “or its agent”

Page 22, line 8, after the comma, insert “the recipient must be assigned a schedule by which a recipient is to visit the agency to pick up any notices. For a recipient without a mailing address,”

Page 22, line 9, delete “prepared by” and insert “of the registrant’s next

*scheduled visit with"*

Page 22, line 15, delete "for that pay period"

Page 22, line 17, before the period, insert "and reinstate work readiness payments"

Page 22, line 19, after "five" insert "working"

Page 24, delete section 29

Page 25, line 6, delete "31" and insert "9 and 11 to 30" and after the period, insert "Section 10 is effective July 1, 1989."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 12, after "6," insert "6a."

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

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

S.F. No. 870: A bill for an act relating to insurance; life; allowing insurance policies to contain a rider providing for early payment of benefits to recipients of long-term care; amending Minnesota Statutes 1988, sections 60A.06, subdivisions 1 and 3; and 62A.46, subdivision 2.

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

Page 3, lines 10 and 11, delete the new language

Page 5, line 4, delete "solely if the" and insert a period

Page 5, delete lines 5 and 6

Page 5, delete section 3 and insert:

"Sec. 3. [61A.072] [POLICIES WITH ACCELERATED BENEFITS.]

*Subdivision 1. [DISCLOSURE.] A life insurance contract or supplemental contract that contains a provision to permit the accelerated payment of benefits as authorized under section 60A.06, subdivision 1, clause (4), must contain the following disclosure: "This is a life insurance policy which pays accelerated death benefits at your option under conditions specified in the policy. This policy is not a long-term care policy meeting the requirements of sections 62A.46 to 62A.56."*

*Subd. 2. [ADVERTISEMENTS.] Any advertisement related to a contract or supplemental contract providing for the payment of accelerated benefits must be approved by the commissioner prior to its use. The commissioner shall not approve the advertisement if it is likely to lead a prospective purchaser to believe that it is a long-term care policy.*

*Subd. 3. [PROHIBITION.] No contract or supplemental contract providing for the payment of accelerated benefits may be offered or sold to an individual over the age of 65 years.*

*Subd. 4. [LONG-TERM CARE EXPENSES.] If the right to receive accelerated benefits is contingent upon the insured receiving long-term care services, the contract or supplemental contract shall include the following*

provisions:

(1) the minimum accelerated benefit shall be \$1,200 per month if the insured is receiving nursing facility services and \$750 per month if the insured is receiving home services with a minimum lifetime benefit limit of \$50,000;

(2) coverage is effective immediately and benefits shall commence with the receipt of services as defined in section 62A.46, subdivision 3, 4, or 5, but may include a waiting period of not more than 90 days, provided that no more than one waiting period may be required per benefit period as defined in section 62A.46, subdivision 11;

(3) premium shall be waived during any period in which benefits are being paid to the insured during confinement to a nursing home facility;

(4) coverage may not be canceled or renewal refused except on the grounds of nonpayment of premium;

(5) coverage must include preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage;

(6) the contract or supplemental contract shall contain the following disclosure:

**"THE ACCELERATED LIFE INSURANCE BENEFITS PROVIDED UNDER THIS CONTRACT MAY NOT COVER ALL NURSING HOME, HOME CARE, OR ADULT DAY CARE EXPENSES. BENEFITS ARE NOT PAYABLE UPON RECEIPT OF RESIDENTIAL CARE. READ YOUR POLICY CAREFULLY TO DETERMINE YOUR BENEFIT AMOUNT.";**

(7) coverage must include mental or nervous disorders which have a demonstrable organic cause such as Alzheimer's and related dementias;

(8) no prior hospitalization requirement shall be allowed unless a similar requirement is allowed by section 62A.48, subdivision 1; and

(9) the contract shall include a cancellation provision that meets the requirements of section 62A.50, subdivision 2."

Amend the title as follows:

Page 1, line 4, delete "to recipients of long-term care"

Page 1, line 5, delete "sections" and insert "section"

Page 1, line 6, delete everything after the semicolon and insert "proposing coding for new law in Minnesota Statutes, chapter 61A."

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. 1242: A bill for an act relating to state government; extending the expiration date on certain advisory councils; amending Minnesota Statutes 1988, section 15.059, subdivision 5; repealing Minnesota Statutes 1988, section 84B.11, subdivision 4.

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

as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1988, section 15.0575, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION.] Members of the boards ~~shall~~ *must* be compensated at the rate of ~~\$35~~ \$55 per day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted ~~pursuant to~~ *under* section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization. Members who are full-time state employees or full-time employees of the political subdivisions of the state ~~shall~~ *may* not receive the ~~\$35~~ \$55 per day, but they ~~shall~~ *may* suffer no loss in compensation or benefits from the state or a political subdivision as a result of their service on the board. Members who are full-time state employees or full-time employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their normal working hours."

Page 1, after line 13, insert:

"Sec. 3. Minnesota Statutes 1988, section 16B.39, subdivision 2, is amended to read:

Subd. 2. [EMPLOYEE ASSISTANCE PROGRAM; ~~ADVISORY COMMITTEE~~.] The commissioner shall provide an employee assistance program of training, diagnostic, and referral services for state employees and their dependents. ~~The commissioner shall appoint an advisory committee on state employee assistance of not more than 15 members to advise the commissioner on the program. The committee is subject to the provisions of section 15.059."~~

Page 1, line 15, delete "section" and insert "sections" and delete ", is" and insert "; 115.54; 121.83; 174.031, subdivision 2; 175.007; 256.73, subdivision 7; and 268.12, subdivision 6, are"

Page 1, line 18, delete "and 2" and insert "to 4"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "increasing the compensation of members of administrative boards and agencies; eliminating a requirement for appointment of a state employees assistance program advisory committee;"

Page 1, line 4, delete "section" and insert "sections 15.0575, subdivision 3;" and after "5;" insert "and 16B.39, subdivision 2;"

Page 1, line 5, delete "section" and insert "sections"

Page 1, line 6, before the period, insert "; 115.54; 121.83; 174.031, subdivision 2; 175.007; 256.73, subdivision 7; and 268.12, subdivision 6"

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

adopted.

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

H.F. No. 774 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.
774	676				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 774 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 774 and insert the language after the enacting clause of S.F. No. 676, the first engrossment; further, delete the title of H.F. No. 774 and insert the title of S.F. No. 676, the first engrossment.

And when so amended H.F. No. 774 will be identical to S.F. No. 676, and further recommends that H.F. No. 774 be given its second reading and substituted for S.F. No. 676, 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.

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

S.F. No. 531: A bill for an act relating to jobs and training; creating a community conversion incentive grant program to fund projects to secure employment for persons with severe disabilities; appropriating money.

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

Page 3, line 26, delete "\$3,000,000" and insert "\$ . . . . ."

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 and Rural Development, to which was referred

S.F. No. 957: A bill for an act relating to economic development; transferring programs under the Minnesota agricultural and economic development board to the department of trade and economic development; changing the governing structure of the certified development company; transferring program responsibilities for the allocation of bonding authority to the department of finance; eliminating certain reporting requirements; amending Minnesota Statutes 1988, sections 41A.01; 41A.02, subdivisions 7a, 15, 16, and by adding subdivisions; 41A.021; 41A.022; 41A.023; 41A.03, subdivision 3; 41A.035; 41A.036, subdivisions 1, 4, 5, and 6; 41A.04; 41A.05, subdivisions 1, 2, 3, and 4; 41A.051; 41A.06, subdivisions 2, 4, and 5; 41A.07; 41A.08; 469.175, subdivision 2; and 474A.02, subdivision

5a; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 1988, sections 41A.02, subdivision 3; 41A.065; and 469.012, subdivision 5.

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

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

S.F. No. 135: A bill for an act relating to local government; creating the Kandiyohi county rural development finance authority; authorizing the establishment of a development and redevelopment program and the authorization of powers for it.

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

Delete everything after the enacting clause and insert:

**"Section 1. [ESTABLISHMENT.]**

*The Kandiyohi county board may, by adopting a written enabling resolution, establish a county rural development finance authority that, subject to section 2, has the following powers: powers of an economic development authority under Minnesota Statutes, sections 469.090 to 469.107, except for the authority to issue general obligation bonds under Minnesota Statutes, section 469.102; and powers of a rural development financing authority under sections 469.142 to 469.151.*

**Sec. 2. [ECONOMIC DEVELOPMENT AUTHORITY POWERS.]**

*If the county rural development finance authority exercises the powers of an economic development authority, the county may exercise all of the powers relating to an economic development authority granted to a city under Minnesota Statutes, sections 469.090 to 469.108. The county rural development finance authority may create and define the boundaries of economic development districts at any place or places within the county. Minnesota Statutes, section 469.174, subdivision 10, and the contiguity requirement specified under Minnesota Statutes, section 469.101, subdivision 1, do not apply to the county economic development districts.*

**Sec. 3. [LIMIT OF POWERS.]**

*Subdivision 1. [RESOLUTION.] The enabling resolution may impose the following limits on the actions of the authority:*

*(1) that the authority may not exercise any of the powers contained in section 1 unless those powers are specifically authorized in the enabling resolution; and*

*(2) any other limitation or control established by the county board by the enabling resolution.*

*Subd. 2. [MODIFICATION.] The enabling resolution may be modified at any time, but may not be applied in a manner that impairs contracts executed before the modification is made. All modifications to the enabling resolution must be by written resolution.*

*Subd. 3. [PROJECT APPROVAL.] Before the commencement of a project by the authority, the governing body of the municipality in which the project is to be located or the Kandiyohi county board, if the project is outside municipal corporate limits, shall by majority vote approve the project as recommended by the authority.*

**Sec. 4. [BOARD OF DIRECTORS.]**

*Subdivision 1. [MEMBERS.] The authority consists of a board of seven directors. The directors shall be appointed by the Kandiyohi county board. Each director shall be appointed to serve for three years or until a successor is appointed and qualified. No director may serve more than two consecutive terms. The initial appointment of directors must be made so that no more than one-third of the directors' positions will require appointment in any one year due to fulfillment of their three-year appointment. The appointment of directors must be made to reflect representation of the entire county by population, appointing one director to represent each of the five county commissioner districts. The other two directors must be representatives of various county-based economic development organizations or be directors at-large. No more than two directors may reside in any one county commissioner district.*

*Subd. 2. [TERM OF OFFICE.] Two of the directors initially appointed shall serve for terms of one year, two for two years, and three for three years. Each vacancy must be filled for the unexpired term in the manner in which the original appointment was made. A vacancy occurs if a director no longer resides in the county. No director shall be an officer, employee, director, shareholder, or member of any corporation, firm, or association with which the authority has entered into any operating lease, or other agreement. The directors may be removed by the county for the reasons and in the manner provided under Minnesota Statutes, section 469.010, and shall receive no compensation other than reimbursement for expenses incurred in the performance of their duties. Directors shall have no personal liability for obligations of the authority or the methods of enforcement and collection of the obligations.*

**Sec. 5. [EFFECTIVE DATE.]**

*Sections 1 to 4 are effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the county board of Kandiyohi county."*

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

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

S.F. No. 802: A bill for an act relating to health; establishing a state board of physical therapy; providing licensing requirements for physical therapists; amending Minnesota Statutes 1988, sections 148.66; 148.67; 148.70; 148.705; 148.71; 148.72, subdivisions 1, 2, and 4; 148.73; 148.74; 148.75; 148.76; and 148.78; proposing coding for new law in Minnesota Statutes, chapter 148.

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

Page 2, line 4, reinstate the stricken "two" and delete "one" and reinstate the stricken "doctors"

Page 2, line 5, delete "doctor"

Page 2, line 8, reinstate the stricken "one" and delete "two" and reinstate the stricken "member."

Page 2, line 11, delete the first "members" and strike the period

Page 7, line 10, strike "CERTIFICATES" and insert "LICENSES"

Page 10, line 29, strike "or registered"

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

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

S.F. No. 464: A bill for an act relating to corrections; requiring the commissioner of corrections to make high school diploma equivalency programs available to inmates; denying "good time" sentence reductions to inmates who do not have a high school diploma and who fail to participate in these educational programs; amending Minnesota Statutes 1988, sections 244.03; and 244.04, subdivision 1, and by adding a subdivision.

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

Page 2, delete lines 22 to 28 and insert:

*"Subd. 1a. [CERTAIN INMATES TO BE CREDITED TIME.] An inmate who enrolls in and completes a program to obtain a high school diploma or its equivalent is eligible to receive an adjustment of up to 36 days to the supervised release date. Inmates may be credited three days per month up to a maximum of 36 days only if the program is successfully completed."*

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

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

S.F. No. 314: A bill for an act relating to crime; sentencing; increasing the minimum parole eligibility date for persons serving a life sentence for first degree murder; permitting courts to sentence certain dangerous offenders and career criminals to longer periods of incarceration; providing an earlier effective date for increases in lengths of presumptive prison sentences and in criminal history points for violent offenses under the sentencing guidelines; disapproving action of sentencing guidelines commission in modifying method of computing criminal history scores for certain offenses; increasing statutory maximum sentences for the crimes of failure to report an accident, failure to use a drug stamp, possessing explosives, restraint of trade, manslaughter in the second degree, assault, child abuse, manslaughter of an unborn child, assault of an unborn child, criminal sexual conduct in the fourth degree, perjury, fleeing a peace officer, negligently causing a fire, and bribery; amending Minnesota Statutes 1988, sections 169.09, subdivision 14; 244.05, subdivision 4; 297D.09, subdivision 1a; 299F80, subdivision 1; 325D.56, subdivision 2; 609.205; 609.221; 609.222; 609.223; 609.2231, subdivision 1; 609.255, subdivision 3; 609.2665;



609.267; 609.323, subdivision 1; 609.345, subdivision 2; 609.377; 609.445; 609.48, subdivision 4; 609.487, subdivision 4; 609.576; 609.62, subdivision 2; and 609.86, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 244 and 609.

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

Delete everything after the enacting clause and insert:

#### "ARTICLE I

#### SENTENCING PROVISIONS

Section 1. Minnesota Statutes 1988, section 243.18, is amended to read:  
243.18 [DIMINUTION OF SENTENCE.]

*Subdivision 1. [GOOD TIME.] Every inmate sentenced for any term other than life, confined in a state adult correctional facility or on parole therefrom, may diminish the term of sentence one day for each two days during which the inmate has not violated any facility rule or discipline.*

The commissioner of corrections, in view of the aggravated nature and frequency of offenses, may take away any or all of the good time previously gained, and, in consideration of mitigating circumstances or ignorance on the part of the inmate, may afterwards restore the inmate, in whole or in part, to the standing the inmate possessed before such good time was taken away.

*Subd. 2. [WORK REQUIRED.] An inmate for whom a work assignment is available may not earn good time under subdivision 1 for any day on which the inmate does not perform the work assignment. The commissioner may excuse an inmate from work only for illness, physical disability, or to participate in an education or treatment program.*

Sec. 2. Minnesota Statutes 1988, section 244.05, subdivision 4, is amended to read:

*Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] An inmate serving a mandatory life sentence shall not be given supervised release under this section without having served a minimum term of imprisonment of 47 25 years.*

Sec. 3. Minnesota Statutes 1988, section 244.09, subdivision 5, is amended to read:

*Subd. 5. The commission shall, on or before January 1, 1980, promulgate sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:*

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not

proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing *and modifying* the sentencing guidelines, the commission shall take into substantial consideration *public safety and current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities.*

The provisions of sections 14.01 to 14.69 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.01 to 14.69 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

Sec. 4. [609.152] [INCREASED SENTENCES FOR CERTAIN DANGEROUS AND CAREER OFFENDERS.]

*Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given.*

(b) *"Prior conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court, that occurred before the offense for which the person is being sentenced under this section. The term includes a conviction by any court in Minnesota or another jurisdiction.*

(c) *"Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; and any provision of chapter 152 that is punishable by a maximum term of imprisonment greater than ten years.*

*Subd. 2. [INCREASED SENTENCES; DANGEROUS OFFENDERS.] Whenever a person is convicted of a violent crime, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the offender was at least 18 years old at the time the felony was committed, and the judge finds that the circumstances in clauses (1) and (2) exist:*

*(1) the offender has either (i) two or more prior convictions for violent crimes, or (ii) one prior conviction for a violent crime and three or more prior convictions for felonies that are not violent crimes; and*

*(2) the court finds that the offender is a danger to public safety and specifies on the record the basis for the finding, which may include:*

*(i) the offender's past criminal behavior, such as the offender's high*

*frequency rate of criminal activity or juvenile adjudications, long involvement in criminal activity including juvenile adjudications, or commission of an offense resulting in a prior conviction that involved an aggravating factor that would justify a departure under the sentencing guidelines; or*

*(ii) the fact that the present offense of conviction involved an aggravating factor that would justify a departure under the sentencing guidelines.*

**Subd. 3. [INCREASED SENTENCES; CAREER OFFENDERS.]** *Whenever a person is convicted of a felony, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the judge finds and specifies on the record that the circumstances in either clause (1) or (2) exist:*

*(1) the offender was convicted of a felony that was committed as part of a pattern of criminal conduct from which a substantial portion of the offender's income was derived, and the offender has three or more prior felony convictions; or*

*(2) the offender has more than six prior felony convictions.*

**Sec. 5. [SENTENCING GUIDELINES MODIFICATIONS.]**

**Subdivision 1. [EARLIER EFFECTIVE DATE FOR INCREASED SENTENCES FOR VIOLENT CRIME.]** *The increases in presumptive sentences for severity levels VII and VIII of the sentencing guidelines grid, adopted by the sentencing guidelines commission on December 15, 1988, apply to crimes committed on or after the effective date of this section.*

**Subd. 2. [EARLIER EFFECTIVE DATE FOR INCREASED CRIMINAL HISTORY POINTS FOR SERIOUS OFFENDERS.]** *The modifications in the weight assigned for each prior felony conviction in the severity levels VI, VII, VIII, IX, and X, and for first degree murder, for purposes of computing a defendant's criminal history score, adopted by the sentencing guidelines commission on December 15, 1988, apply to crimes committed on or after the effective date of this section.*

**Subd. 3. [DISAPPROVAL OF DECREASED CRIMINAL HISTORY POINTS FOR CERTAIN PROPERTY AND NONVIOLENT OFFENSES.]** *The modifications in the weight assigned for each prior felony conviction in the severity levels I and II for purposes of computing a defendant's criminal history score, adopted by the commission on December 15, 1988, shall not take effect.*

**Subd. 4. [DISAPPROVAL OF MISDEMEANOR AND GROSS MISDEMEANOR MODIFICATIONS.]** *The following modifications to the method used for calculating criminal history points for prior nonfelony offenses, approved by the sentencing guidelines commission on December 15, 1988, shall not take effect:*

*(1) the elimination of the following offenses from the "misdemeanor and gross misdemeanor list": gross misdemeanor convictions under sections 609.23, 609.231, 609.255, subdivision 3, 609.377, 609.378, 609.535, 609.76, and 609.821; and misdemeanor and gross misdemeanor convictions under section 609.485; and*

*(2) the reduction from two units to one unit for a gross misdemeanor conviction.*

**Subd. 5. [EFFECTIVE DATE OF OTHER MODIFICATIONS.]** *Except as provided in this section, the modifications adopted by the sentencing*

*guidelines commission on December 15, 1988, apply to crimes committed on or after the effective date of this section.*

Sec. 6. [EFFECTIVE DATE.]

*Sections 2 and 4 are effective August 1, 1989, and apply to crimes committed on or after that date. Section 5 is effective June 15, 1989.*

ARTICLE 2

PENALTY INCREASES

Section 1. Minnesota Statutes 1988, section 169.09, subdivision 14, is amended to read:

Subd. 14. [PENALTIES.] (a) The driver of any vehicle who violates subdivision 1 or 6 and who caused the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than \$20,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than \$10,000, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both.

(b) The driver of any vehicle who violates subdivision 1 or 6 and who did not cause the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ~~one year and one day~~ *two years*, or to payment of a fine of not more than ~~\$3,000~~ *\$4,000*, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(c) The driver of any vehicle involved in an accident not resulting in substantial bodily harm or death who violates subdivision 1 or 6 may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(d) Any person who violates subdivision 3, clause (b) is guilty of a petty misdemeanor.

(e) Any person who violates subdivision 2, 3, clause (a), 4, 5, 7, 8, 10, 11, or 12 is guilty of a misdemeanor.

The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall

also be responsible for prosecution of gross misdemeanor violations of this section.

Sec. 2. Minnesota Statutes 1988, section 297D.09, subdivision 1a, is amended to read:

Subd. 1a. [CRIMINAL PENALTY; SALE WITHOUT AFFIXED STAMPS.] In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~\$10,000~~ *\$14,000*, or both.

Sec. 3. Minnesota Statutes 1988, section 299F.80, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2, whoever possesses explosives without a valid license or permit may be sentenced to imprisonment for not more than ~~three~~ *five* years.

Sec. 4. Minnesota Statutes 1988, section 325D.56, subdivision 2, is amended to read:

Subd. 2. Any person who is found to have willfully committed any of the acts enumerated in section 325D.53 shall be guilty of a felony and subject to a fine of not more than \$50,000 or imprisonment in the state penitentiary for not more than ~~five~~ *seven* years, or both.

Sec. 5. Minnesota Statutes 1988, section 609.205, is amended to read:

609.205 [MANSLAUGHTER IN THE SECOND DEGREE.]

A person who causes the death of another by any of the following means is guilty of manslaughter in the second degree and may be sentenced to imprisonment for not more than ~~seven~~ *ten* years or to payment of a fine of not more than ~~\$14,000~~ *\$20,000*, or both:

(1) by the person's culpable negligence whereby the person creates an unreasonable risk, and consciously takes chances of causing death or great bodily harm to another; or

(2) by shooting another with a firearm or other dangerous weapon as a result of negligently believing the other to be a deer or other animal; or

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the victim provoked the animal to cause the victim's death.

Sec. 6. Minnesota Statutes 1988, section 609.21, subdivision 1, is amended to read:

Subdivision 1. [RESULTING IN DEATH.] Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft,

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or
- (3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in death and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~\$10,000~~ \$20,000, or both.

Sec. 7. Minnesota Statutes 1988, section 609.21, subdivision 2, is amended to read:

Subd. 2. [RESULTING IN INJURY.] Whoever causes great bodily harm to another, as defined in section 609.02, subdivision 8, not constituting attempted murder or assault as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or
- (3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in injury and may be sentenced to imprisonment for not more than ~~three~~ *five* years or the payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 8. Minnesota Statutes 1988, section 609.221, is amended to read:

609.221 [ASSAULT IN THE FIRST DEGREE.]

Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than ~~ten~~ 20 years or to payment of a fine of not more than ~~\$20,000~~ \$30,000, or both.

Sec. 9. Minnesota Statutes 1988, section 609.222, is amended to read:

609.222 [ASSAULT IN THE SECOND DEGREE.]

Whoever assaults another with a dangerous weapon may be sentenced to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~\$10,000~~ \$14,000, or both.

Sec. 10. Minnesota Statutes 1988, section 609.223, is amended to read:

609.223 [ASSAULT IN THE THIRD DEGREE.]

Whoever assaults another and inflicts substantial bodily harm may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 11. Minnesota Statutes 1988, section 609.2231, subdivision 1, is amended to read:

Subdivision 1. [PEACE OFFICERS.] Whoever assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law and inflicts demonstrable bodily harm is guilty of a felony and may be sentenced to

imprisonment for not more than ~~one year and a day~~ *two years* or to payment of a fine of not more than ~~\$3,000~~ *\$4,000*, or both.

Sec. 12. Minnesota Statutes 1988, section 609.255, subdivision 3, is amended to read:

Subd. 3. [UNREASONABLE RESTRAINT OF CHILDREN.] A parent, legal guardian, or caretaker who intentionally subjects a child under the age of 18 years to unreasonable physical confinement or restraint by means including but not limited to, tying, locking, caging, or chaining for a prolonged period of time and in a cruel manner which is excessive under the circumstances, is guilty of unreasonable restraint of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the confinement or restraint results in substantial bodily harm, that person may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of not more than ~~\$5,000~~ *\$10,000*, or both.

Sec. 13. Minnesota Statutes 1988, section 609.2665, is amended to read:

609.2665 [MANSLAUGHTER OF AN UNBORN CHILD IN THE SECOND DEGREE.]

A person who causes the death of an unborn child by any of the following means is guilty of manslaughter of an unborn child in the second degree and may be sentenced to imprisonment for not more than ~~seven~~ *ten* years or to payment of a fine of not more than ~~\$14,000~~ *\$20,000*, or both:

(1) by the actor's culpable negligence whereby the actor creates an unreasonable risk and consciously takes chances of causing death or great bodily harm to an unborn child or a person;

(2) by shooting the mother of the unborn child with a firearm or other dangerous weapon as a result of negligently believing her to be a deer or other animal;

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the mother of the unborn child provoked the animal to cause the unborn child's death.

Sec. 14. Minnesota Statutes 1988, section 609.267, is amended to read:

609.267 [ASSAULT OF AN UNBORN CHILD IN THE FIRST DEGREE.]

Whoever assaults a pregnant woman and inflicts great bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than ~~ten~~ *15* years or to payment of a fine of not more than ~~\$20,000~~ *\$30,000*, or both.

Sec. 15. Minnesota Statutes 1988, section 609.323, subdivision 1, is amended to read:

Subdivision 1. Whoever, while acting other than as a prostitute or patron, intentionally receives profit, knowing or having reason to know that it is

derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 13 years, may be sentenced to imprisonment for not more than ~~ten~~ 15 years or to payment of a fine of not more than ~~\$20,000~~ \$30,000, or both.

Sec. 16. Minnesota Statutes 1988, section 609.377, is amended to read:

609.377 [MALICIOUS PUNISHMENT OF A CHILD.]

A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the punishment results in substantial bodily harm, that person may be sentenced to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 17. Minnesota Statutes 1988, section 609.445, is amended to read:

609.445 [FAILURE TO PAY OVER STATE FUNDS.]

Whoever receives money on behalf of or for the account of the state or any of its agencies or subdivisions and intentionally refuses or omits to pay the same to the state or its agency or subdivision entitled thereto, or to an officer or agent authorized to receive the same, may be sentenced to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 18. Minnesota Statutes 1988, section 609.48, subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] Whoever violates this section may be sentenced as follows:

(1) If the false statement was made upon the trial of a felony charge, or upon an application for an explosives license or use permit, to imprisonment for not more than ~~five~~ seven years or to payment of a fine of not more than ~~\$10,000~~ \$14,000, or both; or

(2) In all other cases, to imprisonment for not more than ~~three~~ five years or to payment of a fine of not more than ~~\$5,000~~ \$10,000, or both.

Sec. 19. Minnesota Statutes 1988, section 609.487, subdivision 4, is amended to read:

Subd. 4. [FLEEING AN OFFICER; DEATH; BODILY INJURY.] Whoever flees or attempts to flee by means of a motor vehicle a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, and who in the course of fleeing causes the death of a human being not constituting murder or manslaughter or any bodily injury to any person other than the perpetrator may be sentenced to imprisonment as follows:

(a) If the course of fleeing results in death, to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both; or

(b) If the course of fleeing results in great bodily harm, to imprisonment for not more than ~~five~~ seven years or to payment of a fine of not more than ~~\$10,000~~ \$14,000, or both; or



(c) If the course of fleeing results in substantial bodily harm, to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~\$5,000~~ *\$10,000*, or both.

Sec. 20. Minnesota Statutes 1988, section 609.576, is amended to read:  
609.576 [NEGLIGENT FIRES.]

Whoever is culpably negligent in causing a fire to burn or get out of control thereby causing damage or injury to another, and as a result thereof:

(a) a human being is injured and great bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment of not more than ~~three~~ *five* years or to a fine of not more than ~~\$5,000~~ *\$10,000*, or both; or

(b) property of another is injured, thereby, is guilty of a crime and may be sentenced as follows:

(1) to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, if the value of the property damage is under \$300;

(2) to imprisonment for not more than one year, or to a fine of \$3,000 or both, if the value of the property damaged is at least \$300 but is less than \$10,000;

(3) to imprisonment for not less than 90 days nor more than three years, or to a fine of not more than \$5,000, or both, if the value of the property damaged is \$10,000 or more.

Sec. 21. Minnesota Statutes 1988, section 609.62, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever, with intent to defraud, does any of the following may be sentenced to imprisonment for not more than ~~two~~ *three* years or to payment of a fine of not more than ~~\$4,000~~ *\$6,000*, or both:

(1) Conceals, removes, or transfers any personal property in which the actor knows that another has a security interest; or

(2) Being an obligor and knowing the location of the property refuses to disclose the same to an obligee entitled to possession thereof.

Sec. 22. Minnesota Statutes 1988, section 609.86, subdivision 3, is amended to read:

Subd. 3. [SENTENCE.] Whoever commits commercial bribery may be sentenced as follows:

(1) To imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~\$5,000~~ *\$10,000*, or both, if the value of the benefit, consideration, compensation or reward is greater than \$500;

(2) In all other cases where the value of the benefit, consideration, compensation or reward is \$500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700; provided, however, in any prosecution of the value of the benefit, consideration, compensation or reward received by the defendant within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed,

or all of the offenses aggregated under this clause.

Sec. 23. [EFFECTIVE DATE.]

*Sections 1 to 22 are effective August 1, 1989, and apply to crimes committed on or after that date.*

ARTICLE 3

MISCELLANEOUS PROVISIONS

Section 1. Minnesota Statutes 1988, section 609.52, is amended to read:  
609.52 [THEFT.]

Subdivision 1. [DEFINITIONS.] In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a theft committed within the meaning of subdivision 2, clause (5), (a) and (b), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is coowner or has a lien, pledge, bailment, or lease or other subordinate interest, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

(10) "*Motor vehicle*" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and;

(a) the control exercised manifests an indifference to the rights of the

owner or the restoration of the property to the owner; or

(b) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(c) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells

or buys any personal property with knowledge that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

*(17) intentionally takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner.*

Subd. 3. [SENTENCE.] Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the value of the property or services stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property or services

stolen exceeds \$2,500, or if the property stolen was *an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in schedule 1 or 2 pursuant to section 152.02 with the exception of marijuana*; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(a) the value of the property or services stolen is more than \$500 but not more than \$2,500; or

(b) the property stolen was a controlled substance listed in schedule 3, 4, or 5 pursuant to section 152.02; or

(c) the value of the property or services stolen is more than \$200 but not more than \$500 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.18, subdivision 3; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

~~(4) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, notwithstanding~~

~~(d) the value of the property or services stolen is not more than \$200, if \$500, and any of the following circumstances exist:~~

~~(a) (i) the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or~~

~~(b) (ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or~~

~~(c) (iii) the property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or~~

~~(d) (iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or~~

~~(e) (v) the property is a firearm; or~~

~~(f) (vi) the property stolen was is a motor vehicle as defined in section 609.55; or~~

~~(5) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the property stolen is an article representing a trade secret; or if the property stolen is an explosive or an incendiary device; or~~

~~(6) (4) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property or services stolen is more than \$200 but not more than \$500; or~~

~~(7) (5) in all other cases where the value of the property or services stolen is \$200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13),~~

the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

**Sec. 2. [609.526] [PRECIOUS METAL DEALERS; RECEIVING STOLEN PROPERTY.]**

*Any precious metal dealer as defined in section 325F731, subdivision 2, or any person employed by a precious metal dealer as defined in section 325F731, subdivision 2, who receives, possesses, transfers, buys, or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:*

*(1) if the value of the property received, bought, or concealed is \$1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than \$50,000, or both;*

*(2) if the value of the property received, bought, or concealed is less than \$1,000 but more than \$300, to imprisonment for not more than five years or to payment of a fine of not more than \$40,000, or both;*

*(3) if the value of the property received, bought, or concealed is \$300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.*

*Any person convicted of violating this section a second or subsequent time within a period of one year may be sentenced as provided in clause (1).*

**Sec. 3. Minnesota Statutes 1988, section 609.53, subdivision 1, is amended to read:**

**Subdivision 1. [PENALTY.]** *Except as otherwise provided in section 2, any person who receives, possesses, transfers, buys or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:*

*(1) if the value of the property is \$1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both;*

*(2) if the value of the property is less than \$1,000, but more than \$300, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both;*

*(3) if the value of the property is \$300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both;*

*(4) notwithstanding the value of the property, if the property is a firearm, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both in accordance with the provisions of section 609.52, subdivision 3.*

**Sec. 4. Minnesota Statutes 1988, section 609.53, subdivision 4, is amended to read:**

Subd. 4. [CIVIL ACTION; TREBLE DAMAGES.] Any person who has been injured by a violation of ~~subdivisions~~ *subdivision 1 or 3* section 2 may bring an action for three times the amount of actual damages, sustained by the plaintiff or \$1,500, whichever is greater, and the costs of suit and reasonable attorney's fees.

Sec. 5. [609.546] [MOTOR VEHICLE TAMPERING.]

*A person is guilty of a misdemeanor who intentionally:*

*(1) rides in or on a motor vehicle knowing that the vehicle was taken and is being driven by another without the owner's permission; or*

*(2) tampers with or enters into or on a motor vehicle without the owner's permission.*

Sec. 6. Minnesota Statutes 1988, section 609.631, subdivision 2, is amended to read:

Subd. 2. [CHECK FORGERY; ELEMENTS.] A person ~~who~~ *is guilty of check forgery and may be sentenced under subdivision 4 if the person with intent to defraud, does any of the following:*

*(1) falsely makes or alters a check so that it purports to have been made by another or by the maker under an assumed or fictitious name, or at another time, or with different provisions, or by the authority of one who did not give authority; is guilty of check forgery and may be sentenced as provided in subdivision 4; or*

*(2) falsely endorses or alters a check so that it purports to have been endorsed by another.*

Sec. 7. Laws 1989, chapter 5, section 3, is amended to read:

Sec. 3. [609.396] [UNAUTHORIZED PRESENCE AT CAMP RIPLEY.]

*Subdivision 1. [MISDEMEANOR.] A person is guilty of a misdemeanor if the person intentionally and without authorization of the adjutant general enters or is present on the Camp Ripley military reservation.*

*Subd. 2. [FELONY.] A person is guilty of a felony and may be sentenced to not more than five years imprisonment or to payment of a fine of not more than \$10,000, or both, if:*

*(1) the person intentionally enters or is present without authorization of the adjutant general in an area at the Camp Ripley military reservation that is posted by order of the adjutant general as restricted for weapon firing or other hazardous military activity; and*

*(2) the person knows that doing so creates a risk of death, bodily harm, or serious property damage.*

Sec. 8. [INSTRUCTION TO REVISOR; REFERENCE CHANGE.]

*The revisor of statutes shall change the reference to section 609.55, subdivision 1, in section 609.605, subdivision 1, clause (10), to section 609.52, subdivision 1, clause (10).*

Sec. 9. [REPEALER.]

*Minnesota Statutes 1988, sections 609.53, subdivisions 1a, 3, and 3a, is repealed. Minnesota Statutes 1988, section 609.55, as amended by Laws 1989, chapter 5, sections 5, 6, and 7, is repealed.*



## Sec. 10. [EFFECTIVE DATE.]

*Sections 1 to 9 are effective August 1, 1989, and apply to crimes committed on or after that date."*

Delete the title and insert:

"A bill for an act relating to crime; sentencing; requiring daily work to earn good time in prison; eliminating correctional resources as a consideration for modifications of the sentencing guidelines; increasing the minimum parole eligibility date for persons serving a life sentence for first degree murder; permitting courts to sentence certain dangerous offenders and career criminals to longer periods of incarceration; providing an earlier effective date for increases in lengths of presumptive prison sentences and in criminal history points for violent offenses under the sentencing guidelines; disapproving action of sentencing guidelines commission in modifying method of computing criminal history scores for certain offenses; increasing statutory maximum sentences for the crimes of failure to report an accident, failure to use a drug stamp, possessing explosives, restraint of trade, manslaughter in the second degree, criminal vehicular operation, assault, child abuse, manslaughter of an unborn child, assault of an unborn child, criminal sexual conduct in the fourth degree, perjury, fleeing a peace officer, negligently causing a fire, and bribery; expanding the theft statute to include the unauthorized use of a motor vehicle; making the penalties for receiving stolen property similar to the penalties for theft; including a forged endorsement within the elements of the crime of check forgery; making technical corrections to the theft statute; modifying provisions relating to trespass at Camp Ripley; amending Minnesota Statutes 1988, sections 169.09, subdivision 14; 243.18; 244.05, subdivision 4; 244.09, subdivision 5; 297D.09, subdivision 1a; 299E80, subdivision 1; 325D.56, subdivision 2; 609.205; 609.21, subdivisions 1 and 2; 609.221; 609.222; 609.223; 609.2231, subdivision 1; 609.255, subdivision 3; 609.2665; 609.267; 609.323, subdivision 1; 609.377; 609.445; 609.48, subdivision 4; 609.487, subdivision 4; 609.52; 609.53, subdivisions 1 and 4; 609.576; 609.62, subdivision 2; 609.631, subdivision 2; and 609.86, subdivision 3; Laws 1989, chapter 5, section 3; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1988, sections 609.53, subdivisions 1a, 3, and 3a; and 609.55, as amended."

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

## REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 60, upon the request of three members, a roll call was taken on the first Ramstad amendment to S.F. No. 314.

There were yeas 4 and nays 8, as follows:

Those who voted in the affirmative were:

Messrs. Belanger, Knaak, McGowan and Ramstad.

Those who voted in the negative were:

Messrs. Cohen, Luther, Marty, Merriam, Ms. Peterson, D.C.; Messrs. Peterson, R.W.; Pogemiller and Spear.

The amendment was not adopted.

## REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 60, upon the request of three members, a roll call was taken on the second portion of the Luther amendment to the second Ramstad amendment to S.F. No. 314.

There were yeas 6 and nays 8, as follows:

Those who voted in the affirmative were:

Messrs. Luther, Marty, Ms. Peterson, D.C.; Messrs. Peterson, R.W.; Pogemiller and Spear.

Those who voted in the negative were:

Messrs. Belanger, Cohen, Knaak, Laidig, McGowan, Merriam, Ramstad and Stumpf.

The second portion of the Luther amendment was not adopted.

## REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 60, upon the request of three members, a roll call was taken on the Marty amendment to S.F. No. 314.

There were yeas 12 and nays 1, as follows:

Those who voted in the affirmative were:

Messrs. Belanger, Cohen, Knaak, Luther, Marty, McGowan, Ms. Peterson, D.C.; Messrs. Peterson, R.W.; Pogemiller; Ramstad; Spear and Stumpf.

Those who voted in the negative were:

Mr. Laidig.

The amendment was adopted.

## REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 60, upon the request of three members, a roll call was taken on the Laidig amendment to S.F. No. 314.

There were yeas 6 and nays 8, as follows:

Those who voted in the affirmative were:

Messrs. Belanger; Knaak; Laidig; McGowan; Peterson, R.W. and Ramstad.

Those who voted in the negative were:

Ms. Berglin, Messrs. Cohen, Luther, Marty, Ms. Peterson, D.C.; Messrs. Pogemiller, Spear and Stumpf.

The amendment was not adopted.

## REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 60, upon the request of three members, a roll call was taken on the McGowan amendment to S.F. No. 314.

There were yeas 6 and nays 10, as follows:

Those who voted in the affirmative were:

Messrs. Belanger, Knaak, Laidig, McGowan, Ramstad and Stumpf.

Those who voted in the negative were:

Ms. Berglin, Messrs. Cohen, Luther, Marty, Merriam, Ms. Peterson,

D.C.; Messrs. Peterson, R.W.; Pogemiller; Ms. Reichgott and Mr. Spear.

The amendment was not adopted.

#### REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 60, upon the request of three members, a roll call was taken on the third Ramstad amendment to S.F. No. 314.

There were yeas 5 and nays 11, as follows:

Those who voted in the affirmative were:

Messrs. Belanger, Knaak, Laidig, McGowan and Ramstad.

Those who voted in the negative were:

Ms. Berglin, Messrs. Cohen, Luther, Marty, Merriam, Ms. Peterson, D.C.; Messrs. Peterson, R.W.; Pogemiller; Ms. Reichgott, Messrs. Spear and Stumpf.

The amendment was not adopted.

Mr. Merriam from the Committee on Finance, to which was re-referred

S.F. No. 778: A bill for an act relating to human services; authorizing general assistance medical care payments for patients in facilities determined to be institutions for mental diseases; creating an exception to negotiated rate facility limits for institutions for mental diseases; providing for carryover of appropriations for the preadmission screening and alternative care grants program.

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

Page 2, line 4, delete "*and psychological services*"

Page 2, line 5, delete the second "*and*"

Page 2, line 6, after "*supplies*" insert "*and equipment; and (3) psychological services*"

Pages 2 and 3, delete section 2 and insert:

"Sec. 2. [APPROPRIATION.]

*\$957,000 is appropriated from the general fund to the commissioner of human services to pay the cost of Minnesota supplemental assistance and general assistance medical care to replace medical assistance formerly provided to residents of institutions for mental disease and is added to the appropriation in Laws 1987, chapter 403, article 1, section 2, subdivision 6."*

Page 3, line 10, delete "*Section 1*" and insert "*This act*"

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "*appropriating money.*"

Page 1, delete lines 7 to 9

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. 262: A bill for an act relating to protection of groundwater; protecting sensitive areas; promoting and requiring certain best management practices; providing financial assistance for certain groundwater protection activities; authorizing local government groundwater and resource protection programs; providing for determination of water research needs; developing a water education curriculum; regulating wells, borings, and underground drillings and uses; regulating, enforcing violation, and establishing civil and criminal penalties for violations relating to pesticide, fertilizer, soil amendment, and plant amendment manufacture, storage, sale, use, and misuse; providing a mechanism to aid cleanup and response to incidents relating to agricultural chemicals; providing a task force relating to sustainable agriculture; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, subdivisions 12 and 26, and by adding subdivisions; 18B.04; 18B.07, subdivisions 2, 4, and 5; 18B.08, subdivisions 1 and 4; 18B.17, subdivision 2; 18B.18; 18B.20, subdivisions 1, 2, and 3; 18B.21; 18B.25, subdivision 5; 18B.26, subdivisions 1, 3, and 5, and by adding a subdivision; 18B.31, subdivisions 3 and 5; 18B.32, subdivision 2; 18B.33, subdivisions 3 and 7; 18B.34, subdivisions 2 and 5; 18B.36, subdivisions 1 and 2; 18B.37, subdivisions 1, 2, and 3; 115B.20; 116C.41, subdivision 1; 116E.02; 116E.03; 144.381; 144.382, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 17; 18B; and 144; proposing coding for new law as Minnesota Statutes, chapters 18C; 18D; 103A; 103B; 103H; and 103I; repealing Minnesota Statutes 1988, sections 17.711 to 17.73; 18A.49; 18B.05; 18B.15; 18B.16; 18B.19; 84.57 to 84.621; 105.51, subdivision 3; and 156A.01 to 156A.11.

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

Delete everything after the enacting clause and insert:

#### "ARTICLE I

#### CHAPTER 103H

#### GROUNDWATER PROTECTION

##### Section 1. [103H.001] [DEGRADATION PREVENTION GOAL.]

*Subdivision 1. [GOAL.] It is the goal of the state that groundwater be maintained in its natural condition, free from degradation caused by human activity. The legislature recognizes that for many human activities the degradation prevention goal cannot always be practicably achieved. In areas where degradation prevention is practicable, the legislature intends that prevention is achieved, and where degradation prevention is not currently practicable, the legislature intends to encourage the development of methods and technology that will make degradation prevention practicable in the future.*

*Subd. 2. [FOCUS OF CHAPTER 103H.] The focus of this chapter is not on pollution spills, incidents, or specific releases or their cleanup actions but rather on protection of groundwater from pollution that occurs from a number of accepted activities or normal uses that cumulatively cause pollution to be commonly detected in groundwater and can be a risk to human health.*

Sec. 2. [103H.005] [DEFINITIONS.]

*Subdivision 1. [APPLICABILITY.] The definitions in this section apply to this chapter.*

*Subd. 2. [AGRICULTURAL CHEMICAL.] "Agricultural chemical" means a pesticide, fertilizer, plant amendment, or soil amendment.*

*Subd. 3. [ADOPTED LONG-TERM RISK MEASUREMENT.] "Adopted long-term risk measurement" means a concentration of a substance or chemical adopted by rule of the commissioner of health that is a potential drinking water contaminant because of a systemic or carcinogenic toxicological result from consumption.*

*Subd. 4. [BEST MANAGEMENT PRACTICES.] "Best management practices" means practicable voluntary practices that are capable of preventing, minimizing, reducing, and eliminating the source of degradation of groundwater, considering economic factors, availability, technical feasibility, implementability, effectiveness, and environmental effects. Best management practices apply to schedules of activities; design and operation standards; restrictions of practices; maintenance procedures; management plans; practices to prevent site releases, spillage, or leaks; application and use of chemicals; drainage from raw material storage; operating procedures; treatment requirements; and other activities causing groundwater degradation.*

*Subd. 5. [COMMON DETECTION.] "Common detection" means detection of a pollutant that is not due to misuse or unusual or unique circumstances, but is likely to be the result of normal use of a product or practice and that frequency of detection of the pollutant can be expected under similar conditions.*

*Subd. 6. [DEGRADATION.] "Degradation" means changing groundwater from its natural condition by human activities.*

*Subd. 7. [FERTILIZER.] "Fertilizer" has the meaning given in chapter 18C.*

*Subd. 8. [PESTICIDE.] "Pesticide" has the meaning given in section 18B.01, subdivision 18.*

*Subd. 9. [PLANT AMENDMENT.] "Plant amendment" has the meaning given in chapter 18C.*

*Subd. 10. [POLLUTANT.] "Pollutant" means a chemical or substance for which an adopted long-term risk measurement has been adopted.*

*Subd. 11. [POLLUTION.] "Pollution" means degradation of groundwater by a pollutant as a result of human activities.*

*Subd. 12. [REGISTERED USE.] "Registered use" means for a pesticide the use of the pesticide authorized by the pesticide's registration and labeling under chapter 18B.*

*Subd. 13. [REGISTRANT.] "Registrant" means the person who has registered a pesticide under chapter 18B.*

*Subd. 14. [SENSITIVE AREA.] "Sensitive area" means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface.*

*Subd. 15. [SOIL AMENDMENT.] "Soil amendment" has the meaning*

given in chapter 18C.

Subd. 16. [WATER RESOURCE PROTECTION REQUIREMENTS.] *"Water resource protection requirements" means requirements adopted by rule for one or more pollutants intended to prevent, minimize, reduce, or eliminate the source of pollution of groundwater. Water resource protection requirements include design criteria standards, operation and maintenance procedures, practices to prevent releases, spills, leaks, and incidents, restrictions on use and practices, and treatment requirements.*

Subd. 17. [WATER OR GROUNDWATER.] *"Water" or "groundwater" means groundwater as defined in section 115.01, subdivision 21.*

### PROTECTION OF SENSITIVE AREAS

#### Sec. 3. [103H.101] [PROTECTION OF SENSITIVE AREAS.]

Subdivision 1. [CRITERIA FOR DETERMINATION OF SENSITIVE AREAS.] *The commissioner of natural resources in consultation with the Minnesota geological survey, soil and water conservation districts, and other interested parties shall develop specific criteria for identifying sensitive groundwater areas and adopt the criteria by rule.*

Subd. 2. [IDENTIFICATION OF SENSITIVE AREAS.] *The commissioner of natural resources shall, in consultation with the Minnesota geological survey, identify the location of sensitive areas by mapping and other appropriate methods after consulting the Minnesota geological survey, soil and water conservation districts, and local water planning authorities.*

Subd. 3. [NOTIFICATION OF LOCATION OF SENSITIVE AREAS.] *The commissioner of natural resources shall:*

(1) *notify political subdivisions with planning or zoning authority and provide maps and other materials that show where sensitive areas are located and indicate the type of risk of groundwater degradation that may occur from activities at or near the surface; and*

(2) *publish notification of sensitive areas in a newspaper of general circulation in the county where the sensitive areas are located.*

Subd. 4. [INFORMATION GATHERING.] *The commissioner of natural resources shall coordinate the collection of state and local information to identify sensitive areas. Information must be automated on or accessible to systems developed at the land management information center of the state planning agency.*

Subd. 5. [STATE PROTECTION OF SENSITIVE AREAS.] *State agencies must consider the special characteristics of a designated sensitive area and prevent, minimize, reduce, or eliminate the source of groundwater degradation in exercising their authority in the area or undertaking or authorizing an activity that may cause groundwater degradation within a sensitive area.*

#### Sec. 4. [103H.105] [CONSERVATION EASEMENTS TO PROTECT SENSITIVE AREAS.]

(a) *Agricultural land within a sensitive area is marginal agricultural land for purposes of section 40.43, subdivision 2, and is eligible for the conservation reserve program under section 40.43.*

(b) *Notwithstanding section 40.43, subdivision 2, clauses (2) and (5),*

*and subdivision 4, the board of water and soil resources may authorize acquisition of hillside easements that restrict hillside pasturing or grazing of livestock.*

**Sec. 5. [103H.111] [LIABILITY AFTER PROTECTION OF SENSITIVE AREA.]**

*Subdivision 1. [DEFENSE TO LIABILITY.] By complying with subdivision 2, a landowner has a complete defense to liability under other law for degradation of groundwater caused by surface water recharging groundwater. The defense applies to the property allowing recharge of groundwater that is located in a sensitive area and subject to a plan under subdivision 2 after subdivision 2 is complied with.*

*Subd. 2. [PROTECTION PLAN AND PROJECT.] A person has the defense under subdivision 1 if:*

*(1) the soil and water conservation district adopts a plan to protect groundwater from degradation through surface water recharge that applies to the person's property;*

*(2) the projects and practices prescribed by the plan are implemented and clarified as being implemented by the soil and water conservation district;*

*(3) the projects and practices are maintained according to the plan; and*

*(4) unlawful practices are not allowed by the landowner on the property that would disrupt the project and practices implemented under the plan.*

**Sec. 6. [103H.151] [BEST MANAGEMENT PRACTICES.]**

*Subdivision 1. [DEVELOPMENT BY POLLUTION CONTROL AGENCY.] Except as provided in subdivision 2 for agricultural chemicals and practices, the pollution control agency shall develop best management practices for the prevention of groundwater degradation for specific activity categories. The pollution control agency shall contact and receive comments from affected persons and businesses in developing the best management practices. The pollution control agency must publish notice and also solicit comments and recommendations from state agencies and local governments affected by or regulating the activities.*

*Subd. 2. [AGRICULTURAL CHEMICAL BEST MANAGEMENT PRACTICES.] The commissioner of agriculture shall develop best management practices for agricultural chemicals and practices. The commissioner shall give public notice and contact and receive comment from affected persons and businesses interested in developing the best management practices.*

*Subd. 3. [EDUCATION AND PROMOTION.] The commissioners of the pollution control agency and agriculture, in conjunction with the board of water and soil resources, soil and water conservation districts, and the Minnesota extension service, must promote best management practices and provide education about how the use of best management practices will prevent, minimize, reduce, and eliminate the source of groundwater degradation. The promotion and education may include demonstration projects.*

#### **GROUNDWATER QUALITY MONITORING**

**Sec. 7. [103H.175] [GROUNDWATER QUALITY MONITORING.]**

*Subdivision 1. [MONITORING RESULTS TO BE SUBMITTED TO*

COMMISSIONER OF HEALTH.] *The results of monitoring groundwater quality by state agencies and political subdivisions must be submitted to the commissioner of health.*

*Subd. 2. [COMPUTERIZED DATA BASE.] The commissioner of health shall maintain a computerized data base of the results of groundwater quality monitoring in a manner that is accessible to the pollution control agency, department of agriculture, and department of natural resources. The commissioner of health shall assess the quality and reliability of the data and organize the data in a usable format.*

#### ADOPTED LONG-TERM RISK MEASUREMENTS

##### Sec. 8. [103H.201] [ADOPTED LONG-TERM RISK MEASUREMENTS.]

*Subdivision 1. [PROCEDURE.] (a) If groundwater quality monitoring results show that there is a degradation of groundwater, the commissioner of health may promulgate adopted long-term risk measurements for substances degrading the groundwater.*

*(b) Adopted long-term risk measurements shall be determined by two methods depending on their toxicological end point.*

*(c) For systemic toxicants that are not carcinogens, the adopted long-term risk measurement shall be derived using United States Environmental Protection Agency risk assessment methods using a reference dose, a drinking water equivalent, an uncertainty factor, and a factor for relative source contamination, which in general will measure an estimate of daily exposure to the human population, including sensitive subgroups, that is unlikely to result in deleterious effects during long-term exposure.*

*(d) For toxicants that are known or probable carcinogens, the adopted long-term risk measurement shall be derived from a quantitative estimate of the chemical's carcinogenic potency published by the United States Environmental Protection Agency's carcinogen assessment group.*

*(e) Maximum contaminant levels adopted under the federal Clean Water Drinking Act are adopted long-term risk measurements for the chemicals and substances for which they are adopted.*

*Subd. 2. [REVIEW AND REVISION.] The commissioner of health must review adopted long-term risk measurements every four years and revise them if necessary.*

#### EVALUATION AND COMMON DETECTION OF POLLUTION

##### Sec. 9. [103H.251] [EVALUATION OF DETECTION OF POLLUTANTS.]

*Subdivision 1. [METHODS.] (a) The commissioner of agriculture for pollution resulting from agricultural chemicals and practices and the pollution control agency for other pollutants shall evaluate the detection of pollutants in groundwater of the state. Evaluation of the detection may include collection technique, sampling handling technique, laboratory practices, other quality control practices, climatological conditions, and potential pollutant sources.*

*(b) If conditions indicate a likelihood of the detection of the pollutant or pollutant breakdown product to be a common detection, the commissioner of agriculture or the pollution control agency must begin development of best management practices and continue to monitor for the pollutant or pollutant breakdown products.*



*Subd. 2. [ANALYSIS OF POLLUTION TREND.] The commissioner of agriculture for pollution resulting from agricultural chemicals and practices and the pollution control agency for other pollutants shall develop and implement groundwater monitoring and hydrogeologic evaluation following pollution detection to evaluate pollution frequency and concentration trend. Assessment of the site-specific and pollutant-specific conditions and the likelihood of common detection must include applicable monitoring, pollutant use information, physical and chemical properties of the pollutant, hydrogeologic information, and review of information and data from other local, state, or federal monitoring data bases.*

**Sec. 10. [103H.275] [MANAGEMENT OF POLLUTANTS WHERE GROUNDWATER IS POLLUTED.]**

*Subdivision 1. [AREAS WHERE GROUNDWATER DEGRADATION IS DETECTED.] (a) If groundwater degradation is detected, a state agency or political subdivision that regulates an activity causing or potentially causing a contribution to the pollution identified shall promote implementation of best management practices to prevent or minimize the source of degradation to the extent practicable.*

*(b) The pollution control agency or for agricultural chemicals and practices the commissioner of agriculture may adopt water resource protection requirements under subdivision 3 that are commensurate with the groundwater degradation.*

*Subd. 2. [AREAS WHERE DETECTION INDICATES RISK.] (a) If common detection of groundwater degradation exceeds adopted long-term risk measurements or the common detection trend analysis indicates the common detection will exceed the adopted long-term risk measurement, the pollution control agency or for agricultural chemicals the commissioner of agriculture:*

*(1) must adopt a water resource protection requirement; and*

*(2) may develop more effective best management practices.*

*(b) The water resource protection requirements shall be:*

*(1) designed to prevent, reduce, minimize, and eliminate the source of the pollution to the extent practicable;*

*(2) consistent with the goal of section 1; and*

*(3) designed to prevent the pollution from exceeding or remaining above the adopted long-term risk measurement.*

*Subd. 3. [ADOPTION OF WATER RESOURCE PROTECTION REQUIREMENTS.] (a) The pollution control agency or for agricultural chemicals and practices the commissioner of agriculture shall adopt by rule water resource protection requirements to prevent, minimize, reduce, and eliminate the source of pollution. The water resource protection requirements must be based on the use and effectiveness of best management practices and the product use and practices contributing to the pollution detected. The water resource protection requirements may be adopted for one or more pollutants or a similar class of pollutants.*

*(b) Before the water resource protection requirements are adopted, the pollution control agency or the commissioner of agriculture for agricultural chemicals and practices must notify affected persons and businesses for comments and input in developing the water resource protection requirements.*

(c) *Unless the water resource protection requirements are to cover the entire state, the water resource protection requirements are only effective in areas designated by the commissioner of the pollution control agency by order or for agricultural chemicals and practices in areas designated by the commissioner of agriculture by order. The procedures for issuing the order and the effective date of the order must be included in the water resource protection requirements rule.*

(d) *The water resource protection requirements rule must contain procedures for notice to be given to persons affected by the rule and order of the commissioner. The procedures may include notice by publication, personal service, and other appropriate methods to inform affected persons of the rule and commissioner's order.*

(e) *A person who is subject to a water resource protection requirement may apply to the pollution control agency, or for agricultural chemicals and practices the commissioner of agriculture, and suggest an alternative protection requirement. Within 30 days after receipt, the agency or commissioner of agriculture must approve or deny the request. If the pollution control agency or commissioner of agriculture approves the request, an order must be issued approving the alternative protection requirement.*

(f) *A person who violates a water resource protection requirement relating to pollutants is subject to the penalties for violating a rule adopted under chapter 116. A person who violates a water resource protection requirement relating to agricultural chemicals and practices is subject to the penalties for violating a rule adopted under chapter 18B.*

(g) *The authority of the pollution control agency and the commissioner of agriculture in this section is supplemental to other authority given by law and does not restrict other authorities.*

#### Sec. 11. [NITROGEN COMPOUNDS IN GROUNDWATER STUDY.]

*The pollution control agency and the department of agriculture, in consultation with the board of water and soil resources, shall prepare a report on inorganic nitrogen compounds in groundwater. The report shall consider recommendations made by local government in comprehensive local water plans and shall incorporate the findings of the fertilizer nitrogen task force. This report shall be submitted to the environmental quality board by July 1, 1991. The board shall provide recommendations to the legislature by November 15, 1991, based upon this report.*

*The report shall be based on existing information and shall examine areas in which improvements in the state and local response to this problem are feasible. The report shall address the following issues: the determination of trends in nitrogen pollution; causative factors; the development of recommended best management practices to reduce or minimize the source of pollution; regulatory controls; the feasibility of proposed treatment and corrective or mitigative measures; and the economic impacts of proposed corrective measures.*

### ARTICLE 2

#### WATER RESEARCH, INFORMATION, AND EDUCATION

##### Section 1. [3.887] [LEGISLATIVE COMMISSION ON WATER.]

*Subdivision 1. [ESTABLISHMENT.] A legislative commission on water is established in the legislative branch.*

*Subd. 2. [MEMBERSHIP.] (a) The legislative commission on water shall consist of 12 members appointed as follows:*

*(1) six members of the senate to be appointed by the subcommittee on committees and to serve until their successors are appointed; and*

*(2) six members of the house of representatives to be appointed by the speaker of the house and to serve until their successors are appointed.*

*(b) Vacancies shall be filled in the same manner as the original positions.*

*(c) Vacancies occurring on the commission do not affect the authority of the remaining members of the commission to carry out the function of the commission.*

*Subd. 3. [COMMITTEES.] Two committees shall be established in the legislative commission on water; one on groundwater and one on surface water.*

*Subd. 4. [STAFF.] The legislative commission on water may, without regard to the civil service laws and regulations, appoint and fix the compensation of additional legal and other personnel and consultants necessary to enable the commission to carry out its function, or to contract for services to supply necessary data. State employees subject to civil service laws and regulations who may be assigned to the commission shall retain civil service status without interruption or loss of status or privilege.*

*Subd. 5. [POWERS AND DUTIES.] (a) The legislative commission on water shall review water policy reports and recommendations of the environmental quality board, the biennial report of the board of water and soil resources, and other water-related reports as may be required by law or the legislature.*

*(b) The commission may conduct public hearings and otherwise secure data and comments.*

*(c) The commission shall make recommendations as it deems proper to assist the legislature in formulating legislation.*

*(d) Data or information compiled by the commission or its committees shall be made available to standing and interim committees of the legislature on request of the chair of the respective committee.*

*Subd. 6. [STUDY.] The legislative commission on water shall study the recommendations of the environmental quality board for the management and protection of water resources in the state, and shall report its findings to the legislature by November 15, 1991, on the state's water management needs for the year 2000.*

*Subd. 7. [REPEALER.] This section is repealed effective June 30, 1995.*

## **Sec. 2. [17.114] [SUSTAINABLE AGRICULTURE.]**

*Subdivision 1. [PURPOSE.] To assure the viability of agriculture in this state, the commissioner shall investigate, demonstrate, report on, and make recommendations on the current and future sustainability of agriculture in this state. Sustainable agriculture has the meaning given to it in Laws 1987, chapter 396, article 12, section 6.*

*Subd. 2. [DEFINITIONS.] For purposes of this section, the following definitions apply:*

*(a) "Sustainable agriculture" represents the best aspects of traditional*

*and modern agriculture by using a fundamental understanding of nature as well as the latest scientific advances to create integrated, self-reliant, resource conserving practices that enhance the enrichment of the environment and provide short- and long-term productive agriculture.*

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

*Subd. 3. [DUTIES.] The commissioner shall:*

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

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

*(3) demonstrate the applicability of sustainable agriculture practices to conditions in this state;*

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

*(5) direct the programs of the department so as to work toward the sustainability of agriculture in this state;*

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

*(7) work closely with farmers, the University of Minnesota, and other appropriate organizations to identify opportunities and needs as well as assure coordination and avoid duplication of state agency efforts regarding research, teaching, and extension work relating to sustainable agriculture; and*

*(8) report to the legislature every odd-numbered year. The report must include:*

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

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

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

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

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

*Subd. 4. [INTEGRATED PEST MANAGEMENT APPROACH.] The commissioner shall develop a statewide strategy for the promotion and use of integrated pest management. The commissioner shall develop the strategy in consultation and cooperation with state agencies, the University of Minnesota, the Minnesota extension service, local units of government, and the private sector. The strategy shall include delineation of the roles and responsibilities of state agencies, higher education, local units of government, and the private sector.*

*Subd. 5. [COOPERATION OF OTHER AGENCIES.] Other state agencies and the University of Minnesota shall cooperate with the commissioner in the exercise of the responsibilities in this section. The commissioner shall consult with the University of Minnesota and other agencies and organizations in carrying out these duties.*

**Sec. 3. [17.117] [ENVIRONMENTAL AGRICULTURALIST EDUCATION PROGRAM.]**

*Subdivision 1. [POSITION DUTIES.] An environmental agricultural program is established:*

- (1) to work with agricultural producers;*
- (2) to advise and inform agricultural producers on the impact of certain farming practices on water quality;*
- (3) to promote sustainable agriculture through use of best management practices and integrated pest management;*
- (4) to demonstrate and evaluate alternative pesticide practices; and*
- (5) to develop and promote farm profitability through a reduction in farm inputs.*

*Subd. 2. [CONTRACT.] The legislative commission on water may request proposals and award contracts for the program.*

**Sec. 4. Minnesota Statutes 1988, section 40.42, is amended by adding a subdivision to read:**

*Subd. 6a. [SENSITIVE AREA.] "Sensitive area" means the sensitive areas delineated by mapping or areas under article 1, section 3.*

**Sec. 5. Minnesota Statutes 1988, section 40.43, subdivision 2, is amended to read:**

**Subd. 2. [ELIGIBLE LAND.]** *(a) Land may be placed in the conservation reserve program if the land complies with paragraph (b) and:*

- (1) is marginal agricultural land; or*
- (2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description; or*
- (3) consists of a drained wetland, or is land that with a windbreak would be beneficial to resource protection, and cropland adjacent to the restored wetland may also be enrolled to the extent of up to four acres of cropland for each acre of wetland restored;*
- (4) is land that with a windbreak would be beneficial to resource protection;*
- (5) is land in a sensitive area; or*

(6) *is land on a hillside used for pasture.*

(b) *Land under paragraph (a) may be placed in the conservation reserve program if the land:*

(2) (1) *was owned by the landowner on January 1, 1985, or was owned by the landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;*

(3) (2) *is at least five acres in size, except for a windbreak, or is a whole field as defined by the United States Agricultural Stabilization and Conservation Services;*

(4) (3) *is not set aside, enrolled or diverted under another federal or state government program; and*

(5) (4) *except for land on a hillside used for pasture was in agricultural crop production for at least two years during the period 1981 to 1985.*

(c) *The enrolled land of a landowner may not exceed 20 percent of the landowner's total agricultural land acreage in the state, if the landowner owns at least 200 acres of agricultural land as defined by section 500.24, subdivision 2. If a landowner owns less than 200 acres of agricultural land the amount that may be enrolled in the conservation reserve is:*

(a) (1) *all agricultural land owned, if 20 acres or less; or*

(b) (2) *if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the balance of the agricultural land.*

(d) *In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 40.41.*

Sec. 6. Minnesota Statutes 1988, section 40.43, subdivision 6, is amended to read:

Subd. 6. [PAYMENTS FOR CONSERVATION EASEMENTS AND ESTABLISHMENT OF COVER.] (a) *The commissioner must make the following payments to the landowner for the conservation easement and agreement:*

(1) *to establish the perennial cover or other improvements required by the agreement, up to 75 percent of the total eligible cost not to exceed \$75 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed \$100 per acre for perpetual easements;*

(2) *for the cost of planting trees required by the agreement, up to 75 percent of the total eligible cost not to exceed \$200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed \$300 per acre for perpetual easements;*

(3) *for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application;*

(4) *for an easement of limited duration, 90 percent of the present value of the average of the accepted bids for the federal conservation reserve program, as contained in Public Law Number 99-198, in the relevant geographic area and on bids accepted at the time of easement application; or*

(5) *an alternative payment system for easements based on cash rent or*

a similar system as may be determined by the commissioner.

*(b) For hillside pasture conservation easements, the payments in paragraph (a) must be reduced to reflect the value of similar property.*

*(c) The commissioner may not pay more than \$50,000 to a landowner for all the landowner's conservation easements and agreements.*

**Sec. 7. [103A.43] [WATER RESEARCH NEEDS EVALUATION.]**

*(a) The environmental quality board shall evaluate and report to the legislative commission on water on statewide water research needs and recommended priorities for addressing these needs. Local water research needs may also be included.*

*(b) The environmental quality board shall conduct a biennial assessment of water quality, groundwater degradation trends, and efforts to reduce, prevent, minimize, and eliminate degradation of water.*

*(c) The environmental quality board shall assess the quantity of surface and ground water in the state and the availability of water to meet the state's needs.*

*(d) The environmental quality board shall prepare and submit a report to the legislative commission on water by November 15 of each even-numbered year.*

**Sec. 8. [103A.44] [WATER RESOURCES AND INFORMATION NEEDS.]**

*Subdivision 1. [DUTIES.] The environmental education board shall:*

*(1) identify water resources information and education needs, priorities, and goals and prepare an implementation plan to guide state activities relating to water resources information and education;*

*(2) coordinate the development and evaluation of water information and education materials and resources;*

*(3) coordinate the dissemination of water information and education through existing delivery systems;*

*(4) prepare an interdisciplinary program of instruction on water education for students in kindergarten through grade 12 and their teachers; and*

*(5) prepare an annual report on program results.*

**Subd. 2. [STATE AGENCY ACTIVITIES MUST BE CONSISTENT.]**

*State agency information and education activities must be coordinated with the implementation plan required under this section.*

**Sec. 9. [103B.3361] [CITATION.]**

*Sections 103B.3361 to 103B.3369 may be cited as the "local water resources protection and management program."*

**Sec. 10. [103B.3363] [DEFINITIONS.]**

*Subdivision 1. [SCOPE.] The definitions in this section apply to sections 103B.3363 and 103B.3369.*

*Subd. 2. [BOARD.] "Board" means the board of water and soil resources.*

*Subd. 3. [COMPREHENSIVE LOCAL WATER PLAN.] "Comprehensive local water plan" means a county water plan authorized under section*

*110B.04, a watershed management plan required under section 473.878, a watershed management plan required under section 112.46, or a county groundwater plan authorized under section 473.8785.*

*Subd. 4. [LOCAL UNIT OF GOVERNMENT.] "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a local health board, or other special purpose district or authority with local jurisdiction in water and related land resources management.*

*Subd. 5. [PROGRAM.] "Program" means a water-related program.*

**Sec. 11. [103B.3369] [LOCAL WATER RESOURCES PROTECTION AND MANAGEMENT PROGRAM.]**

*Subdivision 1. [ESTABLISHMENT.] A local water resources protection and management program is established. The board shall provide financial assistance to counties for local government activities that protect or manage water and related land quality. The activities include planning, zoning, official controls, and other activities to implement comprehensive local water plans.*

*Subd. 2. [COUNTY REQUEST AND SPONSORSHIP] Counties must submit funding requests to the board. A county must coordinate and submit requests on behalf of other units of government within its jurisdiction.*

*Subd. 3. [CONTRACTS WITH LOCAL GOVERNMENTS.] A county may contract with other appropriate local units of government to implement programs. An explanation of the program responsibilities proposed to be contracted with other local units of government must accompany grant requests. A county that contracts with other local units of government is responsible for ensuring that state funds are properly expended and for providing an annual report to the board describing expenditures of funds and program accomplishments.*

*Subd. 4. [FINANCIAL ASSISTANCE.] The board may award grants to counties only to carry out water resource protection and management programs identified as priorities in comprehensive local water plans. Grants may be used to employ persons and to obtain and use information necessary to:*

*(1) develop comprehensive local water plans under section 110B.04 that have not received state funding for water resources planning as provided for in Laws 1987, chapter 404, section 30, subdivision 5, clause (a);*

*(2) implement comprehensive local water plans; and*

*(3) revision of shoreland zoning ordinances for work to be completed before July 1, 1991.*

*Subd. 5. [LIMITATIONS.] (a) Grants provided to implement programs under this section must be reviewed by the state agency having statutory program authority to assure compliance with minimum state standards. At the request of the state agency commissioner, the board shall revoke the portion of a grant used to support a program not in compliance.*

*(b) Grants provided to develop comprehensive local water plans may not be awarded for a time period greater than two years.*



*(c) A county may not request or be awarded grants for project implementation unless a comprehensive water plan has been adopted.*

*Subd. 6. [RULES.] The board shall adopt rules that:*

*(1) establish performance criteria for grant administration for local implementation of state delegated or mandated programs that recognize regional variations in program needs and priorities;*

*(2) recognize the unique nature of state delegated or mandated programs;*

*(3) specify that program activities contracted by a county to another local unit of government are eligible for funding; and*

*(4) require that grants from the board may not exceed the amount matched by participating local units of government.*

*Subd. 7. [PRIORITIES.] (a) In reviewing requests, the board must give priority to requests based on:*

*(1) completion of comprehensive water plans under sections 110B.04 and 473.8785;*

*(2) adoption, administration, and enforcement of official controls;*

*(3) indicate the participation of several local units of government, including multicounty efforts;*

*(4) complement efforts of federal, state, and local units of government; and*

*(5) demonstrate long-term commitments to effective water protection and management programs.*

*(b) The board shall consult with appropriate agencies to evaluate grant requests and coordinate project activities with other state, federal, and local research management projects.*

*(c) Grants specified for shoreland management shall be allocated according to priorities established by the commissioner of natural resources.*

*(d) The grants shall be allocated to counties based on the length of shoreland in the county.*

*(e) Aid from any federal program shall reduce the state and local contribution to the activity equally.*

*(f) Shoreland management rules adopted by the commissioner after January 1, 1989, are not effective until all affected counties receive state appropriations necessary for the adoption, administration, and enforcement of shoreland ordinances.*

*Sec. 12. Minnesota Statutes 1988, section 110B.04, subdivision 6, is amended to read:*

*Subd. 6. [SCOPE OF PLANS.] Comprehensive water plans must include:*

*(1) a description of the existing and expected changes to physical environment, land use, and development in the county;*

*(2) available information about the surface water, groundwater, and related land resources in the county, including existing and potential distribution, availability, quality, and use;*

*(3) objectives for future development, use, and conservation of water and*

related land resources, including objectives that concern water quality and quantity, *and sensitive areas, wellhead protection areas*, and related land use conditions, and a description of actions that will be taken in affected watersheds or groundwater systems to achieve the objectives;

(4) a description of potential changes in state programs, policies, and requirements considered important by the county to management of water resources in the county;

(5) a description of conflicts between the comprehensive water plan and existing plans of other local units of government;

(6) a description of possible conflicts between the comprehensive water plan and existing or proposed comprehensive water plans of other counties in the affected watershed units or groundwater systems;

(7) a program for implementation of the plan that is consistent with the plan's management objectives and includes schedules for amending official controls and water and related land resources plans of local units of government to conform with the comprehensive water plan, and the schedule, components, and expected state and local costs of any projects to implement the comprehensive water plan that may be proposed, although this does not mean that projects are required by this section; and

(8) a procedure for amending the comprehensive water plan.

Sec. 13. Minnesota Statutes 1988, section 116C.41, subdivision 1, is amended to read:

Subdivision 1. [WATER PLANNING.] The board shall:

(1) coordinate public water resource management and regulation activities among the state agencies having jurisdiction in the area;

(2) initiate, coordinate, and continue to develop comprehensive long-range water resources planning in furtherance of the plan adopted by the water planning board entitled "A Framework for a Water and Related Land Resources Strategy for Minnesota, 1979" *including a new plan and strategy by November 15, 1990, and each five-year interval afterwards*;

(3) coordinate water planning activities of local, regional, and federal bodies with state water planning and integrate these plans with state strategies; ~~and~~

(4) *coordinate development of state water policy recommendations and priorities, and a recommended program for funding identified needs, including priorities for implementing the state water resources monitoring plan*;

(5) *in cooperation with state agencies participating in the monitoring of water resources, develop a plan for monitoring the state's water resources*;

(6) administer federal water resources planning with multiagency interests; *and*

(7) *ensure that groundwater quality monitoring and related data is provided and integrated into the Minnesota land management information system according to published data compatibility guidelines. Costs of integrating the data in accordance with data compatibility standards must be borne by the agency generating the data.*

Sec. 14. Minnesota Statutes 1988, section 116E.02, is amended to read:

116E.02 [~~ESTABLISHMENT~~ BOARD AND COUNCILS.]

Subdivision 1. [~~MEMBERSHIP; TERMS ESTABLISHMENT.~~] A ~~state environmental education board, designated as (a) The environmental education board, is hereby created established.~~

(b) Regional environmental education councils, ~~subordinate to under the direction of the environmental education board and designated as regional environmental education councils are hereby created established~~ to represent the regions of the state designated by the governor ~~pursuant to Minnesota Statutes 1971, under section 462.385.~~

Subd. 1a. [~~MEMBERSHIP.~~] (a) The ~~state environmental education board shall consist consists of three members:~~

- (1) ~~one member appointed by the commissioner of natural resources and;~~
- (2) ~~one member appointed by the commissioner of agriculture;~~
- (3) ~~one member appointed by the commissioner of health;~~
- (4) ~~one member appointed by the commissioner of the pollution control agency;~~
- (5) ~~one member appointed by the chair of the board of water and soil resources;~~
- (6) ~~three two members appointed by the commissioner of education;~~
- (7) ~~one member appointed by the Minnesota extension service; and~~
- (8) ~~one member from each of the regional environmental education councils.~~

(b) Each regional council shall elect one member to serve on the ~~state environmental education board.~~

Subd. 1b. [~~REGIONAL ENVIRONMENTAL EDUCATION COUNCILS.~~] (a) Regional ~~environmental education councils shall consist of 12 members, appointed by the chair of the state environmental education board with approval of the state environmental education board, with.~~ At least one person ~~representing must represent~~ each of the following groups: ~~(a) (1) public school systems having grade levels kindergarten through 12, inclusive; (b) (2) post-secondary educational institutions; (c) (3) regional economic development commissions, where established; (d) (4) voluntary organizations; (e) (5) business, industry and agriculture; (f) (6) labor organizations; and (g) (7) elected local government officers.~~

(b) The term of a member of a regional ~~environmental education council shall begin begins~~ on July 1 and ~~shall extend extends~~ for a four-year term and until a successor is ~~duly appointed and qualifies~~ qualified.

(c) A vacancy in the office of a member of ~~any a~~ regional ~~environmental education council shall must~~ be filled by the appointing authority, for the unexpired term.

(d) The regional environmental education council corresponding to the metropolitan area regional development commission as designated by the governor ~~pursuant to under section 462.385 shall must~~ consist of one member from each of the five task forces ~~hereafter created established~~ and seven public members. One task force consisting of seven members shall be appointed by the chair of the ~~state environmental education board with the approval of the environmental education board~~ to represent each of the

following five geographic areas: (1) the city of Minneapolis; (2) the remainder of Hennepin county; (3) Carver, Scott and Dakota counties; (4) Ramsey county; and (5) Anoka and Washington counties. Each task force shall select one of its members to serve on the metropolitan regional environmental education council. Members of the task forces shall be compensated and shall have terms similar to ~~those members~~ of the regional environmental education councils.

Subd. 2a. [BOARD MEMBERSHIP TERMS.] The membership terms, compensation, removal of members, and filling of vacancies on the ~~state~~ *environmental education board* shall be as provided in section 15.0575.

Subd. 3. [QUALIFICATIONS OF MEMBERS.] The membership of the ~~state~~ *environmental education board* and regional *environmental education councils* ~~shall~~ *must* be broadly representative of the skills and experience necessary to effectuate the policies of sections 116E.01 to ~~116E.04~~ *116E.05*.

Subd. 4. [OFFICERS AND COMPENSATION.] The ~~state~~ *environmental education board* and each regional *environmental education council* shall select a chair and ~~such~~ other officers as they deem necessary. Members of the regional *environmental education councils* shall serve without compensation, but each member of the regional *environmental education councils* may be reimbursed for actual and necessary expenses incurred in the performance of ~~that the~~ member's duties.

Sec. 15. Minnesota Statutes 1988, section 116E.03, is amended to read:

116E.03 [POWERS AND DUTIES.]

Subdivision 1. [GENERALLY SUPERVISION AND BUDGET.] (a) The environmental education board shall operate under the general supervision of the ~~commissioner of natural resources~~ *environmental quality board*.

(b) The environmental education board shall submit its budget to the ~~commissioner~~ *environmental quality board* each year for review and approval.

(c) Twice each year the ~~state~~ *environmental education board* shall report to the ~~commissioner~~ *environmental quality board* on the status of its programs and operations.

Subd. 1a. [GENERAL POWERS AND DUTIES.] In addition to ~~any~~ powers ~~or~~ *and* duties otherwise prescribed by law and without limiting the same, the ~~state~~ *environmental education board* ~~shall have~~ *has* the powers and duties ~~hereinafter specified in this section~~.

Subd. 2. [PLANNING.] The ~~state~~ *environmental education board* shall prepare and from time to time revise a plan for environmental education within the state or ~~part thereof~~ *parts of the state*.

Subd. 3. [ADVISE LEGISLATURE AND GOVERNOR.] The ~~state~~ *environmental education board* shall advise the legislature and the governor concerning the status of environmental education in the state and give its recommendations concerning the subject.

Subd. 4. [RELATING TO REGIONAL ENVIRONMENTAL EDUCATION COUNCILS.] The ~~state~~ *environmental education board* shall coordinate the activities of the regional environmental education councils and shall adopt rules relating to the activities of regional *environmental education councils* to assure that ~~such~~ *the* activities are consistent with the ~~state board's~~ plan for environmental education throughout the state. At least half of the money spent by the ~~state~~ *environmental education board* and

regional *environmental education* councils shall be for cooperation with and service for other groups, agencies, and institutions for the dissemination of environmental information.

Subd. 5. [STUDIES AND REPORTS.] The ~~state~~ *environmental education* board may prepare studies and reports on the subject of environmental education as necessary to fulfill its responsibilities under sections 116E.01 to ~~116E.04~~ 116E.05.

Subd. 6. [DELEGATION TO REGIONAL COUNCILS.] The ~~state~~ *environmental education* board may, pursuant to a written agreement with a regional *environmental education* council, delegate its authority as ~~provided herein to any a regional environmental education council created and organized under authority of sections 116E.01 to 116E.04.~~

Subd. 7. [EMPLOYMENT OF STAFF.] The ~~state~~ *environmental education* board and the regional *environmental education* councils may employ ~~such~~ administrative and clerical staff as may be necessary to carry out ~~the~~ their functions of the ~~state board and regional councils as described in sections 116E.01 to 116E.04, including, but not limited to, an executive director to represent and manage the affairs of the state environmental education board, and/or and regional environmental education councils, as the case may be. In addition, The state environmental education board and regional environmental education councils may employ and fix the compensation of such experts and consultants as may be necessary to carry out their functions under sections 116E.01 to 116E.04.~~

Subd. 7a. [EXECUTIVE DIRECTOR.] The executive director of the ~~state~~ *environmental education* board shall be experienced in the administration of environment-related programs. All employees serving the *environmental education* board shall be in the classified civil service of the state. This subdivision shall not apply to board employees serving on July 1, 1976.

Subd. 8. [CONTRACTS.] (a) The chief administrative officer of the ~~state~~ *environmental education* board may contract with persons, firms, corporations, organizations, units of government or institutions of higher learning for doing any of the work of the chief administrative officer, and ~~none of the provisions of chapter 16, relating to bids, shall do not apply to such the contracts.~~

(b) The regional *environmental education* councils may contract with the regional development commissions designated by the governor ~~pursuant to Minnesota Statutes 1971, under section 462.385, to accomplish the purposes of sections 116E.01 to 116E.04 116E.05. All~~

(c) Personnel employed and ~~all~~ contracts entered into ~~pursuant to under~~ this subdivision ~~shall be~~ are subject to the approval of the ~~state~~ *environmental education* board.

(d) Agreements to exercise delegated powers shall be by written order filed with the secretary of state.

Subd. 9. [PRIVATE ~~GRANT~~ GRANTS AND FEDERAL FUNDS.] (a) The chief administrative officer of the ~~state~~ *environmental education* board is the state agent to apply for, receive, and disburse private grant and federal funds made available to the state by private organizations or federal law or rules and regulations ~~promulgated thereunder~~ for any purpose related to the powers and duties of the ~~state~~ *environmental education* board or the

regional *environmental education* councils.

(b) The chief administrative officer shall comply with any and all requirements of ~~such the private organizations or, federal law or such, and federal~~ rules and regulations ~~promulgated thereunder~~ to enable the funds to be applied for, received, and disbursed. ~~All such moneys~~

(c) ~~The money received by the chief administrative officer of the state environmental education board shall be deposited in the state treasury and are hereby is annually appropriated to the chief administrative officer for the purposes for which they are it is received. None of such moneys in the state treasury shall~~ The appropriation does not cancel and ~~they shall be is~~ available for expenditure in accordance with the requirements of federal law or the terms of ~~such the private grants. No~~

(d) An application for federal funds or private grants under this subdivision ~~shall may not~~ be submitted to federal authorities or private organizations for approval unless the proposed budget for the expenditure of ~~such the funds is approved by the governor and reported to the standing committee on finance of the senate and the standing committee on appropriations of the house of representatives.~~

## ARTICLE 3

### CHAPTER 1031

#### WELLS, BORINGS, AND UNDERGROUND USES

##### Section 1. [1031.001] [LEGISLATIVE INTENT.]

*This chapter is intended to protect the health and general welfare by providing a means for the development and protection of the natural resource of groundwater in an orderly, healthful, and reasonable manner. [156A.01]*

##### Sec. 2. [1031.005] [DEFINITIONS.]

*Subdivision 1. [APPLICABILITY.] The definitions in this chapter apply to this chapter.*

*Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of health.*

*Subd. 3. [DEPARTMENT.] "Department" means the department of health.*

*Subd. 4. [DRIVE POINT WELL.] "Drive point well" means a well constructed by forcing a pointed well screen, attached to sections of pipe, into the ground with the screen and casing forced or driven into the ground with a hammer, maul, or weight.*

*Subd. 5. [ELEVATOR SHAFT.] "Elevator shaft" means a bore hole, jack hole, drilled hole, or excavation constructed to install an elevator shaft or hydraulic cylinder.*

*Subd. 6. [ELEVATOR SHAFT CONTRACTOR.] "Elevator shaft contractor" means a person with an elevator shaft contractor's license issued by the commissioner.*

*Subd. 7. [ENVIRONMENTAL BORE HOLE.] "Environmental bore hole" means a hole or excavation in the ground used to monitor chemical, radiological, or biological contaminants that may cause environmental damage. An environmental bore hole also includes bore holes constructed for vapor recovery or venting systems. An environmental bore hole does not include a well, elevator shaft, exploratory boring, or monitoring well.*

*Subd. 8. [EXPLORATORY BORING.] "Exploratory boring" means a surface drilling done to explore or prospect for oil, natural gas, and metallic minerals, including iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium, and a drilling or boring for aggregate or petroleum. [156A.02 s. 5]*

*Subd. 9. [EXPLORER.] "Explorer" means a person who has the right to drill an exploratory boring. [156A.02 s. 4]*

*Subd. 10. [GROUNDWATER THERMAL EXCHANGE DEVICE.] "Groundwater thermal exchange device" means a heating or cooling device that depends on extraction and reinjection of groundwater from an independent aquifer to operate. [156A.02 s. 6]*

*Subd. 11. [LIMITED WELL CONTRACTOR.] "Limited well contractor" means a person with a limited well contractor's license issued by the commissioner.*

*Subd. 12. [MONITORING WELL.] "Monitoring well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed to extract groundwater for physical, chemical, or biological testing. "Monitoring well" includes:*

*(1) a groundwater quality sampling well;*

*(2) test borings for piezometer wells for engineering purposes; and*

*(3) wells installed to measure groundwater levels or to test hydrologic properties in an area being investigated for potential or existing groundwater contamination.*

*Subd. 13. [MONITORING WELL CONTRACTOR.] "Monitoring well contractor" means a person who is registered by the commissioner to construct monitoring wells.*

*Subd. 14. [PERSON.] "Person" means an individual, firm, partnership, association, or corporation.*

*Subd. 15. [PROVISIONS OF THIS CHAPTER.] "Provisions of this chapter" means the sections in this chapter and rules adopted by the commissioner under this chapter.*

*Subd. 16. [SEALED WELL CERTIFICATE.] "Sealed well certificate" means the certificate containing information required under section 20.*

*Subd. 17. [VERTICAL HEAT EXCHANGER.] "Vertical heat exchanger" means an earth-coupled heating or cooling device consisting of a sealed piping system installed vertically in the ground to transfer heat to or from the surrounding earth. [156A.02 s. 7]*

*Subd. 18. [WATER WELL CONSTRUCTION CODE.] "Water well construction code" means Minnesota Rules, chapter 4725, governing water well construction.*

*Subd. 19. [WELL.] "Well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed if the excavation is intended for the location, diversion, artificial recharge, or acquisition of groundwater. "Well" does not include:*

*(1) an excavation by backhoe, or otherwise for temporary dewatering*

*of groundwater for nonpotable use during construction, if the depth of the excavation is 25 feet or less;*

*(2) an excavation made to obtain or prospect for oil, natural gas, minerals, or products of mining or quarrying; or*

*(3) an excavation to insert media to repressure oil or natural gas bearing formations or to store petroleum, natural gas, or other products. [156A.02 s. 1]*

*Subd. 20. [WELL CERTIFICATE.] "Well certificate" means a certificate containing the requirements of section 15, subdivision 1, paragraph (d).*

*Subd. 21. [WELL CONTRACTOR.] "Well contractor" means a person with a well contractor's license. [156A.02 s. 2]*

*Subd. 22. [WELLHEAD PROTECTION AREA.] "Wellhead protection area" means the surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well or well field.*

#### JURISDICTION OVER WELLS AND BORINGS

**Sec. 3. [103L.101] [POWERS AND DUTIES OF THE COMMISSIONER OF HEALTH.]**

*Subdivision 1. [POWERS OF COMMISSIONER.] The commissioner has the powers reasonable and necessary to effectively exercise the authority granted by this chapter. [156A.05 s. 1]*

*Subd. 2. [DUTIES.] The commissioner shall:*

*(1) regulate the drilling, construction, and sealing of wells;*

*(2) examine and license well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing unconventional wells such as drive point wells or dug wells; sealing wells; installing well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders;*

*(3) register and examine monitoring well contractors;*

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

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

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

*Subd. 3. [PROCEDURES FOR PERMITS.] The commissioner shall establish procedures for application, approval, and issuance of permits by rule. The commissioner may modify fees by rule.*

*Subd. 4. [INSPECTIONS BY COMMISSIONER.] The commissioner may inspect, collect water samples, and have access, at all reasonable times, to a well site, including wells drilled, sealed, or repaired. [156A.05 s. 3]*



*Subd. 5. [COMMISSIONER TO ADOPT RULES.] The commissioner shall adopt rules including:*

*(1) issuance of licenses for:*

*(i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;*

*(ii) persons constructing unconventional wells such as drive points or dug wells;*

*(iii) persons sealing wells; and*

*(iv) persons installing well pumps or pumping equipment and excavating holes for installing elevator shafts or hydraulic cylinders;*

*(2) issuance of registration for monitoring well contractors;*

*(3) establishment of conditions for examination and review of applications for license and registration;*

*(4) establishment of conditions for revocation and suspension of license and registration;*

*(5) establishment of minimum standards for design, location, construction, repair, and sealing of wells to implement the purpose and intent of this chapter;*

*(6) establishment of a system for reporting on wells drilled and sealed;*

*(7) modification of fees prescribed in this chapter, according to the procedures for setting fees in section 16A.128;*

*(8) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination, for which the commissioner may adopt emergency rules;*

*(9) establishment of wellhead protection measures for wells serving public water supplies;*

*(10) establishment of procedures to coordinate collection of well data with other state and local governmental agencies; and*

*(11) establishment of criteria and procedures for submission of well logs, formation samples or well cuttings, water samples, or other special information required for geologic and water resource mapping. [156A.05 s. 2]*

*Subd. 6. [FEES FOR VARIANCES.] The commissioner shall charge a nonrefundable application fee of \$150 to cover the administrative cost of processing a request for a variance or modification of rules under Minnesota Rules, part 4725.0400.*

**Sec. 4. [103I.103] [WASTE PREVENTION MAY BE REQUIRED.]**

*The commissioner of natural resources may require the owners of wells, especially flowing artesian wells, to prevent waste to conserve the ground-water water supply of the state. [105.51 s. 1]*

**Sec. 5. [103I.105] [ADVISORY COUNCIL ON WELLS AND BORINGS.]**

*(a) The advisory council on wells and borings is established as an advisory council to the commissioner. The advisory council shall consist of 15 voting members. Of the 15 voting members:*

*(1) one member must be from the department of health, appointed by*

*the commissioner of health;*

*(2) one member must be from the department of natural resources, appointed by the commissioner of natural resources;*

*(3) one member must be a member of the Minnesota geological survey of the University of Minnesota, appointed by the director;*

*(4) one member must be a licensed exploratory borer;*

*(5) one member must be a licensed elevator shaft contractor;*

*(6) two members must be members of the public who are not connected with the business of exploratory boring or the well drilling industry;*

*(7) one member must be from the pollution control agency, appointed by the commissioner of the pollution control agency;*

*(8) one member must be a monitoring well contractor; and*

*(9) six members must be residents of this state appointed by the commissioner, who are actively engaged in the well drilling industry, with not more than two from the seven county metropolitan area and at least four from other areas of the state who represent different geographical regions.*

*(b) An appointee of the well drilling industry may not serve more than two consecutive terms.*

*(c) The appointees to the advisory council from the well drilling industry must:*

*(1) have been residents of this state for at least three years before appointment; and*

*(2) have at least five years' experience in the well drilling business.*

*(d) The terms of the appointed members and the compensation and removal of all members are governed by section 15.059, except section 15.059, subdivision 5, relating to expiration of the advisory council does not apply. [156A.06]*

## **Sec. 6. [103I.111] [LOCAL AUTHORITY OVER WELLS AND BORINGS.]**

*Subdivision 1. [DELEGATION OF DUTIES OF COMMISSIONER.] (a) The commissioner of health may enter into an agreement with a board of health to delegate all or part of the inspection, reporting, and enforcement duties authorized under provisions of this chapter pertaining to permitting, construction, repair, and sealing of wells and elevator shafts. [145A.07 s. 1]*

*(b) A board of health may delegate its powers and duties to other boards of health within its jurisdiction. An agreement to delegate powers and duties of a board of health must be approved by the commissioner and is subject to subdivision 3. [145A.07 s. 2]*

*Subd. 2. [DELEGATION AGREEMENTS.] (a) Agreements authorized under this section must be in writing and signed by the delegating authority and the designated agent.*

*(b) The agreement must list criteria the delegating authority will use to determine if the designated agent's performance meets appropriate standards and is sufficient to replace performance by the delegating authority.*

(c) *The agreement may specify minimum staff requirements and qualifications, set procedures for the assessment of costs, and provide for termination procedures if the delegating authority finds that the designated agent fails to comply with the agreement.*

(d) *A designated agent must not perform licensing, inspection, or enforcement duties under the agreement in territory outside its jurisdiction unless approved by the governing body for that territory through a separate agreement.*

(e) *The scope of agreements established under this section is limited to duties and responsibilities agreed upon by the parties. The agreement may provide for automatic renewal and for notice of intent to terminate by either party.*

(f) *During the life of the agreement, the delegating authority shall not perform duties that the designated agent is required to perform under the agreement, except inspections necessary to determine compliance with the agreement and this section or as agreed to by the parties.*

(g) *The delegating authority shall consult with, advise, and assist a designated agent in the performance of its duties under the agreement.*

(h) *This section does not alter the responsibility of the delegating authority for the performance of duties specified in law. [145A.07 s. 3]*

**Subd. 3. [PREEMPTION WITHOUT DELEGATION.]** *Notwithstanding any other law, a political subdivision may not regulate the permitting, construction, repair, or sealing of wells or elevator shafts unless the commissioner delegates authority under subdivisions 1 and 2.*

**Subd. 4. [LOCAL AUTHORITY OVER EXPLORATORY BORING.]** *This chapter does not limit the authority of a local unit of government to prohibit mineral exploration within its boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, that is consistent with other law. [156A.075]*

**Subd. 5. [LOCAL GOVERNMENT REGULATION OF OPEN WELLS AND RECHARGING BASINS.]** (a) *The governing body of a county, municipality, statutory or home rule charter city, or town may regulate open wells and recharging basins and may provide penalties for the violations. The use or maintenance of an open well or recharging basin that endangers the safety of a considerable number of persons may be defined as a public nuisance and abated as a public nuisance. [471.92 s. 1]*

(b) *The abatement of the public nuisance may include covering the open well or recharging basin or surrounding the open well or recharging basin with a protective fence. [471.92 s. 2]*

**Subd. 6. [UNSEALED WELLS ARE PUBLIC HEALTH NUISANCES.]** *A well that is required to be sealed under section 17 but is not sealed is a public health nuisance. A county may abate the unsealed well with the same authority of a board of health to abate a public health nuisance under section 145A.04, subdivision 8.*

**Subd. 7. [LOCAL LICENSE OR REGISTRATION FEES PROHIBITED.]** (a) *A political subdivision may not require a licensed well contractor to pay a license or registration fee.*

(b) *The commissioner of health must provide a political subdivision with a list of licensed well contractors upon request. [156A.07 s. 9]*

*Subd. 8. [MUNICIPAL REGULATION OF DRILLING.] A municipality may regulate all drilling, except well, elevator shaft, and exploratory drilling that is subject to the provisions of this chapter, above, in, through, and adjacent to subsurface areas designated for mined underground space development and existing mined underground space. The regulations may prohibit, restrict, control, and require permits for the drilling. [469.141 s. 2]*

## WELL CONSTRUCTION AND OWNERSHIP

### Sec. 7. [103I.201] [COMPLIANCE WITH THIS CHAPTER REQUIRED.]

*A person may not construct, repair, or seal a well, exploratory boring or elevator shaft, except as provided under the provisions of this chapter.*

### Sec. 8. [103I.205] [WELL CONSTRUCTION.]

*Subdivision 1. [WRITTEN CONTRACT REQUIRED.] A person may not construct a well for compensation until the well owner and the person sign a written contract that describes the nature of the work to be performed, and the estimated cost of the work.*

*Subd. 2. [PERMIT REQUIRED.] (a) A person may not construct a well until a permit for the well is issued by the commissioner for the construction. If after obtaining a permit an attempt to construct a well is unsuccessful, a new permit is not required as long as the initial permit is modified to indicate the location of the successful well.*

*(b) The property owner where a well is to be located must obtain the permit for the well construction from the commissioner.*

*(c) The permit under this subdivision preempts local permits, and counties or home rule charter or statutory cities may not require a permit for wells.*

*Subd. 3. [EMERGENCY PERMIT EXEMPTIONS.] The commissioner may adopt rules that modify the procedures for applying for a permit for construction if conditions occur that:*

*(1) endanger the public health and welfare or cause a need to protect the groundwater; and*

*(2) require the monitoring well contractor or well contractor to begin constructing a well before obtaining a permit.*

*Subd. 4. [PERMIT FEES.] The permit fee to be paid by a property owner is:*

*(1) for a new well drilled that produces less than 50 gallons a minute based on the actual capacity of the pump installed, \$150;*

*(2) for a new well that produces 50 gallons a minute or more based on the actual capacity of the pump installed, \$300; and*

*(3) for a well that is inoperable or disconnected from a power supply, \$50.*

*Subd. 5. [LICENSE REQUIRED.] Except as provided in section 29, a person may not drill, construct, or repair a well unless the person has a well contractor's license in possession. [156A.03 s. 2]*

*Subd. 6. [DISTANCE REQUIREMENTS FOR SOURCES OF CONTAMINATION.] A person may not place, construct, or install an actual*

*or potential source of contamination any closer to a well than the isolation distances set in the water well construction code unless a variance has been granted as prescribed by rule.*

**Subd. 7. [WELL IDENTIFICATION LABEL REQUIRED.]** *After a well has been constructed, the person constructing the well must attach a label to the well showing the unique well number, the depth of the well, the name of the person who constructed the well, and the date the well was constructed.*

**Subd. 8. [REPORT OF WORK.]** *(a) Within 30 days after completion or sealing of a well, the person doing the work must submit a verified report to the commissioner on forms provided by the commissioner.*

*(b) The report must contain:*

*(1) the name and address of the owner of the well and the actual location of the well;*

*(2) a log of the materials and water encountered in connection with drilling the well, and pumping tests relating to the well; and*

*(3) other information the commissioner may require concerning the drilling or sealing of the well.*

*(c) Within 30 days after receiving the report, the commissioner shall send a copy of the report to the commissioner of natural resources, the local soil and water conservation district where the well is located, and to the director of the Minnesota geological survey.*

**Sec. 9. [103L.211] [DRILLING RECORDS.]**

*(a) A person, firm, or corporation that provides the means of appropriating groundwater by drilling, boring, or another manner must file a verified statement with the director of the division of waters of the department of natural resources containing the log of the materials and water encountered and related water pumping tests.*

*(b) The statements are confidential and can be used only by the division of waters of the department of natural resources for scientific study. The study's result may be public information.*

*(c) The commissioner of natural resources may exclude from the requirement to file statements those whose operations are of a type that would not yield significant scientific information. [105.51 s. 2]*

**Sec. 10. [103L.215] [MONITORING WELL REQUIREMENTS.]**

**Subdivision 1. [REGISTRATION REQUIRED.]** *A person may not construct a monitoring well unless the person is a well contractor or:*

*(1) is a professional engineer registered under sections 326.02 to 326.15 in the branches of civil or geological engineering, or a geologist certified by the American Institute of Professional Geologists; and*

*(2) registers with the commissioner as a monitoring well contractor on forms provided by the commissioner.*

**Subd. 2. [PERMIT REQUIRED.]** *(a) A person may not construct a monitoring well without a permit for the monitoring well issued by the commissioner.*

*(b) This permit preempts local permits and a county, home rule charter or statutory city may not require a permit for a monitoring well.*

*(c) The permit fee to be paid by the property owner where the well is located is:*

- (1) for construction of a monitoring well, \$50; and*
- (2) annually, for a monitoring well that is unsealed, \$25.*

*Subd. 3. [WRITTEN CONTRACT REQUIRED.] A person may not construct a monitoring well for compensation until the owner of the property on which the monitoring well is located and the person sign a written contract that describes the nature of the work to be performed, the estimated cost of the work, who is responsible for sealing the well, and provisions for sealing the well.*

*Subd. 4. [MAINTENANCE PERMIT.] If the monitoring well is in use 14 months after completion of construction, the owner of the property on which the monitoring well is located must obtain and annually renew a maintenance permit from the commissioner.*

*Subd. 5. [AT-GRADE MONITORING WELLS.] At-grade monitoring wells are authorized and may be installed for the purpose of evaluating groundwater conditions or for use as a leak detection device. The at-grade completion must comply with the water well construction code. The at-grade monitoring wells must be installed with an impermeable double locking cap and must be labeled monitoring wells.*

*Subd. 6. [CONSTRUCTION, MAINTENANCE, AND SEALING.] A monitoring well must be constructed, maintained, and sealed under the provisions of this chapter.*

#### **Sec. 11. [DEWATERING WELL REQUIREMENTS.]**

*Subdivision 1. [PERMIT REQUIRED.] (a) A person may not construct a dewatering well without a permit for the dewatering well from the commissioner.*

*(b) The permit fee to be paid by the property owner where the dewatering well is located is:*

*(1) for construction of the dewatering well, \$50 for each well except a dewatering project comprising more than ten wells shall be issued a single permit for the wells recorded on the permit for \$500. All the wells constructed for a project must be recorded on the permit; and*

*(2) annually for a dewatering well that is unsealed, \$25.*

*Subd. 2. [MAINTENANCE PERMIT.] If the dewatering well is in use 14 months after completion of construction, the owner of the property on which the dewatering well is located must obtain and renew a maintenance permit from the commissioner.*

*Subd. 3. [CONSTRUCTION, MAINTENANCE, AND SEALING.] A dewatering well must be constructed, maintained, and sealed in accordance with the provisions of this chapter.*

#### **Sec. 12. [103I.221] [PLASTIC CASINGS.]**

*Subdivision 1. [PLASTIC CASINGS ALLOWED.] The use of plastic casings in wells is expressly authorized.*

*Subd. 2. [RULES.] The commissioner may adopt rules relating to the installation of plastic well casing.*

**Sec. 13. [1031.225] [LIMITED WELL WORK.]**

*A person may not do the following work without a well contractor's license or a limited well contractor's license in possession:*

- (1) modify or repair well casings, well screens, or well diameters;*
- (2) construct unconventional wells such as drive points or dug wells;*
- (3) seal wells; or*
- (4) install well pumps or pumping equipment.*

**Sec. 14. [1031.231] [COMMISSIONER MAY ORDER REPAIRS.]**

*(a) The commissioner may order the owner of a well to take remedial measures, including making repairs, reconstructing or sealing the well according to the rules of the commissioner. The order may be issued if the commissioner determines, based on inspection of the water or the well site or an analysis of water from the well, that the well:*

- (1) is contaminated;*
- (2) has not been sealed according to the rules of the commissioner;*
- (3) is in a state of disrepair so that its continued existence endangers the quality of the groundwater;*
- (4) is a health or safety hazard; or*
- (5) is located in a place or constructed in a manner that its continued use or existence endangers the quality of the groundwater.*

*(b) The order of the commissioner may be enforced in an action to seek compliance brought by the commissioner in the district court of the county where the well is located. [156A.05 s. 4]*

**Sec. 15. [1031.235] [SALE OF PROPERTY WHERE WELLS ARE LOCATED.]**

*Subdivision 1. [DISCLOSURE OF WELLS TO BUYER.] (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and the location of all known wells on the property, including the legal description, and the town, range, section, quartile, and county, and a map drawn from available information showing the location of the wells to the extent practicable. In the disclosure, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.*

*(b) At the time of closing of the sale, the disclosure information must be provided on a well certificate signed by the seller of the property.*

*(c) A county recorder or registrar of titles may not record a deed, instrument, or writing for which a certificate of value is required under section 272.115, or any deed or contract for deed from a governmental body exempt from the payment of state deed tax, unless the well certificate required by this subdivision is delivered to the county recorder or registrar of titles. The county recorder or registrar of titles shall transmit the well certificate to the commissioner of health within 15 days after receiving the well certificate.*

*(d) The commissioner shall prescribe the form for a well certificate and provide well certificate forms to county recorders and registrars of titles and other interested persons.*

*Subd. 2. [LIABILITY FOR FAILURE TO DISCLOSE.] Unless the buyer and seller agree to the contrary, in writing, prior to the closing of the sale, a seller who fails to disclose the existence of a well at the time of sale and knew of or had reason to know of the existence of a well is liable to the buyer for damages, costs, and reasonable attorney fees, relating to the sealing of the well, and the cleanup of groundwater contamination related to the fact that the well was not properly sealed at the time of sale. The action must be commenced by the buyer by six years after the date the buyer purchased the real property where the well is located.*

**Sec. 16. [103I.241] [ACTION FOR WELL CONTAMINATION.]**

*Subdivision 1. [OWNER'S CAUSE OF ACTION FOR WELL CONTAMINATION.] The owner of real property where a well is located has a cause of action for civil damages against a person whose action or inaction caused contamination of a well. The property owner may commence an action for a period of six years after the owner knows or becomes aware of the contamination of the well.*

*Subd. 2. [COURT AWARDS.] The court may award damages, reasonable attorney fees, and costs and disbursements.*

**WELL SEALING**

**Sec. 17. [103I.301] [WELL AND SEALING REQUIREMENTS.]**

*Subdivision 1. [WELLS.] (a) A well owner must have a well sealed if:*

*(1) the well is contaminated;*

*(2) the well was attempted to be sealed but was not sealed according to the provisions of this chapter; or*

*(3) the well is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.*

*(b) A well that is inoperable must be sealed unless the well owner has a maintenance permit.*

*(c) The well owner must have a well contractor or a limited well contractor seal a well.*

*Subd. 2. [MONITORING WELLS.] The owner of the property where a monitoring well is located must have the monitoring well sealed when the well is no longer in use. The owner must have a well contractor, a monitoring well contractor, or a limited well contractor seal the monitoring well.*

*Subd. 3. [DEWATERING WELLS.] (a) The owner of the property where a dewatering well is located must have the dewatering well sealed when the dewatering well is no longer in use.*

*(b) A water well contractor or a limited well contractor shall seal the dewatering well.*

*Subd. 4. [SEALING PROCEDURES.] Wells, monitoring wells, and dewatering wells must be sealed according to rules adopted by the commissioner.*

*Subd. 5. [SEALING OF SIX-INCH OR LARGER WELLS.] The owner of a well with a casing six inches or more in inside diameter may not seal the well, cover or otherwise render the well inaccessible for inspection,*



*or permanently remove the pumps from the well without notifying the commissioner of natural resources and complying with the commissioner's recommendations. The commissioner of natural resources may make recommendations and impose conditions as the commissioner determines to be advisable in the public interest. The commissioner of natural resources, or an authorized agent of the commissioner, must be granted access at reasonable times to inspect the site of a well that has been sealed, or for which notice of sealing has been given under this subdivision. [105.51 s. 3]*

**Sec. 18. [103I.311] [IDENTIFICATION AND SEALING OF WELLS ON STATE PROPERTY.]**

*Subdivision 1. [IDENTIFICATION OF WELLS.] The commissioner of natural resources in cooperation with other state agencies must identify the location and status of wells and abandoned wells located on state property.*

*Subd. 2. [PLAN AND APPROPRIATION REQUEST FOR WELL SEALING.] In each budget year of a biennium, the commissioner must present a plan and an appropriation request to properly seal wells on state property.*

*Subd. 3. [PROHIBITION ON STATE LAND PURCHASED WITHOUT WELL IDENTIFICATION.] The state may not purchase or sell real property or an interest in real property without identifying the location of all wells whether in use, not in use, or sealed on the property and making provisions to have the wells not in use properly sealed at the cost of the seller as part of the contract. The sale may not be recorded with the county recorder or registrar of titles unless this subdivision is complied with.*

**Sec. 19. [103I.315] [ORDERS TO SEAL WELLS.]**

*Subdivision 1. [ORDER TO SEAL WELL.] The commissioner may order a property owner to seal a well if:*

*(1) the commissioner determines that without being sealed the well is an imminent threat to public health or public safety;*

*(2) the well is required to be sealed under section 17; or*

*(3) a well is a monitoring well or dewatering well and by 14 months after construction of the well, the owner has not obtained a maintenance permit, or after a maintenance permit has been issued the owner has not renewed a maintenance permit.*

*Subd. 2. [FAILURE OF OWNER TO SEAL WELL.] If the property owner fails to seal a well in the time provided in the commissioner's order, the commissioner may enter the property and have the well sealed. The property owner is liable for and must pay the costs of sealing the well.*

**Sec. 20. [103I.321] [SEALED WELL CERTIFICATES.]**

*Subdivision 1. [COUNTY ISSUANCE.] A county must issue a sealed well certificate prescribed by the commissioner of health for wells that are sealed in accordance with this chapter.*

*Subd. 2. [RULES.] The commissioner may adopt rules prescribing a procedure to determine that wells are properly sealed.*

**Sec. 21. [103I.325] [LANDOWNER SEALED WELL LIABILITY.]**

*Subdivision 1. [CERTIFICATE FILING REQUIRED.] A landowner must*

*file the sealed well certificate with the county recorder or registrar of titles where the sealed well is located.*

*Subd. 2. [LIABILITY AFTER SEALING.] The owner of a well that has had a sealed well certificate filed with the commissioner of health and the county recorder or registrar of titles where the well is located is not liable for contamination of groundwater from the well that occurs after the well has been sealed, if the owner has not disturbed or disrupted the sealed well.*

**Sec. 22. [103L.331] [WELL SEALING COST-SHARE PROGRAM.]**

*Subdivision 1. [COUNTY COST-SHARE SEALING PROGRAM.] (a) The board of water and soil resources may allocate funds to counties selected under subdivision 2 to be used for a well sealing program to share the cost of sealing wells according to the priority under subdivision 3.*

*(b) A county may contract for the administration of the well sealing program under this section with another local unit of government.*

*(c) The county must consult with local health boards, soil and water conservation districts, planning and zoning departments, and other appropriate organizations and local government units during program implementation.*

*(d) To encourage landowner participation in the program, the county shall:*

*(1) publish information in newspapers of general circulation, regarding availability of state funds to share the cost of sealing wells; and*

*(2) invite the public to report to the county on the existence of wells that are not sealed.*

*Subd. 2. [CRITERIA FOR SELECTING COUNTIES FOR WELL SEALING.] (a) The board of water and soil resources, in selecting counties for participation, shall consult with the commissioners of natural resources, the pollution control agency, and health, and the director of the Minnesota geological survey, and must consider appropriate criteria including the following:*

*(1) diversity of well construction;*

*(2) diversity of geologic conditions;*

*(3) current use of affected aquifers;*

*(4) diversity of land use; and*

*(5) aquifer susceptibility to contamination by unsealed wells.*

*(b) After July 1, 1991, only well sealings that are a part of, or responsive to, the priority actions identified in an approved comprehensive local water plan are eligible for assistance.*

*Subd. 3. [WELL SEALING PRIORITIES.] The board of water and soil resources and the commissioner of health shall establish priorities for sealing wells that are not an imminent threat to public health or public safety based on the following criteria:*

*(1) well construction, depth, and condition;*

*(2) importance of an aquifer as public and private water supply source;*

(3) *proximity to known or potential point or nonpoint contamination sources;*

(4) *current contamination of the well or aquifer;*

(5) *susceptibility of an aquifer to contamination by wells that are not sealed;*

(6) *limited availability of alternative sources of drinking water;*

(7) *anticipated changes in land or water use;*

(8) *unique conditions such as construction, rehabilitation, or demolition areas;*

(9) *potential use of the well as a monitoring well; and*

(10) *the danger to humans and animals of falling into the well.*

*Subd. 4. [LANDOWNER WELL SEALING CONTRACTS.] (a) A county, or contracted local unit of government, may contract with landowners to share the cost of sealing priority wells in accordance with criteria established by the board of water and soil resources.*

*(b) The county must use the funds allocated from the board of water and soil resources to pay up to 75 percent, but not more than \$2,000 of the cost of sealing priority wells.*

*(c) A well sealing contract must provide that:*

*(1) sealing is done in accordance with this chapter and rules of the commissioner of health relating to sealing of unused wells;*

*(2) payment is made to the landowner, after the well is sealed by a contractor licensed under this chapter;*

*(3) a sealed well certificate will be issued to the landowner after sealing of the well is completed; and*

*(4) the landowner must file a copy of the sealed well certificate and a copy of the well record with the commissioner of health.*

*Subd. 5. [REPORTS.] (a) The county shall make an annual report to the board of soil and water resources by February 15 of each year on the status of the well sealing grant program in the county including the number, location, and cost for each well sealed.*

*(b) The board of water and soil resources in cooperation with the commissioner of health shall make annual reports to the legislature on the status of expenditures and well sealings.*

*Subd. 6. [REPEALER.] This section is repealed effective June 30, 1995.*

**Sec. 23. [1031.335] [PERSONS UNABLE TO AFFORD WELL SEALING.]**

*Subdivision 1. [APPLICATION.] A property owner who desires to seal a well but cannot afford the costs of sealing the well may apply to the board of water and soil resources for the board to provide funds and seal the well.*

*Subd. 2. [CRITERIA FOR SEALING.] The board of water and soil resources shall adopt criteria by rule for accepting applications to seal wells for property owners applying under subdivision 1.*

*Subd. 3. [COLLECTION AND ENFORCEMENT OF COSTS.] If the applications are accepted, the costs of sealing become a governmental services lien as provided in section 24. The board of water and soil resources must enter a written agreement to collect the costs of sealing the well in a manner provided under section 24, subdivision 3. If the costs are not paid according to the agreement, the board of water and soil resources may enforce the lien in any manner provided under section 24, subdivisions 2 and 3.*

**Sec. 24. [1031.341] [COLLECTION AND ENFORCEMENT OF WELL SEALING COSTS.]**

*Subdivision 1. [LIEN FOR SEALING COSTS.] The commissioner and the board of water and soil resources have a governmental services lien under section 514.67 for the costs of sealing a well that the commissioner or board has contracted to be sealed under section 19, subdivision 2; 22; or 23. The lien attaches to the real property where the well is located. The lien is perfected by filing a copy of the lien with the county recorder or registrar of deeds where the well and property are located and serving or mailing by return receipt a copy of the lien to the property owner.*

*Subd. 2. [ENFORCEMENT OF LIEN.] The commissioner or the board of water and soil resources may enforce the lien in the manner provided for a judgment lien under chapter 550 or certify the amount to the county auditor, which must be assessed against the property and collected in the same manner as real estate taxes.*

*Subd. 3. [ASSESSMENT OF INSTALLMENTS.] (a) In lieu of certifying the entire amount to be collected, the commissioner or the board of water and soil resources may have the amount due assessed in seven or less equal annual installments plus interest due at the rate determined by the state court administrator for judgments under section 549.09.*

*(b) The interest due is an additional perfected lien on the property without further action by the commissioner or the board of water and soil resources.*

*(c) The interest and the installment due must be entered on the tax lists for the year and collected in the same manner as real estate taxes for that year by collecting one-half of the total of the installment and interest with and as part of the real estate taxes.*

*Subd. 4. [SATISFACTION OF LIEN.] The amount due and interest of a lien under this section may be paid at any time. When the amount of the lien including accrued interest is paid, the commissioner or board must execute a satisfaction of the lien and record the satisfaction with the county recorder or registrar of deeds where the lien was filed.*

*Subd. 5. [APPROPRIATION OF RECOVERED COSTS.] Costs of sealing wells recovered from property owners shall be deposited in the state treasury and credited to the account from which the amounts were originally appropriated. The amounts recovered by the board of water and soil resources are continuously appropriated to the board for sealing wells.*

**ELEVATOR SHAFT BORINGS**

**Sec. 25. [1031.401] [ELEVATOR SHAFT BORINGS.]**

*Subdivision 1. [PERMIT REQUIRED.] (a) A person may not construct an elevator shaft until a permit for the hole or excavation is issued by the*

commissioner.

*(b) The elevator shaft permit preempts local permits except local building permits, and counties and home rule charter or statutory cities may not require a permit for elevator shaft holes or excavations.*

*Subd. 2. [LICENSE REQUIRED.] A person may not construct an elevator shaft unless the person possesses a well contractor's license or an elevator shaft contractor's license issued by the commissioner.*

*Subd. 3. [SEALING.] A well contractor or elevator shaft contractor must seal a hole or excavation that is no longer used for an elevator shaft. The sealing must be done according to rules adopted by the commissioner.*

*Subd. 4. [REPORT.] Within 30 days after completion or sealing of a hole or excavation for an elevator shaft, the person doing the work must submit a report to the commissioner on forms provided by the commissioner.*

#### ENVIRONMENTAL BORE HOLES

##### Sec. 26. [103I.451] [ENVIRONMENTAL BORE HOLES.]

*An environmental bore hole must be constructed by a well contractor as prescribed by rule of the commissioner. An environmental bore hole must be sealed.*

#### LICENSING AND REGISTRATION

##### Sec. 27. [103I.501] [LICENSING AND REGULATION OF WELLS AND BORINGS.]

*(a) The commissioner shall regulate and license:*

- (1) drilling, constructing, and repair of wells;*
- (2) sealing of wells;*
- (3) installing of well pumps and pumping equipment;*
- (4) excavating, drilling, and sealing of holes for the installation of elevator shafts and hydraulic cylinders; and*
- (5) construction and sealing of environmental bore holes. [156A.03 s. 1]*

*(b) The commissioner shall examine and license well contractors, limited well contractors, and elevator shaft contractors, and examine and register monitoring well contractors.*

*(c) The commissioner shall license explorers engaged in exploratory boring and shall examine persons who supervise or oversee exploratory boring. [156A.03 s. 1]*

##### Sec. 28. [103I.505] [RECIPROCITY OF LICENSES.]

*Subdivision 1. [RECIPROCITY AUTHORIZED.] The commissioner may issue a license or register a person under this chapter, without giving an examination, if the person is licensed or registered in another state and:*

- (1) the requirements for licensing or registration under which the well contractor was licensed or registered do not conflict with this chapter;*
- (2) the requirements are of a standard not lower than that specified by the rules adopted under this chapter; and*
- (3) equal reciprocal privileges are granted to licensees of this state.*

*Subd. 2. [LICENSE FEE REQUIRED.] A well contractor must apply for the license and pay the fees under the provisions of this chapter to receive a license under this section.*

**Sec. 29. [103I.511] [EXEMPTIONS FROM LICENSING REQUIREMENTS.]**

*(a) Notwithstanding other provisions of this chapter requiring a license, a license is not required for:*

*(1) an individual who drills a well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode; or*

*(2) an individual who performs labor or services for a well contractor in connection with the drilling or repair of a well or sealing a well at the direction and at the personal supervision of a well contractor.*

*(b) An individual exempt from a license requirement under this subdivision must comply with the other provisions of this chapter.*

**Sec. 30. [103I.515] [LICENSES NOT TRANSFERABLE.]**

*A license or registration issued under this chapter is not transferable.*

**Sec. 31. [103I.521] [FEES DEPOSITED WITH STATE TREASURER.]**

*Fees collected for licenses or registration under this chapter shall be deposited in the state treasury.*

**Sec. 32. [103I.525] [WELL CONTRACTOR'S LICENSE.]**

*Subdivision 1. [APPLICATION.] (a) A person must file an application and application fee with the commissioner to apply for a well contractor's license.*

*(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.*

*Subd. 2. [APPLICATION FEE.] The application fee for a well contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.*

*Subd. 3. [EXAMINATION.] After the commissioner has approved the application, the applicant must take an examination given by the commissioner.*

*Subd. 4. [ISSUANCE OF LICENSE.] If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a well contractor's license.*

*Subd. 5. [BOND.] (a) As a condition of being issued a well contractor's license, the applicant must submit a corporate surety bond for \$5,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 6. [LICENSE FEE.] The fee for a well contractor's license is \$250.*

*Subd. 7. [VALIDITY.] A well contractor's license is valid until the date prescribed in the license by the commissioner.*

*Subd. 8. [RENEWAL.] (a) A licensee must file an application and a renewal application fee to renew the license by the date stated in the license.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 9. [LATE RENEWAL APPLICATION.] If a licensee submits a renewal application after the required renewal date:*

*(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the licensee may not conduct activities authorized by the well contractor's license until the renewal application, renewal application fee, and late fee are submitted.*

**Sec. 33. [1031.531] [LIMITED WELL CONTRACTOR'S LICENSE.]**

*Subdivision 1. [APPLICATION.] (a) A person must file an application and an application fee with the commissioner to apply for a limited well contractor's license.*

*(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.*

*Subd. 2. [APPLICATION FEE.] The application fee for a well contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.*

*Subd. 3. [EXAMINATION.] After the commissioner has approved the application, the applicant must take an examination given by the commissioner.*

*Subd. 4. [ISSUANCE OF LICENSE.] If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited well contractor's license.*

*Subd. 5. [BOND.] (a) As a condition of being issued a limited well contractor's license, the applicant must submit a corporate surety bond for \$5,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 6. [LICENSE FEE.] The fee for a limited well contractor's license is \$250.*

*Subd. 7. [VALIDITY.] A limited well contractor's license is valid until*

*the date prescribed in the license by the commissioner.*

*Subd. 8. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the limited well contractor's license by the date stated in the license.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 9. [LATE RENEWAL APPLICATION.] If a licensee submits a renewal application after the required renewal date:*

*(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the licensee may not conduct activities authorized by the limited well contractor's license until the renewal application, renewal application fee, and late fee are submitted.*

**Sec. 34. [103L.535] [ELEVATOR SHAFT CONTRACTOR'S LICENSE.]**

*Subdivision 1. [APPLICATION.] (a) An individual must file an application and application fee with the commissioner to apply for an elevator shaft contractor's license.*

*(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.*

*Subd. 2. [APPLICATION FEE.] The application fee for an elevator shaft contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.*

*Subd. 3. [EXAMINATION.] After the commissioner has approved the application, the applicant must take an examination given by the commissioner.*

*Subd. 4. [ISSUANCE OF LICENSE.] If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue an elevator shaft contractor's license to the applicant.*

*Subd. 5. [BOND.] (a) As a condition of being issued an elevator shaft contractor's license, the applicant must submit a corporate surety bond for \$5,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 6. [LICENSE FEE.] The fee for an elevator shaft contractor's license is \$250.*

*Subd. 7. [VALIDITY.] An elevator shaft contractor's license is valid until the date prescribed in the license by the commissioner.*

*Subd. 8. [RENEWAL.] (a) A person must file an application and a*



*renewal application fee to renew the license by the date stated in the license.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 9. [LATE RENEWAL APPLICATION.] If a licensee submits a renewal application after the required renewal date:*

*(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the licensee may not conduct activities authorized by the elevator shaft contractor's license until the renewal application, renewal application fee, and late fee are submitted.*

**Sec. 35. [1031.541] [MONITORING WELL CONTRACTORS.]**

*Subdivision 1. [INITIAL REGISTRATION AFTER DECEMBER 31, 1990.] After December 31, 1990, a person seeking initial registration as a monitoring well contractor must meet examination and experience requirements adopted by the commissioner by rule.*

*Subd. 2. [VALIDITY.] A monitoring well contractor's registration is valid until the date prescribed in the registration by the commissioner.*

*Subd. 3. [BOND.] (a) As a condition of being issued a monitoring well contractor's registration, the applicant must submit a corporate surety bond for \$5,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 4. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the registration by the date stated in the registration.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 5. [LATE RENEWAL APPLICATION.] If a registered person submits a renewal application after the required renewal date:*

*(1) the registered person must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the registered person may not conduct activities authorized by the monitoring well contractor's registration until the renewal application, renewal application fee, and late fee are submitted.*

**Sec. 36. [1031.545] [REGISTRATION OF DRILLING MACHINES REQUIRED.]**

*Subdivision 1. [DRILLING MACHINE.] (a) A person may not use a drilling machine such as a cable tool, rotary tool, hollow rod tool, or auger for a drilling activity requiring a license or registration under this chapter unless the drilling machine is registered with the commissioner.*

*(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$100 registration fee.*

*(c) A registration is valid for one year.*

*Subd. 2. [PUMP HOIST.] (a) A person may not use a machine such as a pump hoist for an activity requiring a license or registration under this chapter to repair wells, seal wells, or install pumps unless the machine is registered with the commissioner.*

*(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$50 registration fee.*

*(c) A registration is valid for one year.*

### EXPLORATORY BORINGS

#### Sec. 37. [1031.601] [EXPLORATORY BORING PROCEDURES.]

*Subdivision 1. [DEFINITIONS.] (a) For the purposes of this section, the following words have the meanings given them.*

*(b) "Data" includes samples and factual non-interpreted data obtained from exploratory borings and samples including analytical results.*

*(c) "Parcel" means a government section, fractional section, or government lot.*

*(d) "Samples" means at least a one-quarter portion of all samples from exploratory borings that are customarily collected by the explorer. [156A.071 s. 1]*

*Subd. 2. [LICENSE REQUIRED TO MAKE BORINGS.] (a) Except as provided in paragraph (b), a person may not make an exploratory boring without an exploratory borer's license.*

*(b) An explorer may designate a responsible individual to supervise and oversee the making of exploratory borings. Before an individual supervises or oversees an exploratory boring, the individual must take and pass an examination relating to construction, location, and sealing of exploratory borings. A professional engineer registered under sections 326.02 to 326.15 or a certified professional geologist is not required to take the examination required in this subdivision but must be licensed to make an exploratory boring. [156A.071 s. 2]*

*Subd. 3. [NOTIFICATION OF PROJECT CONSTRUCTION.] (a) By 30 days before making an exploratory boring, an explorer must register with the commissioner of natural resources and provide a copy of the registration to the commissioner of health. The registration must include:*

*(1) the identity of the firm, association, or company engaged in exploratory boring; and*

*(2) the identification of an agent, including the agent's business address.*

*(b) The commissioner of natural resources may require a bond, security, or other assurance from an explorer if the commissioner of natural resources has reasonable doubts about the explorer's financial ability to comply with*

*requirements of law relating to exploratory boring.*

*(c) An explorer shall annually register with the commissioner of natural resources while conducting exploratory boring. [156A.071 s. 3]*

*Subd. 4. [MAP OF BORINGS.] By ten days before beginning exploratory boring, an explorer must submit to the commissioners of health and natural resources a county road map having a scale of one-half inch equal to one mile, as prepared by the department of transportation, showing the location of each proposed exploratory boring to the nearest estimated 40 acre parcel. [156A.071 s. 4]*

*Subd. 5. [ACCESS TO DRILL SITES.] The commissioners of health, natural resources, and the pollution control agency, the community health board as authorized under section 145A.04, and their officers and employees shall have access to exploratory boring sites to inspect the drill holes, drilling, and sealing of the borings, and to sample ambient air and drilling waters, and to measure the radioactivity of the waste drill cuttings at the drilling site at the time of observation. [156A.071 s. 5]*

*Subd. 6. [EMERGENCY NOTIFICATION.] The explorer must promptly notify the commissioners of health, natural resources, and the pollution control agency, and the authorized agent of the commissioner of health of an occurrence during exploratory boring that has a potential for significant adverse health or environmental effects. The explorer must take reasonable action to minimize the adverse effects. [156A.071 s. 6]*

*Subd. 7. [INSPECTION OF DATA BEFORE SUBMISSION.] The commissioner of health may, if necessary, inspect data before its submission under section 38. The data examined by the commissioner is not public data before it is submitted under section 38. [156A.071 s. 6]*

*Subd. 8. [PERMANENT AND TEMPORARY SEALING PROCEDURES.] Permanent and temporary sealing of exploratory borings must be temporarily or permanently sealed according to rules adopted by the commissioner. [156A.071 s. 7]*

*Subd. 9. [SEALING REPORT.] (a) By 30 days after permanent or temporary sealing of an exploratory boring, the explorer must submit a report to the commissioners of health and natural resources.*

*(b) The report must be on forms provided by the commissioner of health and include:*

*(1) the location of each drill hole at as large a scale as possible, which is normally prepared as part of the explorer's record;*

*(2) the type and thickness of overburden and rock encountered;*

*(3) identification of water bearing formations encountered;*

*(4) identification of hydrologic conditions encountered;*

*(5) method of sealing used;*

*(6) methods of construction and drilling used; and*

*(7) average scintillometer reading of waste drill cuttings before back-filling of the recirculation pits. [156A.071 s. 8]*

**Sec. 38. [103L605] [SUBMISSION OF DATA FROM EXPLORATORY BORINGS.]**

*Subdivision 1. [REQUIREMENT.] Data obtained from exploratory borings must be submitted by the explorer to the commissioner of natural resources as provided in this section. [156A.071 s. 9]*

*Subd. 2. [MINERAL DEPOSIT EVALUATION DATA.] (a) In applying for a permit required for activities relating to mineral deposit evaluation, which means examining an area to determine the quality and quantity of minerals, excluding exploratory boring but including obtaining a bulk sample, by excavating, trenching, constructing shafts, ramps, tunnels, pits, and producing refuse and other associated activities, but does not include activities intended, by themselves, for commercial exploitation of the ore body, the explorer must submit to the commissioner of natural resources data relevant to the proposal under consideration. The explorer may identify portions of the data that, if released, would impair the competitive position of the explorer submitting the data. Data identified must be considered to be not public data.*

*(b) If requested to disclose the data, the commissioner shall mail notice of the request to the explorer and determine whether release of the data would impair the competitive position of the explorer submitting the data. If the commissioner determines that release of the data would impair the competitive position of the explorer submitting the data, the commissioner may not release the data to a person other than parties to the proceedings relating to the permit under consideration. Parties to the proceedings shall maintain the confidentiality of data.*

*(c) Data that are classified as not public may not be released by the commissioner until 30 days after mailed notice to the explorer of the commissioner's intention to release the data. The commissioner may not release data to a person engaged in exploration, mining, milling, or related industry pertaining to minerals. If the commissioner determines to release data, the explorer may demand a contested case hearing on the commissioner's determination or may withdraw the permit application and the data may not be released.*

*(d) Any person aggrieved by the decision of the commissioner may appeal the decision according to chapter 14. [156A.071 s. 9]*

*Subd. 3. [MINE DEVELOPMENT DATA.] In applying for a permit required for mine development, which means activities undertaken after mineral deposit evaluation for commercial exploitation of the ore body, the explorer must submit to the commissioner of natural resources data relevant to the proposal under consideration. The data is public data and persons submitting or releasing the data are not subject to civil or criminal liability for its use by others. [156A.071 s. 9]*

*Subd. 4. [EXPLORATION DATA.] By six months after termination by the explorer of a lease or other type of exploration agreement on a property the data from the exploration must be submitted to the commissioner of natural resources. The data is public data and persons submitting or releasing the data are not subject to civil or criminal liability for its use by others. [156A.071 s. 9]*

*Subd. 5. [DESIGNATION OF SAMPLES TO BE SUBMITTED.] The commissioner of natural resources shall designate the samples to be submitted, and specify where the sample is to be delivered. If an explorer requires certain samples in their entirety, the commissioner of natural*

*resources may waive the requirement for a one-fourth portion of the samples. Samples submitted are property of the state. [156A.071 s. 9]*

#### GROUNDWATER THERMAL EXCHANGE DEVICES

##### Sec. 39. [1031.621] [PERMITS FOR GROUNDWATER THERMAL EXCHANGE DEVICES.]

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

*(b) As a condition of the permit, an applicant must agree to allow inspection by the commissioner during regular working hours for department inspectors.*

*(c) Not more than 200 permits may be issued for small systems having maximum capacities of 20 gallons per minute or less. The small systems are subject to inspection twice a year.*

*(d) Not more than ten permits may be issued for larger systems having maximum capacities from 20 to 50 gallons per minute. The larger systems are subject to inspection four times a year.*

*(e) A person issued a permit must comply with this section for the permit to be valid.*

*Subd. 2. [WATER USE REQUIREMENTS APPLY.] Water use permit requirements and penalties under chapter 103F and related rules adopted and enforced by the commissioner of natural resources apply to groundwater thermal exchange permit recipients. A person who violates a provision of this section is subject to enforcement or penalties for the noncomplying activity that are available to the commissioner and the pollution control agency.*

*Subd. 3. [CONSTRUCTION REQUIREMENTS.] (a) Withdrawal and reinjection for the groundwater thermal exchange device must be accomplished by a closed system in which the waters drawn for thermal exchange do not have contact or commingle with water from other sources or with polluting material or substances. The closed system must be constructed to allow an opening for inspection by the commissioner.*

*(b) Wells that are part of a groundwater thermal exchange system may not serve another function, except water may be supplied to the domestic water system if:*

*(1) the supply is taken from the thermal exchange system ahead of the heat exchange unit; and*

*(2) the water discharges to a break tank through an air gap that is at least twice the effective diameter of the water inlet to the tank.*

*(c) A groundwater thermal exchange system may be used for domestic water heating only if the water heating device is an integral part of the heat exchange unit that is used for space heating and cooling.*

*Subd. 4. [RULES.] The commissioner may adopt rules to administer this section.*

## VERTICAL HEAT EXCHANGERS

## Sec. 40. [103I.64I] [VERTICAL HEAT EXCHANGERS.]

*Subdivision 1. [REQUIREMENTS.] A person may not drill or construct an excavation used to install a vertical heat exchanger unless the person is a well contractor.*

*Subd. 2. [REGULATIONS FOR VERTICAL HEAT EXCHANGERS.] Vertical heat exchangers must be constructed, maintained, and sealed under the provisions of this chapter.*

*Subd. 3. [PERMIT REQUIRED.] (a) A vertical heat exchanger may not be installed without first obtaining a permit for the vertical heat exchanger from the commissioner. A well contractor must apply for the permit on forms provided by the commissioner and must pay a \$50 application fee.*

*(b) As a condition of the permit, the owner of the property where the vertical heat exchanger is to be installed must agree to allow inspection by the commissioner during regular working hours of department of health inspectors.*

## UNDERGROUND SPACE DEVELOPMENT

## Sec. 41. [103I.66I] [MINED UNDERGROUND SPACE DEVELOPMENT.]

*Subdivision 1. [COMMISSIONER OF NATURAL RESOURCES REVIEW.] The commissioners of natural resources and health shall review all project plans that involve dewatering of underground formations for construction and operation of mined underground space to determine the effects of the proposal on the quality and quantity of underground waters in and adjacent to the areas where the mined underground space is to be developed. [469.14I s. 1]*

*Subd. 2. [PERMIT FOR WATER REMOVAL.] A mined underground space project involving or affecting the quality and quantity of groundwater may not be developed until a water use permit for the appropriation of waters under chapter 103G has been issued by the commissioner of natural resources. [469.14I s. 4]*

## UNDERGROUND STORAGE OF GAS OR LIQUID

## Sec. 42. [103I.68I] [PERMIT FOR UNDERGROUND STORAGE OF GAS OR LIQUID.]

*Subdivision 1. [PERMIT REQUIRED.] (a) The state, a person, partnership, association, private or public corporation, county, municipality, or other political subdivision of the state may not displace groundwater in consolidated or unconsolidated formations by the underground storage of a gas or liquid under pressure without an underground storage permit from the commissioners of natural resources and health. [84.57]*

*(b) The state, a person, a public corporation, county, municipality, or other political subdivision of the state may not store a gas or liquid, except water, below the natural surface of the ground by using naturally occurring rock materials as a storage reservoir without an underground storage permit from the commissioners of health and natural resources. [84.62I s. 1]*

*Subd. 2. [APPLICATION.] (a) A person may apply for an underground storage permit by filing an application form with the commissioner of*

*natural resources accompanied by the application fee and maps, plans, and specifications describing the proposed displacement of groundwater and the underground storage of gases or liquids and other data required by the commissioner.*

*(b) The commissioner of natural resources shall prescribe the application form to apply for an underground storage permit. [84.58 s. 1]*

*(c) The commissioner of natural resources may require an applicant to demonstrate to the commissioner that the applicant has adequately provided a method to ensure payment of any damages resulting from the operation of a gas or liquid storage reservoir. [84.61]*

*Subd. 3. [HEARING REQUIRED.] (a) An underground storage permit allowing displacement of groundwater may not be issued by the commissioner of natural resources or health without holding a public hearing on the issuance of the permit. [84.58 s. 2]*

*(b) By 20 days after receiving a complete application, the commissioner of natural resources shall set a time and location for the hearing. [84.58 s. 3]*

*Subd. 4. [NOTICE OF HEARING.] The hearing notice must:*

*(1) state the date, place, and time of the hearing;*

*(2) show the location of groundwater and surface water and property affected by the proposed underground storage;*

*(3) be published by the applicant, or by the commissioner of natural resources if the proceeding is initiated by the commissioner of natural resources or health, once each week for two successive weeks in a legal newspaper that is published in the county where a part or all of the affected groundwater or surface waters are located; and*

*(4) be mailed by the commissioner of natural resources to the county auditor and the chief executive official of an affected municipality. [84.58 s. 4]*

*Subd. 5. [PROCEDURE AT HEARING.] (a) The hearing must be public and conducted by the commissioner of natural resources or a referee appointed by the commissioner.*

*(b) Affected persons must have an opportunity to be heard. Testimony must be taken under oath and the parties must have the right of cross-examination. The commissioner of natural resources shall provide a stenographer, at the expense of the applicant, to take testimony and a record of the testimony, and all proceedings at the hearing shall be taken and preserved.*

*(c) The commissioner of natural resources is not bound by judicial rules of evidence or of pleading and procedure. [84.58 s. 5]*

*Subd. 6. [SUBPOENAS.] The commissioner of natural resources or health may subpoena and compel the attendance of witnesses and the production of books and documents material to the purposes of the hearing. Disobedience of a subpoena, or refusal to be sworn, or refusal to answer as a witness, is punishable as contempt in the same manner as a contempt of the district court. The commissioner of natural resources must file a complaint of the disobedience with the district court of the county where the disobedience or refusal occurred. [84.58 s. 6]*

*Subd. 7. [REQUIRED FINDINGS.] An order granting a permit for the proposed storage may not be issued unless it contains and is based on a finding stating:*

*(1) the proposed storage will be confined to geological stratum or strata lying more than 500 feet below the surface of the soil;*

*(2) the proposed storage will not substantially impair or pollute groundwater or surface water; and*

*(3) the public convenience and necessity of a substantial portion of the gas-consuming public in the state will be served by the proposed project. [84.60]*

*Subd. 8. [ORDER CONDITIONS.] The order granting the permit must contain conditions and restrictions that will reasonably protect:*

*(1) private property or an interest not appropriated;*

*(2) the rights of the property owners and owners of an interest in property located within the boundaries of the proposed storage area, or persons claiming under the owners, to explore for, drill for, produce or develop for the recovery of oil or gas or minerals under the property, and to drill wells on the property to develop and produce water; provided that the exploration, drilling, producing, or developing complies with orders and rules of the commissioner of natural resources that protect underground storage strata or formations against pollution and against the escape of gas; and*

*(3) public resources of the state that may be adversely affected by the proposed project. [84.60]*

*Subd. 9. [PUBLICATION OF FINDINGS, CONCLUSIONS, ORDERS.] (a) The commissioner of natural resources shall mail notice of any findings, conclusions, and orders made after the hearing to:*

*(1) the applicant;*

*(2) parties who entered an appearance at the hearing;*

*(3) the county auditor; and*

*(4) the chief executive officer of an affected municipality.*

*(b) The commissioner of natural resources must publish notice of findings, conclusions, and orders made after the hearing at least once each week for two successive weeks in a legal newspaper in the county where a part or all of the proposed project is located. The costs of the publication must be paid by the applicant. [84.58 s. 7]*

*Subd. 10. [APPEAL OF COMMISSIONER'S DETERMINATION.] An interested party may appeal the determination of the commissioner of natural resources or health to the court of appeals in accordance with the provisions of chapter 14. [84.59]*

*Subd. 11. [PERMIT FEE SCHEDULE.] (a) The commissioner of natural resources or health shall adopt a permit fee schedule under chapter 14. The schedule may provide minimum fees for various classes of permits, and additional fees, which may be imposed subsequent to the application, based on the cost of receiving, processing, analyzing, and issuing the permit, and the actual inspecting and monitoring of the activities authorized by the permit, including costs of consulting services.*

*(b) A fee may not be imposed on a state or federal governmental agency*



applying for a permit.

*(c) The fee schedule may provide for the refund of a fee, in whole or in part, under circumstances prescribed by the commissioner of natural resources. Permit fees received must be deposited in the state treasury and credited to the general fund. The amount of money necessary to pay the refunds is appropriated annually from the general fund to the commissioner of natural resources. [84.59 s. 8]*

**Sec. 43. [103I.685] [ABANDONMENT OF UNDERGROUND STORAGE PROJECT.]**

*An underground storage project for which an underground storage permit is granted may not be abandoned, or a natural or artificial opening extending from the underground storage area to the ground surface be filled, sealed, or otherwise closed to inspection, except after written approval by the commissioner of natural resources or health and in compliance with conditions that the commissioners may impose. [84.611]*

**Sec. 44. [103I.691] [CERTIFICATE OF USE.]**

*A person may not use a gas or liquid storage reservoir under an underground storage permit unless the right to use the property affected by the project has been acquired and a notice of the acquisition filed with the commissioner of natural resources or health. The commissioner of natural resources or health must issue a certificate approving use of the gas or liquid storage reservoir. [84.62]*

**ENFORCEMENT**

**Sec. 45. [103I.701] [ADMINISTRATIVE REMEDIES.]**

***Subdivision 1. [DENIAL OF LICENSE OR REGISTRATION RENEWAL.]***

*(a) The commissioner may deny an application for renewal of a license or registration if the applicant has violated a provision of this chapter.*

*(b) Failure to submit a well report, well sealing report, or to report an excavation to construct an elevator shaft, or to obtain a well permit before construction is a violation of this chapter and the commissioner may refuse renewal.*

***Subd. 2. [SUSPENSION, REVOCATION OF LICENSE OR REGISTRATION.]*** *(a) A license or registration issued under this chapter may be suspended or revoked for violation of provisions of this chapter.*

*(b) The commissioner may, after providing a person with reasonable notice and a hearing, suspend or revoke the license or registration of the person upon finding that the person has violated a provision of this chapter that applies to the person's license or registration.*

***Subd. 3. [PROCEDURE.]*** *Proceedings by the commissioner under this section and review shall be according to chapter 14.*

***Subd. 4. [CORRECTIVE ORDERS.]*** *The commissioner may issue corrective orders for persons to comply with the provisions of this chapter.*

**Sec. 46. [103I.705] [ADMINISTRATIVE PENALTIES.]**

***Subdivision 1. [PENALTY AUTHORIZED.]*** *The commissioner may impose an administrative penalty under this section against a person who does not comply with an order of the commissioner.*

*Subd. 2. [SEALING WELLS AND ELEVATOR SHAFTS.] A well contractor or limited well contractor who seals a well, a monitoring well contractor who seals a monitoring well, or a well contractor or an elevator shaft contractor who seals a hole that was used for an elevator shaft under a corrective order of the commissioner in a manner that does not comply with the water well construction code, shall be assessed an administrative penalty of \$500.*

*Subd. 3. [CONTAMINATION RELATING TO WELL CONSTRUCTION.] A well contractor, limited well contractor, or monitoring well contractor working under a corrective order of the commissioner who fails to comply with the rules in the water well construction code relating to location of wells in relation to potential sources of contamination, grouting, materials, or construction techniques shall be assessed an administrative penalty of \$500.*

*Subd. 4. [WELL CONSTRUCTION AND MACHINERY.] A well contractor, limited well contractor, or monitoring well contractor working under a corrective order shall be assessed an administrative penalty of \$250 if the contractor fails as required in the order:*

*(1) to have a plan review approved before a well is constructed; construct a well without if a plan review is required;*

*(2) to have a permit before a well is constructed;*

*(3) to register a drilling rig or pump rig or to display the state decal and the registration number on the machine; or*

*(4) to comply with the rules in the water well construction code relating to disinfection of wells and submission of well construction or well sealing logs and water samples.*

*Subd. 5. [FALSE INFORMATION.] A person under a corrective order shall be assessed an administration penalty of \$250 if the person:*

*(1) fails to disclose or falsifies information about the status and location of wells on property before signing an agreement of sale or transfer of the property; or*

*(2) fails to disclose or falsifies information on a well certificate.*

*Subd. 6. [FAILURE TO SEAL WELL OR HAVE CONSTRUCTION PERMIT.] A person under a corrective order shall be assessed an administrative penalty of \$250 if the person:*

*(1) employs a well contractor on the person's property and fails to obtain a permit for construction of the well; or*

*(2) fails to have a well sealed in accordance with the rules.*

**Sec. 47. [1031.711] [IMPOUNDING OF EQUIPMENT.]**

*Subdivision 1. [IMPOUNDMENT.] If the commissioner issues an order finding that a person is constructing, repairing, or sealing wells or installing pumps or pumping equipment or excavating holes for installing elevator shafts or hydraulic cylinders without a license or registration as required under this chapter, a sheriff on receipt of the order must seize and impound equipment of the person.*

*Subd. 2. [RELEASE.] The equipment must remain in the custody of the sheriff until the equipment is released under the order of a court or until*

*the commissioner orders the sheriff to release the equipment.*

Sec. 48. [1031.715] [CRIMINAL PENALTIES.]

*Subdivision 1. [MISDEMEANORS.] A person who violates a provision of this chapter is guilty of a misdemeanor.*

*Subd. 2. [GROSS MISDEMEANORS.] A person is guilty of a gross misdemeanor who:*

*(1) willfully violates a provision of this chapter or order of the commissioner;*

*(2) engages in the business of drilling or making wells, sealing wells, installing pumps or pumping equipment, or constructing elevator shafts without a license required by this chapter; or*

*(3) engages in the business of exploratory boring without an exploratory borer's license under this chapter. [156A.08 s. 1]*

*Subd. 3. [PROSECUTION AND VENUE.] A violation of this chapter shall be prosecuted by the county attorney in the county where the violation occurred or is occurring. The trial shall be held in that county. [156A.08 s. 1]*

Sec. 49. [REPEALER.]

*Minnesota Statutes 1988, sections 84.57; 84.58; 84.59; 84.60; 84.61; 84.611; 84.62; 84.621; 105.51, subdivision 3; 156A.01; 156A.02; 156A.03; 156A.031; 156A.04; 156A.05; 156A.06; 156A.07; 156A.071; 156A.075; 156A.08; 156A.10; and 156A.11 are repealed.*

Sec. 50. [EFFECTIVE DATE.]

*Section 15, subdivision 1, relating to disclosing wells to buyers and transferees is effective July 1, 1990.*

## ARTICLE 4

### SAFE DRINKING WATER SUPPLY FUNDING

Section 1. Minnesota Statutes 1988, section 144.381, is amended to read:

144.381 [CITATION.]

Sections 144.381 to 144.387 may be cited as the "safe drinking water act of 1977."

Sec. 2. Minnesota Statutes 1988, section 144.382, subdivision 1, is amended to read:

*Subdivision 1. [SCOPE.] For the purposes of sections 144.381 to ~~144.387~~ section 4, the following terms have the meanings given.*

Sec. 3. Minnesota Statutes 1988, section 144.382, is amended by adding a subdivision to read:

*Subd. 4a. [SERVICE CONNECTION.] "Service connection" means the pipe leading from the distribution main to the plumbing system of a building.*

Sec. 4. [144.3835] [SAFE DRINKING WATER ACCOUNT.]

*Subdivision 1. [ESTABLISHMENT.] The safe drinking water account is established as a special revenue account in the state treasury.*

*Subd. 2. [APPROPRIATION AND USE.] Money in the safe drinking water account is continuously appropriated to the commissioner. The money must be used to support the safe drinking water program, including administration, inspections, training, laboratory analyses, and enforcement. The money does not cancel, but is available until expended.*

*Subd. 3. [SAFE DRINKING WATER FEE.] (a) A safe drinking water fee is imposed on each supplier in the state at a rate of 1.7 cents per 1,000 gallons of water discharged through the public water supply. The supplier shall collect the fee in a manner determined by the supplier from the owners of service connections.*

*(b) At the end of each calendar quarter, the supplier shall pay the fee imposed on the supplier to the commissioner.*

*(c) Money collected from the safe drinking water fee must be deposited in the state treasury and credited to the safe drinking water account.*

## ARTICLE 5

### WATER CONSERVATION

Section 1. Minnesota Statutes 1988, section 105.41, subdivision 1, is amended to read:

*Subdivision 1. [COMMISSIONER'S PERMISSION.] (a) It is unlawful for the state, any person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without the written permit of the commissioner. This section does not apply to the use of water for domestic purposes serving less than 25 persons. The commissioner shall set up a statewide training program to provide training in the conduct of pumping tests and data acquisition programs.*

*(b) A permit may not be issued under this section unless the permit is consistent with state, regional, and local water and related land resources management plans.*

*(c) The commissioner may not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued for agricultural irrigation under section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers a domestic water supply.*

Sec. 2. Minnesota Statutes 1988, section 105.41, subdivision 1a, is amended to read:

*Subd. 1a. [WATER ALLOCATION RULES, PRIORITIES.] (a) The commissioner shall submit to the legislature by January 1, 1975, for its approval, proposed adopt rules governing the for allocation of waters among potential water users. These rules must be Based on the following priorities for the consumptive appropriation and use of water:*

*(1) first priority: domestic water supply; excluding industrial and commercial uses of municipal water supply; and use for power production that meets the contingency planning provisions of section 105.417, subdivision 5;*

*(2) second priority: any a use of water that involves consumption of less than 10,000 gallons of water a per day. In this section "consumption" means water withdrawn from a supply that is lost for immediate further*

use in the area-;

(3) third priority: agricultural irrigation and processing of agricultural products, involving consumption in excess of 10,000 gallons a per day-; and processing of agricultural products-;

(4) fourth priority: power production-; ~~involving consumption in excess of 10,000 gallons a day-; in excess of the use provided for in the contingency plan developed under section 105.417, subdivision 5; and~~

(5) fifth priority: ~~other~~ uses, other than agricultural irrigation, processing of agricultural products, and power production, involving consumption in excess of 10,000 gallons a per day and nonessential uses of public water supplies as defined in section 105.518, subdivision 1.

(b) For the purposes of this section, "consumption" shall mean water withdrawn from a supply which is lost for immediate further use in the area.

(c) Appropriation and use of surface water from streams during periods of flood flows and high water levels must be encouraged subject to consideration of the purposes for use, quantities to be used, and the number of persons appropriating water.

(d) Appropriation and use of surface water from lakes of less than 500 acres in surface area must be discouraged.

(e) The treatment and reuse of water from nonconsumptive uses shall be encouraged.

(f) Diversions of water from the state for use in other states or regions of the United States or Canada must be discouraged.

No permit may be issued under this section unless it is consistent with state, regional, and local water and related land resources management plans; if regional and local plans are consistent with statewide plans. The commissioner must not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued under section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers any domestic water supply.

Sec. 3. Minnesota Statutes 1988, section 105.41, subdivision 1b, is amended to read:

Subd. 1b. [USE LESS THAN MINIMUM.] ~~No~~ Except for local permits under section 473.877, subdivision 1, a permit is not required for the appropriation and use of less than a minimum amount to be established by the commissioner by rule. Permits for more than the minimum amount but less than an intermediate amount to be specified by the commissioner by rule must be processed and approved at the municipal, county, or regional level based on rules to be established by the commissioner by January 1, 1977. The rules must include provisions for reporting to the commissioner the amounts of water appropriated under local permits.

Sec. 4. Minnesota Statutes 1988, section 105.41, is amended by adding a subdivision to read:

Subd. 1c. [CERTAIN COOLING SYSTEM PERMITS PROHIBITED.]  
(a) The commissioner may not issue a water use permit from a groundwater source for a once-through cooling system constructed after the effective

date of this act.

(b) After January 1, 1994, the commissioner may not amend or renew a water use permit from a groundwater source for once-through cooling systems.

(c) For purposes of this subdivision, a once-through cooling system means a cooling or heating system for human comfort that draws a continuous stream of water from a groundwater source to remove or add heat for cooling, heating, or refrigeration.

Sec. 5. Minnesota Statutes 1988, section 105.41, subdivision 5, is amended to read:

Subd. 5. [RECORDS REQUIRED.] Records of the amount of water appropriated or used must be kept for each installation. The readings and the total amount of water appropriated must be reported annually to the commissioner of natural resources on or before February 15 of the following year upon forms to be supplied by the commissioner.

The records must be submitted with an annual water appropriation processing fee in the amount established in accordance with the following schedule of fees for each water appropriation permit in force at any time during the year: (1) irrigation permits, \$15 for the first permitted 160 acres or part of 160 acres, and \$25 for each additional permitted 160 acres or part of 160 acres; (2) for nonirrigation permits, \$5 for each ten million gallons or portion of that amount permitted each year. However, the fee must not exceed a total of \$500 per permit.

Subd. 5a. [WATER USE PROCESSING FEE.] (a) A water use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each consumptive water use permit in force at any time during the year:

- (1) 0.05 cent per 1,000 gallons for the first 50 million gallons per year;
- (2) 0.1 cents per 1,000 gallons for the amounts greater than 50 million gallons but less than 100 million gallons per year;
- (3) 0.15 cents per 1,000 gallons for the amounts of 100 million gallons per year or more but less than 150 million gallons per year;
- (4) 0.20 cents per 1,000 gallons for the amounts of 150 million gallons per year or more but less than 200 million gallons per year;
- (5) 0.25 cents per 1,000 gallons for the amounts of 200 million gallons per year or more but less than 250 million gallons per year;
- (6) 0.30 cents per 1,000 gallons for the amounts of 250 million gallons per year or more but less than 300 million gallons per year;
- (7) 0.35 cents per 1,000 gallons for the amounts of 300 million gallons per year or more but less than 350 million gallons per year;
- (8) 0.40 cents per 1,000 gallons for the amounts of 350 million gallons per year or more but less than 400 million gallons per year; and
- (9) 0.45 cents per 1,000 gallons for the amounts of 400 million gallons per year or more.

(b) A nonconsumptive water use processing fee for each water use permit in force at any time during the year may not exceed \$1,000 for each permit.

(c) *For a consumptive use for a municipal public water supply the processing fee is 0.1 cents per 1,000 gallons.*

(d) *The fee is payable regardless of based on the amount of water appropriated permitted during the year.*

(e) *Failure to pay the fee is sufficient cause for revoking a permit. No fee may be imposed on any state agency, as defined in section 16B.01, or federal governmental agency holding a water appropriation permit.*

(f) *A fee may not be imposed for nonconsumptive uses by a state agency defined under section 16B.01 or a federal agency with a water use permit.*

Sec. 6. Minnesota Statutes 1988, section 105.418, is amended to read:

105.418 [CONSERVATION OF PUBLIC WATER SUPPLIES.]

*Subdivision 1. [WATER SHORTAGE EMERGENCY RULES.] (a) During periods of critical water deficiency as determined by the governor and declared by executive order of the governor, public water supply authorities appropriating water shall adopt and enforce restrictions consistent with rules adopted by the commissioner of natural resources within their areas of jurisdiction. The restrictions must limit lawn sprinkling, car washing, golf course and park irrigation, and other nonessential uses and have appropriate penalties for failure to comply with the restrictions.*

*(b) The commissioner may adopt emergency rules according to sections 14.29 to 14.36 relating to matters covered by this section during the year 1977.*

*(c) Disregard of critical water deficiency orders, even though total appropriation remains less than that permitted, is adequate grounds for immediate modification of any a public water supply authority's appropriator's water use permit.*

Sec. 7. Minnesota Statutes 1988, section 473.877, subdivision 1, is amended to read:

*Subdivision 1. [AUTHORITY.] Any agreement under section 471.59 to jointly or cooperatively manage or plan for the management of surface water in a watershed delineated pursuant to subdivision 2, as required by sections 473.875 to 473.883, may provide, in addition to other provisions authorized by section 471.59, for a joint board having:*

*(a) the authority to prepare, adopt, and implement a plan for the watershed meeting the requirements of section 473.878;*

*(b) the authority to review and approve local water management plans as provided in section 473.879;*

*(c) the authority of a watershed district under chapter 112 to regulate the use and development of land in the watershed when one or more of the following conditions exists: (1) the local government unit exercising planning and zoning authority over the land under sections 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.364, does not have a local water management plan approved and adopted in accordance with the requirements of section 473.879 or has not adopted the implementation program described in the plan; (2) an application to the local government unit for a permit for the use and development of land requires an amendment to or variance from the adopted local water management plan or implementation program of the local unit; (3) the local government unit has authorized the*

organization to require permits for the use and development of land;

(d) the authority of a watershed district under section 112.65 to accept the transfer of drainage systems in the watershed, to repair, improve, and maintain the transferred drainage systems, and to construct all new drainage systems and improvements of existing drainage systems in the watershed, provided that projects may be carried out under the powers granted in chapter 112 or 473 and sections 106A.005 to 106A.811 and that proceedings of the board with respect to the systems must be in conformance with the watershed plan adopted under section 473.878; ~~and~~

(e) *the authority to require water appropriation permits for nonessential uses, as prescribed in section 105.418, which are below the minimum amount established under section 105.41, subdivision 1b, from protected watercourses that have a drainage area less than 25 square miles; and*

(f) other powers necessary to exercise the authority under clauses (a) to (c), including the power to enter into contracts for the performance of functions with governmental units or persons.

## ARTICLE 6

### PESTICIDE AMENDMENTS

Section 1. Minnesota Statutes 1988, section 18B.01, subdivision 5, is amended to read:

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

Sec. 2. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 4a. [COLLECTION SITE.] “Collection site” means a permanent or temporary designated location with scheduled hours for authorized collection where pesticide end users may bring their waste pesticides.

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

Subd. 6a. [CONTAINER.] “Container” means a portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

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

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

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

Subd. 12. [INCIDENT.] “Incident” means a flood, fire, tornado, transportation accident, storage container rupture, ~~portable container rupture~~, leak, spill, discharge, escape, disposal, or other event that releases or immediately threatens to release a pesticide accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. “Incident” does not include the lawful use or intentional release of a pesticide in accordance with its approved label or labeling, or a discharge or other release authorized by law or in an amount less than a reportable quantity under United States Code, title 42, section 9603.



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

*Subd. 14a. [LOCAL UNIT OF GOVERNMENT.] "Local unit of government" means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, another special purpose district, and local or regional board.*

Sec. 7. Minnesota Statutes 1988, section 18B.01, subdivision 15, is amended to read:

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

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

*Subd. 15a. [OWNER OF REAL PROPERTY.] "Owner of real property" means a person who is in possession of, has the right of control, or controls the use of real property, including a person who has legal title to property and a person who has the right to use or contract use of the property under a lease, contract for deed, or license.*

Sec. 9. Minnesota Statutes 1988, section 18B.01, subdivision 19, is amended to read:

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

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

*Subd. 19a. [PESTICIDE END USER.] "Pesticide end user" means a farmer or other person who uses, intends to use, or owns a pesticide. Pesticide end user does not include a dealer, manufacturer, formulator, or packager.*

Sec. 11. Minnesota Statutes 1988, section 18B.01, subdivision 21, is amended to read:

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

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

*Subd. 24a. [RETAIL PESTICIDE HANDLER.] "Retail pesticide handler" means a person, other than a pesticide dealer, who sells a commercial pesticide in a packaged container produced or guaranteed by another person.*

Sec. 13. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

*Subd. 24b. [RETURNABLE CONTAINER.] "Returnable container" means a container for distributing pesticides that enables the unused pesticide product to be returned to the distributor, manufacturer, or packager, and includes bulk, mini-bulk, or dedicated containers designed to protect the integrity of the pesticide and prevent contamination through the introduction of unauthorized materials.*

Sec. 14. Minnesota Statutes 1988, section 18B.01, subdivision 26, is amended to read:

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

Sec. 15. Minnesota Statutes 1988, section 18B.01, subdivision 29, is amended to read:

Subd. 29. [STRUCTURAL PEST CONTROL.] "Structural pest control" means the control of any structural pest through the use of a device, a procedure, or application of pesticides in or around a building or other structures, including trucks, boxcars, ships, aircraft, docks, and fumigation vaults, and the business activity related to use of a device, a procedure, or application of a pesticide a person who is required to have a structural pest control license.

Sec. 16. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 31a. [WASTE PESTICIDE.] "Waste pesticide" means a pesticide that the pesticide end user considers a waste. A waste pesticide can be a canceled pesticide, an unusable pesticide, or a usable pesticide.

Sec. 17. Minnesota Statutes 1988, section 18B.03, is amended by adding a subdivision to read:

Subd. 4. [EMPLOYEES.] *The commissioner may employ necessary agents and assistants to administer and enforce this chapter, none of whom, except those who are employed on a full-time basis, shall come within or be governed by chapter 43A. The compensation for the unclassified employees shall be on the basis of a rating and salary scale determined by the commissioner's plan of the department of employee relations or the appropriate bargaining unit contract.*

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

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

The commissioner shall:

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

(2) develop best management practices involving pesticide distribution, storage, handling, use, and disposal; and

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

Sec. 19. [18B.065] [WASTE PESTICIDE COLLECTION PROGRAM.]

Subdivision 1. [COLLECTION AND DISPOSAL.] *The commissioner of agriculture shall establish and operate a program to collect waste pesticides. The program shall be made available to pesticide end users whose waste generating activity occurs in this state.*

Subd. 2. [IMPLEMENTATION.] (a) *The commissioner may obtain a*

*United States Environmental Protection Agency hazardous waste identification number to manage the waste pesticides collected.*

*(b) The commissioner may limit the type and quantity of waste pesticides accepted for collection and may assess pesticide end users for portions of the costs incurred.*

*Subd. 3. [INFORMATION AND EDUCATION.] The commissioner shall provide informational and educational materials regarding waste pesticides and the proper management of waste pesticides to the public.*

*Subd. 4. [CONSULTATION WITH POLLUTION CONTROL AGENCY.] The commissioner shall develop the program in this section in consultation and cooperation with the pollution control agency.*

*Subd. 5. [WASTE PESTICIDE COLLECTION ACCOUNT.] A waste pesticide account is established in the state treasury. Assessments collected under subdivision 2 shall be deposited in the state treasury and credited to the waste pesticide account. Money in the account is appropriated to the commissioner to pay for costs incurred to implement the waste pesticide collection program.*

*Subd. 6. [RULES.] The commissioner may adopt rules to administer this section.*

*Subd. 7. [COOPERATIVE AGREEMENTS.] The commissioner may enter into cooperative agreements with state agencies and local units of government for administration of the waste pesticide collection program.*

Sec. 20. Minnesota Statutes 1988, section 18B.07, subdivision 2, is amended to read:

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

(1) *that is inconsistent with a label or labeling as defined by United States Code, title 7, section 136 (ee);*

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

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

(b) A person may not direct a pesticide ~~on~~ *onto* property beyond the boundaries of the target site. A person may not apply a pesticide resulting in damage to adjacent property.

(c) A person may not directly apply a pesticide on a human by overspray or target site spray.

(d) A person may not apply a pesticide in a manner so as to expose a worker in an immediately adjacent, open field.

Sec. 21. Minnesota Statutes 1988, section 18B.07, subdivision 3, is amended to read:

Subd. 3. [POSTING.] (a) If the pesticide labels prescribe specific hourly or daily intervals for human reentry following application, the person applying the pesticide must post ~~fields~~ *sites*, buildings, or areas where the pesticide has been applied. The posting must be done with placards in accordance with label requirements and rules adopted under this section.

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

Sec. 22. Minnesota Statutes 1988, section 18B.07, subdivision 4, is amended to read:

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

Sec. 23. Minnesota Statutes 1988, section 18B.07, subdivision 6, is amended to read:

Subd. 6. [USE OF PUBLIC WATERS FOR FILLING EQUIPMENT.] (a) A person may not fill pesticide application equipment directly from public *or other* waters of the state, as defined in section 105.37, subdivision 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms. The person may not introduce pesticides into the application equipment until after filling the equipment from the public waters.

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

Sec. 24. Minnesota Statutes 1988, section 18B.08, subdivision 1, is amended to read:

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

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

Sec. 25. Minnesota Statutes 1988, section 18B.08, subdivision 3, is amended to read:

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

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

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

Sec. 26. Minnesota Statutes 1988, section 18B.08, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FEE.] A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50 ~~for each well that is to be used in applying the pesticides by irrigation.~~ *A person*

*who holds a fertilizer chemigation permit under article 7, section 11, is exempt from the fee in this subdivision.*

**Sec. 27. [18B.115] [USE OF CHLORDANE PROHIBITED.]**

*The state, a state agency, a political subdivision of the state, a person, or other legal entity may not sell, use, or apply the pesticide chlordane or its derivative heptachlor within the state.*

**Sec. 28. [18B.135] [SALE OF PESTICIDES IN RETURNABLE CONTAINERS AND MANAGEMENT OF UNUSED PORTIONS.]**

*Subdivision 1. [ACCEPTANCE OF RETURNABLE CONTAINERS.] A person distributing, offering for sale, or selling a pesticide must accept empty pesticide containers and the unused portion of pesticide that remains in the original container from a pesticide end user if the pesticide was purchased after the effective date of this section. This subdivision does not prohibit the use of refillable and reusable pesticide containers.*

*Subd. 2. [RULES.] The commissioner may adopt rules to implement this section, including procedures and standards prescribing the exemption of certain pesticide products and pesticide containers.*

**PESTICIDE RELEASE INCIDENTS**

**Sec. 29. [18B.151] [REPORT OF INCIDENTS REQUIRED.]**

*Subdivision 1. [REPORT TO COMMISSIONER.] A responsible party or an owner of real property must, on discovering an incident has occurred, immediately report the incident to the commissioner.*

*Subd. 2. [WRITTEN REPORT.] The responsible party must submit a written report of the incident to the commissioner in the form and by the time prescribed by the commissioner.*

**Sec. 30. [18B.153] [CORRECTIVE ACTION ORDERS.]**

*Subdivision 1. [CORRECTIVE ACTION ORDERS.] (a) After determining an incident has occurred, the commissioner may order the responsible party to take reasonable and necessary corrective actions.*

*(b) The commissioner shall notify the owner of real property where corrective action is ordered that access to the property will be required for the responsible party or the commissioner to take corrective action.*

*(c) A political subdivision may not request or order a person to take an action that conflicts with the corrective action ordered by the commissioner.*

*(d) The attorney general on request of the commissioner may bring an action to compel corrective action.*

*Subd. 2. [COMMISSIONER'S CORRECTIVE ACTIONS.] The commissioner may take corrective action if:*

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

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

*Subd. 3. [EMERGENCY CORRECTIVE ACTION.] (a) To assure an adequate response to an incident, the commissioner may take corrective action without following the procedures of subdivision 1 if the commissioner determines that the incident constitutes a clear and immediate danger requiring immediate action to prevent, minimize, or mitigate damage to*

*the public health and welfare or the environment.*

*(b) Before taking an action under this subdivision, the commissioner must make all reasonable efforts, taking into consideration the urgency of the situation, to order a responsible party to take a corrective action and notify the owner of real property where the corrective action is to be taken.*

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

**Sec. 31. [18B.155] [LIABILITY FOR COSTS.]**

*Subdivision 1. [CORRECTIVE ACTION COSTS.] (a) A responsible party is liable for the costs including administrative costs for corrective action or emergency corrective action under section 30. The commissioner may issue an order for recovery of the costs.*

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

*Subd. 2. [OWNER OF REAL PROPERTY.] An owner of real property is not a responsible party for an incident on the owner's property unless the owner:*

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

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

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

*Subd. 3. [LIABILITY FOR APPLICATION ACCORDING TO THE LABEL.] (a) Notwithstanding other provisions relating to liability for pesticide use, a pesticide end user or landowner is not liable for the cost of active cleanup, or damages associated with or resulting from pesticides in groundwater if the person has applied or has had others apply pesticides in compliance with the label of the pesticide and other state law and orders of the commissioner.*

*(b) It is a complete defense for liability if the person has complied with the provisions in paragraph (a).*

*Subd. 4. [AVOIDANCE OF LIABILITY.] (a) A responsible party may not avoid liability by means of a conveyance of a right, title, or interest in real property; or by an indemnification, hold harmless agreement, or similar agreement.*

*(b) This subdivision does not:*

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

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

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

*Subd. 5. [DEFENSE.] As a defense to a penalty or liability for damages, a person may prove that the violation was caused solely by an act of God,*

*an act of war, or an act or failure to act that constitutes sabotage or vandalism, or a combination of these defenses.*

**Sec. 32. [18B.157] [APPORTIONMENT OF LIABILITY AND CONTRIBUTION.]**

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

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

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

*(2) the amount of pesticide involved;*

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

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

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

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

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

**INSPECTION AND ENFORCEMENT**

**Sec. 33. Minnesota Statutes 1988, section 18B.17, subdivision 2, is amended to read:**

**Subd. 2. [EDUCATION AND TRAINING AGREEMENTS.]** *(a) For purposes of education and training only, the commissioner may enter into agreements or contracts with qualified public or private organizations that wish to offer training programs approved by the commissioner.*

*(b) The commissioner may provide pesticide information and related educational materials to persons using and affected by pesticides.*

**Sec. 34. Minnesota Statutes 1988, section 18B.18, is amended to read:**

**18B.18 [INSPECTION.]**

**Subdivision 1. [ACCESS AND ENTRY.]** *(a) The commissioner, and the commissioner's agents, upon issuance of a notice of inspection after notification of a person in control of a site if the person is available and upon presentation of official department credentials, must be granted access at reasonable times without delay to (+) sites where a restricted use pesticide*

is used; (2):

(1) where a person manufactures, formulates, distributes, uses, disposes of, stores, or transports a pesticide ~~in violation of provisions of this chapter; and (3) to all sites; and~~

(2) that the commissioner reasonably believes are affected, or possibly affected, by the use of a pesticide, rinsate, pesticide container, or device in violation of a provision of this chapter.

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

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

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

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

(4) inspection or investigation of complaints of injury to ~~humans, wild-life, domesticated animals, crops, or~~ the environment;

(5) sampling of pesticides;

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

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

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

(9) other purposes necessary to implement this chapter.

(c) *Subject to the notification requirements under paragraph (a), the commissioner may enter any public or private premises during or after regular business hours when a suspected or actual incident may or actually does threaten public health or the environment.*

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

Subd. 3. [INVESTIGATION AUTHORITY.] (a) *In making inspections under this chapter, the commissioner may administer oaths, certify official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and production of papers, books, documents, records, and testimony.*

(b) *If a person fails to comply with a subpoena, or a witness refuses to produce evidence or to testify to a matter about which the person may be lawfully questioned, the district court shall, on application of the commissioner, compel obedience proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a*



*refusal to testify in court.*

*Subd. 4. [INSPECTION REQUESTS BY OTHERS.] (a) A person who believes that a violation of this chapter has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, state with reasonable particularity the grounds for the notice, and be signed by the person making the request.*

*(b) If after receiving a notice of violation the commissioner reasonably believes that a violation has occurred, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if a violation has occurred.*

*(c) An inspection conducted pursuant to a notice under this subdivision may cover an entire site and is not limited to the portion of the site specified in the notice. If the commissioner determines that reasonable grounds to believe that a violation occurred do not exist, the commissioner must notify the person making the request in writing of the determination.*

*Subd. 5. [ORDER TO ENTER AFTER REFUSAL.] After a refusal or an anticipated refusal based on a prior refusal to allow entrance on a prior occasion by an owner, operator, or agent in charge to allow entry as specified in this chapter, the commissioner may apply for an order in the district court in the county where a site is located, that compels a person with authority to allow the commissioner to enter and inspect the site.*

*Subd. 6. [VIOLATOR LIABLE FOR INSPECTION COSTS.] (a) If an inspection or investigation reveals that a violation of this chapter has occurred, the commissioner may require the person violating the provision of this chapter to pay the commissioner for the reasonable costs incurred by the commissioner in that inspection or investigation.*

*(b) The commissioner may enter an order for recovery of the inspection and investigation costs.*

Sec. 35. Minnesota Statutes 1988, section 18B.20, subdivision 1, is amended to read:

Subdivision 1. [ENFORCEMENT REQUIRED.] (a) The commissioner shall enforce this chapter.

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

Sec. 36. Minnesota Statutes 1988, section 18B.20, subdivision 2, is amended to read:

Subd. 2. [CRIMINAL ACTIONS.] ~~For a criminal action,~~ The county attorney ~~from the county~~ where a criminal violation occurred is responsible for prosecuting a criminal violation of a provision of this chapter. If the county attorney refuses to prosecute, the attorney general ~~may, on request of the commissioner,~~ shall prosecute.

Sec. 37. Minnesota Statutes 1988, section 18B.20, subdivision 3, is amended to read:

Subd. 3. [CIVIL ACTIONS.] Civil judicial enforcement actions may be brought ~~by the attorney general on request of the commissioner in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action by the attorney general, or by a county attorney,~~ upon the request of the commissioner and agreement by the attorney general.

Sec. 38. Minnesota Statutes 1988, section 18B.21, is amended to read:

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

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

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

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

Sec. 39. [18B.212] [ADMINISTRATIVE PENALTIES.]

Subdivision 1. [ASSESSMENT.] (a) *The commissioner may assess an administrative penalty of up to \$5,000 per day for violation of a corrective action order or remedial action order.*

(b) *In determining the amount of the penalty, the commissioner must consider the size of the violator's business, the gravity of the violation in terms of actual or potential damage to human health and the environment, and the violator's culpability, good faith, and history of violations.*

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

*remedial action order.*

*Subd. 2. [COLLECTION OF PENALTY.] (a) If a person subject to an administrative penalty fails to pay the penalty, which must be part of a final order by the commissioner, by 30 days after the final order is issued, the commissioner may commence a civil action for double the assessed penalty and attorney fees and costs.*

*(b) A penalty may be recovered in a civil action in the name of the state brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office.*

**Sec. 40. [18B.214] [APPEAL OF COMMISSIONER'S ORDERS.]**

*Subdivision 1. [NOTICE OF APPEAL.] (a) After service of an order, a person has 45 days from receipt of the order to notify the commissioner in writing that the person intends to contest the order.*

*(b) If the person fails to notify the commissioner that the person intends to contest the order, the order is a final order of the commissioner and not subject to further judicial or administrative review.*

*Subd. 2. [ADMINISTRATIVE REVIEW.] If a person notifies the commissioner that the person intends to contest an order issued under this chapter, the state office of administrative hearings shall conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings in contested cases.*

*Subd. 3. [JUDICIAL REVIEW.] Judicial review of a final decision in a contested case is available as provided in chapter 14.*

*Subd. 4. [RECOVERY OF LEGAL EXPENSES.] The prevailing party may recover reasonable legal expenses incurred in a contested case or an appeal from a contested case. The certification of expenses is prima facie evidence that the expenses are reasonable and necessary.*

**Sec. 41.** Minnesota Statutes 1988, section 18B.25, is amended by adding a subdivision to read:

*Subd. 5. [VICARIOUS CIVIL LIABILITY FOR APPLICATORS AND DEALERS.] Structural pest control applicators, commercial applicators, noncommercial applicants, and pesticide dealers are civilly liable for violations of this chapter by their employees and agents.*

**Sec. 42.** Minnesota Statutes 1988, section 18B.26, subdivision 1, is amended to read:

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

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

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

*(d) Each pesticide with a unique United States Environmental Protection*

*Agency pesticide registration number or a unique brand name must be registered with the commissioner.*

Sec. 43. Minnesota Statutes 1988, section 18B.26, subdivision 3, is amended to read:

Subd. 3. [APPLICATION FEE.] (a) ~~An application for initial registration and renewal must be accompanied by a nonrefundable application fee of \$125 for each pesticide to be registered.~~ *A registrant shall pay an annual application fee for each pesticide to be registered, and this fee is set at one-fifth of one percent of annual gross sales within the state, with a minimum fee of \$200.*

(b) An additional fee of \$100 must be paid by the applicant for each pesticide to be registered if the application is a renewal application that is submitted after December 31.

(c) ~~An additional fee of \$200 must be paid by the applicant for each pesticide distributed or used in the state before initial state registration.~~ *A registrant must annually report to the commissioner the amount and type of each registered pesticide sold, offered for sale, or otherwise distributed in the state. The report shall be filed at the time of payment of the registration application fee. The commissioner shall specify the form of the report and require additional information deemed necessary to determine the amount and type of pesticides annually distributed in the state. The information required shall include the brand name, amount, and formulation of each pesticide sold, offered for sale, or otherwise distributed in the state, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.*

Sec. 44. Minnesota Statutes 1988, section 18B.26, subdivision 5, is amended to read:

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

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

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

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

Sec. 45. Minnesota Statutes 1988, section 18B.26, is amended by adding a subdivision to read:

Subd. 6. [DISCONTINUANCE OF REGISTRATION.] *To ensure complete withdrawal from distribution or further use of a pesticide, a person who intends to discontinue a pesticide registration must:*

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

(2) *initiate and complete a total recall of the pesticide from all distribution in the state within 60 days from the date of notification to the*

*commissioner of intent to discontinue registration; or*

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

**Sec. 46. [18B.035] [PESTICIDE EDUCATION AND TRAINING.]**

*Subdivision 1. [EDUCATION AND TRAINING.] (a) The commissioner shall develop, in conjunction with the University of Minnesota extension service, innovative educational and training programs addressing pesticide concerns including:*

- (1) water quality protection;*
- (2) endangered species;*
- (3) pesticide residues in food and water;*
- (4) worker protection;*
- (5) chronic toxicity;*
- (6) integrated pest management; and*
- (7) pesticide disposal.*

*(b) The commissioner shall appoint educational planning committees which must include representatives of industry.*

*(c) Specific current regulatory concerns must be discussed and, if appropriate, incorporated into each training session.*

*(d) The commissioner may approve programs from private industry and nonprofit organizations that meet minimum requirements for education, training, and certification.*

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

**Subd. 3. [PESTICIDE APPLICATOR EDUCATION AND EXAMINATION REVIEW BOARD.]** *(a) The commissioner shall establish and chair a pesticide applicator education and examination review board. This board must meet at least once a year before the initiation of pesticide educational planning programs. The purpose of the board is to discuss topics of current concern that can be incorporated into pesticide applicator training sessions and appropriate examinations. This board shall review and evaluate the various educational programs recently conducted and recommend options to increase overall effectiveness.*

*(b) Membership on this board must represent industry, private, nonprofit organizations, and other governmental agencies, including the University of Minnesota, the pollution control agency, department of health, department of natural resources, and department of transportation.*

*(c) Membership on the board must include representatives from environmental protection organizations.*

Sec. 47. Minnesota Statutes 1988, section 18B.31, subdivision 3, is amended to read:

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

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

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

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

Sec. 48. Minnesota Statutes 1988, section 18B.31, subdivision 5, is amended to read:

Subd. 5. [APPLICATION FEE.] (a) An application for a pesticide dealer license must be accompanied by a nonrefundable application fee of \$50.

(b) If an application for renewal of a pesticide dealer license is not filed before January 1 of the year for which the license is to be issued, an additional fee of \$20 must be paid by the applicant before the license is issued.

*(c) An application for a duplicate pesticide dealer's license must be accompanied by a nonrefundable application fee of \$10.*

Sec. 49. [18B.315] [RETAIL PESTICIDE HANDLER'S LICENSE.]

*Subdivision 1. [REQUIREMENT.] Except as provided in section 18B.31, a person may not distribute a pesticide without a retail pesticide handler's license.*

Subd. 2. [RESPONSIBILITY.] A retail pesticide handler is liable for the acts of a person who assists the handler in the distribution of pesticides.

Subd. 3. [LICENSE.] A retail pesticide handler's license:

(1) is for the period July 1 to June 30 of the following year and must be renewed by the licensee on or before July 1 of each year; and

(2) is not transferable from the person to whom the license was issued to another person or from one location to another location.

Subd. 4. [APPLICATION.] A person must apply to the commissioner for a retail pesticide handler's license on the forms and in the manner required by the commissioner. The commissioner must provide to the applicant educational materials and regulatory updates that will assist the dealer relating to pesticide recommendations, storage, handling, and use.

Subd. 5. [APPLICATION FEE.] (a) An application for a retail pesticide handler's license from each fixed location within the state must be accompanied by a nonrefundable application fee of \$25.

(b) If an application for renewal of a retail pesticide handler's license is not filed before June 30 of the year for which the license is to be issued, an additional renewal application fee of \$12.50 must be paid by the applicant before the license will be issued.

Subd. 6. [PESTICIDE INFORMATION MUST BE POSTED.] A retail pesticide handler must post pesticide handling information prescribed by

*the commissioner at a site prescribed by the commissioner in a manner that is readily received by consumers.*

Sec. 50. Minnesota Statutes 1988, section 18B.32, subdivision 2, is amended to read:

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

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

(2) is not transferable; *and*

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

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

Sec. 51. Minnesota Statutes 1988, section 18B.33, subdivision 1, is amended to read:

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

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

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

Sec. 52. Minnesota Statutes 1988, section 18B.33, subdivision 3, is amended to read:

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

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

(2) is not transferable to another person; *and*

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

Sec. 53. Minnesota Statutes 1988, section 18B.33, subdivision 7, is amended to read:

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

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

*(c) An application for a duplicate commercial applicator license must be accompanied by a nonrefundable application fee of \$10.*

Sec. 54. Minnesota Statutes 1988, section 18B.34, subdivision 1, is amended to read:

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

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

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

Sec. 55. Minnesota Statutes 1988, section 18B.34, subdivision 2, is amended to read:

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

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

(2) is not transferable; *and*

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

Sec. 56. Minnesota Statutes 1988, section 18B.34, subdivision 5, is amended to read:

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

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

*(c) An application for a duplicate noncommercial applicator license must be accompanied by a nonrefundable application fee of \$10.*

Sec. 57. Minnesota Statutes 1988, section 18B.36, subdivision 1, is amended to read:

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

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



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

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

Sec. 58. Minnesota Statutes 1988, section 18B.36, subdivision 2, is amended to read:

Subd. 2. [CERTIFICATION.] (a) The commissioner shall prescribe certification requirements and provide training *that meets or exceeds United States Environmental Protection Agency standards* to certify ~~persons as~~ private applicators and provide information relating to changing technology to help ensure a continuing level of competency and ability to use pesticides properly and safely. The training may be done through cooperation with other government agencies *and must be a minimum of three hours in duration.*

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

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

Sec. 59. Minnesota Statutes 1988, section 18B.37, subdivision 1, is amended to read:

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

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

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

Sec. 60. Minnesota Statutes 1988, section 18B.37, subdivision 2, is amended to read:

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

(1) date of the pesticide use;

(2) time the pesticide application was completed;

(3) *brand name of the pesticide, the United States Environmental Protection Agency registration number, and dosage used;*

(4) number of units treated;

(5) temperature, wind speed, and wind direction;

(6) location of the site where the pesticide was applied;

(7) name and address of the customer;

(8) *name and signature of applicator, name of company, license number of applicator, and address; and signature of applicator company;* and

(9) any other information required by the commissioner.

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

(c) All information for this record requirement must be contained in a single page document for each pesticide application, *except a map not to exceed 8-1/2 inches by 11 inches may be attached to identify treated areas. Invoices* An invoice containing the required information may constitute the required record. *The commissioner shall make sample forms available to meet the requirements of this paragraph.*

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

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

Sec. 61. Minnesota Statutes 1988, section 18B.37, subdivision 3, is amended to read:

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

(1) date of structural pest control application;

(2) target pest;

(3) *brand name of the pesticide, United States Environmental Protection Agency registration number, and amount used;*

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

(5) *time the pesticide application was completed;*

~~(5)~~ (6) name and address of the customer;

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

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

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

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

(d) A copy of the record must be given to a person who ordered the application that is present at the site where the structural pest control application is conducted, placed in a conspicuous location at the site where the structural pest control application is conducted immediately after the application of the pesticides, or delivered to the person who ordered an application or the owner of the site. *The commissioner must make sample forms available that meet the requirements of this subdivision.*

Sec. 62. Minnesota Statutes 1988, section 18B.37, subdivision 4, is

amended to read:

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

Sec. 63. [PESTICIDE CONTAINER COLLECTION AND RECYCLING PILOT PROJECT.]

*Subdivision 1. [PROJECT.] The department of agriculture, in consultation and cooperation with the commissioner of the pollution control agency, shall design and implement a pilot collection project, to be completed by June 30, 1991, to:*

- (1) collect, recycle, and dispose of empty, triple-rinsed pesticide containers;*
- (2) develop, demonstrate, and promote proper pesticide container management; and*
- (3) evaluate the current pesticide container management methods and the cause and extent of the problems associated with pesticide containers.*

*Subd. 2. [COLLECTION AND DISPOSAL.] The department of agriculture shall provide for the establishment and operation of temporary collection sites for pesticide containers. The department may limit the type and quantity of pesticide containers acceptable for collection.*

*Subd. 3. [INFORMATION AND EDUCATION.] The department shall develop informational and educational materials to promote proper methods of pesticide container management.*

*Subd. 4. [REPORT.] During the pilot project, the department of agriculture shall conduct surveys and collect information on proper and improper pesticide container storage and disposal. By November 30, 1991, the department shall report to the legislature its conclusions from the project and recommendations for additional legislation or rules governing the management of pesticide containers.*

*Subd. 5. [MANAGEMENT AND DISPOSAL.] The department of agriculture or other entity collecting pesticide containers must manage and dispose of the containers in compliance with applicable federal and state requirements.*

Sec. 64. [REPEALER.]

*Minnesota Statutes 1988, sections 18A.49; 18B.15; 18B.16; and 18B.19, are repealed.*

Sec. 65. [EFFECTIVE DATE.]

*Section 28, subdivisions 1 and 2, relating to the sale and distribution of pesticides in returnable containers is effective July 1, 1994.*

## ARTICLE 7

## CHAPTER 18C

## FERTILIZERS, SOIL AMENDMENTS, AND PLANT AMENDMENTS

## Section 1. [18C.001] [CITATION.]

*This chapter may be cited as the "fertilizer, soil amendment, and plant amendment law."* [17.711]

## Sec. 2. [18C.005] [DEFINITIONS.]

*Subdivision 1. [APPLICABILITY.] The definitions in this section apply to this chapter.* [17.713 s. 1]

*Subd. 2. [BEST MANAGEMENT PRACTICES.] "Best management practices" means practices, techniques, and measures developed under article 1, section 6, subdivision 2.*

*Subd. 3. [BRAND.] "Brand" means a term, design, or trademark used in connection with one or several grades of fertilizers or soil and plant amendment materials.* [17.713 s. 2]

*Subd. 4. [CHEMIGATION.] "Chemigation" means a process of applying fertilizers to land or crops including agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water during the irrigation process.*

*Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of agriculture.* [17.713 s. 4a]

*Subd. 6. [COMPOST.] "Compost" is a material derived primarily or entirely from biological decomposition of vegetative organic matter or animal manure that does not have inorganic fertilizer added other than to promote decomposition.*

*Subd. 7. [CORRECTIVE ACTION.] "Corrective action" means an action taken to minimize, eliminate, or clean up an accident.*

*Subd. 8. [CUSTOM APPLY.] "Custom apply" means to apply a fertilizer, soil amendment, or plant amendment product for compensation.*

*Subd. 9. [DEFICIENCY.] "Deficiency" means that amount of nutrient found by analysis is less than the amount guaranteed resulting from a lack of nutrient ingredients or from lack of uniformity.*

*Subd. 10. [DISTRIBUTOR.] "Distributor" means a person who imports, consigns, manufactures, produces, compounds, mixes, or blends fertilizer, or who offers for sale, sells, barter, or otherwise supplies fertilizer or soil and plant amendments in this state.* [17.713 s. 5]

*Subd. 11. [ENVIRONMENT.] "Environment" means surface water, groundwater, air, land, plants, humans, and animals and their interrelationships.*

*Subd. 12. [FERTILIZER.] "Fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include unmanipulated animal and vegetable manures, marl, lime, limestone, and other products exempted by rule by the commissioner.*

*Subd. 13. [FIXED LOCATION.] "Fixed location" means all stationary fertilizer facility operations, owned or operated by a person, located in*

*the same plant location or locality.* [17.713 s. 6a]

*Subd. 14. [GRADE.] "Grade" means the percentage of total nitrogen (N), available phosphorus (P) or phosphoric acid (P2O5), and soluble potassium (K) or soluble potash (K2O) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis except the grade of bone meals, manures, and similar raw materials may be stated in fractional units, and specialty fertilizers may be stated in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash.* [17.713 s. 7]

*Subd. 15. [GUARANTOR.] "Guarantor" means the person who is guaranteeing the material to be as stated in the guaranteed analysis.* [17.713 s. 9]

*Subd. 16. [HAZARDOUS WASTE.] "Hazardous waste" means a substance identified or listed as hazardous waste in the rules adopted under section 116.07, subdivision 4.*

*Subd. 17. [INCIDENT.] "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, portable container rupture, leak, spill, emission, discharge, escape, disposal, or other event that releases or immediately threatens to release a fertilizer, soil amendment, or plant amendment accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. Incident does not include a release resulting from the normal use of a product or practice in accordance with law.*

*Subd. 18. [INVESTIGATIONAL ALLOWANCE.] "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.*

*Subd. 19. [LABEL.] "Label" means the display of all written, printed or graphic matter upon the immediate container or the statement accompanying a fertilizer, soil amendment, or plant amendment.* [17.713 s. 9a]

*Subd. 20. [LABELING.] "Labeling" means all written, printed or graphic matter on or accompanying a fertilizer, soil amendment, or plant amendment or advertisements, brochures, posters, television, radio or other announcements used in promoting the sale of fertilizers, soil amendments, or plant amendments.* [17.713 s. 9b]

*Subd. 21. [MANIPULATED.] "Manipulated" means fertilizers that are manufactured, blended, mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and other means, or by adding other chemicals or substances.*

*Subd. 22. [MOBILE MECHANICAL UNIT.] "Mobile mechanical unit" means a portable machine or apparatus used to blend, mix, or manufacture fertilizers.* [17.713 s. 11]

*Subd. 23. [OFFICIAL SAMPLE.] "Official sample" means a sample of fertilizer, soil amendment, or plant amendment taken by the commissioner according to methods prescribed by this chapter.* [17.713 s. 12]

*Subd. 24. [ORGANIC.] "Organic" in reference to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition with a water insoluble nitrogen content of at least 60 percent of the guaranteed total nitrogen.* [17.713 s. 13]

*Subd. 25. [OWNER OF REAL PROPERTY.] "Owner of real property" means a person who is in possession of, has the right of control, or controls the use of real property, including without limitation a person who may be a fee owner, lessee, renter, tenant, lessor, contract for deed vendee, licensor, licensee, or occupant.*

*Subd. 26. [PERCENT; PERCENTAGE.] "Percent" or "percentage" means the percentage by weight. [17.713 s. 14]*

*Subd. 27. [PERSON.] "Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization, the state, a state agency, or a political subdivision. [17.713 s. 15]*

*Subd. 28. [PLANT AMENDMENT.] "Plant amendment" means a substance applied to plants or seeds that is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except fertilizers, soil amendments, agricultural liming materials, pesticides, and other materials that are exempted by rule. [17.713 s. 15a]*

*Subd. 29. [PLANT FOOD.] "Plant food" means a plant nutrient generally recognized as beneficial for plant growth, including nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc. [17.713 s. 15b]*

*Subd. 30. [REGISTRANT.] "Registrant" means the person who registers fertilizer, soil amendment, or plant amendment under this chapter. [17.713 s. 16]*

*Subd. 31. [RESPONSIBLE PARTY.] "Responsible party" means a person who at the time of an incident has custody of, control of, or responsibility for a fertilizer, fertilizer container, or fertilizer rinsate.*

*Subd. 32. [RETAIL FERTILIZER HANDLER.] "Retail fertilizer handler" means a person who sells a fertilizer in a packaged container produced or guaranteed by another person.*

*Subd. 33. [RINSATE.] "Rinsate" means a dilute mixture of a fertilizer or fertilizer with water, solvents, oils, commercial rinsing agents, or other substances.*

*Subd. 34. [SAFEGUARD.] "Safeguard" means a facility, equipment, device, or system, individually or in combination, designed to prevent an incident.*

*Subd. 35. [SELL.] "Sell," in reference to the sale of fertilizer, soil amendment, or plant amendment, includes:*

- (1) the act of selling, transferring ownership;*
- (2) the offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;*
- (3) the possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;*
- (4) the storing, carrying, and handling in aid of trafficking fertilizers, plant amendments, or soil amendments, whether done in person or through an agent, employee or others; and*
- (5) receiving, accepting, and holding of consignment for sale. [17.713*

s. 17]

*Subd. 36. [SEWAGE SLUDGE.] "Sewage sludge" means the solids and associated liquids in municipal wastewater that are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment. [17.713 s. 17a]*

*Subd. 37. [SITE.] "Site" includes land and water areas, air space, and plants, animals, structures, buildings, contrivances, and machinery, whether fixed or mobile, including anything used for transportation.*

*Subd. 38. [SOIL AMENDMENT.] "Soil amendment" means a substance intended to improve the physical characteristics of the soil, except fertilizers, agricultural liming materials, pesticides, and other materials exempted by the commissioner's rules. [17.713 s. 19]*

*Subd. 39. [SPECIALTY FERTILIZER.] "Specialty fertilizer" means a fertilizer labeled and distributed for, but not limited to, the following uses: commercial gardening, greenhouses, nurseries, sod farms, home gardens, house plants, lawn fertilizer that is not custom applied, shrubs, golf courses, municipal parks, cemeteries, and research or experimental uses. [17.713 s. 20]*

*Subd. 40. [TON.] "Ton" means a net ton of 2,000 pounds avoirdupois. [17.713 s. 21]*

*Subd. 41. [UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT.] "Unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a fertilizer.*

*Subd. 42. [WILDLIFE.] "Wildlife" means living things that are not human, domesticated, or pests.*

#### GENERAL PROVISIONS

Sec. 3. [18C.105] [ADMINISTRATION.]

*The commissioner of agriculture shall administer this chapter. [17.712]*

Sec. 4. [18C.111] [POWERS AND DUTIES OF COMMISSIONER.]

*Subdivision 1. [ADMINISTRATION BY COMMISSIONER.] The commissioner shall administer, implement, and enforce this chapter and the department of agriculture is the lead state agency for the regulation of fertilizer, including storage, handling, distribution, use, and disposal of fertilizer.*

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

*Subd. 3. [DELEGATION TO APPROVED AGENCIES.] The commissioner may, by written agreements, delegate specific inspection, enforcement, and other regulatory duties of this chapter to officials of other agencies. The delegation may only be made to a state agency, a political subdivision, or a political subdivision's agency that has signed a joint powers agreement with the commissioner as provided in section 471.59.*

*Subd. 4. [EMPLOYEES.] The commissioner may employ necessary agents*

*and assistants to administer and enforce this chapter, none of whom, except those who are employed on a full-time basis, shall come within or be governed by chapter 43A. The compensation for the unclassified employees shall be on the basis of a rating and salary scale determined by the commissioner's plan by the department of employee relations or the appropriate bargaining unit contract.*

**Sec. 5. [18C.115] [ADOPTION OF NATIONAL STANDARDS.]**

*Subdivision 1. [POLICY OF UNIFORMITY.] It is the policy of this state to achieve and maintain uniformity as much as possible with national standards and with other states in the regulation and control of the manufacture, distribution, and sale of fertilizer in this state.*

*Subd. 2. [ADOPTION OF NATIONAL STANDARDS.] Applicable national standards contained in the 1989 official publication, number 42, of the association of American plant food control officials including the rules and regulations, statements of uniform interpretation and policy, and the official fertilizer terms and definitions, and not otherwise adopted by the commissioner, may be adopted as fertilizer rules of this state.*

**Sec. 6. [18C.121] [RULES.]**

*Subdivision 1. [ADMINISTRATION.] The commissioner may adopt emergency or permanent rules necessary to implement and enforce this chapter. The rules must conform to national standards in a manner that is practicable and consistent with state law. [17.725 s. 1]*

*Subd. 2. [LIMING MATERIALS.] The commissioner may adopt rules governing the labeling, registration, and distribution of liming materials sold for agricultural purposes. [17.725 s. 2]*

*Subd. 3. [CERTIFICATION OF LABORATORIES.] The commissioner may adopt rules establishing procedures and requirements for certification of soil and plant food testing laboratories operating in or outside of the state for the benefit of state residents. The rules shall include but not be limited to standardization of procedures and recommendations relating to application of plant food materials. Basic data and reference material for establishment of rules will include but not be limited to findings of the University of Minnesota soil testing laboratory. [17.725 s. 3]*

*Subd. 4. [HEARINGS.] Hearings authorized or required by law must be conducted by the commissioner or an officer, agent, or employee the commissioner designates.*

**Sec. 7. [18C.131] [FERTILIZER INSPECTION ACCOUNT.]**

*A fertilizer inspection account is established in the state treasury. The fees collected under this chapter must be deposited in the state treasury and credited to the fertilizer inspection account. Money in that account, including interest earned and money appropriated for the purposes of this chapter, is annually appropriated to the commissioner for the administration of this chapter. [17.717 s. 1a]*

**Sec. 8. [18C.135] [APPLICATION OF REQUIREMENTS TO SEWAGE SLUDGE AND COMPOST.]**

*Subdivision 1. [SEWAGE SLUDGE WITHOUT CHARGE EXEMPT.] Sewage sludge that is transferred between parties without compensation is exempt from the requirements of this chapter except the labeling requirements of this chapter.*



*Subd. 2. [SEWAGE SLUDGE ANALYSIS MEETS LABELING REQUIREMENTS.] A copy of the sewage sludge analysis required by the rules of the pollution control agency is sufficient to meet the labeling requirements.*

*Subd. 3. [COMPOST WITHOUT CHARGE EXEMPT.] Compost that is transferred between parties without compensation is exempt from all requirements of this chapter.*

**Sec. 9. [18C.141] [SOIL TESTING LABORATORY CERTIFICATION.]**

*Subdivision 1. [PROGRAM ESTABLISHMENT.] The commissioner shall establish a program to certify the accuracy of analyses from soil testing laboratories and promote standardization of soil testing procedures and analytical results.*

*Subd. 2. [CHECK SAMPLE SYSTEM.] (a) The commissioner shall institute a system of check samples that requires a laboratory to be certified to analyze at least four multiple soil check samples during the calendar year. The samples must be supplied by the commissioner or by a person under contract with the commissioner to prepare and distribute the samples.*

*(b) Within 30 days after the laboratory receives check samples, the laboratory shall report to the commissioner the results of the analyses for all requested elements or compounds or for the elements or compounds the laboratory makes an analytical determination of as a service to others.*

*(c) The commissioner shall compile analytical data submitted by laboratories and provide laboratories submitting samples with a copy of the data without laboratory names or code numbers.*

*(d) The commissioner may conduct check samples on laboratories that are not certified.*

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

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

*Subd. 4. [REVOCATION OF CERTIFICATION.] If the commissioner determines that analysis being performed by a laboratory is inaccurate as evidenced by check sample results, the commissioner may deny, suspend, or revoke certification.*

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

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

certification.

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

Subd. 6. [RULES.] *The commissioner shall adopt rules for the establishment of minimum standards for laboratories, equipment, procedures, and personnel used in soil analysis and rules necessary to administer and enforce this section. The commissioner shall consult with representatives of the fertilizer industry, representatives of the laboratories doing business in this state, and with the University of Minnesota college of agriculture before proposing rules. [17.73]*

#### SALE, USE, AND STORAGE

##### Sec. 10. [18C.201] [PROHIBITED FERTILIZER ACTIVITIES.]

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

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

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

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

Subd. 2. [USE OF PUBLIC WATER SUPPLIES FOR FILLING EQUIPMENT.] *A person may not fill fertilizer application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the public water supply is equipped with a backflow prevention device that complies with Minnesota Rules, parts 4715.2000 to 4715.2280.*

Subd. 3. [USE OF PUBLIC WATERS FOR FILLING EQUIPMENT.] *A person may not fill fertilizer application equipment directly from public or other waters of the state, as defined in section 105.37, subdivisions 7 and 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms.*

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

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

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

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

##### Sec. 11. [18C.205] [CHEMIGATION.]

*Subdivision 1. [AUTHORIZATION.] The commissioner may issue chemigation permits for irrigation to be used to apply fertilizers on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.*

*Subd. 2. [PERMIT REQUIRED.] A person may not apply fertilizers through an irrigation system without a chemigation permit from the commissioner. A chemigation permit is required for one or more wells that are protected from contamination by the same devices.*

*Subd. 3. [APPLICATION.] (a) A person must apply for a chemigation permit on forms prescribed by the commissioner.*

*(b) A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50. A person who holds a valid pesticide chemigation permit as required in chapter 18B is exempt from the fee in this subdivision.*

*Subd. 4. [PERMIT REQUIREMENTS.] An irrigation system operating under a chemigation permit must be fitted with effective antisiphon devices or check valves that prevent the backflow of fertilizers or fertilizer-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:*

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

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

*Subd. 5. [RULES.] The commissioner shall adopt rules prescribing conditions and restrictions for applying fertilizers by irrigation.*

## **Sec. 12. [18C.211] [GUARANTEED ANALYSIS.]**

*Subdivision 1. [N, P, and K NUTRIENT CONTENT STATED.] (a) Until the commissioner prescribes the alternative form of guaranteed analysis, it must be stated as provided in this subdivision.*

*(b) A guaranteed analysis must state the percentage of plant nutrient content, if claimed, in the following form:*

<i>“(1) Total Nitrogen (N)</i>	<i>. . . . . percent</i>
<i>(2) Available Phosphoric Acid (P2O5)</i>	<i>. . . . . percent</i>
<i>(3) Soluble Potash (K2O)</i>	<i>. . . . . percent”</i>

*(c) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphate materials, the total phosphoric acid or degree of fineness may also be stated. [17.713 s. 8]*

*Subd. 2. [GUARANTEES OF THE NUTRIENTS.] (a) A person may guarantee plant nutrients other than nitrogen, phosphorus, and potassium only if allowed or required by commissioner's rule.*

*(b) The guarantees for the plant nutrients must be expressed in the elemental form.*

*(c) The sources of other elements, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the commissioner and with the advice of the director of*

*the agricultural experiment station.*

*(d) If plant nutrients or other substances or compounds are guaranteed, the plant nutrients are subject to inspection and analyses in accord with the methods and rules prescribed by the commissioner.*

*(e) The commissioner may, by rule, require the potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton. [17.713 s. 8]*

*Subd. 3. [FORM FOR ANALYSES.] (a) The commissioner may require a guaranteed analysis to be in a prescribed form if the commissioner determines that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer because of conflicting labeling requirements among the states.*

*(b) The commissioner must give proper notice and hold a public hearing before the determination is made.*

*(c) After making the determination under paragraph (a), the commissioner may require by rule that guaranteed analyses be in the following form:*

<i>"Total Nitrogen (N)</i>	<i>. . . . . percent</i>
<i>Available Phosphorus (P)</i>	<i>. . . . . percent</i>
<i>Soluble Potassium (K)</i>	<i>. . . . . percent"</i>

*(d) In adopting the rule, the commissioner must provide that:*

*(1) the effective date of the rule is at least one year after the rule is adopted; and*

*(2) for a period of two years following the effective date of the rule, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash.*

*(e) After the effective date of the rule requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium constitute the grade. [17.713 s. 8]*

*Subd. 4. [GUARANTEED ANALYSIS OF SOIL OR PLANT AMENDMENT.] The guaranteed analysis of a soil amendment or plant amendment must be an accurate statement of composition including the percentages of each ingredient. If the product is a microbiological product, the number of viable microorganisms per milliliter for a liquid or the number of viable microorganisms per gram for a dry product must also be listed. [17.713 s. 8]*

#### **Sec. 13. [18C.215] [FERTILIZER LABELING.]**

*Subdivision 1. [LABEL CONTENTS.] (a) A person may not sell or distribute fertilizer in bags or other containers in this state unless a label is placed on or affixed to the bag or container stating in a clear, legible, and conspicuous form the following information:*

*(1) the net weight;*

*(2) the brand and grade, except (i) the grade is not required if primary nutrients are not claimed, and (ii) the grade on the label is optional if the fertilizer is used only for agricultural purposes and the guaranteed analysis statement is shown in the complete form as in section 12;*

(3) *the guaranteed analysis;*

(4) *the name and address of the guarantor;*

(5) *directions for use; and*

(6) *a derivatives statement.*

(b) *The labeled information must appear:*

(1) *on the face or display side of the container in a conspicuous form;*

(2) *on the upper one-third of the side of the container;*

(3) *on the upper end of the container; or*

(4) *printed on tags affixed conspicuously to the upper end of the container.* [17.716 s. 1]

*Subd. 2. [BLENDED AND MIXED FERTILIZER.] (a) A distributor who blends or mixes fertilizer to a customer's order without a guaranteed analysis of the final mixture must furnish each purchaser with an invoice or delivery ticket in written or printed form showing the net weight and guaranteed analysis of each of the materials used in the mixture.*

(b) *The invoice or delivery ticket must accompany the delivery.*

(c) *Records of invoices or delivery tickets must be kept for five years after the delivery or application.* [17.716 s. 3]

*Subd. 3. [BULK FERTILIZER.] If fertilizer is transported or distributed in bulk, the information in subdivision 1, paragraph (a), must accompany each delivery in written or printed form and be supplied to each purchaser at time of delivery.* [17.716 s. 3]

*Subd. 4. [PLANT FOOD CONTENT MUST BE UNIFORM.] The plant food content of a given lot of fertilizer must remain uniform and may not become segregated within the lot.* [17.716 s. 4]

*Subd. 5. [FERTILIZER IN BULK STORAGE.] Fertilizer in bulk storage must be identified with a label attached to the storage bin or container stating the appropriate grade or guaranteed analysis.* [17.716 s. 5]

**Sec. 14. [18C.221] [FERTILIZER PLANT FOOD CONTENT.]**

(a) *Products that are deficient in plant food content are subject to this subdivision.*

(b) *An analysis must show that a fertilizer is deficient:*

(1) *in one or more of its guaranteed primary plant nutrients beyond the investigational allowances and compensations as established by regulation; or*

(2) *if the overall index value of the fertilizer is shown below the level established by rule.*

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

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

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

Sec. 15. [18C.225] [MISBRANDED PRODUCTS.]

*Subdivision 1. [SALE AND DISTRIBUTION PROHIBITED.] A person may not sell or distribute a misbranded fertilizer, soil amendment, or plant amendment. [17.722]*

*Subd. 2. [FACTORS CAUSING MISBRANDING.] A fertilizer, soil amendment, or plant amendment is misbranded if:*

*(1) it carries a false or misleading statement on the container, on the label attached to the container; or*

*(2) false or misleading statements concerning the fertilizer, soil amendment, or plant amendment are disseminated in any manner or by any means. [17.722]*

Sec. 16. [18C.231] [ADULTERATION.]

*Subdivision 1. [SALE AND DISTRIBUTION PROHIBITED.] A person may not sell or distribute an adulterated fertilizer, soil amendment, or plant amendment product. [17.723]*

*Subd. 2. [FACTORS CAUSING ADULTERATION.] A fertilizer, soil amendment, or plant amendment is adulterated if:*

*(1) it contains a deleterious or harmful ingredient in an amount to render it injurious to plant life if applied in accordance with directions for use on the label;*

*(2) the composition falls below or differs from that which the product is purported to possess by its labeling; or*

*(3) the product contains unwanted crop seed or weed seed. [17.723]*

*Subd. 3. [CERTAIN ADULTERATED PRODUCTS MUST BE DISPOSED.] Adulterated products that cannot be reconditioned must be disposed of according to methods approved by the commissioner. [17.723]*

FACILITIES

Sec. 17. [18C.235] [CONTINGENCY PLAN FOR STORAGE OF BULK PRODUCTS.]

*Subdivision 1. [PLAN REQUIRED.] A person who stores fertilizers, soil amendment, or plant amendment products in bulk must develop and maintain a contingency plan that describes the storage, handling, disposal, and incident handling practices.*

*Subd. 2. [PLAN AVAILABILITY.] (a) The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request.*

*(b) The plan must be available for inspection by the commissioner.*

Sec. 18. [18C.301] [MIXING PESTICIDE WITH FERTILIZER, SOIL AMENDMENT, OR PLANT AMENDMENT.]

*A distributor who blends, mixes, or otherwise adds pesticides to fertilizers, soil amendments, or plant amendments must:*

*(1) be licensed under section 35; and*

*(2) comply with the provisions of chapter 18B and the federal Insecticide, Fungicide and Rodenticide Act, Public Law Number 92-516, as amended. [17.72]*

**Sec. 19. [18C.305] [FERTILIZER FACILITIES AND EQUIPMENT.]**

*Subdivision 1. [CONSTRUCTION PERMIT.] A person must obtain a permit from the commissioner on forms provided by the commissioner before the person constructs or substantially alters:*

*(1) safeguards; or*

*(2) an existing facility or equipment used for the manufacture, blending, handling, or bulk storage of fertilizers, soil amendments, or plant amendments. The commissioner may not grant a permit for a site without safeguards that are adequate to prevent the escape or movement of the fertilizers from the site. [17.7155 s. 1]*

*Subd. 2. [PERMIT FEES.] (a) An application for a new facility must be accompanied by a nonrefundable application fee of \$100 for each location where fertilizer is stored.*

*(b) An application to substantially alter a facility or equipment must be accompanied by a nonrefundable \$50 fee.*

*(c) An application for safeguards shall be submitted without charge.*

*(d) In addition to the fees under paragraphs (a) and (b), a fee of \$250 must be paid by an applicant who begins construction or substantial alteration before a permit is issued. [17.7155 s. 2]*

*(e) An application for a facility that includes both fertilizers, as regulated under this chapter, and pesticides as regulated under chapter 18B shall pay only one application fee of \$100.*

**INCIDENTS**

**Sec. 20. [18C.401] [REPORT OF INCIDENTS REQUIRED.]**

*Subdivision 1. [REPORT TO COMMISSIONER.] A responsible party or an owner of real property must, on discovering an incident has occurred, immediately report the incident to the commissioner.*

*Subd. 2. [WRITTEN REPORT.] The responsible party must submit a written report of the incident to the commissioner in the form and by the time prescribed by the commissioner.*

**Sec. 21. [18C.405] [CORRECTIVE ACTION ORDERS.]**

*Subdivision 1. [CORRECTIVE ACTION ORDERS.] (a) After determining an incident has occurred, the commissioner may order the responsible party to take reasonable and necessary corrective actions.*

*(b) The commissioner shall notify the owner of real property where corrective action is ordered that access to the property will be required for the responsible party or the commissioner to take corrective action.*

*(c) A political subdivision may not request or order any person to take an action that conflicts with the corrective action ordered by the commissioner.*

*(d) The attorney general on request of the commissioner may bring an action to compel corrective action.*

*Subd. 2. [COMMISSIONER'S CORRECTIVE ACTIONS.] The commissioner may take corrective action if:*

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

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

*Subd. 3. [EMERGENCY CORRECTIVE ACTION.] (a) To assure an adequate response to an incident, the commissioner may take corrective action without following the procedures of subdivision 1 if the commissioner determines that the incident constitutes a clear and immediate danger requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment.*

*(b) Before taking an action under this subdivision, the commissioner must make all reasonable efforts, taking into consideration the urgency of the situation, to order a responsible party to take a corrective action and notify the owner of real property where the corrective action is to be taken.*

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

## **Sec. 22. [18C.411] [LIABILITY FOR COSTS.]**

*Subdivision 1. [CORRECTIVE ACTION COSTS.] (a) A responsible party is liable for the costs including administrative costs for corrective action or emergency corrective action. The commissioner may issue an order for recovery of the costs.*

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

*Subd. 2. [OWNER OF REAL PROPERTY.] An owner of real property is not a responsible party for an incident on the owner's property unless that owner:*

*(1) was engaged in manufacturing, formulating, transporting, storing, handling, applying, distributing, or disposing of a fertilizer, plant amendment, or soil amendment on the property;*

*(2) knowingly permitted any person to make regular use of the property for disposal of fertilizers, plant amendments, or soil amendments; or*

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

*Subd. 3. [LIABILITY FOR APPLICATION.] (a) Notwithstanding other provisions relating to liability for fertilizer, plant amendment, or soil amendment use, an end user or landowner is not liable for the cost of active cleanup, or damages associated with or resulting from fertilizers, plant amendments, or soil amendments in groundwater if the person has applied or has had others apply fertilizers, plant amendments, or soil amendments in compliance with state law and orders of the commissioner.*

*(b) It is a complete defense for liability if the person has complied with the provisions in paragraph (a).*

*Subd. 4. [AVOIDANCE OF LIABILITY.] (a) A responsible party may not avoid liability by means of a conveyance of a right, title, or interest*



*in real property, or by an indemnification, hold harmless agreement, or similar agreement.*

*(b) The subdivision does not:*

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

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

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

*Subd. 5. [DEFENSE.] As a defense to a penalty or liability for damages, a person may prove that a violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or a combination of these defenses.*

**Sec. 23. [18C.415] [APPORTIONMENT OF LIABILITY AND CONTRIBUTION.]**

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

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

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

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

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

*(4) the degree of involvement of and care exercised by the responsible party in manufacturing, formulating, handling, storing, distributing, transporting, applying, and disposing of the fertilizer, plant amendment, or soil amendment;*

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

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

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

## INSPECTION AND ENFORCEMENT

## Sec. 24. [18C.501] [INSPECTION, SAMPLING, ANALYSIS.]

*Subdivision 1. [ACCESS AND ENTRY.] (a) The commissioner, upon presentation of official department credentials, must be granted access at reasonable times without delay to sites:*

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

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

*(b) The commissioner may enter sites for:*

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

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

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

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

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

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

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

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

*(9) other purposes necessary to implement this chapter.*

*(c) The commissioner may enter any public or private premises during or after regular business hours without a notice of inspection when a suspected incident may threaten public health or the environment.*

*Subd. 2. [NOTICE OF INSPECTION SAMPLES AND ANALYSES.] (a) The commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge.*

*(b) The methods of sampling and analysis must be those adopted by the association of official analytical chemists. In cases not covered by those methods, or in cases where methods are available in which improved applicability has been demonstrated, the commissioner may adopt appropriate methods from other sources.*

*(c) In sampling a lot of fertilizer, soil amendment, or plant amendment that is registered, a single package may constitute the official sample.*

*Subd. 3. [INSPECTION REQUESTS BY OTHERS.] (a) A person who*

*believes that a violation of this chapter has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, state with reasonable particularity the grounds for the notice, and be signed by the person making the request.*

*(b) If after receiving a notice of violation the commissioner reasonably believes that a violation has occurred, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if a violation has occurred.*

*(c) An inspection conducted pursuant to a notice under this subdivision may cover an entire site and is not limited to the portion of the site specified in the notice. If the commissioner determines that reasonable grounds to believe that a violation occurred do not exist, the commissioner must notify the person making the request in writing of the determination.*

**Subd. 4. [ORDER TO ENTER AFTER REFUSAL.]** *After a refusal or an anticipated refusal based on a prior refusal to allow entrance on a prior occasion by an owner, operator, or agent in charge to allow entry as specified in this chapter, the commissioner may apply for an order in the district court in the county where a site is located, that compels a person with authority to allow the commissioner to enter and inspect the site.*

**Subd. 5. [VIOLATOR LIABLE FOR INSPECTION COSTS.]** *(a) If an inspection or investigation reveals that a violation of this chapter has occurred, the commissioner may require the person who has violated the provisions of this chapter to pay the commissioner for the reasonable costs incurred by the commissioner in that inspection or investigation.*

*(b) The commissioner may enter an order for recovery of the inspection and investigation costs.*

**Subd. 6. [INVESTIGATION AUTHORITY.]** *(a) In making inspections under this chapter, the commissioner may administer oaths, certify official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and production of papers, books, documents, records, and testimony.*

*(b) If a person fails to comply with a subpoena, or a witness refuses to produce evidence or to testify to a matter about which the person may be lawfully questioned, the district court shall, on application of the commissioner, compel obedience proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify in court.*

## **Sec. 25. [18C.505] [ENFORCEMENT.]**

**Subdivision 1. [ENFORCEMENT REQUIRED.]** *(a) The commissioner shall enforce this chapter.*

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

**Subd. 2. [COMMISSIONER'S DISCRETION.]** *If minor violations of this chapter occur or when the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this chapter*

*does not require the commissioner to:*

- (1) report the violation for prosecution;*
- (2) institute seizure proceedings; or*
- (3) issue a withdrawal from distribution or stop-sale order. [17.728 s. 3]*

*Subd. 3. [CIVIL ACTIONS.] Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and agreement by the attorney general.*

*Subd. 4. [INJUNCTION.] The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of this chapter.*

*Subd. 5. [CRIMINAL ACTIONS.] For a criminal action, the county attorney from the county where a criminal violation occurred is responsible for prosecuting a violation of this chapter. If the county attorney refuses to prosecute, the attorney general on request of the commissioner may prosecute.*

*Subd. 6. [CUSTOM APPLICATION; VICARIOUS LIABILITY.] Persons who custom apply a fertilizer, soil amendment, or plant amendment are civilly liable for violations of this chapter by their employees and agents.*

#### **Sec. 26. [18C.511] [ADMINISTRATIVE ACTION.]**

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

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

*Subd. 3. [CANCELLATION OF REGISTRATION.] (a) The commissioner may cancel the registration of a specialty fertilizer, soil amendment, or plant amendment or refuse to register a brand of specialty fertilizer, soil amendment, or plant amendment after receiving satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of this chapter.*

*(b) Registration may not be revoked until the registrant has been given opportunity for a hearing by the commissioner. [17.728 s. 1]*

*Subd. 4. [CANCELLATION OF LICENSE.] (a) The commissioner may cancel a license issued under this chapter after receiving satisfactory evidence that the licensee has used fraudulent and deceptive practices in the evasion or attempted evasion of the provisions of this chapter.*

*(b) A license may not be revoked until the licensee has been given opportunity for a hearing by the commissioner. [17.728 s. 2]*

*Subd. 5. [CANCELLATION OF FACILITY AND EQUIPMENT*

APPROVAL.] (a) *The commissioner may cancel the approval of a facility or equipment if:*

*(1) hazards to people's lives, adjoining property, or the environment exist; or*

*(2) satisfactory evidence that the person to whom the approval was issued has used fraudulent or deceptive practices to evade or attempt to evade the provisions of this chapter.*

*(b) An approval may not be canceled until the person has been given an opportunity for a hearing by the commissioner. [17.728 s. 2a]*

Subd. 6. [SERVICE OF ORDER OR NOTICE.] (a) *If a person is not available for service of an order, the commissioner may attach the order to the fertilizer or soil amendment and plant amendment container, rinsate, equipment, or device or facility and notify the owner, custodian, other responsible party, or registrant.*

*(b) The fertilizer, soil amendment, or plant amendment container, rinsate, equipment, or device may not be sold, used, or removed until the fertilizer, soil amendment, or plant amendment container, rinsate, equipment, or device has been released under conditions specified by the commissioner, by an administrative law judge, or by a court.*

Sec. 27. [18C.515] [DAMAGES AGAINST STATE FOR ADMINISTRATIVE ACTION WITHOUT CAUSE.]

*If the commissioner did not have probable cause for an administrative action, including the issuance of a stop-sale, stop-use, or removal order, a court may allow recovery for damages caused by the administrative action.*

Sec. 28. [18C.521] [ADMINISTRATIVE PENALTIES.]

Subdivision 1. [ASSESSMENT.] (a) *In determining the amount of the administrative penalty, the commissioner must consider the size of the violator's business, the gravity of the violation in terms of actual or potential damage to human health and the environment, and the violator's culpability, good faith, and history of violations.*

*(b) The commissioner may assess an administrative penalty of up to \$5,000 per day for a violation of a corrective action order or remedial action order.*

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

Subd. 2. [COLLECTION OF PENALTY.] (a) *If a person subject to an administrative penalty fails to pay the penalty, which must be part of a final order by the commissioner, by 30 days after the final order is issued, the commissioner may commence a civil action for double the assessed penalty plus attorney fees and costs.*

*(b) An administrative penalty may be recovered in a civil action in the name of the state brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office.*

**Sec. 29. [18C.525] [APPEAL OF COMMISSIONER'S ORDERS.]**

*Subdivision 1. [NOTICE OF APPEAL.] (a) After service of an order, a person has 45 days from receipt of the order to notify the commissioner in writing that the person intends to contest the order.*

*(b) If the person fails to notify the commissioner that the person intends to contest the order, the order is a final order of the commissioner and not subject to further judicial or administrative review.*

*Subd. 2. [ADMINISTRATIVE REVIEW.] If a person notifies the commissioner that the person intends to contest an order issued under this chapter, the state office of administrative hearings shall conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings in contested cases.*

*Subd. 3. [JUDICIAL REVIEW.] Judicial review of a final decision in a contested case is available as provided in chapter 14.*

*Subd. 4. [RECOVERY OF LEGAL EXPENSES.] The prevailing party may recover reasonable legal expenses incurred in a contested case or an appeal from a contested case. The certification of expenses is prima facie evidence that the expenses are reasonable and necessary.*

**Sec. 30. [18C.531] [CIVIL PENALTIES.]**

*Subdivision 1. [GENERAL PENALTY.] Except as provided in subdivisions 2 and 3, a person who violates this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner is subject to a civil penalty of up to \$10,000 per day of violation as determined by the court.*

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

*Subd. 3. [DEFENSE TO CIVIL REMEDIES AND DAMAGES.] As a defense to a civil penalty or claim for damages under subdivisions 1 and 2, the defendant may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.*

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

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

*Subd. 6. [RECOVERY OF LITIGATION COSTS AND EXPENSES.] In an action brought by the attorney general or a county attorney in the name of the state under this chapter for civil penalties or injunctive relief, or in an action to compel compliance, if the state finally prevails, the state, in addition to other penalties provided in this chapter, must be allowed an*

*amount determined by the court to be the reasonable value of all or a part of the litigation expenses including attorney fees incurred by the state or county attorney. In determining the amount of these litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.*

**Sec. 31. [18C.535] [CRIMINAL PENALTIES.]**

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

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

*Subd. 3. [VIOLATION WITH KNOWLEDGE.] A person is guilty of a gross misdemeanor if the person knowingly violates a provision of this chapter or a standard, special order, stipulation, agreement, or schedule of compliance of the commissioner.*

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

**REGISTRATION AND LICENSING**

**Sec. 32. [18C.601] [GENERAL LICENSING AND REGISTRATION CONDITIONS.]**

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

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

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

*(1) the application for license or registration is not complete;*

*(2) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents will not or is not likely to produce the results or effects claimed if used as directed;*

(3) *the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents is not useful in this state; or*

(4) *the facility does not properly safeguard for bulk storage.*

Subd. 4. [CONDITIONAL LICENSE AND REGISTRATION.] (a) *After reviewing an application accompanied by the application fee, the commissioner may issue a conditional license or registration:*

(1) *to prevent unreasonable adverse effects on the environment; or*

(2) *if the commissioner determines that the applicant needs the license or registration to accumulate information necessary to substantiate claims; or*

(3) *to correct minor label violations.*

(b) *The commissioner may prescribe terms, conditions, and a limited period of time for the conditional license or registration.*

(c) *The commissioner may revoke or modify a conditional license or registration if the commissioner finds that the terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.*

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

### Sec. 33. [18C.605] [PROTECTION OF TRADE SECRETS.]

Subdivision 1. [NOTATION OF PROTECTED INFORMATION.] *In submitting data required by this chapter, the applicant may:*

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

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

### Subd. 2. [PROTECTION OF INFORMATION BY COMMISSIONER.]

(a) *After consideration of the applicant's request submitted under subdivision 1, the commissioner may not allow the information to become public that the commissioner determines to contain or relate to trade secrets or to commercial or financial information obtained from an applicant. If necessary, information relating to formulas of products may be revealed to a state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the commissioner.*

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

### Sec. 34. [18C.611] [REGISTRATION OF SPECIALTY FERTILIZERS.]



## SOIL AMENDMENTS, AND PLANT AMENDMENTS.]

*Subdivision 1. [REGISTRATION REQUIRED.] (a) A person may not sell brands or grades of specialty fertilizers, soil amendments, or plant amendments in this state unless they are registered with the commissioner. [17.714 s. 1]*

*(b) Registration of the materials is not a warranty by the commissioner or the state. [17.714 s. 6]*

*(c) Specialty fertilizers custom applied are exempt from the registration requirements of this section.*

*Subd. 2. [APPLICATION.] The application for registration must include:*

*(1) for specialty fertilizers:*

*(i) the name and address of the guarantor and registrant;*

*(ii) the brand and grade;*

*(iii) the guaranteed analysis as required by section 12;*

*(iv) the sources from which nitrogen, phosphorus, potassium or other elements or materials are derived; and*

*(v) the amount and formulas of inert ingredients; and*

*(2) for soil amendments and plant amendments:*

*(i) the name and address of the guarantor and registrant;*

*(ii) the brand name;*

*(iii) the sources from which the ingredients used in the product are derived; and*

*(iv) the guaranteed analysis as required by section 12. [17.714 s. 2]*

*Subd. 3. [COPY OF LABEL, AND LABELING MATERIAL.] Application for registration of a specialty fertilizer, a soil amendment, or a plant amendment must include:*

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

*(2) a copy of all labeling material used in this state for promotion and sale of each product being registered. [17.714 s. 3]*

*Subd. 4. [YEARLY REGISTRATION.] A registration is effective until January 1 following the date of issuance or approval. A product registration is not transferable from one person to another or from the ownership to whom the registration is issued to another ownership. [17.714 s. 5]*

**Sec. 35. [18C.615] [FERTILIZER LICENSES.]**

*Subdivision 1. [LICENSE REQUIRED.] (a) A person may not sell, distribute, custom apply, or otherwise manipulate fertilizers without obtaining a license from the commissioner from each fixed location where the person does business within the state and one license for all fixed locations that are located outside of the state. [17.715 s. 1, 2]*

*(b) A distributor may not manipulate fertilizer by means of a mobile mechanical unit without a license from the commissioner for each mobile mechanical unit. [17.715 s. 3]*

*Subd. 2. [COPY OF LABEL AND LABELING MATERIAL.] Application for license must include:*

*(1) a designation of the formula such as is provided on an invoice, delivery ticket, label, or label facsimile, for each product manufactured or formulated; and*

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

*Subd. 3. [EFFECTIVE PERIOD.] A license for a retail fertilizer handler is for the period from July 1 to the following June 30 and must be renewed annually by the licensee before July 1. Other licenses are for the period from January 1 to the following December 31 and must be renewed annually by the licensee before January 1. A license is not transferable from one person to another, from the ownership to whom issued to another ownership, or from one location to another location. [17.715 s. 4]*

*Subd. 4. [POSTING OF LICENSE.] The license must be posted in a conspicuous place in each fixed location in this state and accompany each mobile mechanical unit operated in this state. [17.715 s. 5]*

**Sec. 36. [18C.621] [DISTRIBUTOR'S TONNAGE REPORT.]**

*Subdivision 1. [SEMIANNUAL STATEMENT.] (a) Each licensed distributor of fertilizer except a retail fertilizer handler and each registrant of a specialty fertilizer, soil amendment, or plant amendment must file a semiannual statement for the periods ending December 31 and June 30 with the commissioner on forms furnished by the commissioner stating the number of net tons of each brand or grade of fertilizer, soil amendment, or plant amendment distributed in this state during the reporting period.*

*(b) A report from a licensee who sells to an ultimate consumer must be accompanied by records or invoice copies indicating the name of the distributor who paid the inspection fee, the net tons received, and the grade or brand name of the products received.*

*(c) The report is due on or before the last day of the month following the close of each reporting period of each calendar year.*

*(d) The inspection fee at the rate stated in section 37, subdivision 6, must accompany the statement. [17.718 s. 1]*

*Subd. 2. [ADDITIONAL REPORTS.] The commissioner may by rule require additional reports for the purpose of gathering statistical data relating to fertilizer, soil amendments, and plant amendments distribution in the state. [17.718 s. 1]*

*Subd. 3. [LATE REPORT AND FEE PENALTY.] (a) If a distributor does not file the semiannual statement or pay the inspection fees by 31 days after the end of the reporting period, the commissioner shall assess a penalty of the greater of \$25 or ten percent of the amount due against the licensee or registrant.*

*(b) The fees due, plus the penalty, may be recovered in a civil action against the licensee or registrant.*

*(c) The assessment of the penalty does not prevent the commissioner from taking other actions as provided in this chapter. [17.718 s. 1]*

*Subd. 4. [RESPONSIBILITY FOR INSPECTION FEES.] If more than one person is involved in the distribution of a fertilizer, soil amendment,*

or plant amendment, the distributor who imports, manufactures, or produces the fertilizer or who has the specialty fertilizer, soil amendment, or plant amendment registered is responsible for the inspection fee on products produced or brought into this state. The distributor must separately list the inspection fee on the invoice to the licensee. The last licensee must retain the invoices showing proof of inspection fees paid for three years and must pay the inspection fee on products brought into this state before July 1, 1989, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer. [17.718 s. 2]

Subd. 5. [VERIFICATION OF STATEMENTS.] *The commissioner may verify the records on which the statement of tonnage is based.* [17.718 s. 3]

Sec. 37. [18C.625] [REGISTRATION, LICENSE, AND INSPECTION FEES.]

Subdivision 1. [APPLICATION FEES.] (a) *An application for a retail fertilizer handler's license from each fixed location in the state must be accompanied by a \$25 fee.*

(b) *An application for other licenses for each fixed location to be covered by the license within the state must be accompanied by a \$100 fee.*

(c) *An application for a license for all fixed locations of a firm outside of the state must be accompanied by a fee of \$100.*

(d) *An application for a license to cover mobile mechanical units must be accompanied by a fee of \$100 for the first unit operated by one distributor and \$50 for each additional mobile mechanical unit.* [17.717 s. 1]

Subd. 2. [SPECIALTY FERTILIZER REGISTRATION.] *An application for registration of a specialty fertilizer must be accompanied by a registration fee of \$100 for each brand and grade to be sold or distributed as provided in section 34.* [17.717 s. 3]

Subd. 3. [SOIL AMENDMENT AND PLANT AMENDMENT REGISTRATION.] *An application for registration of a soil amendment or plant amendment must be accompanied by a registration fee of \$200 for each brand sold or distributed as provided in section 34.* [17.717 s. 4]

Subd. 4. [FEE FOR LATE APPLICATION.] *If an application for renewal of a fertilizer license or registration of a specialty fertilizer, soil amendment, or plant amendment is not filed before January 1 or July 1 of a year, as required, an additional application fee of one-half of the amount due must be paid before the renewal license or registration may be issued.* [17.717 s. 4a]

Subd. 5. [FEE FOR PRODUCT USE WITHOUT INITIAL REGISTRATION OR LICENSE.] *An additional application fee equal to the amount due must be paid by an applicant for each license or registration required for products distributed or used in this state before an initial license or registration for the products distributed or used is issued by the commissioner.*

Subd. 6. [INSPECTION FEES.] *A person who sells or distributes fertilizers, soil amendments, or plant amendments in this state must pay an inspection fee amounting to the greater of 15 cents per ton of fertilizer, soil amendment, and plant amendment sold or distributed in this state or \$10. Products sold or distributed to manufacturers or exchanged between*

*them are exempt from the inspection fee imposed by this subdivision if the products are used exclusively for manufacturing purposes. [17.717 s. 5]*

#### INDUSTRIAL BY-PRODUCT SOIL BUFFERING MATERIALS

Sec. 38. [18C.701] [DEFINITIONS.]

*Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 38 to 43. [17.7241 s. 1]*

*Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of agriculture. [17.7241 s. 2]*

*Subd. 3. [INDUSTRIAL BY-PRODUCT SOIL BUFFERING MATERIAL.] "Industrial by-product soil buffering material" means an industrial waste or by-product or the by-product of municipal water treatment processes containing calcium or magnesium or both in a form that may neutralize soil acidity. [17.7241 s. 3]*

*Subd. 4. [LIMESTONE.] "Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity. [17.7241 s. 4]*

*Subd. 5. [SOIL BUFFERING MATERIALS.] "Soil buffering materials" means materials whose calcium or magnesium or both are capable of neutralizing soil acidity. [17.7241 s. 5]*

*Subd. 6. [STOCKPILE.] "Stockpile" means a supply of agricultural soil buffering material stored for future use. [17.7241 s. 6]*

*Subd. 7. [TNP.] "TNP" means total neutralizing power and is the number of pounds of neutralizing value in one ton of a soil buffering material. [17.7241 s. 7]*

Sec. 39. [18C.705] [SOIL BUFFERING DEMONSTRATION PROJECT AND STUDY.]

*Subdivision 1. [PURPOSE.] The purpose of the demonstration project required under sections 38 to 43 is to identify appropriate and mutually beneficial methods for the use of industrial by-product soil buffering materials. Proper use will minimize current waste disposal problems, provide a market for an underutilized resource, and make available to farmers an effective, low-cost soil buffering product. [17.7242 s. 1]*

*Subd. 2. [AUTHORITY.] The commissioner shall coordinate the design and implementation of a demonstration project to examine the technical feasibility, economic benefits, and environmental impacts of using industrial by-product soil buffering materials as a substitute for limestone and other traditional soil buffering materials. [17.7242 s. 2]*

*Subd. 3. [PROCEDURES DEVELOPED.] The demonstration project must identify and recommend as proposed standards appropriate procedures for the sampling, analysis, TNP labeling, storage, stockpiling, transportation, and application of industrial by-product soil buffering materials. After TNP labeling standards have been established, they must be provided to the landowner or tenant prior to land application or stockpiling. [17.7242 s. 3]*

*Subd. 4. [SCOPE.] The demonstration project must be on a scale deemed by the commissioner to be efficient and manageable while providing the greatest practicable use of industrial by-product soil buffering materials*

for agricultural purposes. [17.7242 s. 4]

Sec. 40. [18C.711] [RESPONSIBILITIES OF THE COMMISSIONER.]

*Subdivision 1. [BROAD PARTICIPATION.] The commissioner shall seek participation in the demonstration project by other persons, institutions, and organizations having an interest in soil buffering materials and industrial by-product soil buffering materials including the pollution control agency, one or more counties, one or more soil and water conservation districts, and the University of Minnesota. [17.7243 s. 1]*

*Subd. 2. [PUBLIC EDUCATION.] The commissioner shall seek to maximize the public education benefit of the demonstration program. [17.7243 s. 2]*

Sec. 41. [18C.715] [ENVIRONMENTAL CONTROLS.]

*Subdivision 1. [SAMPLING AND ANALYSIS.] The commissioner and the commissioner's agents may sample, inspect, make analysis of, and test industrial by-product soil buffering materials used in the demonstration project and study at a time and place and to an extent the commissioner considers necessary to determine whether the industrial by-product soil buffering materials are suitable for the project. The commissioner and the commissioner's agents may enter public or private premises where demonstration projects are being conducted in order to have access to:*

- (1) soil buffering materials used in the demonstration project;*
- (2) sampling of sites actually or reportedly exposed to industrial by-product soil buffering materials;*
- (3) inspection of storage, handling, transportation, use, or disposal areas of industrial by-product soil buffering materials;*
- (4) inspection or investigation of complaints of injury to humans, wildlife, domesticated animals, crops, or the environment;*
- (5) observation of the use and application of the soil buffering material;*
- (6) inspection of records related to the production, transportation, stockpiling, use, or disposal of industrial by-product soil buffering material; and*
- (7) other purposes necessary to implement sections 38 to 43. [17.7244 s. 1]*

*Subd. 2. [RECEIPT AND REPORT ON SAMPLES.] Before leaving inspected premises, the commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge. [17.7244 s. 2]*

*Subd. 3. [EMERGENCY INSPECTION.] The commissioner and the commissioner's agents may enter public or private property without a notice of inspection if a suspected incident involving industrial by-product soil buffering materials may threaten public health or the environment. [17.7244 s. 3]*

Sec. 42. [18C.721] [REPORT.]

*The commissioner shall report to the committees on agriculture of the house of representatives and senate on March 1 of each year, about the activities, findings, and recommendations related to the demonstration*

project. [17.7245]

Sec. 43. [18C.725] [EXEMPTION.]

*Sections 38 to 43 do not apply to industrial by-product soil buffering material produced at a facility if the University of Minnesota, North Central Experimental Station, has conducted a study of the material at that facility. [17.7246]*

Sec. 44. [CROP CONSULTANT CERTIFICATION.]

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

Sec. 45. [FERTILIZER PRACTICES.]

*Subdivision 1. [COMMISSIONER'S DUTIES.] The commissioner shall:*

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

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

*(3) appoint a task force to study the effects and impact on water resources from nitrogen fertilizer use so that best management practices, a fertilizer management plan, and nitrogen fertilizer use regulations can be developed.*

*Subd. 2. [TASK FORCE.] (a) The task force must include farmers, representatives from farm organizations, the fertilizer industry, University of Minnesota, environmental groups, representatives of local government involved with comprehensive local water planning, and other state agencies, including the pollution control agency, the department of health, the department of natural resources, the state planning agency, and the board of water and soil resources.*

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

*(c) The task force shall report its recommendations to the commissioner by May 1, 1990. The commissioner shall report to the environmental quality board by July 1, 1990, on the task force's recommendations. The recommendations of the task force shall be incorporated into an overall nitrogen plan prepared by the pollution control agency and the department of agriculture.*

Sec. 46. [REPEALER.]

*Minnesota Statutes 1988, sections 17.711; 17.712; 17.713; 17.714; 17.715; 17.7155; 17.716; 17.717; 17.718; 17.719; 17.72; 17.721; 17.722;*

17.723; 17.7241; 17.7242; 17.7243; 17.7244; 17.7245; 17.7246; 17.725; 17.726; 17.727; 17.728; 17.7285; 17.729; and 17.73 are repealed.

*Sections 38 to 43 are repealed June 30, 1991.*

## ARTICLE 8

### CHAPTER 18D

#### AGRICULTURAL CHEMICAL INCIDENT RESPONSE FUND

##### Section 1. [18D.01] [CITATION.]

*This chapter may be cited as the agricultural chemical incident response fund.*

##### Sec. 2. [18D.02] [DEFINITIONS.]

*Subdivision 1. [DEFINITIONS IN CHAPTER 18B AND 18C APPLY.] The definitions contained in chapters 18B and 18C apply to this chapter.*

*Subd. 2. [AGRICULTURAL CHEMICAL.] "Agricultural chemical" means pesticide, fertilizer, plant amendment, or soil amendment.*

*Subd. 3. [FUND.] "Fund" means the agricultural chemical incident response fund.*

*Subd. 4. [ELIGIBLE PERSON.] "Eligible person" means a responsible party or an owner of real property.*

*Subd. 5. [WHOLESALE SALE.] "Wholesale sale" means a sale of agricultural chemicals to a retailer, or to a person or entity who applies the agricultural chemical if the agricultural chemical is not bought from a retailer.*

##### Sec. 3. [18D.03] [AGRICULTURAL CHEMICAL INCIDENT RESPONSE FUND.]

*Subdivision 1. [ESTABLISHMENT.] (a) The agricultural chemical incident fund is established as a fund in the state treasury.*

*(b) The fund consists of an incident response account and a response reimbursement account.*

*Subd. 2. [INCIDENT RESPONSE ACCOUNT.] (a) Money in the incident response account may only be used for:*

*(1) payment to the commissioner of finance to credit the response account in the environmental response, compensation, and compliance fund under section 115B.20, subdivision 1;*

*(2) to pay for the commissioner's responses to incidents under chapters 18B and 18C that are not eligible for payment under section 115B.20, subdivision 2; and*

*(3) to pay for emergency responses that are otherwise unable to be funded.*

*(b) Money in the incident response account is appropriated to the commissioner to make payments as provided in this subdivision.*

*Subd. 3. [INCIDENT RESPONSE FEE.] (a) The commissioner shall impose an incident response fee on registration of pesticides under chapter 18B and registration of fertilizers, plant amendments, and soil amendments under chapter 18C. For fertilizers that are not registered under chapter*

18C, an incident response fee shall be imposed on each brand or grade of fertilizer, soil amendment, or plant amendment distributed in the state and required to be listed on a licensee's tonnage report under chapter 18C. The commissioner shall charge the incident response fee as part of the registration fee of the agricultural chemicals. The commissioner shall determine the amount of the incident response fee, notwithstanding section 16A.128, based on:

(1) the amount needed to reimburse the response account of the environmental response, compensation, and compliance fund under section 115B.20, subdivision 1;

(2) the amount needed to maintain an emergency response balance in the account of \$1,000,000;

(3) the amount estimated to be needed for responses to incidents as provided in subdivision 2, clause (2); and

(4) for the amount of the incident response fee charged for each agricultural chemical registered, the amount of active ingredients of the agricultural chemical used in this state as determined by the commissioner, but the incident response fee charged may not be less than \$25 per agricultural chemical or more than \$3,000, except the incident response fee may exceed \$3,000 for agricultural chemicals containing a substance for which the United States Environmental Protection Agency has announced a health advisory in the federal register.

(b) Money from the incident response fee shall be deposited in the fund and credited to the incident response account.

Subd. 4. [RESPONSE REIMBURSEMENT ACCOUNT.] Money in the response reimbursement account may only be used for reimbursement or payment of the reasonable and necessary costs incurred by a responsible party taking a corrective action as provided under section 4.

Subd. 5. [RESPONSE REIMBURSEMENT FEE.] (a) A response reimbursement fee is imposed on the weight or volume of agricultural chemicals sold by wholesale sales to a person or other entity in this state. The commissioner must determine the amount of fee, notwithstanding section 16A.128, based on:

(1) the amount needed for reimbursement of response costs under section 4; and

(2) the amount needed to maintain a minimum balance in the account of \$1,000,000.

(b) The commissioner shall set the response reimbursement fee on an annual basis as a rate per weight or volume of agricultural chemical sold. The rate shall be based on the amount of active ingredients in the agricultural chemical. The response reimbursement fee may not be less than \$25 for each agricultural chemical sold by a person or entity at wholesale or more than \$3,000, except the response reimbursement fee may exceed \$3,000 for an agricultural chemical containing a substance for which the United States Environmental Protection Agency has announced a health advisory in the federal register.

(c) The commissioner must reduce or eliminate the response reimbursement fee if the balance in the account exceeds \$5,000,000.



*(d) The commissioner of revenue shall collect the response reimbursement fee on a quarterly basis and has the collection and enforcement authority to collect the fee as if it were a tax under chapter 297 or 297A.*

*(e) The money collected from the response reimbursement fee shall be deposited in the fund and credited to the incident reimbursement account.*

*Subd. 6. [REVENUE SOURCES.] (a) Revenue from the following sources must be deposited in the state treasury and credited to the fund:*

*(1) the proceeds of the fees imposed by subdivisions 3 and 5;*

*(2) money recovered by the state for expenses paid with money from the fund excluding reimbursements to the environmental response, compensation, and compliance fund under section 115B.20, subdivision 4, clause 4;*

*(3) interest attributable to investment of money in the fund; and*

*(4) money received by the commissioner in the form of gifts, grants other than federal grants, reimbursements, and appropriations from any source intended to be used for the purposes of the fund.*

*(b) Money deposited in the fund shall be credited to the incident response account except for money collected from the response reimbursement fee under subdivision 5 and money recovered relating to response reimbursement payments under section 4, subdivision 6.*

**Sec. 4. [18D.04] [REIMBURSEMENT OR PAYMENT OF RESPONSE COSTS.]**

*Subdivision 1. [REIMBURSEMENT OF RESPONSE COSTS.] The commissioner shall reimburse an eligible person from the response reimbursement account for the reasonable and necessary costs incurred by the eligible person in taking corrective action as provided in subdivision 4, if the commissioner determines:*

*(1) the eligible person complied with corrective action orders issued to the eligible person by the commissioner; and*

*(2) the incident was reported as required in chapters 18B and 18C.*

*Subd. 2. [PAYMENT OF CORRECTIVE ACTION COSTS.] (a) On request by an eligible person, the commissioner may pay the eligible person for the reasonable and necessary cash disbursements for corrective action costs incurred by the eligible person as provided under subdivision 4 if the commissioner determines:*

*(1) the eligible person pays the first \$1,000 of the corrective action costs;*

*(2) the eligible person provides the commissioner with a sworn affidavit and other convincing evidence that the eligible person is unable to pay additional corrective action costs;*

*(3) the eligible person continues to assume responsibility for carrying out the requirements of corrective action orders issued to the eligible person or at once in effect; and*

*(4) the incident was reported as required in chapters 18B and 18C.*

*(b) An eligible person is not eligible for payment or reimbursement and must refund amounts paid or reimbursed by the commissioner if false*

*statements or misrepresentations are made in the affidavit or other evidence submitted to the commissioner to show an inability to pay corrective action costs.*

*Subd. 3. [PARTIAL REIMBURSEMENT.] If the commissioner determines that an incident was caused in part, but not entirely by a violation of chapter 18B or 18C, the commissioner shall reimburse or pay the corrective action costs of the eligible person based on the culpability of the eligible person and the percentage of the costs not attributable to the violation.*

*Subd. 4. [REIMBURSEMENT PAYMENTS.] (a) The commissioner shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the response reimbursement account for:*

*(1) 80 percent of the total reasonable and necessary corrective action costs greater than \$1,000 and less than \$100,000; and*

*(2) 100 percent of the total reasonable and necessary corrective action costs equal to or greater than \$100,000 but less than \$250,000.*

*(b) A reimbursement or payment may not be made until the commissioner has determined that the costs are reasonable and for a reimbursement that the costs were actually incurred.*

*(c) Money in the response reimbursement account is appropriated to the commissioner to make payments and reimbursements under this subdivision.*

*Subd. 5. [REIMBURSEMENT OR PAYMENT DECISIONS.] (a) The commissioner must issue an order granting or denying a request within 30 days following a request for reimbursement or for payment under subdivisions 1, 2, or 3.*

*(b) After an initial request is made for reimbursement notwithstanding subdivisions 1 to 4, the commissioner may deny additional requests for reimbursement.*

*(c) If a request is denied, the eligible person may appeal the decision as a contested case hearing under chapter 14.*

*Subd. 6. [SUBROGATION.] (a) If a person other than a responsible party is paid or reimbursed from the response reimbursement account as a condition of payment or reimbursement, the state is subrogated to the rights of action the person paid or reimbursed has against the responsible party. The commissioner shall collect the amounts from the responsible party and on request of the commissioner the attorney general shall bring an action to enforce the collection.*

*(b) Amounts collected under this subdivision must be deposited in the agriculture chemical incident response fund and credited to the response reimbursement account.*

#### **Sec. 5. [REIMBURSEMENT FOR INCIDENTS BEFORE THE EFFECTIVE DATE OF THIS ACT.]**

*(a) A responsible party in a pesticide or fertilizer incident which occurred before June 30, 1989, must be reimbursed for such costs as provided for under section 4, subdivision 4, if the person:*

*(1) has been issued a response order, remedial action, or other order by the commissioner;*

- (2) has entered into any response order by consent with the commissioner;*
- (3) has incurred costs associated with that response; and*
- (4) qualifies for reimbursement under section 4, subdivision 1.*

Sec. 6. Minnesota Statutes 1988, section 115B.20, is amended to read:

**115B.20 [ENVIRONMENTAL RESPONSE, COMPENSATION AND COMPLIANCE FUND.]**

**Subdivision 1. [ESTABLISHMENT.]** *(a) The environmental response, compensation and compliance fund is created as an account in the state treasury and may be spent only for the purposes provided in subdivision 2.*

*(b) The commissioner of finance shall administer a response account in the fund for the agency and the commissioner of agriculture to take removal, response, and other actions authorized under subdivision 2, clauses (1) to (4). Money deposited in the fund under subdivision 4, clauses (1) to (4), must be credited to the account. The commissioner of finance shall allocate money from the account to the agency and the commissioner of agriculture to take actions required under subdivision 2, clauses (1) to (4).*

*(c) The commissioner of finance shall annually determine:*

*(1) the amount of allocations made to the agency and to the commissioner of agriculture that are not reimbursed and will probably not be reimbursed;*

*(2) the percentage of nonreimbursed allocations made to the agency that has been paid for by the hazardous waste generator's tax under section 115B.22; and*

*(3) the amount if the percentage determined under clause (2) were multiplied times the nonreimbursed allocations made to the commissioner of agriculture.*

*(d) The commissioner of finance must notify the commissioner of agriculture of the amount determined in paragraph (c), clause (3), and the commissioner of agriculture must pay the amount from the incident response account from fees generated from the incident response fee on registration fees for agricultural chemicals under section 3.*

*(e) The commissioner of finance shall administer the account in a manner that allows the commissioner of agriculture and the agency to utilize the money in the account to implement their removal and remedial action duties as effectively as possible.*

**Subd. 2. [PURPOSES FOR WHICH MONEY MAY BE SPENT.]** Subject to appropriation by the legislature the money in the fund may be spent for any of the following purposes:

~~(a)~~ *(1) preparation by the agency and the commissioner of agriculture for taking removal or remedial action under section 115B.17, or under chapter 18B or 18C, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 115B.17 or 115B.18, or chapter 18B or 18C;*

~~(b)~~ *(2) removal and remedial actions taken or authorized by the agency or the commissioner of the pollution control agency under section 115B.17, or taken or authorized by the commissioner of agriculture under chapter*

*18B or 18C* including related enforcement and compliance efforts under section 115B.17 or 115B.18, *or chapter 18B or 18C*, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;

(e) (3) reimbursement to any private person for expenditures made before July 1, 1983 to provide alternative water supplies deemed necessary by the agency *or the commissioner of agriculture* and the department of health to protect the public health from contamination resulting from the release of a hazardous substance;

(d) (4) removal and remedial actions taken or authorized by the agency or the commissioner of *agriculture or the pollution control agency* under section 115B.17, *or chapter 18B or 18C*, including related enforcement and compliance efforts under section 115B.17 or 115B.18, *or chapter 18B or 18C*, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to commercial hazardous waste facilities located under the siting authority of chapter 115A;

(e) (5) compensation as provided by law, after submission by the waste management board of the report required under section 115A.08, subdivision 5, to mitigate any adverse impact of the location of commercial hazardous waste processing or disposal facilities located pursuant to the siting authority of chapter 115A;

(f) (6) planning and implementation by the commissioner of natural resources of the rehabilitation, restoration or acquisition of natural resources to remedy injuries or losses to natural resources resulting from the release of a hazardous substance;

(g) (7) inspection, monitoring and compliance efforts by the agency, or by political subdivisions with agency approval, of commercial hazardous waste facilities located under the siting authority of chapter 115A;

(h) (8) grants by the agency or the waste management board to demonstrate alternatives to land disposal of hazardous waste including reduction, separation, pretreatment, processing and resource recovery, for education of persons involved in regulating and handling hazardous waste;

(i) (9) intervention and environmental mediation by the legislative commission on waste management under chapter 115A; and

(j) (10) grants by the agency to study the extent of contamination and feasibility of cleanup of hazardous substances and pollutants or contaminants in major waterways of the state.

Subd. 3. [LIMIT ON CERTAIN EXPENDITURES.] The commissioner of *agriculture or the pollution control agency* or the agency may not spend any money under subdivision 2, clause (b) (2) or (d) (4) for removal or remedial actions to the extent that the costs of those actions may be compensated from any fund established under the Federal Superfund Act, United States Code, title 42, section 9600 et seq. The commissioner of *agriculture or the pollution control agency* or the agency shall determine the extent to which any of the costs of those actions may be compensated under the

federal act based on the likelihood that the compensation will be available in a timely fashion. In making this determination the commissioner of agriculture or the pollution control agency or the agency shall take into account:

(a) (1) the urgency of the removal or remedial actions and the priority assigned under the Federal Superfund Act to the release which necessitates those actions;

(b) (2) the availability of money in the funds established under the Federal Superfund Act; and

(c) (3) the consistency of any compensation for the cost of the proposed actions under the Federal Superfund Act with the national contingency plan, if such a plan has been adopted under that act.

Subd. 4. [REVENUE SOURCES.] Revenue from the following sources shall be deposited in the environmental response, compensation and compliance fund:

(a) (1) the proceeds of the taxes imposed pursuant to section 115B.22, including interest and penalties;

(b) (2) all money recovered by the state under sections 115B.01 to 115B.18 or under any other statute or rule related to the regulation of hazardous waste or hazardous substances, including civil penalties and money paid under any agreement, stipulation or settlement but excluding fees imposed under section 116.12;

(3) *an amount from the agricultural incident response account equivalent to the amount contributed under clause (1) that is used for removal and remedial actions under subdivision 2, clauses (1) to (4), as provided in subdivision 1, paragraph (d);*

(4) *recovered by the state under chapter 18B or 18C for removal or remedial actions that are recoverable under this chapter;*

(c) (5) all interest attributable to investment of money deposited in the fund; and

(d) (6) all money received in the form of gifts, grants, reimbursement or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants.

Subd. 5. [RECOMMENDATION BY LCWM.] The legislative commission on waste management *and the commissioner of agriculture* shall make recommendations to the standing legislative committees on finance and appropriations regarding appropriations from the fund.

Subd. 6. [REPORT TO LEGISLATURE.] ~~By November 1, 1984, and~~ *Each year thereafter, the commissioner of agriculture and the agency shall* submit to the senate finance committee, the house appropriations committee and the legislative commission on waste management a report detailing the activities for which money from the environmental response, compensation and compliance fund has been spent during the previous fiscal year.

Sec. 7. [REVIEW OF PRIORITIES LIST.]

*The commissioner of agriculture in consultation with the pollution control agency shall review the priorities list under section 115B.17, subdivision 13, and evaluate the appropriateness of the ranking criteria for*

agricultural chemical releases, and how groundwater in the state is protected from agricultural chemical releases based on the priorities and use of the fund. The commissioner of agriculture shall prepare a report and submit it to the legislature by January 1, 1990.

ARTICLE 9

APPROPRIATION

Section 1. [APPROPRIATION.]

Subdivision 1. [BOARD OF WATER AND SOIL RESOURCES.]  
\$. . . . . is appropriated from the general fund to the board of water and soil resources for the following purposes:

- (a) Financial and technical assistance to public water supplies to delineate groundwater protection areas \$. . . . .
  - (b) Protection of groundwater recharge areas by conservation easements and limited easements \$. . . . .
  - (c) Local water resources protection and management program \$. . . . .
  - (d) Well sealing cost share program \$. . . . .
- The complement of the board of water and soil resources is increased by . . . positions.
- (e) For adoption, administration, and enforcement of shoreland ordinances \$. . . . .
  - (f) For development and implementation of comprehensive lake or river management strategies \$. . . . .

Subd. 2. [COMMISSIONER OF AGRICULTURE.] \$. . . . . is appropriated from the general fund to the commissioner of agriculture for the following purposes:

- (a) Development and implementation of pesticide management plan \$. . . . .
  - (b) Agricultural chemical revolving loan fund \$. . . . .
  - (c) Development and adoption of agriculture best management practices for agricultural chemicals and practices \$. . . . .
  - (d) Establishment and management of waste pesticide program \$. . . . .
  - (e) Sustainable agriculture research and practices \$. . . . .
  - (f) Groundwater quality monitoring program \$. . . . .
- The complement of the department of agriculture is increased by . . . positions.

Subd. 3. [COMMISSIONER OF HEALTH.] \$. . . . . is appropriated from the general fund to the commissioner of health for the following purposes:

(a) Setting recommended allowable levels for pollutants	\$ . . . . .
(b) Adoption of guidelines for protection of potable groundwater supplies	\$ . . . . .
(c) Development and implementation of wellhead protection program	\$ . . . . .
(d) Emergency well sealing	\$ . . . . .
<i>The complement of the department of health is increased by . . . positions.</i>	

*Subd. 4. [COMMISSIONER OF NATURAL RESOURCES.] \$ . . . . . is appropriated from the general fund to the commissioner of natural resources for the following purposes:*

(a) For developing and publishing geological atlases	\$ . . . . .
(b) For conducting and preparing maps of subregional hydrogeological surveys	\$ . . . . .

*Subd. 5. [ENVIRONMENTAL EDUCATION BOARD.] \$ . . . . . is appropriated from the general fund to the environmental education board to develop environmental education materials and curricula.*

*Subd. 6. [ENVIRONMENTAL QUALITY BOARD.] \$ . . . . . is appropriated from the general fund to the environmental quality board for the following purposes:*

(a) For designation and adoption of sensitive areas	\$ . . . . .
(b) For report on statewide research needs and coordination of data	\$ . . . . .

*Subd. 7. [POLLUTION CONTROL AGENCY.] \$ . . . . . is appropriated from the general fund to the pollution control agency for the following purposes:*

(a) For development of best management practices	\$ . . . . .
(b) For clean water partnership grants	\$ . . . . .
<i>The complement of the pollution control agency is increased by . . . positions.</i>	

*Subd. 8. [UNIVERSITY OF MINNESOTA.] \$ . . . . . is appropriated from the general fund to the University of Minnesota for the following purposes:*

(a) For environmental agriculturalist specialists in the Minnesota extension service	\$ . . . . .
(b) For the Minnesota geological survey for geological atlases and subregional hydrogeological surveys	\$ . . . . .
(c) For the agricultural experiment station for positions to oversee soil and water extraction processes, to plan and maintain plots, chemical management, herbicides, soil and water, and computer information	\$ . . . . .

*Subd. 9. [RESPONSE REIMBURSEMENT ACCOUNT.] \$ . . . . . is*

*appropriated from the general fund to the response reimbursement account to reimburse incidents occurring after July 1, 1987, and before June 30, 1989, under article 8, section 5."*

Delete the title and insert:

"A bill for an act relating to protection of groundwater; protecting sensitive areas; promoting and requiring certain best management practices; providing financial assistance for certain groundwater protection activities; authorizing local government groundwater and resource protection programs; establishing a legislative commission on water; providing for determination of water research needs; developing a water education curriculum; regulating wells, borings, and underground drillings and uses; regulating water conservation, water appropriations, and setting fees; establishing regulations, enforcing violations, and establishing civil and criminal penalties for violations relating to pesticide, fertilizer, soil amendment, and plant amendment manufacture, storage, sale, use, and misuse; providing a mechanism to aid cleanup and response to incidents relating to agricultural chemicals; providing a task force relating to sustainable agriculture; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, subdivisions 5, 12, 15, 19, 21, 26, 29, and by adding subdivisions; 18B.03, by adding a subdivision; 18B.04; 18B.07, subdivisions 2, 3, 4, and 6; 18B.08, subdivisions 1, 3, and 4; 18B.17, subdivision 2; 18B.18; 18B.20, subdivisions 1, 2, and 3; 18B.21; 18B.25, by adding a subdivision; 18B.26, subdivisions 1, 3, 5, and by adding a subdivision; 18B.31, subdivisions 3 and 5; 18B.32, subdivision 2; 18B.33, subdivisions 1, 3 and 7; 18B.34, subdivisions 1, 2 and 5; 18B.36, subdivisions 1 and 2; 18B.37, subdivisions 1, 2, 3, and 4; 40.42, by adding a subdivision; 40.43, subdivisions 2 and 6; 105.41, subdivisions 1, 1a, 1b, 5, and by adding a subdivision; 105.418; 110B.04, subdivision 6; 115B.20; 116C.41, subdivision 1; 116E.02; 116E.03; 144.381; 144.382, subdivision 1, and by adding a subdivision; and 473.877, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 3; 17; 18B; and 144; proposing coding for new law as Minnesota Statutes, chapters 18C; 18D; 103A; 103B; 103H; and 103I; repealing Minnesota Statutes 1988, sections 17.711 to 17.73; 18A.49; 18B.15; 18B.16; 18B.19; 84.57 to 84.621; 105.51, subdivision 3; and 156A.01 to 156A.11."

And when so amended the bill do pass and be re-referred to the Committee on Agriculture and Rural Development. Mr. Berg questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 1047: A resolution memorializing the President and the Congress of the United States to raise the Commodity Credit Corporation loan rate to target price levels to achieve the needed Agriculture budget reductions.

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

Page 1, line 13, delete "marked" and insert "market"

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



Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 1075: A bill for an act relating to education; allowing school districts to be considered providers under the state medical assistance plan; proposing coding for new law in Minnesota Statutes, chapter 124.

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

Delete everything after the enacting clause and insert:

“Section 1. [124.90] [MEDICAL ASSISTANCE PAYMENTS TO SCHOOL DISTRICTS.]

*Subdivision 1. [ELIGIBILITY.] A school district may enroll as a provider in the medical assistance program and receive medical assistance payments for covered special education services provided to persons eligible for medical assistance under chapter 256B. To receive medical assistance payments, the school district must comply with relevant provisions of state and federal statutes and regulations governing the medical assistance program.*

*Subd. 2. [FUNDING.] A school district that provides a covered service to an eligible person and complies with relevant requirements of the medical assistance program shall be entitled to receive payment for the service provided, including that portion of the payment that will subsequently be reimbursed by the federal government, in the same manner as other medical assistance providers. The school district is not required to provide matching funds or pay part of the costs of the service, as long as the rate charged for the service does not exceed medical assistance limits that apply to all medical assistance providers.*

*Subd. 3. [CONTRACT FOR SERVICES.] A school district may contract for the provision of medical assistance-covered services, and may contract with a third party agency to assist in administering and billing for these services.*

Sec. 2. [EFFECTIVE DATE.]

*Section 1 is effective July 1, 1989.”*

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 796: A bill for an act relating to education; prohibiting certain punishment in schools; providing for civil liability; proposing coding for new law in Minnesota Statutes, chapter 127.

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 1988, section 125.12, subdivision 8, is amended to read:

*Subd. 8. [IMMEDIATE DISCHARGE.] A school board may discharge a continuing-contract teacher, effective immediately, upon any of the following grounds:*

- (a) Immoral conduct, insubordination, or conviction of a felony;
- (b) Conduct unbecoming a teacher which requires the immediate removal of the teacher from classroom or other duties;
- (c) Failure without justifiable cause to teach without first securing the written release of the school board;
- (d) Gross inefficiency which the teacher has failed to correct after reasonable written notice;
- (e) Willful neglect of duty; or
- (f) Continuing physical or mental disability subsequent to a 12 months leave of absence and inability to qualify for reinstatement in accordance with subdivision 7; or
- (g) *Violation of section 3.*

Prior to discharging a teacher the board shall notify the teacher in writing and state its ground for the proposed discharge in reasonable detail. Within ten days after receipt of this notification the teacher may make a written request for a hearing before the board and it shall be granted before final action is taken. The board may, however, suspend a teacher with pay pending the conclusion of such hearing and determination of the issues raised therein after charges have been filed which constitute ground for discharge.

Sec. 2. Minnesota Statutes 1988, section 125.17, subdivision 4, is amended to read:

Subd. 4. [GROUNDS FOR DISCHARGE OR DEMOTION.] Causes for the discharge or demotion of a teacher either during or after the probationary period shall be:

- (1) Immoral character, conduct unbecoming a teacher, or insubordination;
- (2) Failure without justifiable cause to teach without first securing the written release of the school board having the care, management, or control of the school in which the teacher is employed;
- (3) Inefficiency in teaching or in the management of a school;
- (4) Affliction with active tuberculosis or other communicable disease shall be considered as cause for removal or suspension while the teacher is suffering from such disability; or
- (5) Discontinuance of position or lack of pupils; or
- (6) *Violation of section 3.*

Sec. 3. [127.45] [CORPORAL AND OTHER PUNISHMENTS PROHIBITED.]

*Subdivision 1. [DEFINITION.] For the purpose of this section, "corporal punishment" means conduct involving:*

- (1) *hitting or spanking a person with or without an object; or*
- (2) *unreasonable physical force that causes bodily harm or substantial emotional harm.*

*Subd. 2. [PROHIBITION.] An employee or agent of a public school district shall not inflict corporal punishment or cause corporal punishment to be inflicted upon a pupil to reform unacceptable conduct or as a penalty for unacceptable conduct."*

Amend the title as follows:

Page 1, line 3, delete “providing for civil liability” and insert “amending Minnesota Statutes 1988, sections 125.12, subdivision 8; and 125.17, subdivision 4;”

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 1145: A bill for an act relating to the education code; revising the text of certain chapters of the code without changing their meaning; amending Minnesota Statutes 1988, chapters 128; 128A; 128B; and 129; repealing Minnesota Statutes 1988, sections 128.04; 128.06; 128.069; 128A.04; 129.02; and 129.05 to 129.10.

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

Page 6, line 33, after “*money*” insert a comma

Page 6, line 34, after “*property*” insert a comma

Page 10, line 24, delete “*parents*” and insert “*parent or guardian*”

Page 19, line 14, strike “committee” and after the stricken “shall” insert “*council*”

Page 20, line 29, reinstate the stricken “to”

Page 20, line 30, delete “. *The agreement must be to*”

Page 25, line 36, delete “*get into*” and insert “*join*”

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. 809: A bill for an act relating to juveniles; including emotionally abused children among children in need of protection or services; amending Minnesota Statutes 1988, section 260.015, subdivision 2a, and by adding a subdivision.

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

Page 3, line 3, delete “*or*” and insert a comma

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. 525: A bill for an act relating to nonprofit corporations; providing for the organization, operation, and dissolution of nonprofit corporations; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 8.31, subdivision 1; 79A.09, subdivision 1; 257.03; 309.67; 319A.20; 354A.021, subdivision 2; and 469.144, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 317A; repealing Minnesota Statutes 1988, sections 317.01 to 317.69.

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

Page 2, line 21, delete "and" and insert ". A corporation may not"

Page 2, line 22, delete "is" and insert "be" and delete "not"

Page 2, line 25, delete "pays no" and insert "pay"

Page 3, line 14, delete "a shareholder of or"

Page 4, delete lines 15 to 19 and insert:

"Subd. 18. [RELATED ORGANIZATION.] *"Related organization" means an organization that controls, is controlled by, or is under common control with, another corporation. Control exists if an organization:*

*(1) owns, directly or indirectly, at least 50 percent of the stock ownership or membership interests of another organization;*

*(2) has the right, directly or indirectly, to elect, appoint, or remove 50 percent or more of the voting members of the governing body of another organization; or*

*(3) has the power, directly or indirectly, to direct or cause the direction of the management and policies of another organization, whether through the ownership of voting interests, by contract, or otherwise."*

Page 9, line 35, delete "chief executive officer and chief financial"

Page 9, line 36, delete "officer" and insert "president and treasurer"

Page 11, line 11, delete "chief executive officer" and insert "president"

Page 23, line 1, delete "corporation" and insert "organization"

Page 29, line 12, after "corporation" insert a comma

Page 34, line 15, after the comma, insert "or between its director and a related organization,"

Page 35, line 22, delete "corporations" and insert "organizations"

Page 36, line 35, delete "chief executive"

Page 36, line 36, delete "officer and chief financial officer" and insert "president and treasurer"

Page 37, line 5, delete "chief executive officer and chief financial officer" and insert "president and treasurer"

Page 37, line 7, delete "CHIEF EXECUTIVE OFFICER" and insert "PRESIDENT" and delete "chief executive"

Page 37, line 8, delete "officer" and insert "president"

Page 37, line 25, delete "CHIEF FINANCIAL OFFICER" and insert "TREASURER" and delete "chief financial"

Page 37, line 26, delete "officer" and insert "treasurer"

Page 37, line 36, delete "chief executive officer" and insert "president"

Page 38, line 1, delete "chief financial"

Page 38, line 2, delete "officer" and insert "treasurer"

Page 38, lines 4 and 24, delete "chief executive officer" and insert

*“president”*

Page 38, line 24, delete *“chief financial officer”* and insert *“treasurer”*

Page 39, line 11, delete *“chief”*

Page 39, line 12, delete *“executive officer or chief financial officer”* and insert *“president or treasurer”*

Page 40, line 32, after *“fixed”* insert *“or limited”*

Page 40, line 33, after *“of”* insert *“members or”* and after *“ classes”* insert *“of members”*

Page 43, line 17, delete *“chief executive officer or the chief financial officer”* and insert *“president or the treasurer”*

Page 44, line 2, delete *“chief executive officer and chief financial officer”* and insert *“president and treasurer”*

Page 44, line 18, delete *“chief executive officer”* and insert *“president”*

Page 44, line 19, delete *“chief financial officer”* and insert *“treasurer”*

Page 44, line 31, delete *“chief executive”*

Page 44, line 32, delete *“officer”* and insert *“president”*

Page 45, line 18, delete *“or the attorney general,”*

Page 45, line 23, delete the comma and insert *“or”*

Page 45, line 24, delete *“, or the attorney general,”*

Page 54, line 21, delete *“may”*

Page 54, line 24, after the comma, insert *“or by the attorney general, may”*

Page 54, line 25, delete *“attorneys”* and insert *“attorney”*

Page 54, line 36, delete *“corporation”* and insert *“organization”*

Page 55, lines 6 and 14, delete the second *“corporation”* and insert *“organization”*

Page 56, line 32, delete the second *“corporation”* and insert *“organization”*

Page 76, line 4, delete *“attorneys”* and insert *“attorney”*

Page 76, line 8, delete *“or”* and insert *“of the dissolving corporation or the rules or canons of”*

Page 77, line 14, delete *“and”* and insert a comma

Page 77, line 15, before the semicolon, insert *“, and the corporation or the parties have not provided for a procedure to resolve the dispute”*

Page 84, line 20, before *“The”* insert *“Except as provided in subdivision 6,”*

Page 85, after line 20, insert:

*“Subd. 6. [EXCEPTION.] Subdivisions 1 to 4 do not apply to a merger with, consolidation into, or transfer of assets to a corporation described in subdivision 1, clause (2), or to a transfer of assets to an organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, or any successor section. A corporation that is exempt under this*

*subdivision shall send a copy of the certificate of merger or certificate of consolidation and incorporation to the attorney general."*

Page 88, line 24, delete everything after "if" and insert "the information on"

Page 88, line 26, after "sections" insert a comma

Page 88, line 27, delete the first "the" and insert "equivalent"

Page 97, line 13, delete "317A.251" and insert "45"

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. 462: A bill for an act relating to judicial procedure; clarifying and recodifying tax court powers and procedures; making technical corrections and eliminating redundant and unnecessary language and obsolete references; amending Minnesota Statutes 1988, sections 270.07, subdivision 1; 270.10, by adding a subdivision; 271.01, subdivisions 1 and 5; 271.02; 271.04; 271.06, subdivisions 1, 2, 3, and 7; 271.061; 271.07; 271.13; 271.15; 271.17; 271.18; 271.21, subdivisions 2 and 10; 277.011, subdivision 7; 278.01, subdivision 1; 278.02; 278.05, subdivision 4; and 278.08, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 270; repealing Minnesota Statutes 1988, sections 271.01, subdivision 6; 271.21, subdivision 4; and 271.22.

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

Page 1, line 20, after "not" insert ", for a period of one year after the term of office has ended or employment has terminated."

Page 1, line 22, delete "for a"

Page 1, delete line 23

Page 1, line 24, delete everything before the period

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

Page 3, line 11, delete "shall also have" and insert "has"

Page 3, line 17, delete "shall"

Page 4, line 15, delete "shall" and insert "must"

Page 4, line 31, delete "shall be"

Page 4, line 32, delete "considered" and insert "is"

Page 5, line 10, delete "shall" and insert "must"

Page 11, line 7, delete everything after "rules"

Page 11, line 8, delete the first "rules" and delete "sections 14.29 to 14.36" and insert "chapter 14"

Pages 11 and 12, delete section 14

Page 15, line 32, delete "shall" and insert "must"

Page 18, lines 20 and 30, delete "shall" and insert "must"

Page 18, after line 30, insert:

"Sec. 26. Minnesota Statutes 1988, section 297.43, subdivision 1, is amended to read:

Subdivision 1. [PENALTY ON UNPAID TAX.] If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it ~~if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061,~~ there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 27. Minnesota Statutes 1988, section 297C.14, subdivision 1, is amended to read:

Subdivision 1. [PENALTY ON UNPAID TAX.] If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it ~~if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061,~~ there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate."

Page 18, line 32, before "*Minnesota*" insert "(a)"

Page 18, after line 33, insert:

*"(b) Minnesota Statutes 1988, sections 60A.151 and 271.061, are repealed.*

Sec. 29. [EFFECTIVE DATE.]

*Section 28, paragraph (b), is effective the day following final enactment and applies to appeals pending before the tax court and appeals filed on or after that date."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, before "and" insert ", modifying,"

Page 1, line 9, delete "271.061;"

Page 1, line 12, delete "and" and after the second semicolon, insert "297.43, subdivision 1; and 297C.14, subdivision 1;"

Page 1, line 15, after "sections" insert "60A.151;" and after "6;" insert "271.061;"

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

S.F. No. 712: A bill for an act relating to state lands; authorizing sale of certain tax-forfeited lands that border public waters in Pine 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. 661: A bill for an act relating to state lands; authorizing sale of certain tax-forfeited land that borders public water in Aitkin 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. 1271: A resolution memorializing the President and Congress to address problems in the solid waste stream caused by the amount and types of materials used to package consumer products.

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

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

S.F. No. 453: A bill for an act relating to state lands; authorizing sale of certain tax-forfeited lands that border public waters in Anoka county.

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

Page 1, line 15, after the period, insert "*For the land described in paragraph (c), clauses (3), (8), and (9), the deed issued by the commissioner of revenue must be subject to conservation easements. With regard to clause (3), the conservation easement shall apply only to the north 360 feet of the described parcel.*"

Page 2, line 10, after the second "*the*" insert "*west*"

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. 1269: A bill for an act relating to gambling; video games of chance; prohibiting cash awards; requiring notice to the public and to employees of the consequences of participating in cash awards; prescribing a penalty; amending Minnesota Statutes 1988, sections 349.51, subdivision 2; 349.53; and 349.56; proposing coding for new law in Minnesota Statutes, chapter 349.

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



Page 1, lines 12 and 22, delete "operator's" and insert "owner's"

Page 1, line 19, delete "operator" and insert "owner"

Page 1, line 26, delete "GROSS" and after "awards" insert "or receives"

Page 2, line 1, delete "gross" and delete "operator" and insert "owner"

Page 2, line 5, delete "SENTENCE" and insert "PENALTY"

Page 2, line 7, delete everything after the first "of" and insert "\$700."

Page 4, after line 12, insert:

"Sec. 6. [EFFECTIVE DATE.]

*Section 2 is effective August 1, 1989, and applies to crimes committed on or after that date."*

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. 858: A bill for an act relating to health; authorizing community health boards to establish health promotion teams; prescribing duties; authorizing the commissioner of health to fund these teams; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145A.

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 1988, section 145A.10, is amended by adding a subdivision to read:

*Subd. 5a. [HEALTH PROMOTION TEAM.] (a) The community health board may establish a community-based health promotion team made up of representatives of business and industry, public health, labor, voluntary agencies, hospitals, medical clinics, churches, media, schools, civic groups, local government and elected officials, nursing homes, consumers, and others as appropriate.*

*(b) A community-based health promotion team shall:*

*(1) collect and summarize community health data relating to behavioral risk factors such as smoking, consumption of alcoholic beverages, and poor nutrition habits;*

*(2) identify, rank, and prioritize lifestyle-based health problems;*

*(3) develop strategies to address health promotion concerns;*

*(4) implement a five-year health promotion plan that includes an annual evaluation component and establish a mechanism for program maintenance following completion of the plan;*

*(5) design and implement a "healthy messages" media plan; and*

*(6) seek grants and other funding from foundations, educational institutions, and other nonprofit entities.*

*(c) Within the limit of available appropriations, the commissioner may*

*grant money to a community health board to enable the board to establish a community-based health promotion team. The commissioner shall monitor the activities of teams under this section and report to the legislature by January 1, 1991, on the teams' operation and progress."*

Delete the title and insert:

"A bill for an act relating to health; authorizing community health boards to establish community-based health promotion teams; prescribing duties; amending Minnesota Statutes 1988, section 145A.10, by adding a subdivision."

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

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

S.F. No. 1154: A bill for an act relating to health; requiring a fee for an application for a home care provider license; authorizing the commissioner to seek injunctive relief and use subpoenas in regulating home care providers; imposing requirements for disclosure of criminal convictions by home care providers; imposing a penalty for providing home care without a license; requiring public members in the mortuary science advisory council; allowing use of a trainee's name in the advertising or title of a funeral establishment; establishing a hearing instrument security fund; establishing a human services occupational account; amending Minnesota Statutes 1988, sections 144A.45, subdivision 2; 144A.46; 149.02; 149.06; and 153A.13, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; 145; and 214; repealing Minnesota Statutes 1988, section 153A.16.

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

Page 1, after line 25, insert:

"Sec. 2. Minnesota Statutes 1988, section 144.698, subdivision 1, is amended to read:

Subdivision 1. [YEARLY REPORTS.] Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

~~(a)~~ (1) a balance sheet detailing the assets, liabilities, and net worth of the hospital;

~~(b)~~ (2) a detailed statement of income and expenses;

~~(c)~~ (3) a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act; ~~and~~

~~(d)~~ (4) a copy of all changes to articles of incorporation or bylaws;

(5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;

(6) information required on the revenue and expense report form set in

*effect on July 1, 1989; and*

*(7) other information required by the commissioner in rule.*

Sec. 3. Minnesota Statutes 1988, section 144.701, subdivision 3, is amended to read:

Subd. 3. [RATE SCHEDULE.] The commissioner of health shall obtain from each hospital and outpatient surgical center a current rate schedule. Any subsequent amendments or modifications of that schedule shall be filed with the commissioner of health ~~at least 60 days in advance of on or before~~ their effective date.

Sec. 4. Minnesota Statutes 1988, section 144.701, subdivision 4, is amended to read:

Subd. 4. [FILING FEES.] Each report which is required to be submitted to the commissioner of health under sections 144.695 to 144.703 and which is not submitted to a voluntary, nonprofit reporting organization in accordance with section 144.702 shall be accompanied by a filing fee in an amount prescribed by rule of the commissioner of health. Fees received pursuant to this subdivision shall be deposited in the ~~general fund of the state treasury~~ health care cost information system account.

Sec. 5. Minnesota Statutes 1988, section 144.701, is amended by adding a subdivision to read:

Subd. 5. [TERMINATION OF VOLUNTARY REPORTING SYSTEM; HEALTH CARE COST INFORMATION SYSTEMS ACCOUNT.] *The health care cost information systems account is created as a separate account in the special revenue fund. If approval of a reporting organization is withdrawn, if the commissioner decides not to renew a reporting organization, or if for some other reason the reporting through a voluntary nonprofit reporting organization is discontinued, fees collected by the reporting organization under section 144.702 must be submitted to the commissioner and deposited in the health care cost information systems account. Money in the account is appropriated to the commissioner for the costs of administering the reporting procedures under sections 144.695 to 144.703. The commissioner may employ staff or contract with a third party for the administration of the reporting procedures.*

Sec. 6. Minnesota Statutes 1988, section 144.702, subdivision 2, is amended to read:

Subd. 2. [APPROVAL OF ORGANIZATION'S REPORTING PROCEDURES.] The commissioner of health may approve voluntary reporting procedures ~~which are substantially equivalent to reporting requirements and procedures adopted by the commissioner of health for reporting procedures under sections 144.695 to 144.703 consistent with written operating requirements for the voluntary, nonprofit reporting organization that must be established annually by the commissioner. The written operating requirements must specify reports, analyses, and other deliverables to be produced by the voluntary, nonprofit reporting organization, and the dates on which the deliverables must be submitted to the commissioner. The commissioner shall approve annual spending plans developed by the voluntary, nonprofit reporting organization. The commissioner of health shall, by rule, prescribe standards for approval of voluntary reporting procedures submission of data by hospitals and outpatient surgical centers to the voluntary, nonprofit reporting organization, which standards shall provide~~

for:

(a) The filing of appropriate financial information with the reporting organization;

(b) Adequate analysis and verification of that financial information; and

(c) Timely publication of the costs, revenues, and rates of individual hospitals and outpatient surgical centers ~~prior to~~ *no later than* the effective date of any proposed rate increase. The commissioner of health shall annually review the procedures approved pursuant to this subdivision.

Sec. 7. Minnesota Statutes 1988, section 144.702, is amended by adding a subdivision to read:

*Subd. 7. [FEES.] A voluntary, nonprofit reporting organization shall pay to the commissioner, on or before July 1 of each year, a fee equal to the appropriation to the commissioner for administering the health care cost information system for the fiscal year. The amount collected through the fee must be deposited in the general fund.*

Sec. 8. Minnesota Statutes 1988, section 144.702, is amended by adding a subdivision to read:

*Subd. 8. [TERMINATION OR NONRENEWAL OF REPORTING ORGANIZATION.] The commissioner may withdraw approval of a voluntary, nonprofit reporting organization for failure on the part of the organization to comply with the written operation requirements under subdivision 2. Beginning on the effective date of the withdrawal, all money collected by the nonprofit reporting organization under section 144.701, subdivision 4, but not spent under the approved spending plan, must be paid to the commissioner and deposited in the health care cost information systems account. The commissioner may choose not to renew approval of a voluntary, nonprofit reporting organization if, in the commissioner's judgment, the organization has failed to perform its obligations satisfactorily under the written operating requirements under subdivision 2."*

Page 7, after line 15, insert:

"Sec. 13. Minnesota Statutes 1988, section 147.02, subdivision 1, is amended to read:

Subdivision 1. [UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATES.] The board shall, with the consent of six of its members, issue a license to practice medicine to a person who meets the following requirements:

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed ~~an~~ *a* comprehensive examination for initial licensure prepared and graded by the national board of medical examiners or the federation of state medical boards. The board shall by

rule determine what constitutes a passing score in the examination.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate."

Page 10, after line 27, insert:

"Sec. 17. Minnesota Statutes 1988, section 153A.15, subdivision 3, is amended to read:

Subd. 3. [PROCEDURES.] The commissioner shall establish, in writing, internal operating procedures for receiving and investigating complaints and imposing enforcement actions. *The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states.* Establishment of the operating procedures are not subject to rulemaking procedures under chapter 14. *Procedures for sharing complaint information must be consistent with the requirements for handling government data under chapter 13.*

Sec. 18. Minnesota Statutes 1988, section 153A.16, is amended to read:

153A.16 [BOND REQUIRED.]

A sole proprietor, partnership, association, or corporation engaged in hearing instrument sales shall provide a surety bond in favor of the state of Minnesota in the amount of \$5,000 for every individual engaged in the practice of selling hearing instruments, up to a maximum of \$25,000. The bond required by this section must be in favor of the state for the benefit of any person who suffers loss of payments for the purchase or repair of a hearing instrument after July 1, 1988, due to insolvency or cessation of the business of the sole proprietor, partnership, association, or corporation engaged in hearing instrument sales. A copy of the bond must be filed with the ~~attorney general~~ *commissioner of health*. A person claiming against the bond may maintain an action at law against the surety and the sole proprietor, partnership, association, or corporation. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein must not exceed the amount of the bond."

Page 10, delete lines 31 and 32 and insert "to register human services occupations under section 214.13, subdivision 1, or for the purpose of establishing permit systems for human services occupations authorized by the legislature"

Page 10, line 35, delete "*regulating*" and insert "*registering or permitting*"

Page 10, after line 35, insert:

"Sec. 20. Minnesota Statutes 1988, section 326.78, subdivision 2, is amended to read:

Subd. 2. [ISSUANCE OF LICENSES AND CERTIFICATES.] The commissioner may issue licenses to employers and ~~certificates to employees~~ who meet the criteria in sections 326.70 to 326.82 and the commissioner's rules. Licenses and certificates ~~shall be~~ *are* valid for at least 12 months *except that the initial certificate must be issued to expire one year after the completion date on the approved training course diploma.*

Sec. 21. Minnesota Statutes 1988, section 327.20, subdivision 1, is amended to read:

Subdivision 1. [RULES.] No domestic animals or house pets of occupants of manufactured home parks or recreational camping areas shall be allowed to run at large, or commit any nuisances within the limits of a manufactured home park or recreational camping area. Each manufactured home park or recreational camping area licensed under the provisions of sections 327.10, 327.11, 327.14 to 327.28 shall, among other things, provide for the following, in the manner hereinafter specified:

(1) A responsible attendant or caretaker shall be in charge of every manufactured home park or recreational camping area at all times, who shall maintain the park or area, and its facilities and equipment in a clean, orderly and sanitary condition. In any manufactured home park containing more than 50 lots, the attendant, caretaker, or other responsible park employee, shall be readily available at all times in case of emergency.

(2) All manufactured home parks shall be well drained and be located so that the drainage of the park area will not endanger any water supply. No waste water from manufactured homes or recreational camping vehicles shall be deposited on the surface of the ground. All sewage and other water carried wastes shall be discharged into a municipal sewage system whenever available. When a municipal sewage system is not available, a sewage disposal system acceptable to the state commissioner of health shall be provided.

(3) No manufactured home shall be located closer than three feet to the side lot lines of a manufactured home park, if the abutting property is improved property, or closer than ten feet to a public street or alley. Each individual site shall abut or face on a driveway or clear unoccupied space of not less than 16 feet in width, which space shall have unobstructed access to a public highway or alley. There shall be an open space of at least ten feet between the sides of adjacent manufactured homes including their attachments and at least three feet between manufactured homes when parked end to end. The space between manufactured homes may be used for the parking of motor vehicles and other property, if the vehicle or other property is parked at least ten feet from the nearest adjacent manufactured home position. The requirements of this paragraph shall not apply to recreational camping areas and variances may be granted by the state commissioner of health in manufactured home parks when the variance is applied for in writing and in the opinion of the commissioner the variance will not endanger the health, safety, and welfare of manufactured home park occupants.

(4) An adequate supply of water of safe, sanitary quality shall be furnished at each manufactured home park or recreational camping area. The source of the water supply shall first be approved by the state department of health. At least one water supply outlet shall be provided at convenient locations throughout the manufactured home park or recreational camping area.

(5) All plumbing shall be installed in accordance with the rules of the state commissioner of health and the provisions of the Minnesota plumbing code.

(6) In the case of a manufactured home park with less than ten manufactured homes, a plan for the sheltering or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions, such as tornadoes, high winds, and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the municipality where the park is located and shall be posted at conspicuous locations throughout the park. Nothing in this paragraph requires the department of health to review or approve any shelter or evacuation plan developed by a park. Failure of a municipality to approve a plan submitted by a park shall not be grounds for action against the park by the department of health if the park has made a good faith effort to develop the plan and obtain municipal approval.

(7) A manufactured home park with ten or more manufactured homes, licensed prior to March 1, 1988, shall provide a safe place of shelter for park residents or a plan for the evacuation of park residents to a safe place of shelter within a reasonable distance of the park for use by park residents in times of severe weather, including tornadoes and high winds. The shelter or evacuation plan must be approved by the municipality by March 1, 1989. The municipality may require the park owner to construct a shelter if it determines that a safe place of shelter is not available within a reasonable distance from the park. A copy of the municipal approval and the plan shall be submitted by the park owner to the department of health. *Failure of a municipality to approve a plan submitted by a park is not grounds for action against the park by the commissioner of health if the park has made a good faith effort to develop the plan and obtain municipal approval.*

(8) A manufactured home park with ten or more manufactured homes, receiving a primary license after March 1, 1988, must provide the type of shelter required by section 327.205."

Page 11, line 1, before "\$360,000" insert "*Subdivision 1. [CASE MANAGEMENT GRANTS.]*"

Page 11, lines 3 and 6, delete "2" and insert "9"

Page 11, line 6, after the period, insert "*\$53,000 is appropriated from the general fund to the commissioner of health for each year of the biennium ending June 30, 1991, to administer the health care cost information system.*"

Page 11, after line 6, insert:

"*Subd. 2. [HUMAN SERVICES OCCUPATIONS.] \$104,000 is appropriated from the general fund to the commissioner of health for the biennium ending June 30, 1991, for purposes of section 19.*"

Page 11, delete line 8 and insert:

*"Minnesota Rules, parts 4650.0162 and 4650.0164, are repealed."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "authorizing health department employees to enter property to investigate public health hazards; authorizing the commissioner to enter into written agreements regarding hospital cost information reports; authorizing the commissioner to withdraw approval of a voluntary, nonprofit hospital cost information reporting organization; creating a health care cost information systems account;"

Page 1, line 8, after the semicolon, insert "clarifying that the national examination that a person must pass to become licensed to practice medicine must be a comprehensive examination for initial licensure;"

Page 1, lines 11 and 12, delete "establishing a hearing instrument security fund" and insert "changing requirements relating to hearing instrument sellers; changing the expiration date of initial asbestos abatement licenses and certificates; exempting a manufactured home park from liability for a good faith effort to develop a severe weather evacuation plan"

Page 1, line 13, after the semicolon, insert "appropriating money;"

Page 1, line 14, after "sections" insert "144.698, subdivision 1; 144.701, subdivisions 3 and 4, and by adding a subdivision; 144.702, subdivision 2, and by adding subdivisions;"

Page 1, line 15, after the first semicolon, insert "147.02, subdivision 1;" and delete "and"

Page 1, line 16, before "proposing" insert "153A.15, subdivision 3; 153A.16; 326.78, subdivision 2; and 327.20, subdivision 1;"

Page 1, line 18, delete everything before the period and insert "Rules, parts 4650.0162 and 4650.0164"

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. 727: A bill for an act relating to human services; establishing a resource center on caregiver support; creating a grant program of respite care services; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256.

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

Delete everything after the enacting clause and insert:

"Section 1. [256.992] [DEFINITIONS.]

*Subdivision 1. [SCOPE.] For purposes of sections 1 to 3, the following terms have the meanings given them.*

*Subd. 2. [CAREGIVER.] "Caregiver" means a person who resides with and has primary responsibility for the care of a person with a disability, including a licensed, full-time foster care provider.*



*Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of human services.*

*Subd. 4. [COUNTY BOARD.] "County board" means the board of county commissioners in each county.*

*Subd. 5. [PERSON WITH A DISABILITY.] "Person with a disability" means a person who, because of physical disability, degenerative disease, mental illness, chronic illness, frailty associated with aging, or mental retardation or a related condition, requires substantial continuous care and supervision and who would require institutionalization in the absence of a caregiver.*

*Subd. 6. [RESPITE CARE.] "Respite care" means the temporary or periodic care and supervision of a person with a disability, in or out of the home, on a planned or emergency basis to provide relief to the caregiver. Respite care includes adult day care.*

**Sec. 2. [256.993] [RESOURCE CENTER ON CAREGIVER SUPPORT AND RESPITE CARE SERVICES.]**

*Subdivision 1. [RESOURCE CENTER.] The commissioner shall establish a statewide resource center on caregiver support and respite care services.*

*Subd. 2. [PURPOSE OF RESOURCE CENTER.] The resource center shall:*

*(1) provide leadership and visibility on the need for caregiver support and respite care programs;*

*(2) develop a mechanism to address issues and system changes needed to increase caregiver support and respite care services;*

*(3) provide information statewide on identified direct service models of existing caregiver support and respite care;*

*(4) analyze and evaluate funding sources for respite care;*

*(5) identify and address concerns and gaps in statewide service delivery;*

*(6) provide technical assistance and training to foster the development of in-home respite care services;*

*(7) educate caregivers on the availability and use of respite care services;*

*(8) promote and expand caregiver support coordination by using existing networks when possible; and*

*(9) manage and oversee a respite care grant program to develop model county coordinated generic respite care services.*

*Subd. 3. [ADVISORY COMMITTEE.] An advisory committee of not more than 12 people appointed by the commissioner shall make recommendations on resource center direction and oversee its activities. The advisory committee includes caregivers, people with disabilities, and advocates, representing all areas of the state. The advisory committee shall review administrative procedures and make recommendations to the commissioner relating to the grant program.*

**Sec. 3. [256.994] [RESPITE CARE GRANT PROGRAM.]**

*Subdivision 1. [GRANT PROGRAM.] The commissioner shall establish*

*a respite care grant program. The commissioner may adopt rules as necessary to administer the program, but the commissioner may implement the program without adopting rules to the extent allowed under chapter 14.*

*Subd. 2. [PURPOSE OF GRANT.] A grant program must establish a coordinated system of generic respite care to:*

*(1) enable caregivers to continue to provide care at home by providing relief and support;*

*(2) assist caregivers in securing affordable respite care, particularly for those individuals who are not eligible for Medicaid;*

*(3) foster the development of in-home care; and*

*(4) educate caregivers, professionals, and the general public on the availability, need for, and use of caregiver support services, particularly respite care.*

*Subd. 3. [USE OF GRANT MONEY.] (a) Grant money may be used to:*

*(1) plan and implement a coordinated array of respite care services;*

*(2) establish or expand subsidized respite care services;*

*(3) recruit and train paid or volunteer providers; or*

*(4) establish an educational program for caregivers that may include support groups.*

*(b) Grant funds may not be used to supplant existing funds and existing volunteer efforts or to purchase equipment.*

*Subd. 4. [ELIGIBILITY.] A county board may, alone or in combination with other county boards, apply for a respite care grant. A public or nonprofit agency may apply for a grant if there is a letter of agreement with the county or counties in which services will be developed stating the intention of the county or counties to work with and coordinate with the agency requesting a grant.*

*Subd. 5. [GRANT APPLICATIONS.] (a) The commissioner shall request proposals for grants and shall specify the information and criteria required.*

*(b) Grant applications must address the issues under subdivisions 2 and 3 and provide a description of:*

*(1) any new services to be provided and of existing services;*

*(2) the estimated number of persons to be served;*

*(3) how services would be coordinated;*

*(4) limitations on services;*

*(5) methods of generating additional funds including sliding fee schedules;*

*(6) use of volunteers;*

*(7) contracts with outside agencies; and*

*(8) training needs.*

*(c) The proposed budget shall indicate how grant funds will be used and the amount and sources of other funds.*

*(d) All grant applications must include a written performance plan that*

*addresses the criteria contained in subdivision 3. The performance plan must include written performance objectives, specific measurable outcomes, time-lines, and the procedure the grantee will use to document and measure success in meeting the objectives.*

*Subd. 6. [GRANT AWARDS.] (a) The advisory committee shall review administrative procedures relating to the grant program including but not limited to forms, instructions, and the request for proposal. The advisory committee shall review grant applications and make recommendations to the commissioner. Grants must be awarded by the commissioner to programs that:*

- (1) meet the purpose of the grant program;*
- (2) have the ability to continue the project at the end of the funding period; and*
- (3) demonstrate cost-effective administration.*

*(b) Preference must be given to proposals that seek to address underserved populations or that come from areas where limited services are available. Grants must be awarded to achieve a geographic distribution. No grant award may exceed 20 percent of the total appropriation.*

*Subd. 7. [FORMS AND INSTRUCTIONS.] The commissioner shall provide necessary forms and instructions to eligible applicants upon request. Grant recipients shall submit financial reports and program and evaluation reports on forms prescribed by the commissioner according to instructions specified by the commissioner. The reports must include, but are not limited to, information on income, expenditures, number of caregivers served, the disabilities of the care receivers, and how grant money was used. The commissioner of human services may delay or revoke grant money if the commissioner determines that the grantee is not meeting the reporting requirements or other terms of the grant.*

*Subd. 8. [FINANCIAL RECORDS.] The county board, and its contractors and subcontractors, shall maintain financial records, using generally accepted accounting principles, in a way so that expenditures can be easily compared with the approved budget.*

*Subd. 9. [ACCESS TO PROGRAMS AND RECORDS.] At the request of the commissioner, the grantee and its contractors and subcontractors shall make available for audit and inspection all program and fiscal records related to the requirements of this section and the grant contract.*

*Subd. 10. [DISTRIBUTION OF GRANTS.] The commissioner may award grants to continue until June 30, 1991, as long as the grantee demonstrates continuing compliance with the terms of the grant.*

#### **Sec. 4. [256.995] [START-UP GRANTS FOR FOSTER CARE PROVIDERS.]**

*Subdivision 1. [GRANTS AUTHORIZED.] The commissioner of human services may award grants to individuals or families who seek to begin providing foster care services licensed under chapter 245A. The grants may be used by the individual or family for structural changes, additions, and purchases of safety devices needed to make the home physically accessible to persons served by the foster care home, and to comply with fire, safety, health, and other licensing requirements for foster care homes.*

*Subd. 2. [REPAYMENT.] A family or individual who receives a grant*

*under this subdivision and who makes the home available for foster care for four years after the date the grant is awarded is not required to repay the grant. A family or individual who makes the home available for foster care for less than four years after the grant is awarded shall repay a portion of the grant on a prorated basis according to the circumstances, terms, and conditions the commissioner establishes in rule for repayment. The commissioner shall determine appropriate security for repayment.*

*Subd. 3. [APPLICATION.] A family or individual seeking a grant under this subdivision shall apply to the commissioner of human services. A grant application must describe:*

- (1) a need for the grant that meets the specifications of subdivision 1;*
- (2) the services to be provided in the foster care home;*
- (3) the number of persons who will be served in the foster care home;*
- (4) how grant money will be used;*
- (5) the amount and source of other funds available to the applicant to meet the need stated in the grant application; and*
- (6) the methods of generating additional funds.*

*Subd. 4. [GRANT AWARDS.] (a) The commissioner shall award a grant to an applicant if the applicant's proposal:*

- (1) meets the purpose of the grant program;*
- (2) increases access to foster care services; and*
- (3) shows that the applicant has the ability to continue foster care services after the grant is spent.*

*(b) A person who qualifies for the grant may receive up to:*

- (1) \$10,000 for modifications needed to make the home physically accessible to persons served by the foster care home;*
- (2) \$5,000 for modifications needed to meet fire code, safety, health, and other licensing requirements for foster care homes;*
- (3) \$5,000 to add additional space in the home for privacy of the persons served by the foster care provider; and*
- (4) \$500 for training to become a foster care provider.*

*Subd. 5. [HOUSING FINANCE AGENCY.] After determining eligibility, the commissioner may contract with the housing finance agency to administer grants involving complex accessibility modifications or extensive structural changes to meet fire code standards.*

## **Sec. 5. [REPORT ON RESPITE CARE RESOURCE CENTER AND GRANTS.]**

*By January 1, 1991, the commissioner shall submit a report to the legislature containing an analysis of the activities of the resource center, information on the need for respite care services, a projection of the need for respite care services, and a summary of the projects funded under the respite care grant program.*

## **Sec. 6. [APPROPRIATION.]**

*(a) \$215,000 is appropriated from the general fund to the commissioner*

*of human services for the biennium ending June 30, 1991, for purposes of the resource center established under section 2. \$171,400 of this appropriation may be used by the commissioner to increase the approved complement of the department by 2.5 full-time equivalent positions to carry out the activities and objectives of the resource center. The commissioner may use part of this appropriation for administrative costs. Any unexpended balance remaining in the first year does not cancel and is available for the second year.*

*(b) \$785,000 is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 1991, for the respite care grant program established under section 3. This appropriation is available for distribution on or after October 1, 1989. Any unexpended balance remaining in the first year does not cancel and is available for the second year.*

*(c) \$345,000 is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 1991, for purposes of start-up grants for foster care providers under section 4."*

Amend the title as follows:

Page 1, line 4, after the first semicolon, insert "authorizing start-up grants for foster care providers;"

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. 490: A bill for an act relating to human services; requiring county community social service plans to address the development of supported employment services; amending Minnesota Statutes 1988, section 256E.09, subdivision 3.

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

Page 2, line 9, after the semicolon, insert "*community-based employment programs, as defined in section 129A.01, subdivision 12;*"

Page 2, lines 15 and 18, after "*services*" insert "*and community-based employment services*"

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. 971: A bill for an act relating to health; establishing a grant for a prenatal care media campaign; proposing coding for new law in Minnesota Statutes, chapter 144.

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 1988, section 256B.04, is amended by

adding a subdivision to read:

*Subd. 17. [PRENATAL CARE OUTREACH.] (a) The commissioner of human services shall award a grant to an eligible organization to conduct a statewide media campaign promoting early prenatal care. The goals of the campaign are to increase public awareness of the importance of early and continuous prenatal care and to inform the public about public and private funds available for prenatal care.*

*(b) In order to receive a grant under this section, an applicant must:*

*(1) have experience conducting prenatal care outreach;*

*(2) have an established statewide constituency or service area; and*

*(3) demonstrate an ability to accomplish the purposes in this subdivision.*

*(c) Money received under this subdivision may be used for purchase of materials and supplies, staff fees and salaries, consulting fees, and other goods and services necessary to accomplish the goals of the campaign. Money may not be used for capital expenditures.*

**Sec. 2. [APPROPRIATION.]**

*\$50,000 is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 1991, for the purposes of section 1."*

Delete the title and insert:

"A bill for an act relating to health; establishing a grant for a prenatal care media campaign; appropriating money; amending Minnesota Statutes, section 256B.04, by adding a subdivision."

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. 1099: A bill for an act relating to public safety; proposing the emergency planning and community right-to-know act; requiring reports on hazardous substances and chemicals; creating an emergency response commission; providing penalties; amending Minnesota Statutes 1988, section 609.671, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 299F

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

Delete everything after the enacting clause and insert:

"Section 1. [299K.01] [DEFINITIONS.]

*Subdivision 1. [APPLICATION.] The definitions in this section apply to sections 1 to 10.*

*Subd. 2. [COMMISSION.] "Commission" means the emergency response commission established in section 3.*

*Subd. 3. [COUNCIL.] "Council" means the hazardous materials emergency incident response advisory council established in section 11.*

*Subd. 4. [EMERGENCY RESPONSE ORGANIZATION.] "Emergency*

*response organization” means a firefighting, law enforcement, emergency management, emergency medical services, health or local environmental organization, or a hospital.*

*Subd. 5. [FACILITY.] “Facility” means the buildings, equipment, structures, and other stationary items that:*

- (1) are located on a single site or on contiguous or adjacent sites; and*
- (2) are owned or operated by one person, or are under the sole or common control of one person.*

*Subd. 6. [FEDERAL ACT.] “Federal act” means the federal Emergency Planning and Community Right To Know Act, United States Code, title 42, sections 11001 to 11046.*

*Subd. 7. [GREATER MINNESOTA.] “Greater Minnesota” means the area of the state located outside of the metropolitan area.*

*Subd. 8. [HAZARDOUS MATERIALS INCIDENT.] “Hazardous materials incident” is an unexpected occurrence in which hazardous substances or extremely hazardous substances spill, release to the atmosphere, explode, burn, or in any other way cause a potential threat to life, safety, and health.*

*Subd. 9. [HAZARDOUS MATERIALS INCIDENT RESPONSE TEAM.] “Hazardous materials incident response team” means a group of firefighters already employed by a municipality who have the training and equipment necessary to respond to and control hazardous materials incidents and who are designated as a hazardous materials incident response team by the council.*

*Subd. 10. [METROPOLITAN AREA.] “Metropolitan area” has the meaning given in section 473.121, subdivision 2.*

*Subd. 11. [PERSON.] “Person” means an individual, partnership, association, public or private corporation, or other entity including the United States government, an interstate body, the state and any agency, department, or political subdivision of the state.*

## **Sec. 2. [299K.02] [OFFICE OF EMERGENCY RESPONSE.]**

*The office of emergency response is established in the department of public safety, consisting of the emergency response commission and its staff, to coordinate state compliance with the federal act.*

## **Sec. 3. [299K.03] [EMERGENCY RESPONSE COMMISSION.]**

*Subdivision 1. [ESTABLISHMENT.] The emergency response commission is established to comply with and administer the federal act. The emergency response commission consists of state agency members and appointed members.*

*Subd. 2. [AGENCY MEMBERS.] The state agency members of the commission are the commissioners of the department of public safety, the pollution control agency, the department of health, and the department of agriculture.*

*Subd. 3. [APPOINTED MEMBERS.] (a) The governor shall appoint 15 members to the commission.*

*(b) The 15 appointed members must include:*

- (1) one representative each from fire chiefs, professional firefighters,*

volunteer firefighters, fire marshals, law enforcement personnel, emergency medical personnel, health professionals, community groups, wastewater treatment operators, labor, and local elected officials; and

(2) four representatives from business and industry, at least one of whom must represent small business.

(c) The appointed members must be appointed, serve, and be compensated in the manner provided in section 15.059.

Subd. 4. [ADVISORY COMMITTEES.] The commission may establish advisory committees to advise the commission on matters pertaining to the commission's duties.

Subd. 5. [DUTIES OF COMMISSION.] The commission shall implement the requirements of a commission under the federal act and may adopt rules to implement its duties. The commission shall encourage use of and shall utilize existing emergency planning systems under section 5 whenever practical.

Subd. 6. [AGREEMENTS.] The commission may cooperate and enter into necessary agreements with other state agencies, political subdivisions of the state, or the federal government to perform its duties.

Subd. 7. [COOPERATION.] State agencies and political subdivisions shall cooperate with the commission and its director and shall assist in the performance of the commission's duties.

#### Sec. 4. [299K.04] [REGIONAL REVIEW COMMITTEES.]

Subdivision 1. [MEMBERSHIP] (a) The commission shall establish emergency planning districts and appoint and supervise a regional review committee for each district. The regional review committee shall serve as the local emergency planning committee under the federal act, except where a local emergency planning committee has been established by one or more political subdivisions.

(b) Each regional review committee must have nine members consisting of:

- (1) three representatives of facilities regulated under the federal act;
- (2) three representatives of emergency response organizations; and
- (3) three representatives of the public including community groups, broadcast and print media, and elected officials.

Subd. 2. [COMPENSATION.] Regional review committee members shall be compensated in the manner provided in section 15.059.

Subd. 3. [DUTIES OF REGIONAL REVIEW COMMITTEES.] Regional review committees shall:

(1) review emergency operations plans prepared by political subdivisions within their emergency planning district to determine whether they meet the requirements of section 11003(c) of the federal act;

(2) consult and coordinate with the regional program coordinators of the division of emergency management of the department of public safety and with local and county organizations for civil defense designated under section 12.25;

(3) submit emergency plans to the commission for review and



recommendations;

(4) *establish procedures for receiving and processing requests from the public for information available under the federal act; and*

(5) *perform any other duties specified in the federal act.*

**Sec. 5. [299K.05] [LOCAL EMERGENCY PLANS.]**

*Subdivision 1. [PROCEDURE.] Political subdivisions should prepare emergency plans that adequately address the requirements contained in section 11003 of the federal act. The emergency plan may be a part of a plan prepared by a political subdivision in accordance with chapter 12. County organizations, through the county director designated under section 12.25, shall receive the plans for review, shall coordinate the emergency planning required under the federal act for political subdivisions within the county, and shall submit the plans to the regional office of the division of emergency management. The division of emergency management shall submit the plans to the regional review committee.*

*Subd. 2. [COORDINATION BY CIVIL DEFENSE ORGANIZATION.] The county civil defense organization shall coordinate the emergency planning required under section 11003 of the federal act for municipalities within the county, and shall submit the plans to the regional office of the division of emergency management. The division of emergency management shall submit the plans to the regional review committee.*

*Subd. 3. [LOCAL EMERGENCY PLANNING COMMITTEES.] Any political subdivision or two or more political subdivisions that are contiguous may request the commission to establish a local emergency planning committee for the political subdivision or subdivisions. A local emergency planning committee established by the commission shall carry out all requirements specified under sections 11001 to 11046 of the federal act. Any political subdivision or two or more political subdivisions that are contiguous may establish, in lieu of a local emergency planning committee, a planning advisory committee to prepare an emergency plan under section 11003 of the federal act.*

**Sec. 6. [299K.06] [PUBLIC INFORMATION DEPOSITORY.]**

*Subdivision 1. [COUNTY DESIGNATION OF LIBRARY.] Each county shall designate a library in the county for maintaining updated information on the facilities subject to the federal act that are located in the county and a copy of the emergency response plan for the county.*

*Subd. 2. [PROVISION OF INFORMATION.] When the commission develops a computerized information system, the commission shall provide updated information on a regular basis to libraries designated under subdivision 1, listing the facilities subject to sections 1 to 10 and noting types of hazards, specific chemicals on site, and amounts of chemicals on site at each facility, and identifying the regional review committee that may be contacted for further information. The commission also shall provide to the libraries a copy of the most recently approved emergency response plan for the county and designate a contact person for public participation in emergency planning.*

**Sec. 7. [299K.07] [NOTIFICATION TO EMERGENCY RESPONSE CENTER.]**

*(a) The notification of the commissioner required under the federal act*

*shall be made to the state emergency response center. The owner or operator of a facility shall immediately notify the state emergency response center of the release of a reportable quantity of the following materials:*

*(1) a hazardous substance on the list established under United States Code, title 42, section 9602; or*

*(2) an extremely hazardous substance on the list established under United States Code, title 42, section 11002.*

*(b) This subdivision does not apply to a release that results in exposure to persons solely within the site or sites on which a facility is located or to a release specifically authorized by state law.*

**Sec. 8. [299K.08] [FACILITIES REQUIRED TO COMPLY.]**

*Subdivision 1. [GENERAL.] Facilities subject to the federal act must comply with the federal act and sections 1 to 10.*

*Subd. 2. [HAZARDOUS CHEMICAL INVENTORY REPORTING.] In addition to facilities specified in the federal act, facilities that are operated by employers subject to the occupational health and safety provisions of sections 182.65 to 182.675 shall comply with the hazardous chemical inventory reporting of the federal act. This section is a designation of additional facilities under sections 11021 and 11022 of the federal act, and the legislative process meets the requirements for public notice and opportunity to comment.*

**Sec. 9. [299K.09] [RULES TO SET FEES.]**

*Subdivision 1. [FEES.] The commission shall adopt rules setting the following fees:*

*(1) a material safety data sheet fee to be paid by a facility when it submits material safety data sheets in lieu of a hazardous chemical report form as required under section 11021 of the federal act;*

*(2) a fee to be paid by a facility when the owner or operator submits its emergency and hazardous chemical inventory form, required under section 11022 of the federal act, for calendar year 1990 and annually afterwards; and*

*(3) a late fee to be paid by a facility that fails to pay a fee under clause (1) or (2) in a timely manner, not to exceed 200 percent of the original fee.*

*Subd. 2. [FEE STRUCTURE.] The fee established under subdivision 1 may not exceed, in the aggregate, the amount necessary to cover the costs for all data management, including administration of fees, by the commission and regional review committees.*

**Sec. 10. [299K.10] [ENFORCEMENT.]**

*Subdivision 1. [ENFORCEMENT POWERS OF THE COMMISSION.] (a) To carry out its duties, the commission may:*

*(1) enforce the federal act;*

*(2) issue, enter into, or enforce orders, schedules of compliance, and stipulation agreements;*

*(3) conduct investigations, issue notices, and hold hearings that are necessary or useful to discharge its duties;*

(4) *examine and copy any books, papers, records, memoranda, or data of a person that is related to data required to be submitted to the commission;*

(5) *enter public or private property to take an action authorized by this section including obtaining information from a person who has a duty to provide information to the commission; and*

(6) *issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to matters involved in a hearing or investigation.*

(b) *An employee or agent of the commission may examine witnesses and administer oaths in connection with a subpoena. Witnesses must receive the same fees and mileage as in civil actions.*

(c) *The commission may delegate its authority under this subdivision to state or local governmental agencies or organizations to conduct investigations, examine and copy records, and enter property.*

*Subd. 2. [CIVIL ACTION; COMMISSION.] The commission may enforce the federal act through a civil action brought in federal district court under the federal act or in state district court by the attorney general on request of the commission.*

*Subd. 3. [CIVIL ACTION; CITIZENS.] A person may commence a civil action against an owner or operator of a facility in state district court that may be brought in federal district court under the federal act.*

*Subd. 4. [CIVIL ACTION; REGIONAL REVIEW AND LOCAL EMERGENCY PLANNING COMMITTEES.] A regional review committee or a local emergency planning committee may commence an action against an owner or operator of a facility in state district court for a violation of the federal act that the local emergency planning committee is authorized to commence in federal district court under the federal act.*

*Subd. 5. [INJUNCTIVE RELIEF] In addition to other relief granted, the court may grant injunctive relief to restrain violations of the federal act.*

*Subd. 6. [CIVIL PENALTIES.] (a) A violation of the federal act is a violation of state law.*

(b) *An owner or operator of a facility is liable to the state for civil penalties in the same manner and amount as the owner or operator is liable to the United States under section 11045, subpart (a) and subpart (b), paragraphs (1), (2), and (3), of the federal act.*

(c) *The commission may enforce the penalties in state district court in the same manner as the administrator of the United States Environmental Protection Agency may enforce the civil penalties in federal district court under the federal act.*

(d) *For purposes of this subdivision, each day of continued violation constitutes a separate violation.*

*Subd. 7. [COSTS AND ATTORNEY FEES.] On the motion of a party prevailing in an action under this section, the court may award costs, disbursements, and reasonable attorney and witness fees to the prevailing party.*

*Subd. 8. [VENUE.] A civil action authorized by this section may be brought in the district court in Ramsey county, in the district court where*

*the alleged violation occurred, or in the district court where the defendant is located.*

**Sec. 11. [299K.11] [HAZARDOUS MATERIALS INCIDENT RESPONSE ADVISORY COUNCIL.]**

*Subdivision 1. [ESTABLISHMENT.] A hazardous materials incident response advisory council is established.*

*Subd. 2. [MEMBERSHIP.] (a) The council shall have five members to be appointed by the commissioner of public safety consisting of:*

- (1) one member who represents fire chiefs in municipalities of the state;*
- (2) one member who represents professional, full-time firefighters in the state;*
- (3) one member who represents volunteer firefighters in the state;*
- (4) one member who represents occupational health physicians in the state; and*
- (5) one member who represents municipal officials in the state.*

*(b) The commissioner of public safety and the commissioner of labor and industry shall be ex officio members.*

*Subd. 3. [CHAIR AND OFFICERS.] The council shall elect from its members by a majority vote a chair and other officers as necessary to carry out the duties of the council.*

*Subd. 4. [QUORUM.] A majority of the council members constitutes a quorum.*

*Subd. 5. [MEETINGS.] The council shall meet at the call of its chair, or upon the request of a majority of its members. The council shall expire June 30, 1991.*

*Subd. 6. [TERMS, COMPENSATION, AND REMOVAL.] The terms, compensation, and removal of members shall be as provided in section 15.059.*

**Sec. 12. [299K.12] [POWERS OF ADVISORY COUNCIL.]**

*Subdivision 1. [HAZARDOUS MATERIALS INCIDENT RESPONSE PLAN.] (a) The hazardous materials incident response advisory council shall devise a plan to establish a sufficient number of hazardous materials incident response teams in the state so that a locality in the state where a hazardous materials incident may occur is not more than one hour from the hazardous materials incident response team.*

*(b) The plan must include:*

- (1) a list of equipment that each hazardous materials incident response team must have;*
- (2) a determination of the number of people who must be available to each hazardous materials incident response team, including their training;*
- (3) recommendations for the department of public safety, fire agencies, and the legislature to implement training standards for hazardous materials incident responders in compliance with federal standards;*
- (4) designation of communities where hazardous materials incident response teams shall be located;*

(5) *recommendations on the method for compensating communities that house hazardous materials incident response teams and for compensating individuals who participate in the teams, including compensation for necessary training;*

(6) *recommendations on holding harmless from increased liability individuals and communities who participate in hazardous materials incident response teams;*

(7) *appropriate methods for supervising and coordinating response areas and hazardous materials incident response teams;*

(8) *appropriate methods for coordinating with the emergency response commission, the emergency response districts' local emergency planning committees, and other state agencies involved with hazardous materials; and*

(9) *designation of the state fire marshal as administrator of the hazardous materials incident response program.*

*Subd. 3. [PILOT PROGRAM.] (a) The commissioner of public safety shall implement a hazardous materials incident response pilot program that consists of two fully trained and equipped hazardous materials incident response teams. The commissioner of public safety, with the advice of the council, shall designate in which communities the hazardous materials incident response pilot program will be located.*

*(b) One of the two pilot hazardous materials incident response teams shall be located in the metropolitan area and the other team shall be located in greater Minnesota.*

*(c) The two pilot hazardous materials incident response teams shall be operational by July 1, 1990.*

*(d) The commissioner of public safety will adopt temporary rules for implementing this subdivision.*

*Subd. 4. [REPORT TO THE LEGISLATURE.] By February 15, 1991, the commissioner of public safety shall report to the legislature on the results of the pilot programs and shall recommend legislation and funding for the number of hazardous materials incident response teams necessary to comply with the requirement for one-hour response times to hazardous materials incidents.*

### **Sec. 13. [INTERIM COMMISSION.]**

*Until the 15 members can be appointed under section 3, the commission established through the governor's executive order to administer the provisions of the federal act shall continue to perform the duties of the commission.*

### **Sec. 14. [INTERIM FEES.]**

*Beginning on the effective date of this act and continuing until the effective date of rules adopted under section 9, the fee, under section 9, subdivision 1, clause (1), is \$10 per material safety data sheet but does not apply to material safety data sheets requested by the commission.*

### **Sec. 15. [TOXIC CHEMICAL RELEASE REPORTING STUDY.]**

*The commission, in cooperation with the pollution control agency, shall conduct a study to determine the need for expanding the toxic chemical*

*release form requirements of section 11023 of the federal act to other facilities covered under sections 182.65 to 182.675. The commission shall report the results of the study to the house of representatives and senate committees on environment and natural resources by December 31, 1990.*

Sec. 16. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

*Subd. 10. [FAILURE TO REPORT A RELEASE OF A HAZARDOUS SUBSTANCE OR AN EXTREMELY HAZARDOUS SUBSTANCE.] (a) A person in charge of a facility who knowingly fails to provide immediate notification to the state emergency response center of the release of a hazardous substance or an extremely hazardous substance required in section 7 is, upon conviction, subject to a fine of up to \$25,000 or imprisonment for up to two years, or both.*

*(b) For a second or subsequent conviction under this section, the violator is subject to a fine of not more than \$50,000 or imprisonment for not more than five years, or both.*

Sec. 17. [APPROPRIATION.]

*\$750,000 is appropriated from the general fund to the commissioner of public safety to be disbursed to the hazardous materials incident response advisory council for administrative costs and operation of the pilot program."*

Amend the title as follows:

Page 1, line 2, delete "proposing the" and insert "establishing"

Page 1, line 3, delete "act" and insert "requirements"

Page 1, line 5, after the semicolon, insert "establishing the hazardous materials incident response advisory council;"

Page 1, line 6, after the semicolon, insert "appropriating money;"

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

Page 1, line 8, delete "in" and insert "as"

Page 1, line 9, delete "299F" and insert "299K"

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

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

S.F. No. 840: A bill for an act relating to human services; defining persons with related conditions to include persons with prader-willi syndrome; amending Minnesota Statutes 1988, section 252.27, subdivision 1.

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

Page 1, line 14, strike "section 256E.08,"

Page 1, line 15, strike "subdivision 7" and insert "chapter 256G"

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. 1139: A bill for an act relating to occupations and professions; providing that psychologists licensed by the board of psychology and competent in the area may practice marriage and family therapy and present themselves to the public as marriage and family therapists without being licensed by the board of marriage and family therapy examiners; amending Minnesota Statutes 1988, section 148B.32, subdivisions 1 and 2.

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

Page 1, delete section 1

Page 1, line 24, delete "Sec. 2" and insert "Section 1"

Page 2, after line 5, insert:

"Sec. 2. [EFFECTIVE DATE.]

*Section 1 is effective retroactively to December 28, 1988."*

Amend the title as follows:

Page 1, line 4, delete "the area may practice"

Page 1, line 5, delete "and" and insert "may"

Page 1, line 9, delete "subdivisions 1 and" and insert "subdivision"

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

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

S.F. No. 734: A bill for an act relating to human services; creating a subsidy program for community clinics; providing planning grants; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256.

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

Page 2, line 36, delete "shall" and insert "may"

Page 3, line 1, delete "emergency and"

Page 4, line 14, delete "shall" and insert "may"

Page 4, line 15, delete "emergency"

Page 4, line 17, delete "\$8,000,000" and insert "\$ . . . . ."

Page 4, line 20, delete "\$300,000" and insert "\$ . . . . ."

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. 575: A bill for an act relating to resource development; establishing a legislative commission on minerals; appropriating money.

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

Page 1, delete section 1

Page 3, delete section 3 and insert:

“Sec. 2. [APPROPRIATION.]

*Subdivision 1. [LEGISLATIVE COMMISSION ON MINERALS.] \$ . . . . . is appropriated from the general fund to the legislative commission on minerals to be available until June 30, 1991.*

*Subd. 2. [MINERALS DIVERSIFICATION PROGRAM.] \$ . . . . . is appropriated from the general fund to the commissioner of natural resources to be available until June 30, 1991, to fund the programs and activities recommended by the Minnesota minerals coordinating committee as part of the Minnesota minerals diversification biennial fund plan.”*

Page 3, line 19, delete “to 3” and insert “and 2”

Renumber the sections in sequence

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

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

S.F. No. 936: A bill for an act relating to state lands; authorizing exchange of state property with city of St. Cloud.

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

Page 1, line 8, delete “or other law, but” and insert a comma

Page 1, line 20, delete the first “the” and insert “to”

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. 1080: A bill for an act relating to state lands; conveying title to state land in St. Cloud.

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

Page 1, line 7, delete “shall” and insert “may”

Page 1, line 16, delete “17” and insert “17.5”

Page 2, line 1, delete “17” and insert “17.5”

Page 2, line 2, delete “St. Cloud”

Page 2, delete line 3

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



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

S.F. No. 722: A bill for an act relating to employment; requiring prevailing wages to be paid on certain railroad projects assisted with state money; amending Minnesota Statutes 1988, section 222.50, subdivision 5.

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

Page 2, delete lines 15 to 20 and insert:

*“(e) To the extent not prohibited by federal law or regulation, require that when the railroad elects to contract for portions of the rehabilitation work or rail service improvement, the railroad must select a contractor who is experienced in rail rehabilitation work, and must require the contractor to:*

*(1) recruit any new workers from the area where the work is to be done; and*

*(2) pay workers under the contract wages that are equal to or greater than the wages the railroad pays its own workers for similar work, but not less than twice the state minimum wage that state-covered employers are required to pay under section 177.24, subdivision 1, paragraph (b).”*

Amend the title as follows:

Page 1, line 2, delete everything after “requiring” and insert “the hiring of local workers and the payment of wages equal to those of railroad workers”

Page 1, line 3, delete “be paid”

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

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

S.F. No. 612: A bill for an act relating to capital improvements; authorizing the sale of state bonds for the museum of transportation; appropriating money; amending Minnesota Statutes 1988, section 174.50, by adding a subdivision.

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

Page 1, line 15, delete “the housing and redevelopment authority of” and after “Paul” insert “or one of its redevelopment agencies”

Page 1, line 16, after the first “to” insert “obtain and” and after “construct” insert “or remodel”

Page 1, line 19, delete “to acquire land”

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. 1260: A bill for an act relating to public employment; regulating fair share fees, unfair labor practices, arbitration procedures and grievance

procedures; amending Minnesota Statutes 1988, sections 179A.03, subdivision 7; 179A.06, subdivision 3; 179A.13, subdivision 1; 179A.14, subdivision 1; 179A.16, subdivisions 1, 2, and 3; 179A.20, subdivision 4; repealing Laws 1984, chapter 654, article 2, section 116.

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

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1988, section 179.02, is amended by adding a subdivision to read:

*Subd. 4. [ROSTER OF ARBITRATORS.] The commissioner shall maintain a roster of persons suited and qualified by training and experience to act as arbitrators of labor disputes and shall provide parties to a labor dispute with the names of persons on the roster upon written request. The commissioner shall adopt rules governing appointments to, removals from, and administration of this roster."*

Page 2, after line 1, insert:

"Sec. 3. Minnesota Statutes 1988, section 179A.05, subdivision 6, is amended to read:

*Subd. 6. [~~LIST OF ARBITRATORS~~ ADMINISTRATION OF ARBITRATOR ROSTER.] The board shall maintain a list of names of arbitrators qualified by experience and training in the field of labor management negotiations and arbitration. Names on the list may be selected and removed at any time by a majority of the board. In maintaining the list the board shall, to the maximum extent possible, select persons from varying geographical areas of the state. The board shall adopt rules under chapter 14 governing the administration of the arbitration roster."*

Page 2, lines 8, 19, 21, and 30, strike "shall" and insert "must"

Page 2, line 11, strike "shall" and insert "may"

Page 3, line 6, delete "shall" and insert "must"

Page 4, line 12, strike "shall be" and insert "is"

Page 4, line 32, delete "shall" and insert "must"

Page 5, line 6, delete "shall be regarded as" and insert "constitutes"

Page 5, line 15, before "interest" insert "binding"

Page 5, line 17, delete "shall" and insert "must"

Page 5, lines 18, 29, and 33, before "arbitration" insert "binding"

Page 5, lines 19 and 20, delete "or not"

Page 5, line 30, delete "pursuant to the provisions of" and insert "in accordance with"

Page 5, line 32, after the period, insert "*The commissioner shall submit these matters to the board once the 15-day period for the submission of final positions has elapsed, along with any final positions submitted by the parties.*"

Page 5, line 36, delete "final"

Page 6, line 1, before the period, insert "*during the course of those*

efforts”

Page 6, after line 2, insert:

“Sec. 10. Minnesota Statutes 1988, section 179A.16, subdivision 4, is amended to read:

Subd. 4. [CONSTRUCTION OF ARBITRATION PANEL.] The board shall provide the parties to the interest arbitration a list of seven arbitrators. ~~In submitting names of arbitrators to the parties, the board shall try to include names of persons from the geographical area in which the public employer is located.~~ The parties shall, ~~under the direction of the chair of the board,~~ alternately strike names from the list of arbitrators until only ~~three names remain, or if requested by either party, until only~~ a single arbitrator remains, ~~unless the parties request and mutually agree to utilize a panel of three arbitrators.~~ If the parties are unable to agree on who shall strike the first name, the question ~~shall~~ *must* be decided by the flip of a coin. The arbitrator or arbitrators remaining after the striking procedure constitute the arbitration panel.”

Page 6, line 5, strike “shall” and insert “*must*”

Page 6, line 6, strike “which shall provide” and insert “*providing for*”

Page 6, line 7, before “disciplinary” insert “*written*”

Page 6, line 9, strike “shall be” and insert “*are*”

Page 6, line 13, after “*any*” insert “*written*”

Page 7, line 1, delete “9” and insert “12”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after “sections” insert “179.02, by adding a subdivision;” and after “7;” insert “179A.05, subdivision 6;”

Page 1, line 7, delete “and” and after “3” insert “. and 4”

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

Mr. Pehler from the Committee on Education, to which was re-referred

S.F. No. 1020: A bill for an act relating to state government; authorizing the Minnesota Educational Computing Corporation to sell or offer for sale all or substantially all of the assets or any of the ownership of the Minnesota Educational Computing Corporation; clarifying disposition of assets upon dissolution; amending Minnesota Statutes 1988, sections 119.04, subdivision 2, and by adding subdivisions; and 119.09.

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 1988, section 119.04, subdivision 2, is amended to read:

Subd. 2. [POWERS.] The board of directors has the authority to engage in all activities which carry out the public purpose expressed in section 119.01 and which are consistent with sections 119.01 to 119.09. This

authority includes but is not limited to acquiring, leasing, and disposing of real and personal property, establishing banking relationships, borrowing funds, establishing policies relating to personnel and compensation of personnel, and purchasing insurance. The board of directors may form wholly-owned subsidiaries. A subsidiary shall be under the management control of the MECC board of directors. The board of directors shall employ and set the compensation for the chief officer of MECC at not to exceed 95 percent of the salary of the governor as provided by section 15A.081, subdivision 6. The chief officer shall direct and carry on the work of MECC and assignments of the board. The board may establish bylaws and elect an executive committee.

~~The board of directors does not have the power to sell or offer for sale all or substantially all of the assets or any of the ownership of MECC.~~

Sec. 2. Minnesota Statutes 1988, section 119.04, is amended by adding a subdivision to read:

*Subd. 3. [SALE OF CORPORATION.] The board of directors may sell all, substantially all, or part of the assets or any of the ownership of the corporation. When any part is sold, the board shall transfer the assets or ownership that is sold to the purchaser. Upon the sale of all or substantially all of the assets or ownership of the corporation, the board of directors shall dispose of any remaining assets and dissolve the corporation.*

Sec. 3. Minnesota Statutes 1988, section 119.04, is amended by adding a subdivision to read:

*Subd. 4. [DISTRIBUTION OF PROCEEDS.] If all or substantially all of the assets of the corporation are sold, the proceeds of the sale must be applied in the following order:*

*(1) any liabilities and obligations of the corporation must be paid, satisfied, or discharged or adequate provision must be made to do so;*

*(2) the corporation must be reimbursed for all expenses incurred in connection with the offer for sale and the sale of the corporation; and*

*(3) any remaining proceeds must be deposited in the general fund.*

Sec. 4. Minnesota Statutes 1988, section 119.06, subdivision 3, is amended to read:

*Subd. 3. [EMPLOYEE RETIREMENT AND INSURANCE.] As long as the state owns at least a majority of the assets or ownership of MECC, the department of employee relations shall accept MECC employees in retirement plans and group life, health, and dental insurance plans provided MECC and its employees apply and fully pay the premiums and contributions of these plans. For a period of 90 days after the effective date of this section, employees of the consortium who are members of the Minnesota state retirement system or the teachers retirement association shall be entitled to transfer their accumulated employer and employee contributions, not including interest, from those funds to the state unclassified employees retirement program under chapter 352D. For purposes of coverage under section 352D.02, subdivision 1, MECC employees transferring under this section shall be considered to be unclassified employees of the state.*

Sec. 5. Minnesota Statutes 1988, section 119.09, is amended to read:

119.09 [DISSOLUTION.]

In the event of the dissolution of MECC for any reason *except a sale of all or substantially all of the assets or ownership of the corporation under section 119.04*, the state of Minnesota, upon action by the governor, after consultation with the legislative advisory commission, shall have the option to require return of all the assets of MECC to the state in exchange for the assumption of all outstanding obligations of MECC.

Sec. 6. [PROCEDURES AND CONDITIONS OF AN OFFER.]

*Subdivision 1. [OFFER REQUIRED.] The board of directors of the Minnesota educational computing corporation, in consultation with the commissioner of finance, shall solicit offers to purchase all or part of the assets or ownership of the corporation according to this section.*

*Subd. 2. [CONDITIONS OF SALE.] Sale of all or any part of the assets of or ownership of the corporation shall be conditioned upon both of the following:*

*(a) The buyer and all subsequent buyers must continue to provide those computing and technology-related products developed by the Minnesota educational computing corporation to Minnesota educational institutions at one-half of the lowest price the products are sold to any non-Minnesota educational institution. Minnesota educational institutions shall maintain the right to unlimited copies of products they purchase.*

*(b) All products existing or substantially developed at the time of the sale shall be copyrighted in the name of the state of Minnesota. The buyer may sell and market copyrighted products.*

*Subd. 3. [EVALUATION METHODS.] Before requesting proposals, the board and the commissioner of finance shall jointly establish:*

*(1) factors to be used in the review and evaluation of proposals from responsible bidders;*

*(2) a method for determining whether or to what degree each factor has been or would be likely to be met;*

*(3) the relative importance of each factor;*

*(4) whether both of the conditions in subdivision 2 are satisfied; and*

*(5) other procedures to be used to review and evaluate proposals.*

*Subd. 4. [PROPOSAL OPTIONS.] The board shall request proposals, according to the procedures and deadlines it determines, for any or a combination of the following:*

*(1) sale of all or substantially all of the assets or ownership of the corporation to a private or public corporation, partnership, or proprietorship;*

*(2) sale of less than one-half of the assets or ownership of the corporation to a private or public corporation, partnership, or proprietorship;*

*(3) sale of all, substantially all, or any part of the assets or ownership of the corporation to the employees of the corporation; and*

*(4) a public offering of the sale of all, substantially all, or any part of the assets or ownership of the corporation.*

*Subd. 5. [PROHIBITION ON PARTICIPATION IN PROPOSALS.] Except for a proposal under subdivision 4, clause (3), no member of the board and no employee in a management position may participate in a proposal*

*submitted to the board according to subdivision 4 unless the member resigns from the board or the employee terminates employment.*

*Subd. 6. [EVALUATION FACTORS.] Factors upon which all proposals received from responsible bidders by the deadline shall be evaluated include, but are not limited to, the following:*

*(1) the price offered by the bidder for any or all of the assets or ownership of the corporation;*

*(2) the extent to which the bidder will assume any liabilities and obligations of the corporation;*

*(3) the ability of the bidder to provide the capital needed to continue providing cost-effective computer technology-related products and services to educational institutions in the state and elsewhere;*

*(4) the ability of the bidder to provide, each year for five years after the date of purchase, capital for research and development in an amount comparable to similar corporations;*

*(5) the ability of the bidder to maintain and expand employment in the state using assets or ownership purchased from the corporation;*

*(6) whether and to what extent the bidder operates, conducts, and significantly contributes to business in the state; and*

*(7) whether the conditions of sale would be met.*

*Subd. 7. [PROCEDURES AND RECOMMENDATIONS.] The board shall review and evaluate all proposals and adopt recommendations. The board may recommend rejection of all proposals. By September 1, 1989, the board shall submit its recommendations and copies of proposals to the commissioner of finance. The commissioner of finance shall contract with an independent evaluator to provide a brief independent market valuation of the corporation. The board shall pay for the independent evaluation. By October 1, 1989, the commissioner of finance shall review the recommendations of the board and the independent evaluation. By November 1, 1989, the commissioner of finance shall submit the recommendations of the board of directors, the independent evaluation, and the recommendations of the commissioner of finance to the legislative auditor. The legislative auditor shall review the recommendations of the board of directors and the commissioner of finance and the independent evaluation and make its recommendations.*

*Subd. 8. [REPORT TO THE LEGISLATURE.] By January 15, 1990, the recommendations of the board of directors, the commissioner of finance, and the legislative auditor, and the independent evaluation shall be submitted to the education committees of the legislature. It is the intention of the legislature to take action relating to the sale of the corporation during the 1990 legislative session."*

Delete the title and insert:

"A bill for an act relating to education; authorizing and establishing procedures for the sale of all or part of the Minnesota Educational Computing Corporation; amending Minnesota Statutes 1988, sections 119.04, subdivision 2, and by adding subdivisions; 119.06, subdivision 3; and 119.09."

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

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

S.F. No. 281: A bill for an act relating to agriculture; allowing nuisance free, pollution free, aesthetic disposal of solid waste on agricultural land by a person engaged in farming; requiring the pollution control agency to notify the commissioner of agriculture and hold public hearings on rules affecting farming operations; amending Minnesota Statutes 1988, sections 14.115, subdivision 1; and 116.07, subdivision 4; 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, line 25, delete "and" and insert a comma and after " 88.17," insert "and 88.22"

Page 2, after line 3, insert:

"Sec. 3. Minnesota Statutes 1988, section 115A.46, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems. The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste. The plans shall address at least waste reduction, separation, and resource recovery, and shall include objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste. *The plans shall describe methods for identifying the portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and use in agricultural practices.* The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall include a comparison of the costs of the activities to be undertaken, including capital and operating costs, and the effects of the activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established. The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. The plans shall

establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable. The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

Sec. 4. Minnesota Statutes 1988, section 115A.48, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The board shall assist and encourage the development of specific facilities, services, and uses needed to provide adequate, stable, and reliable markets for recyclable materials, *solid waste suitable for land application*, and compost generated in the state. In carrying out this duty the board shall coordinate and cooperate with the solid waste management efforts of other public agencies and political subdivisions.

Sec. 5. Minnesota Statutes 1988, section 115A.48, subdivision 2, is amended to read:

Subd. 2. [FACILITY DEVELOPMENT PROPOSALS.] In order to determine the feasibility and method of developing and operating specific types of facilities and services to use recyclable materials, *solid waste suitable for land application*, and compost generated in the state, the board shall request proposals from and may make grants to persons seeking to develop or operate the facilities or services. Grants may be made for the purposes in section 115A.156, subdivision 1, clauses (1) to (6). A grant must be matched by money or in-kind services provided by the grantee covering at least 50 percent of the project cost. In requesting proposals under this section the board shall follow the procedures provided in section 115A.158, subdivisions 1 and 2, as far as practicable.

Sec. 6. Minnesota Statutes 1988, section 115A.48, is amended by adding a subdivision to read:

Subd. 4. [LAND APPLICATION OF SOLID WASTE.] *The board shall provide technical assistance and advice to political subdivisions on separating portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and for use in agricultural practices.*

Page 4, line 29, delete "3" and insert "7"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring planning and providing technical and financial assistance for land application of certain solid wastes;"

Page 1, line 9, after the first semicolon, insert "115A.46, subdivision 2; 115A.48, subdivisions 1, 2, and by adding a subdivision;"

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



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

S.F. No. 678: A bill for an act relating to veterans; providing for establishment of a veterans home in Luverne; proposing coding for new law in Minnesota Statutes, chapter 198.

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

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

S.F. No. 124: A bill for an act relating to recreational vehicles; regulating all-terrain vehicles; setting fees; imposing a penalty; amending Minnesota Statutes 1988, sections 84.92, by adding subdivisions; 84.922, subdivisions 1 and 5; 84.924, subdivision 3; 84.9256, subdivisions 1, 2, and 3; 84.928, subdivisions 1, 2, and 6; and 84.929; proposing coding for new law in Minnesota Statutes, chapter 84; repealing Minnesota Statutes 1988, sections 84.922, subdivision 8; 84.925, subdivision 2; and 84.928, subdivision 7.

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 1988, 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) a 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) a loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

(c) a loss in connection with the assessment and collection of taxes;

(d) a loss caused by snow or ice conditions on a 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) a loss caused by wild animals in their natural state, except as provided in section 3.7371;

(f) a loss other than injury to or loss of property or personal injury or death;

(g) a loss caused by the condition of unimproved real property owned by the state, which means land that the state has not improved, state land that contains idled or abandoned mine pits or shafts, and appurtenances, fixtures, and attachments to land that the state has neither affixed nor improved;

(h) a loss ~~incurred by a user within the boundaries of the outdoor recreation system and arising from the construction, operation, or maintenance of the outdoor recreation 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 for a loss arising from the construction, operation, maintenance, or administration of grants-in-aid trails as defined in section 85.018, or for a loss arising from the construction, operation, or maintenance of a water access site created by the iron range resources and rehabilitation board, or for any other loss arising from construction on, or the operation, maintenance, or administration of lands administered by the commissioner of natural resources, except that the state is liable for conduct that would entitle a trespasser to damages against a private person.~~ For the purposes of this clause, a water access site, as defined in section 86A.04 or created by the iron range resources and rehabilitation board, that provides access to an idled, water filled mine pit, also includes the entire water filled area of the pit and, further, includes losses caused by the caving or slumping of the mine pit walls;

(i) a loss of benefits or compensation due under a program of public assistance or public welfare, except if state compensation for loss is expressly required by federal law in order for the state to receive federal grants-in-aid;

(j) a loss based on the failure of a person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents;

(k) a loss based on the usual care and treatment, or lack of care and treatment, of a person at a state hospital or state corrections facility where reasonable use of available appropriations has been made to provide care;

(l) loss, damage, or destruction of property of a patient or inmate of a state institution;

(m) a loss for which recovery is prohibited by section 169.121, subdivision 9; and

(n) a 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.

The state will not pay punitive damages.

Sec. 2. Minnesota Statutes 1988, section 84.92, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] The definitions in this section apply to sections 84.92 to 84.929 and Laws 1984, chapter 647, section 9 84.9291.

Sec. 3. Minnesota Statutes 1988, section 84.92, is amended by adding a subdivision to read:

*Subd. 1b. [ACCOMPANIED.] "Accompanied" means being subject to continuous direction or control.*

Sec. 4. Minnesota Statutes 1988, section 84.92, is amended by adding a subdivision to read:

*Subd. 1c. [AGRICULTURAL PURPOSE.] "Agricultural purpose" means used exclusively for an agricultural use as defined in subdivision 1d.*

Sec. 5. Minnesota Statutes 1988, section 84.92, is amended by adding

a subdivision to read:

*Subd. 1d. [AGRICULTURAL USE.] "Agricultural use" means use in agriculturally related activities or harvesting of wood for commercial or firewood purposes by any person.*

Sec. 6. Minnesota Statutes 1988, section 84.92, is amended by adding a subdivision to read:

*Subd. 1e. [CITY.] "City" means a home rule charter or statutory city.*

Sec. 7. Minnesota Statutes 1988, section 84.92, is amended by adding a subdivision to read:

*Subd. 6a. [PUBLIC ROAD RIGHT-OF-WAY.] "Public road right-of-way" means the entire right-of-way of a public road, including the traveled portions, banks, ditches, shoulders, and medians of a roadway that is not privately owned.*

Sec. 8. Minnesota Statutes 1988, section 84.922, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] Unless exempted in subdivision 8 1a, ~~after January 1, 1985,~~ a person may not operate and an owner may not give permission for another to operate an all-terrain vehicle within the state unless the vehicle has been registered. ~~After January 1, 1985, a person may not sell a vehicle without furnishing the buyer a bill of sale on a form prescribed by the commissioner with the commissioner of natural resources, or is exempt from registration.~~

Sec. 9. Minnesota Statutes 1988, section 84.922, is amended by adding a subdivision to read:

*Subd. 1a. [EXEMPTIONS.] All-terrain vehicles exempt from registration are:*

*(1) vehicles owned and used by the United States, the state, another state, or a political subdivision;*

*(2) vehicles registered in another state or country that have not been in this state for more than 30 consecutive days; and*

*(3) vehicles used exclusively in organized track racing events.*

Sec. 10. Minnesota Statutes 1988, section 84.922, is amended by adding a subdivision to read:

*Subd. 2a. [PRIVATE USE REGISTRATION.] All-terrain vehicles may be registered for private use that are used exclusively for private or agricultural use or used exclusively on private property. Private use registration is valid from the date of issuance until ownership of the all-terrain vehicle is transferred. Private or agricultural use registrations are not transferable.*

Sec. 11. Minnesota Statutes 1988, section 84.922, subdivision 5, is amended to read:

*Subd. 5. [FEES FOR REGISTRATION.] (a) The fee for a three-year registration of each an all-terrain vehicle under this section, other than those registered by a dealer or manufacturer under paragraph (b) or (c), is:*

*(1) for public use, \$18 for three years;*

(2) for private use, \$6; and \$4

(3) for a duplicate or transfer, \$4.

(b) The total registration fee for all-terrain vehicles owned by a dealer and operated for demonstration or testing purposes is \$50 per year. Dealer registrations are not transferable.

(c) The total registration fee for all-terrain vehicles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes is \$150 per year. Manufacturer registrations are not transferable.

(d) The fees collected under this subdivision must be credited to the all-terrain vehicle account.

Sec. 12. Minnesota Statutes 1988, section 84.924, subdivision 3, is amended to read:

Subd. 3. [ACCIDENT REPORT; REQUIREMENT AND FORM.] The operator and an officer investigating an accident of an all-terrain vehicle involved in an accident resulting in injury requiring medical attention or hospitalization to or death of a person or total damage to an extent of ~~\$100~~ \$300 or more shall ~~promptly~~ within ten days forward a written report of the accident to the commissioner of natural resources on a form prescribed by either the commissioner of natural resources or the commissioner of public safety.

Sec. 13. Minnesota Statutes 1988, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITIONS ON YOUTHFUL OPERATORS.] (a) ~~Despite section 84.928 to the contrary, Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.~~

(b) A person under 12 years of age shall not:

(1) make a direct crossing of a ~~trunk, county state-aid, or county highway as the operator of an all-terrain vehicle, or operate the vehicle upon a street or highway within a municipality~~ a public road right-of-way;

(2) operate an all-terrain vehicle on a public road right-of-way in the state; or

(3) operate an all-terrain vehicle on public lands or waters.

~~(b)~~ (c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than ~~14~~ 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied on another all-terrain vehicle by a person ~~over~~ 18 years of age or holding older who holds a valid driver's license. A person under the age of 14 years shall not operate an all-terrain vehicle on public land or water under the jurisdiction of the commissioner unless accompanied by one of the following listed persons on the same vehicle, if designed for more than one person; or an accompanying all-terrain vehicle: the person's parent, legal guardian, or other person 18 years of age or older or holding a valid driver's license.

However, a person 12 years of age or older may operate an all-terrain

vehicle on public lands and waters under the jurisdiction of the commissioner if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner.

(c) ~~A person 14 years of age or older, but less than 16 years of age, may make a direct crossing of a trunk, county state-aid, or county highway only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner or a valid motor vehicle operator's license.~~

*(d) All-terrain vehicle safety certificates issued by the commissioner to persons 12 years old, but less than 16 years old, are not valid for machines in excess of 90cc engine capacity.*

Sec. 14. Minnesota Statutes 1988, section 84.9256, subdivision 2, is amended to read:

Subd. 2. [HELMET REQUIRED.] A person less than ~~16~~ 18 years of age shall not operate an all-terrain vehicle on public land, *public waters, or on a public road right-of-way* unless wearing a safety helmet approved by the commissioner of public safety.

Sec. 15. Minnesota Statutes 1988, section 84.9256, subdivision 3, is amended to read:

Subd. 3. [PROHIBITIONS ON OWNER.] ~~It is unlawful for the~~ An owner of an all-terrain vehicle ~~to permit~~ *may not knowingly allow* it to be operated contrary to this section.

Sec. 16. Minnesota Statutes 1988, section 84.928, subdivision 1, is amended to read:

Subdivision 1. ~~[OPERATION ON STREETS AND HIGHWAYS ROADS AND RIGHTS-OF-WAY.]~~ (a) A person shall not operate an all-terrain vehicle ~~upon the~~ *along or on the* roadway, shoulder, or inside bank or slope of a public road right-of-way ~~other than in the ditch or the outside bank or slope of a trunk, county state-aid, or county highway in this state and, in the case of a divided trunk or county highway, on the right-of-way between the opposing lanes of traffic; except as provided unless otherwise allowed~~ in sections 84.92 to 84.929.

*(b) A person may operate an all-terrain vehicle registered for private use and used for agricultural purposes on a public road right-of-way of a trunk, county state-aid, or county highway in this state if the all-terrain vehicle is operated on the extreme right-hand side of the road, and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.*

(c) A person shall not operate an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway from April 1 to August 1 in the agricultural zone unless the vehicle is being used exclusively as transportation to and from work on agricultural lands.

(d) A person shall not operate an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right-hand side of the right-of-way and in the same direction as the highway traffic on the nearest lane of the adjacent roadway.

(e) A person shall not operate an all-terrain vehicle at any time within the right-of-way of an interstate highway or freeway within this state.

*Subd. 1a. [CROSSINGS OF A PUBLIC ROAD RIGHT-OF-WAY.]* ~~(b)~~ (a) An all-terrain vehicle may make a direct crossing of a ~~street or highway~~ public road right-of-way provided:

(1) the crossing is made at an angle of approximately 90 degrees to the direction of the ~~highway road~~ and at a place where no obstruction prevents a quick and safe crossing;

(2) the vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the ~~highway road~~;

(3) the driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard;

(4) in crossing a divided ~~highway road~~, the crossing is made only at an intersection of the ~~highway road~~ with another public ~~street or highway road~~; and

(5) if the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

~~(e)~~ (b) An all-terrain vehicle may be operated upon a bridge, other than a bridge that is part of the main traveled lanes of an interstate highway, or roadway shoulder or inside bank of a public road right-of-way when required for the purpose of avoiding obstructions to travel when no other method of avoidance is possible; provided the all-terrain vehicle is operated in the extreme right-hand lane, the entrance to the roadway is made within 100 feet of the bridge or obstacle, and the crossing is made without undue delay.

~~(d)~~ (c) A person shall not operate an all-terrain vehicle upon a public street or highway unless the vehicle is equipped with at least one headlight and one taillight, each of minimum candlepower as prescribed by rules of the commissioner, with reflector material of a minimum area of 16 square inches mounted on each side forward of the handlebars, and with brakes conforming to standards prescribed by rule of the commissioner, and all of which are subject to the approval of the commissioner of public safety.

~~(e)~~ (d) An all-terrain vehicle may be operated upon a public ~~street or highway road right-of-way~~ other than as provided by paragraph ~~(b)~~ (a) in an emergency during the period of time when and at locations where the condition of the roadway renders travel by automobile impractical.

~~(f)~~ (e) Chapter 169 applies to the operation of all-terrain vehicles upon streets and highways, except for those provisions relating to required equipment and except those provisions which by their nature have no application.

~~(g)~~ (f) A sled, trailer, or other device being towed by an all-terrain vehicle must be equipped with reflective materials as required by rule of the commissioner.

(g) A driver's license is not required to operate an all-terrain vehicle along or on a public road right-of-way, if the right-of-way encompasses a trail administered by the commissioner and designated for all-terrain vehicle use or multiple use.

(h) A road authority as defined in section 160.02, subdivision 9, may by permit designate corridor access trails on public road rights-of-way for purposes of accessing established all-terrain vehicle trails. A driver's license is not required to operate an all-terrain vehicle on a designated

*corridor access trail.*

Sec. 17. Minnesota Statutes 1988, section 84.928, subdivision 2, is amended to read:

Subd. 2. [OPERATION GENERALLY.] ~~It is unlawful for~~ A person to ~~may not~~ drive or operate an all-terrain vehicle:

(1) at a rate of speed greater than reasonable or proper under the surrounding circumstances;

(2) in a careless, reckless, or negligent manner so as to endanger or to cause injury or damage to the person or property of another;

(3) without headlight and taillight lighted at all times if the vehicle is equipped with headlight and taillight;

(4) without a functioning stoplight if so equipped; ~~or~~

(5) in a tree nursery or planting in a manner ~~which~~ *that* damages or destroys growing stock;

(6) *without a brake operational by either hand or foot;*

(7) *with more persons on the vehicle than it was designed for; or*

(8) *in a manner that violates operation rules adopted by the commissioner.*

Sec. 18. Minnesota Statutes 1988, section 84.928, subdivision 6, is amended to read:

Subd. 6. [REGULATIONS BY POLITICAL SUBDIVISIONS.] ~~Despite any provision in this section~~ *(a) Notwithstanding any law to the contrary, a county board, by resolution, may permit the operation of all-terrain vehicles upon the roadway, shoulder, or inside bank or slope of a county highway or county state aid highway if the roadway is in the agricultural zone or if safe operation in the ditch or outside bank or slope of the highway is impossible, in which case the county board shall provide appropriate notice city or town, acting through its governing body, may by ordinance prohibit the operation of all-terrain vehicles on city streets or town roads in its jurisdiction provided the regulations are otherwise consistent with sections 84.92 to 84.929.*

*(b) A county or city, or a town acting by its town board, may regulate the operation of all-terrain vehicles on public lands, waters, and property under its jurisdiction and on streets and highways other than public road rights-of-way within its boundaries, by resolution or ordinance of the governing body and by giving appropriate notice, provided:*

*(1) the regulations are must be consistent with sections 84.92 to 84.929 and rules adopted under section 84.924. However, the local governmental unit may not adopt;*

*(2) an ordinance which (1) imposes may not impose a fee for the use of public land or water under the jurisdiction of either the department of natural resources or other agency of the state, or for the use of an access to it owned by the state or a county or a city; or (2) requires; and*

*(3) an ordinance may not require an all-terrain vehicle operator to possess a motor vehicle driver's license while operating an all-terrain vehicle.*

*(c) Notwithstanding any law to the contrary, a county board by ordinance may allow the operation of all-terrain vehicles on the road right-of-way*

*shoulder, or inside bank or slope of a county highway or county state-aid highway, if:*

- (1) the highway is in the agricultural zone; or*
- (2) safe operation in the ditch or outside slope is impossible, and the county posts the appropriate notice.*

Sec. 19. Minnesota Statutes 1988, section 84.929, is amended to read:

84.929 [PENALTIES.]

Any person who violates any provision of sections ~~84.922, 84.923, and 84.925~~ 84.92 to 84.928 or rules of the commissioner is guilty of a ~~petty~~ misdemeanor.

Sec. 20. [84.9291] [COSTS AND FEES.]

*The court shall award direct legal costs resulting from a lawsuit, including reasonable attorney fees, to a public or private owner, lessee, permittee, or occupant, who is determined not to be liable for injury to a person or property arising from operation of a vehicle that is subject to sections 84.92 to 84.929.*

Sec. 21. Minnesota Statutes 1988, section 171.03, is amended to read:

171.03 [PERSONS EXEMPT.]

The following persons are exempt from license hereunder:

(1) Any person in the employ or service of the United States federal government while driving or operating a motor vehicle owned by or leased to the United States federal government;

(2) Any person while driving or operating any farm tractor, or implement of husbandry temporarily operated or moved on a highway. *For purposes of this section an all-terrain vehicle as defined in section 84.92, subdivision 8, is not an implement of husbandry;*

(3) A nonresident who is at least 15 years of age and who has in immediate possession a valid driver's license issued to the nonresident in the home state or country may operate a motor vehicle in this state only as a driver;

(4) Any nonresident who is at least 18 years of age, whose home state or country does not require the licensing of drivers may operate a motor vehicle as a driver, only for a period of not more than 90 days in any calendar year if the motor vehicle so operated is duly registered for the current calendar year in the home state or country of such nonresident;

(5) Any person who becomes a resident of the state of Minnesota and who has in possession a valid driver's license issued to the person under and pursuant to the laws of some other state or province or by military authorities of the United States may operate a motor vehicle as a driver, only for a period of not more than 60 days after becoming a resident of this state without being required to have a Minnesota driver's license as provided in this chapter;

(6) Any person operating a snowmobile, as defined in section 84.81.

Sec. 22. [REPEALER.]

*Minnesota Statutes 1988, sections 84.922, subdivision 8; 84.925, subdivision 2; and 84.928, subdivision 7, are repealed."*



Delete the title and insert:

"A bill for an act relating to recreational vehicles; regulating all-terrain vehicles; setting fees; revising liability provisions; imposing a penalty; amending Minnesota Statutes 1988, sections 3.736, subdivision 3; 84.92, subdivision 1, and by adding subdivisions; 84.922, subdivisions 1 and 5, and by adding subdivisions; 84.924, subdivision 3; 84.9256, subdivisions 1, 2, and 3; 84.928, subdivisions 1, 2, and 6; 84.929; and 171.03; proposing coding for new law in Minnesota Statutes, chapter 84; repealing Minnesota Statutes 1988, sections 84.922, subdivision 8; 84.925, subdivision 2; and 84.928, subdivision 7."

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

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

H.F. No. 819: A bill for an act relating to Hennepin county; providing for the number of commissioners of the county housing and redevelopment authority; amending Minnesota Statutes 1988, section 383B.77, by adding a subdivision.

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

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

S.F. No. 1202: A bill for an act relating to metropolitan government; restructuring the regional transit board and the metropolitan transit commission; directing the board to plan and coordinate light rail transit systems in the metropolitan area; directing the commission to operate any light rail transit systems; transferring responsibility for distribution of the transit assistance fund and for receipt of federal grants to the board; amending Minnesota Statutes 1988, sections 174.32, subdivision 2; 473.169, subdivisions 3, 4, 5, and by adding subdivisions; 473.373, by adding a subdivision; 473.375, subdivision 8, and by adding a subdivision; 473.404, subdivisions 2 and 3; and 473.4051; repealing Minnesota Statutes 1988, sections 473.1691; 473.17; 473.373, subdivision 4; and 473.398.

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

Page 4, after line 5, insert:

"Sec. 5. Minnesota Statutes 1988, section 473.169, is amended by adding a subdivision to read:

*Subd. 4b. [SPECIAL ELIGIBILITY PROVISION.] Notwithstanding section 174.32, subdivision 2; this section; and section 473.375, a regional rail authority that has developed a comprehensive plan and has expended funds for preliminary design of a light rail transit system is eligible for state assistance if those plans were consistent with the metropolitan long-range transportation plans in existence on January 1, 1989. Section 174.32, subdivision 2; this section; and section 473.375 may not be interpreted or relied on by any person, political subdivision, or agency to delay the planning, engineering, or construction of a regional rail authority's light rail system. If a regional rail authority is an eligible recipient of federal funds and the secretary of transportation preliminarily awards or indicates*

*an intent to award federal funds to the regional rail authority for a light rail transit system, then no plans of the regional transit board shall interfere with that award."*

Page 5, line 20, delete "*the city of*"

Page 5, line 21, delete "*Minneapolis*" and insert "*Anoka county*"

Page 5, line 22, delete "*the city of St.*"

Page 5, line 23, delete "*Paul*" and insert "*Dakota county*"

Page 5, line 33, delete everything after "*area*"

Page 5, line 34, delete everything before the period

Page 5, line 36, delete "*and*" and insert a comma and after "*area*" insert "*, and the governing bodies of the cities of Minneapolis and St. Paul*"

Page 6, lines 17 and 18, reinstate the stricken language

Page 6, line 19, reinstate everything before the stricken "*The*"

Page 8, lines 32 and 33, delete "*7*" and insert "*8*"

Page 8, line 36, delete "*Minneapolis and St. Paul*" and insert "*Anoka and Dakota counties*"

Page 9, line 6, delete "*7*" and insert "*8*"

Page 9, line 8, delete "*11*" and insert "*12*"

Page 9, lines 9 and 10, delete "*10*" and insert "*11*"

Page 9, after line 11, insert:

"Sec. 15. [TRANSIT DELIVERY STUDY.]

*Subdivision 1. [STUDY REQUIRED.] The regional transit board shall conduct a study of methods to improve the delivery of transportation services for the elderly, handicapped, and disabled, including persons with permanent sensory or mental impairments, whose transit needs cannot be fully accommodated through the use of existing public transit alternatives. The board shall direct its staff to:*

- (1) evaluate the adequacy of service currently being provided;*
- (2) document the levels of service currently being provided for programs under the jurisdiction of the department of human services;*
- (3) assess the adequacy of financial assistance being provided by the department of human services for the provision of these transportation services;*
- (4) evaluate the potential for integrating metro mobility with other specialized transit;*
- (5) assess the role of nonprofits in providing cost-effective service;*
- (6) identify transit issues for special populations in suburban areas;*
- (7) identify and evaluate options for a formal appeals process to challenge decisions by the board to eliminate or reduce service to clients; and*
- (8) evaluate the efficiency and usefulness of the current metro mobility administrative center computer system and identify suggestions for*

*improvement.*

*Subd. 2. [COMMUNITY INVOLVEMENT.] The board shall actively involve interested parties in this process, including but not limited to:*

- (1) members of the transportation handicapped advisory committee;*
- (2) representatives of the department of human services;*
- (3) members of the transit providers advisory committee;*
- (4) representatives of nonprofit transit and social service providers;*
- (5) organizations representing the elderly, handicapped, and disabled communities; and*
- (6) interested members of the general public.*

*Subd. 3. [REPORT.] The board shall report its findings and recommendations, along with all supporting data and public comment, to the chairs of the house of representatives and senate transportation committees by December 1, 1989."*

Page 9, line 16, delete "14" and insert "16"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after the semicolon, insert "requiring a transit delivery study:"

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

## **SECOND READING OF SENATE BILLS**

S.F. Nos. 1060, 1144, 500, 1106, 1270, 119, 695, 1082, 808, 1302, 632, 863, 631, 855, 109, 870, 1242, 778, 1047, 1075, 796, 1145, 809, 712, 661, 1271, 453, 1269, 858, 490, 840, 1139, 936, 1080, 1260 and 281 were read the second time.

## **SECOND READING OF HOUSE BILLS**

H.F. Nos. 774 and 819 were read the second time.

## **MOTIONS AND RESOLUTIONS**

Mr. Cohen moved that the name of Mr. Metzen be added as a co-author to S.F. No. 69. The motion prevailed.

Mr. Knaak moved that the name of Mr. Novak be added as a co-author to S.F. No. 81. The motion prevailed.

Ms. Berglin moved that the name of Mr. Marty be added as a co-author to S.F. No. 91. The motion prevailed.

Mr. Dicklich moved that the name of Mr. Pehler be added as a co-author to S.F. No. 343. The motion prevailed.

Mr. Freeman moved that his name be stricken as a co-author to S.F. No. 365. The motion prevailed.

Mr. Vickerman moved that the name of Mr. DeCramer be added as a co-author to S.F. No. 475. The motion prevailed.

Mr. DeCramer moved that the name of Mr. Vickerman be added as a co-author to S.F. No. 678. The motion prevailed.

Mr. DeCramer moved that the name of Mr. Frederickson, D.R. be added as a co-author to S.F. No. 705. The motion prevailed.

Mr. Dahl moved that the name of Mr. Marty be added as a co-author to S.F. No. 824. The motion prevailed.

Mr. Dicklich moved that the names of Ms. Piper and Mr. Solon be added as co-authors to S.F. No. 832. The motion prevailed.

Mr. Samuelson moved that the name of Mr. DeCramer be added as a co-author to S.F. No. 847. The motion prevailed.

Mr. Morse moved that the name of Mr. Marty be added as a co-author to S.F. No. 1027. The motion prevailed.

Ms. Piper moved that the name of Mr. Spear be added as a co-author to S.F. No. 1106. The motion prevailed.

Mr. Chmielewski moved that the name of Mr. Marty be added as a co-author to S.F. No. 1156. The motion prevailed.

Mr. Moe, R.D. moved that the name of Mr. Pogemiller be added as a co-author to S.F. No. 1189. The motion prevailed.

Ms. Peterson, D.C. moved that the name of Mr. Hughes be added as a co-author to S.F. No. 1322. The motion prevailed.

Mr. Frank moved that the name of Mr. Dahl be added as a co-author to S.F. No. 1334. The motion prevailed.

Mr. Dicklich moved that the name of Mr. Marty be added as a co-author to S.F. No. 1344. The motion prevailed.

Mr. Dicklich moved that the name of Mr. Chmielewski be added as a co-author to S.F. No. 1354. The motion prevailed.

Mr. Belanger moved that the name of Mr. Ramstad be added as a co-author to S.F. No. 1372. The motion prevailed.

Mr. Berg moved that the names of Messrs. Frederickson, D.J. and Frederickson, D.R. be added as co-authors to S.F. No. 1378. The motion prevailed.

Mr. Brandl moved that S.F. No. 1347 be withdrawn from the Committee on Local and Urban Government and returned to its author. The motion prevailed.

Mr. Laidig introduced —

Senate Resolution No. 95: A Senate resolution commending the young people of Trinity Lutheran Church, of Stillwater, Minnesota, for their dedicated work in Estancia, Mexico.

Referred to the Committee on Rules and Administration.

Mr. Bertram introduced—

Senate Resolution No. 96: A Senate resolution congratulating the Farmers and Merchants State Bank, of Paynesville, Minnesota, on its 25th Anniversary.

Referred to the Committee on Rules and Administration.

Mr. Pehler moved that the name of Mr. Moe, D.M. be added as a co-author to S.F. No. 365. The motion prevailed.

Mr. Chmielewski moved that the name of Ms. Piper be added as a co-author to S.F. No. 1097. The motion prevailed.

Mr. Luther moved that the name of Mr. Marty be added as a co-author to S.F. No. 1382. The motion prevailed.

Mr. Pogemiller moved that S.F. No. 1242, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

S.F. No. 156 and the Conference Committee Report thereon were reported to the Senate.

### CONFERENCE COMMITTEE REPORT ON S.F. NO. 156

A bill for an act relating to gambling; authorizing the governor to negotiate a tribal-state compact pursuant to the Indian gaming regulatory act; proposing coding for new law in Minnesota Statutes, chapter 3.

March 29, 1989

The Honorable Jerome M. Hughes  
President of the Senate

The Honorable Robert Vanasek  
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 156, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 156 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. [3.9221] [INDIAN TRIBES; COMPACTS TO BE NEGOTIATED.]

*Subdivision 1. [DEFINITION.] For purposes of this section, “act” means the Indian gaming regulatory act, Public Law Number 100-497, and future amendments to it.*

*Subd. 2. [NEGOTIATIONS AUTHORIZED.] The governor or the governor's designated representatives shall, pursuant to section 11 of the act, negotiate in good faith a tribal-state compact regulating the conduct of class III gambling, as defined in section 4 of the act, on Indian lands of a tribe requesting negotiations. The agreement may include any provision authorized under section 11(d)(3)(C) of the act. The attorney general is the legal counsel for the governor or the governor's representatives in regard to negotiating a compact under this section.*

*Subd. 3. [TIME LIMITS.] (a) In the case of negotiations undertaken pursuant to a request for negotiations received before the effective date of this act, the authority granted under subdivision 2 to negotiate with an*

*Indian tribe expires 180 days after the effective date of this act.*

*(b) In the case of negotiations undertaken pursuant to a request for negotiations received after the effective date of this act, the authority granted under subdivision 2 to negotiate with an Indian tribe expires 180 days after receipt of the request by the governor.*

*Subd. 4. [REPORT.] The governor or the governor's representatives authorized to negotiate under subdivision 2 must, before signing any compact with an Indian tribe on behalf of the state, report on the contents of the compact to the senate committee on general legislation and public gaming and the house committee on general legislation, veterans affairs and gaming, and obtain a vote of approval for the compact from each committee voting separately.*

## Sec. 2. [EFFECTIVE DATE.]

*Section 1 is effective the day following final enactment."*

Delete the title and insert:

"A bill for an act relating to gambling; authorizing the governor or the governor's representatives to negotiate a tribal-state compact pursuant to the Indian gaming regulatory act; proposing coding for new law in Minnesota Statutes, chapter 3."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Marilyn M. Lantry, Randolph W. Peterson, Fritz Knaak

House Conferees: (Signed) Joseph Quinn, Becky Kelso

Mrs. Lantry moved that the foregoing recommendations and Conference Committee Report on S.F. No. 156 be now adopted and that the bill be repassed as amended by the Conference Committee.

Mr. Merriam moved that the recommendations and Conference Committee Report on S.F. No. 156 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration. The motion prevailed.

## CALENDAR

S.F. No. 717: A bill for an act relating to financial institutions; permitting banks to perform clerical services at off-premises data processing and storage centers; proposing coding for new law in Minnesota Statutes, chapter 48.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 106: A bill for an act relating to game and fish; selection process for wild turkey license holders; proposing coding for new law in Minnesota Statutes, chapter 97B.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 69: A bill for an act relating to education; requiring a school district to make reasonable efforts to accommodate a pupil who wishes to be absent from school for religious observances; proposing coding for new law in Minnesota Statutes, chapter 120.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

### CONSENT CALENDAR

S.F. No. 911: A bill for an act relating to counties; making explicit that the laws and rules that pertain to deputy registrars of motor vehicles also apply to county license bureaus; amending Minnesota Statutes 1988, section 373.35, subdivision 1.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 508: A bill for an act relating to local government; permitting statutory cities to have seven member councils; amending Minnesota Statutes 1988, sections 412.02, subdivision 1, and by adding a subdivision: 412.021, subdivision 2; 412.191, subdivisions 1 and 2; 412.541, subdivision 4; 412.571, subdivisions 1 and 4; 412.581; and 412.631.

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 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 937: A bill for an act relating to commerce; uniform commercial code; providing a 20-day notice period for certain fixture filings; amending Minnesota Statutes 1988, section 336.9-313.

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 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Vickerman and Lessard introduced—

S.F. No. 1384: A bill for an act relating to game and fish; season opening date for certain game fish; amending Minnesota Statutes 1988, section 97C.395, subdivision 1.

Referred to the Committee on Environment and Natural Resources.

Mr. Knaak, Ms. Olson, Messrs. McGowan and Mehrkens introduced—

S.F. No. 1385: A bill for an act relating to education; restoring state aid for teacher E.L.C.A. and retirement; changing the training and experience revenue; restoring cuts in the special education aid formula; appropriating money; amending Minnesota Statutes 1988, sections 124.32, subdivision 1b; 124.574, subdivision 2b; 124A.22, subdivisions 2, 4, and 9; 124A.23, subdivision 1; and 275.125, subdivision 8c; proposing coding for new law in Minnesota Statutes, chapters 124 and 124A.

Referred to the Committee on Education.

Mr. Peterson, R.W. introduced—

S.F. No. 1386: A bill for an act relating to education; authorizing a special capital loan for independent school district No. 314, Braham; appropriating money.

Referred to the Committee on Education.

Mr. Metzen introduced—

S.F. No. 1387: A bill for an act relating to air pollution; requiring a fee for certain air emissions; requiring the adoption of rules; creating a metropolitan air quality monitoring fund; proposing coding for new law in Minnesota Statutes, chapter 116.

Referred to the Committee on Environment and Natural Resources.

Messrs. Solon, Luther, Freeman, Storm and Kroening introduced—

S.F. No. 1388: A bill for an act relating to motor vehicles; defining the effect of certain leases; amending Minnesota Statutes 1988, section 168A.17, by adding a subdivision.

Referred to the Committee on Commerce.

Mr. Frederickson, D.J. introduced—

S.F. No. 1389: A bill for an act relating to agriculture; requiring the labeling of paddy-grown wild rice and natural wild rice; establishing an Indian wild rice promotion council; providing penalties; appropriating money; amending Minnesota Statutes 1988, section 30.49; proposing coding for new law in Minnesota Statutes, chapter 30.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Davis, Samuelson, Bertram and Morse introduced—

S.F. No. 1390: A bill for an act relating to agriculture; authorizing the commissioner to investigate cheese marketing arrangements; amending Minnesota Statutes 1988, section 17.03, by adding a subdivision.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Davis, Samuelson, Bertram and Morse introduced—

S.F. No. 1391: A resolution memorializing the President and Congress to assure fair treatment for Minnesota dairy farmers.

Referred to the Committee on Agriculture and Rural Development.

Mses. Peterson, D.C.; Reichgott and Mr. Luther introduced—

S.F. No. 1392: A bill for an act relating to insurance; requiring property and casualty insurance companies to provide support for use of underwriting standards; prohibiting the use of underwriting standards that are arbitrary, capricious, or unfairly discriminatory; requiring the commissioner to report to the legislature on certain matters; amending Minnesota Statutes 1988, section 72A.20, subdivision 19, and by adding a subdivision.

Referred to the Committee on Commerce.

Ms. Piper introduced—

S.F. No. 1393: A bill for an act relating to traffic regulations; exempting certain combinations hauling milk from seasonal load restrictions; amending Minnesota Statutes 1988, section 169.87, by adding a subdivision.

Referred to the Committee on Transportation.

Mr. Benson introduced—

S.F. No. 1394: A bill for an act relating to the county of Olmsted; providing for approval of certain conveyancing instruments by county zoning administrator.

Referred to the Committee on Local and Urban Government.

Messrs. Merriam, Pehler, Luther, Ms. Peterson, D.C. and Mr. McGowan introduced—

S.F. No. 1395: A bill for an act relating to controlled substances; requiring the bureau of criminal apprehension to develop a peace officer training program in drug abuse resistance education; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 626.

Referred to the Committee on Judiciary.

Mr. Ramstad introduced—

S.F. No. 1396: A bill for an act relating to local government; regulating storm sewer improvements in Plymouth and Golden Valley; amending Laws 1979, chapter 303, article 10, section 15.

Referred to the Committee on Local and Urban Government.

Mr. Bertram introduced—

S.F. No. 1397: A bill for an act relating to agriculture; authorizing townships to suspend certain noxious weed laws during drought; proposing coding for new law in Minnesota Statutes, chapter 18.

Referred to the Committee on Agriculture and Rural Development.

Mr. Anderson introduced—

S.F. No. 1398: A bill for an act relating to liquor; authorizing issuance of a certain on-sale license in Todd county.

Referred to the Committee on Commerce.

Mr. Anderson introduced—

S.F. No. 1399: A bill for an act relating to health; authorizing swing beds in rural hospitals with 50 to 100 beds; amending Minnesota Statutes 1988, section 144.562, subdivision 2.

Referred to the Committee on Health and Human Services.

Messrs. Ramstad and Luther introduced—

S.F. No. 1400: A bill for an act relating to probate; providing right to counsel in certain guardianship and conservatorship proceedings; proposing coding for new law in Minnesota Statutes, chapter 525.

Referred to the Committee on Judiciary.

Ms. Berglin introduced—

S.F. No. 1401: A bill for an act relating to economic development; changing the requirements for loans to Indians; amending Minnesota Statutes 1988, section 116J.64, subdivision 7.

Referred to the Committee on Economic Development and Housing.

Messrs. Anderson, Mehrkens, Vickerman and Mrs. Adkins introduced—

S.F. No. 1402: A bill for an act relating to taxation; property; extending the homestead and agricultural credit to taxes payable after 1989; abolishing transition aid; repealing increases in income maintenance payments; amending Minnesota Statutes 1988, sections 124.155, subdivision 2; 124.2131, subdivision 3; 124.2139; 124A.02, subdivision 3a; 256.01, subdivision 2; 256.72; 256.81; 256.82, subdivision 1; 256.863; 256.871, subdivision 6; 256.935, subdivision 1; 256.991; 256B.041, subdivisions 5 and 7; 256B.05, subdivision 1; 256B.091, subdivision 8; 256B.15; 256B.19, subdivisions 1 and 2; 256D.03, subdivisions 2 and 6; 256D.04; 256D.36, subdivision 1; 256G.01, subdivision 3; 256G.02, subdivision 4; 256G.04, subdivision 1; 256G.05; 256G.07; 256G.10; 256G.11; 273.123, subdivisions 4 and 5; 273.124, subdivisions 11 and 13; 273.13, subdivisions 22 and 23; 273.132, subdivisions 1, 2, and 5; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1392; 273.1398, subdivisions 1, 3, and 6; 273.165, subdivision 2; 275.065, subdivision 2; 275.07, subdivision 1; 275.08, subdivisions 1a and 1b; 275.50, subdivision 5; 275.51, subdivisions 3f and 3h; 276.04, subdivision 2; 290A.04, subdivision 2; 393.07, subdivisions 2 and 10; 473.446, subdivision 1; 473F02, subdivision 23; 473F05; 473F06; 473F07, subdivisions 1, 4, and 5; 473F08, subdivisions 1, 2, 3a, 4, 5, 6, and 10; 473F10; 477A.011, subdivisions 15 and 20; and 477A.013, subdivision 3; Laws 1988, chapter 719, article 5, sections 81 and 84; repealing Minnesota Statutes 1988, sections 256.017; 256.018; 256.019; 273.13, subdivision 21a; 273.135, subdivision 2a; 273.1391, subdivision 2a; 273.1398, subdivisions 2 and 5; 275.07, subdivision 3; 275.08, subdivision 1c; 290A.04, subdivision 2b; and Laws 1988, chapter 719, article 8, sections 32, 33, 34, 35, and 36.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Samuelson; Lessard; Johnson, D.J.; Stumpf and Anderson introduced—

S.F. No. 1403: A bill for an act relating to natural resources; establishing a state shoreland management grant program; authorizing grants-in-aid to local government units; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 105.

Referred to the Committee on Environment and Natural Resources.

Messrs. Davis; Frank; Beckman; Frederickson, D.R. and Frederickson, D.J. introduced—

S.F. No. 1404: A bill for an act relating to rural development; providing for a rural community needs assessment model; appropriating money.

Referred to the Committee on Agriculture and Rural Development.

Mr. Diessner, Ms. Piper, Messrs. Chmielewski and Gustafson introduced—

S.F. No. 1405: A bill for an act relating to workers' compensation; regulating rehabilitation and medical treatment in cases of serious injury; establishing medical treatment review panels; amending Minnesota Statutes

1988, section 176.102, subdivision 4; and 176.135, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 176.

Referred to the Committee on Employment.

Messrs. Pehler; Frederickson, D.J.; Ms. Peterson, D.C.; Messrs. Ramstad and Peterson, R.W. introduced—

S.F. No. 1406: A bill for an act relating to education; creating an office within the department of education to coordinate efforts to transform education systems; proposing coding for new law in Minnesota Statutes, chapter 126.

Referred to the Committee on Education.

Mr. Solon introduced—

S.F. No. 1407: A bill for an act relating to liquor; requiring notice and hearing before liquor license fees are increased; amending Minnesota Statutes 1988, section 340A.408, by adding a subdivision.

Referred to the Committee on Commerce.

Ms. Berglin introduced—

S.F. No. 1408: A bill for an act relating to local government; requiring political subdivisions to request proposals for group insurance coverage; amending Minnesota Statutes 1988, section 43A.316, subdivision 10; proposing coding for new law in Minnesota Statutes, chapter 471; repealing Minnesota Statutes 1988, section 471.616.

Referred to the Committee on Local and Urban Government.

Ms. Berglin introduced—

S.F. No. 1409: A bill for an act relating to health; clarifying that the national examination that a person must pass to become licensed to practice medicine must be a comprehensive examination for initial licensure; amending Minnesota Statutes 1988, section 147.02, subdivision 1.

Referred to the Committee on Health and Human Services.

Mr. Metzen introduced—

S.F. No. 1410: A bill for an act relating to taxation; allocating motor vehicle excise tax proceeds; amending Minnesota Statutes 1988, section 297B.09, subdivision 1.

Referred to the Committee on Transportation.

Messrs. Morse; DeCramer; Berg; Frederickson, D.J. and Vickerman introduced—

S.F. No. 1411: A bill for an act relating to agriculture; providing for arbitration of seed claims; proposing coding for new law in Minnesota Statutes, chapter 21.

Referred to the Committee on Agriculture and Rural Development.

Mr. Bertram introduced—

S.F. No. 1412: A bill for an act relating to game and fish; allowing previously licensed shooting preserves to be exempt from certain pheasant release provisions; amending Minnesota Statutes 1988, section 97A.121, subdivision 4a.

Referred to the Committee on Environment and Natural Resources.

Mr. Diessner introduced—

S.F. No. 1413: A bill for an act relating to the organization and operation of state government; requiring review of agency rules by committees of the senate; proposing coding for new law in Minnesota Statutes, chapter 14.

Referred to the Committee on Rules and Administration.

Mr. Pogemiller, Ms. Peterson, D.C.; Mr. Kroening and Ms. Berglin introduced—

S.F. No. 1414: A bill for an act relating to state employees; providing a policy prohibiting racial harassment; requiring discipline for employees who engage in racial harassment; amending Minnesota Statutes 1988, section 43A.01, by adding a subdivision.

Referred to the Committee on Governmental Operations.

Mr. Dahl introduced—

S.F. No. 1415: A bill for an act relating to health; appropriating money for a study of radium in public water supplies.

Referred to the Committee on Environment and Natural Resources.

Mr. Chmielewski introduced—

S.F. No. 1416: A bill for an act relating to workers' compensation; regulating insurance for truckers and loggers; imposing a tax on certain purchasers of wood to subsidize insurance costs of loggers; regulating coverages and rates; appropriating money; amending Minnesota Statutes 1988, sections 79.251, subdivision 3; 79.252, by adding a subdivision; 176.011, by adding a subdivision; 176.041, subdivision 1; 176.102, by adding a subdivision; 176.184, by adding a subdivision; and 176A.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 176; proposing coding for new law as Minnesota Statutes, chapter 297E.

Referred to the Committee on Employment.

Mr. Novak introduced—

S.F. No. 1417: A bill for an act relating to state lands; authorizing the sale of certain state lands bordering on public waters; authorizing the sale of certain trust fund land in Itasca, St. Louis, and Cook counties; authorizing the sale of certain surplus land for recreational purposes in the cities of Faribault, Anoka, Warroad, and Ortonville; authorizing the sale of a certain gifted city lot in the city of Brainerd; authorizing a private sale of certain land in Goodhue county to resolve an inadvertent trespass.

Referred to the Committee on Environment and Natural Resources.

Mr. Chmielewski introduced—

S.F. No. 1418: A bill for an act relating to metropolitan government; requiring the metropolitan council to prepare water use and supply plans; proposing coding for new law in Minnesota Statutes, chapter 473.

Referred to the Committee on Environment and Natural Resources.

Mr. Waldorf introduced—

S.F. No. 1419: A bill for an act relating to utilities; providing for extended area telephone service in the metropolitan area.

Referred to the Committee on Public Utilities and Energy.

Messrs. Vickerman, Schmitz, Novak and Metzen introduced—

S.F. No. 1420: A bill for an act relating to highways; abolishing authority of a city to disapprove the abandonment, change, or revocation of a county state-aid highway; providing that 30 percent of the county state-aid highway fund be apportioned on the basis of lane-miles; changing the composition of the county state-aid screening board; amending Minnesota Statutes 1988, sections 162.02, subdivision 10; and 162.07, subdivisions 1 and 5.

Referred to the Committee on Transportation.

Mr. Cohen introduced—

S.F. No. 1421: A bill for an act relating to taxation; sales; providing an exemption for certain building materials; providing for a refund; amending Minnesota Statutes 1988, sections 297A.15, by adding a subdivision; and 297A.25, by adding a subdivision.

Referred to the Committee on Taxes and Tax Laws.

Mrs. Brataas, Mr. Brandl, Ms. Piper, Mmes. Lantry and Adkins introduced—

S.F. No. 1422: A bill for an act relating to occupations and professions; changing licensure requirements for dental assistants; changing the procedure for setting the salary of the director of the board of dentistry; amending Minnesota Statutes 1988, sections 150A.06, subdivision 2a; and 214.04, subdivision 3; repealing Minnesota Statutes 1988, section 150A.06, subdivision 7.

Referred to the Committee on Health and Human Services.

Messrs. Pehler, Langseth and Vickerman introduced—

S.F. No. 1423: A bill for an act relating to education; appropriating money to HECB for child care services for post-secondary students.

Referred to the Committee on Education.

Messrs. Morse, DeCramer, Decker and Hughes introduced—

S.F. No. 1424: A bill for an act relating to education; making the minimum wages for student employees of a state university \$5 per hour by the 1991-1992 school year; amending Minnesota Statutes 1988, section 136.11, by adding a subdivision.

Referred to the Committee on Employment.

Messrs. DeCramer, Taylor, Decker and Morse introduced—

S.F. No. 1425: A bill for an act relating to education; imposing requirements on certain student loan programs; appropriating money; amending Minnesota Statutes 1988, section 136A.141.

Referred to the Committee on Education.

Messrs. Taylor, DeCramer, Decker, Langseth and Hughes introduced—

S.F. No. 1426: A bill for an act relating to education; appropriating money to the HECB for the equivalent of four years of financial aid for post-secondary students.

Referred to the Committee on Education.

Messrs. Hughes, Marty, Pogemiller, Taylor and Dicklich introduced—

S.F. No. 1427: A bill for an act relating to education; requesting the regents of the University of Minnesota to establish a program; appropriating money.

Referred to the Committee on Education.

Mr. Solon introduced—

S.F. No. 1428: A bill for an act relating to health; requiring health maintenance organizations to accept as providers all pharmacies agreeing to contract terms; proposing coding for new law in Minnesota Statutes, chapter 62D.

Referred to the Committee on Health and Human Services.

Mr. Langseth introduced—

S.F. No. 1429: A bill for an act relating to retirement; judges; permitting judges drawing deferred benefits from the public employees retirement association to qualify upon retirement as a judge for a combined service annuity from the association and the judges retirement fund by repaying all benefits paid by the association.

Referred to the Committee on Governmental Operations.

Messrs. Purfeerst, Samuelson and Mehrkens introduced—

S.F. No. 1430: A bill for an act relating to human services; designating the Faribault Regional Center to provide special services to certain persons who are developmentally disabled, mentally ill or brain-injured; expanding skilled nursing care at the facility; authorizing special crisis and respite care; expanding the authority of regional centers and state nursing homes to enter into shared services agreements; authorizing regional centers and state nursing homes to provide professional services for a fee; creating a revolving fund; authorizing establishment of additional state-operated community programs; appropriating money; amending Minnesota Statutes 1988, sections 245.0311; 245.0312; 246.50, subdivisions 3, 4, and by adding a subdivision; 246.57; 252.50; and 253.015; proposing coding for new law



in Minnesota Statutes, chapter 246; proposing coding for new law as Minnesota Statutes, chapter 252B.

Referred to the Committee on Health and Human Services.

Mr. Luther, Ms. Peterson, D.C. and Mr. Metzen introduced —

S.F. No. 1431: A bill for an act relating to insurance; property and casualty; regulating policy provisions, forms, nonrenewals, coverages; regulating trade practices in these and other lines; regulating the Minnesota joint underwriting association; making certain technical changes; amending Minnesota Statutes 1988, sections 60A.02, by adding a subdivision; 60A.06, by adding a subdivision; 60A.08, by adding a subdivision; 60A.198, subdivision 3; 62I.02, subdivision 2; 62I.16, subdivision 3; 65A.29, subdivision 8, and by adding subdivisions; 65A.33, subdivision 3; 65B.15, subdivision 1; 65B.44, subdivision 3; 65B.47, subdivision 1; 65B.525, subdivision 1; 72A.20, subdivision 17, and by adding subdivisions; 72A.201, subdivision 5, and by adding subdivisions; and 79.251, by adding a subdivision; repealing Minnesota Rules, part 2780.2700.

Referred to the Committee on Commerce.

Messrs. Luther, Pehler, Stumpf and Langseth introduced —

S.F. No. 1432: A bill for an act relating to courts; authorizing appointment of a law clerk for each judge in the seventh judicial district; amending Minnesota Statutes 1988, section 484.545, subdivision 1.

Referred to the Committee on Judiciary.

Messrs. Dicklich, Marty, Ms. Piper and Mr. Decker introduced —

S.F. No. 1433: A bill for an act relating to utilities; low-income energy needs; designating the department of public service as the agency responsible for coordinating energy policy for low-income Minnesotans; requiring the department to gather certain information on low-income energy programs; prescribing certain uses for oil overcharge money; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; 216C.27, by adding a subdivision; and 504.185, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Public Utilities and Energy.

Mr. Dicklich introduced —

S.F. No. 1434: A bill for an act relating to alcoholic beverages; eliminating nonintoxicating malt liquor licenses; authorizing the issuance of malt liquor licenses; providing for restrictions on the issuance of malt liquor licenses; amending Minnesota Statutes 1988, sections 28A.16; 182.651, subdivision 18; 297A.02, subdivision 3; 340A.101, subdivisions 10 and 14; 340A.301, subdivisions 1, 6, and 7; 340A.308; 340A.310; 340A.311; 340A.402; 340A.403, subdivisions 1 and 2; 340A.404, subdivision 5; 340A.4055; 340A.407; 340A.408, subdivisions 1, 4, and 5; 340A.409, subdivision 4; 340A.410, subdivision 8; 340A.411; 340A.412, subdivision 6; 340A.413, subdivision 4; 340A.414, subdivision 2; 340A.503, subdivision 1; 340A.504, subdivisions 1 and 6; 340A.508, subdivision 2; 340A.601, subdivision 1; 340A.903; 624.701, subdivision 1; and 624.731, subdivision 5; repealing

Minnesota Statutes 1988, sections 340A.101, subdivision 19; and 340A.403, subdivision 3.

Referred to the Committee on Commerce.

Messrs. Freeman, Pehler, Frank and Ms. Piper introduced—

S.F. No. 1435: A bill for an act relating to employment; prohibiting termination of sales representative agreements under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 325E.

Referred to the Committee on Employment.

Mr. Dahl introduced—

S.F. No. 1436: A bill for an act relating to the Coon Creek watershed district; authorizing the district to decide not to charge certain expenses to individual ditches; allowing imposition of an ad valorem tax on ditch 57.

Referred to the Committee on Environment and Natural Resources.

Messrs. Moe, D.M.; Peterson, R.W. and Waldorf introduced—

S.F. No. 1437: A bill for an act relating to retirement; general employee groups; establishing a Minnesota individual retirement plan for newly hired employees and certain transferees; appropriating money; amending Minnesota Statutes 1988, sections 352D.01; 352D.015; and 352D.09, subdivisions 1, 2, 3, and 4; proposing coding for new law in Minnesota Statutes, chapter 352D; proposing coding for new law as Minnesota Statutes, chapters 353E; 354C; 354D; and 356A; repealing Minnesota Statutes 1988, sections 352D.02; 352D.03; 352D.04; 352D.05; 352D.06; 352D.065; 352D.075; 352D.085; 352D.09, subdivisions 5, 6, and 7; 352D.11; and 352D.12.

Referred to the Committee on Governmental Operations.

Mr. Knaak introduced—

S.F. No. 1438: A bill for an act relating to taxation; changing the local effort factor for certain formulas; amending Minnesota Statutes 1988, sections 273.1398, subdivisions 1 and 3; and 477A.011, subdivision 15, and by adding a subdivision.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Lessard, Merriam and Stumpf introduced—

S.F. No. 1439: A bill for an act relating to natural resources; reallocating costs assessed against the game and fish fund; appropriating money; amending Minnesota Statutes 1988, sections 97A.055, by adding a subdivision; 97A.061, subdivision 1; and 97A.165; proposing coding for new law in Minnesota Statutes, chapter 84.

Referred to the Committee on Environment and Natural Resources.

Mr. Luther introduced—

S.F. No. 1440: A bill for an act relating to elections and ethics; changing provisions relating to candidate reporting requirements and disbursements; providing for the payment of election campaign bills; prohibiting certain

types of campaign contributions; authorizing the termination of political committees and funds under certain conditions; authorizing the transfer of committee funds and debts; increasing the maximum amount of contributions to legislative candidates; clarifying when public money must be returned; making technical corrections to chapter 10A; amending Minnesota Statutes 1988, sections 10A.01, subdivision 10c; 10A.18; 10A.19, by adding subdivisions; 10A.20, subdivisions 3 and 5; 10A.22, subdivision 7, and by adding a subdivision; 10A.24; 10A.241; 10A.25, subdivisions 2, 3, and 5; 10A.27, subdivision 1; 10A.32, subdivision 3; 211A.07; and 211B.15, subdivision 2.

Referred to the Committee on Elections and Ethics.

Mr. Schmitz and Ms. Olson introduced—

S.F. No. 1441: A bill for an act relating to commerce; regulating business relations between manufacturers of heavy and utility equipment and independent retail dealers of those products; proposing coding for new law in Minnesota Statutes, chapter 325E.

Referred to the Committee on Commerce.

Mr. Pogemiller introduced—

S.F. No. 1442: A bill for an act relating to environment; providing methods to remove hazardous substances to facilitate economic development; authorizing loans; appropriating money; amending Minnesota Statutes 1988, sections 469.174, subdivisions 7 and 16; and 469.176, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 116J.

Referred to the Committee on Environment and Natural Resources.

Ms. Peterson, D.C.; Messrs. Marty, Pogemiller, DeCramer and Dicklich introduced—

S.F. No. 1443: A bill for an act relating to education; gradually increasing the direct appropriation for instructional services each year; appropriating money; amending Minnesota Statutes 1988, section 135A.03, subdivision 1.

Referred to the Committee on Education.

Messrs. Moe, R.D.; Langseth and Stumpf introduced—

S.F. No. 1444: A bill for an act relating to appropriations; providing emergency relief for Red River Valley area flooding.

Referred to the Committee on Finance.

Without objection, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

## REPORTS OF COMMITTEES

Mr. Luther moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 711: A bill for an act relating to Ramsey county; authorizing the use of certain property for public purposes.

Reports the same back with the recommendation that the report from the Committee on Local and Urban Government, shown in the Journal for March 22, 1989, be amended to read:

"the bill be amended and when so amended the bill do pass and be re-referred to the Committee on Environment and Natural Resources". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 14: A bill for an act relating to crimes; lowering maximum allowable alcohol concentration to 0.05 for crimes involving driving while intoxicated; amending Minnesota Statutes 1988, sections 84.911, subdivision 1; 169.121, subdivisions 1 and 2; 169.123, subdivisions 2, 4, 5a, and 6; 169.129; 192A.555; 361.12, subdivision 4; 361.121, subdivision 1; and 609.21, subdivisions 1, 2, 3, and 4.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for March 22, 1989, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1018: A bill for an act relating to traffic regulations; dedicating seat belt violation fines to emergency medical services relief account; amending Minnesota Statutes 1988, section 169.686, subdivision 3.

Reports the same back with the recommendation that the report from the Committee on Transportation, shown in the Journal for April 3, 1989, be amended to read:

"the bill do pass and be re-referred to the Committee on Finance". Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 505: A bill for an act relating to workers' compensation; establishing a legal assistance fund; appropriating money; amending Minnesota Statutes 1988, section 176.261.

Reports the same back with the recommendation that the report from the Committee on Employment, shown in the Journal for March 13, 1989, be amended to read:

"the bill be amended 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 under Rule 35, together with the committee report thereon,

S.F. No. 476: A bill for an act relating to game and fish; prohibiting harassment of hunters and anglers; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 97A.

Reports the same back with the recommendation that the report from the Committee on Environment and Natural Resources, shown in the Journal for March 16, 1989, be amended to read:

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 243: A bill for an act relating to insurance; regulating access to certain insurance and medical data; amending Minnesota Statutes 1988, section 176.138.

Reports the same back with the recommendation that the report from the Committee on Employment, shown in the Journal for February 23, 1989, be amended to read:

"the bill do pass and be re-referred to the Committee on Judiciary". Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which were referred for proper reference under Rule 35:

S.F. Nos. 605, 641, 1025 and 1339 reports the same back with the recommendation that the bills be re-referred as follows:

S.F. No. 605 to the Committee on Health and Human Services.

S.F. No. 641 to the Committee on General Legislation and Public Gaming.

S.F. No. 1025 to the Committee on Governmental Operations.

S.F. No. 1339 to the Committee on Transportation.

Report adopted.

## **SECOND READING OF SENATE BILLS**

S.F. No. 14 was read the second time.

## **ADJOURNMENT**

Mr. Luther moved that the Senate do now adjourn until 2:00 p.m., Monday, April 10, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate