

## THIRTIETH DAY

St. Paul, Minnesota, Wednesday, April 12, 1989

The Senate met at 2:50 p.m. and was called to order by the President.

Prayer was offered by Senator Donald Storm.

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

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

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

Mr. Purfeerst and Ms. Peterson, D.C. were excused from the Session of today. Mr. Bertram was excused from the Session of today from 2:50 to 3:25 p.m.

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 7, 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
286		23	0841 hours April 7	April 7
	323	25	0840 hours April 7	April 7

Sincerely,  
Joan Anderson Growe  
Secretary of State

April 10, 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
	68	27	1654 hours April 7	April 7
	214	28	1655 hours April 7	April 7

Sincerely,  
Joan Anderson Growe  
Secretary of State

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 114.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 10, 1989

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. 203: A bill for an act relating to intoxicating liquor; authorizing an on-sale liquor license for the Minneapolis convention center, the Orpheum Theatre, and the State Theatre; amending Minnesota Statutes 1988, section 340A.404, subdivision 2; repealing Laws 1973, chapter 505.

Senate File No. 203 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 10, 1989

### CONCURRENCE AND REPASSAGE

Mr. Spear moved that the Senate concur in the amendments by the House to S.F. No. 203 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 203: A bill for an act relating to intoxicating liquor; authorizing an on-sale liquor license for the Minneapolis convention center, the Orpheum Theatre, the State Theatre, and a restaurant in the city; amending Minnesota Statutes 1988, section 340A.404, subdivision 2; repealing Laws 1973, chapter 505.

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

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

The roll was called, and there were yeas 56 and nays 3, as follows:

Those who voted in the affirmative were:

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

Messrs. Laidig, Larson and Renneke voted in the negative.

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

### MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 212, 501, 740, 832, 245, 493, 529, 1061, 1352, 1421, 1435 and 1456.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 10, 1989

### FIRST READING OF HOUSE BILLS

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

H.F. No. 212: A bill for an act relating to the city of Hibbing; authorizing two additional on-sale liquor licenses.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 247, now on General Orders.

H.F. No. 501: A bill for an act relating to education; vocational technical; allowing purchase of real property by independent school district No. 347.

Referred to the Committee on Education.

H.F. No. 740: A bill for an act relating to education; changing the name of technical institutes to technical colleges; amending Minnesota Statutes 1988, section 136C.02, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1157.

H.F. No. 832: A bill for an act relating to Ramsey county; authorizing the use of certain property for public purposes.

Referred to the Committee on Environment and Natural Resources.

H.F. No. 245: A bill for an act relating to environment; exempting generators of small amounts of hazardous waste from administrative regulation; amending Minnesota Statutes 1988, section 116.07, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 344, now on General Orders.

H.F. No. 493: A bill for an act relating to education; requiring a pupil to identify reasons for enrolling in a nonresident district under the enrollment options program; providing a resident district with notice of a pupil's participation under the program; restricting transfers; restricting participation in extracurricular varsity athletic activities in a nonresident district; amending Minnesota Statutes 1988, section 120.062, subdivisions 4, 6, 9, and by adding a subdivision; repealing Minnesota Statutes 1988, section 120.062, subdivision 8.

Referred to the Committee on Education.

H.F. No. 529: A bill for an act relating to local government; permitting counties, cities, and towns to contribute to certain hospitals; amending Minnesota Statutes 1988, section 376.09; proposing coding for new law in Minnesota Statutes, chapter 465.

Referred to the Committee on Local and Urban Government.

H.F. No. 1061: A bill for an act relating to state lands; authorizing conveyance of surplus state real property to Leo A. Hoffmann Center, Inc.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 846.

H.F. No. 1352: A bill for an act relating to intoxicating liquor; authorizing the city of Blaine to issue one additional on-sale license.

Referred to the Committee on Commerce.

H.F. No. 1421: A bill for an act relating to surplus United States government property; directing the commissioner of natural resources to seek acquisition of certain surplus property of the United States government; directing the commissioner to lease the property to a nonprofit organization for development as housing for certain homeless veterans and their families.

Referred to the Committee on Economic Development and Housing.

H.F. No. 1435: 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.

H.F. No. 1456: A resolution memorializing the President, Congress, and the director of the United States General Services Administration to arrange for prompt lease of certain surplus United States government properties to a nonprofit organization for use as housing for homeless, near homeless, and displaced veterans and their families.

Referred to the Committee on Economic Development and Housing.

## REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 272. The motion prevailed.

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 1229: A bill for an act relating to education; requiring the state university board to study the feasibility of acquiring a site to broaden services within the metropolitan area and additional, related issues; requiring a joint study with the state board for community colleges; 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.

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 415: A bill for an act relating to education; appropriating money for "2 + 2" programs at all the metropolitan community colleges.

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

Delete everything after the enacting clause and insert:

"Section 1. [HIGHER EDUCATION COORDINATING BOARD STUDIES.]

*There is appropriated \$ . . . . . for fiscal year 1990 from the general fund to the higher education coordinating board for the following:*

*(1) a study of the educational needs of minority people throughout the state;*

*(2) development of strategies, with the assistance of a task force, to increase minority high school graduates and minority teachers; and*

*(3) analysis of practitioner-oriented graduate programs in the metropolitan area proposed by the systems, development of an inter-system plan with the systems, and review and comment on the system plans.*

*A report and recommendations on each item shall be submitted to the education committees and the higher education finance divisions of the legislature by January 1, 1990."*

Delete the title and insert:

"A bill for an act relating to education; appropriating money for certain higher education coordinating board studies."

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 703: A bill for an act relating to education; reauthorizing program improvement grants; providing an exception to consolidation timelines; appropriating money; amending Minnesota Statutes 1988, sections 122.23, by adding a subdivision; and 129B.11, subdivisions 1 and 2.

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

Page 1, line 12, delete "*during*" and insert "*July 1 of*" and after "*if*" insert "*all of*"

Page 1, line 13, after "*all*" insert "*of the*" and delete "*for the*" and insert "*of the teachers*"

Page 1, line 14, delete everything before "*agree*"

Page 1, line 15, delete "*unanimous*"

Page 2, lines 14 to 18, reinstate the stricken language and delete the new language

Page 2, lines 19 to 33, reinstate the stricken language

Pages 2 and 3, delete section 4

Amend the title as follows:

Page 1, line 4, delete "appropriating money;"

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

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

S.F. No. 1331: A bill for an act relating to Itasca county; authorizing a petition to annex unorganized territory to the town of Spang to be signed by residents of the town.

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. 1341: A bill for an act relating to Goodhue county; permitting the county to establish certain payment procedures.

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. 1252: A bill for an act relating to local government; the towns of Crystal Bay, Beaver Bay, and Stony River, the cities of Beaver Bay and Silver Bay, and Unorganized Territory No. 1; permitting the establishment

of a medical clinic district.

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

Page 7, after line 10, insert:

"Sec. 6. [COOK COUNTY; HOSPITAL APPROPRIATION.]

*Notwithstanding the limitations of Minnesota Statutes, section 376.08, the board of commissioners of Cook county may appropriate up to \$240,000 from the proceeds of the 1988 general county levy for taxes payable in 1989 for the cost of acquiring, constructing, improving, altering, equipping, maintaining, and operating hospitals within the county.*

Sec. 7. [COOK COUNTY; HOSPITAL DISTRICT.]

*Subdivision 1. [CREATION; REFERENDUM.] The board of commissioners of Cook county may by resolution create a Cook county hospital district. The resolution providing for creation of the district must be published in the official newspaper of the county. If within ten days after the publication a petition is filed with the county board that is signed by qualified voters of the county at least equal in number to ten percent of the number of voters voting at the most recent election of county commissioners, requesting a referendum on the resolution, it shall not be effective until it is approved by a majority of qualified voters voting on the question at a special or general election.*

*Subd. 2. [OPERATION OF DISTRICT.] A hospital district created under this section shall be subject to Minnesota Statutes, sections 397.06 to 397.102, except as provided otherwise in this act.*

*Subd. 3. [BOARD.] Notwithstanding Minnesota Statutes, section 397.06, the board of the district shall be comprised of one member from each county commissioner district elected by the voters at the first general election in the county after the resolution has become effective. After the 1992 general election, the term of each board member shall be four years or until a successor has been elected and qualified. Terms shall begin on the first day of January following the election. If members are elected in 1990, their terms shall be two years.*

*When the district is first created, the county commissioner from each district shall appoint a member of the board to serve until the commencement of the term of a successor. Thereafter when a vacancy occurs, the county commissioner from the district affected shall appoint a member to serve until January 1 following the next general election in the county, when a successor shall be elected for a regular term or the unexpired remainder of the regular term.*

*Subd. 4. [TAX LEVY.] The tax levied under Minnesota Statutes, section 397.09, shall not exceed \$300,000 in any year, and its proceeds may be used for all purposes of the hospital district.*

Sec. 8. Laws 1988, chapter 645, section 1, subdivision 1, is amended to read:

*Subdivision 1. [ST. LOUIS COUNTY.] The St. Louis county board may, acting for the unorganized townships listed in this subdivision, request the annexation of those townships to a hospital district to be organized under Minnesota Statutes, sections 447.31 to 447.37, that includes the city of Cook and the city of Orr as well as other townships in Koochiching county*

and St. Louis county. The unorganized townships are: 61 North, Range 17 West; 62 North, Range 21 West; 63 North, Range 21 West; 63 North, Range 19 West; 64 North, Range 21 West; ~~64 North, Range 18 West~~; 65 North, Range 21 West; 66 North, Range 21 West; 66 North, Range 20 West; 66 North, Range 19 West; 67 North, Range 21 West; 67 North, Range 20 West; 67 North, Range 19 West; 67 North, Range 18 West; 67 North, Range 17 West; 68 North, Range 21 West; 68 North, Range 20 West; 68 North, Range 19 West; 68 North, Range 18 West; 68 North, Range 17 West; 69 North, Range 21 West; 69 North, Range 20 West; 69 North, Range 19 West; 69 North, Range 18 West; 69 North, Range 17 West; 70 North, Range 21 West; 70 North, Range 20 West; 70 North, Range 19 West; 70 North, Range 18 West; 71 North, Range 21 West; ~~and 71 North, Range 20 West~~; ~~62 North, Range 17 West~~; ~~63 North, Range 17 West~~; ~~64 North, Range 17 West~~; ~~64 North, Range 16 West~~; ~~65 North, Range 16 West~~; ~~66 North, Range 16 West~~; and ~~67 North, Range 16 West~~.

Sec. 9. Laws 1988, chapter 645, section 1, is amended by adding a subdivision to read:

*Subd. 5. [PRIOR REFERENDUM.] A referendum held under Minnesota Statutes, section 447.31, subdivision 3, is valid notwithstanding a subsequent amendment to Laws 1988, chapter 645.*

Sec. 10. Laws 1988, chapter 645, section 4, is amended to read:

Sec. 4. [TRANSFER OF FACILITIES OF CITY OF COOK.]

The city of Cook may transfer title and interest in its hospital and nursing home, including the real estate, building, and equipment, to the hospital district created under this act for no consideration. All *bonded* obligations incurred prior to the transfer in connection with the construction or operation of the hospital and nursing home shall remain as the exclusive obligation of the city of Cook."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, before the period, insert "; permitting a hospital appropriation by the Cook county board; authorizing the establishment of a Cook county hospital district; adding and removing certain unorganized territory from a St. Louis county hospital district; validating hospital referenda; providing for certain bonded indebtedness of the city of Cook; amending Laws 1988, chapter 645, sections 1, subdivision 1, and by adding a subdivision; and 4"

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

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

S.F. No. 956: A bill for an act relating to waste management; requiring a county that enters a contract with the state for the siting and development of a stabilization and containment facility to hold a binding referendum on implementation of the contract; amending Minnesota Statutes 1988, section 115A.191, by adding a subdivision.

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



Page 1, line 15, delete “, prior to November 15,”

Page 1, line 16, delete “1989,”

Page 1, line 17, before the period, insert “at the general election to be held on November 6, 1990”

Page 1, line 18, delete everything after “held”

Page 1, line 19, delete “county” and insert “after the parties to the contract”

Page 2, line 8, delete “shall” and insert “may”

Page 2, delete section 2

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

S.F. No. 1234: A bill for an act relating to employment; providing for demonstration grants for the youth employment and housing for homeless program; appropriating money; amending Minnesota Statutes 1988, section 268.361, subdivision 4, and by adding a subdivision; 268.362; 268.364; 268.365; 268.366; and 268.367.

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

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

S.F. No. 1034: A bill for an act relating to probate; changing procedure for notice to certain creditors; changing certain time limits; amending Minnesota Statutes 1988, sections 524.3-801; 524.3-802; 524.3-803; and 524.3-807.

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

Page 1, delete lines 23 to 25

Page 2, delete lines 1 to 36

Page 3, delete lines 1 to 3 and insert:

“(b)(1) Within three months after: (i) the date of the first publication of the notice; or (ii) the effective date of this section, whichever is later, the personal representative may determine, in the personal representative’s discretion, that it is or is not advisable to conduct a reasonably diligent search for creditors of the decedent who are either not known or not identified. If the personal representative determines that a reasonably diligent search is advisable, the personal representative shall conduct the search.

(2) If the notice is first published after the effective date of this section, the personal representative shall, within three months after the date of the first publication of the notice, serve a copy of the notice upon each then known and identified creditor in the manner provided in paragraph (c). If notice was first published under the applicable provisions of law under

*the direction of the court administrator before the effective date of this section and if a personal representative is empowered to act at any time after the effective date of this section, the personal representative shall, within three months after the effective date of this section, serve upon the then known and identified creditors in the manner provided in paragraph (c) a copy of the notice as published, together with a supplementary notice requiring each of the creditors to present any claim within one month after the date of the service of the notice or be forever barred."*

Page 3, delete lines 15 to 24 and insert:

*"(c) The personal representative shall serve a copy of any notice and any supplementary notice required by paragraph (b), clause (1) or (2), upon each creditor of the decedent who is then known to the personal representative and identified, except a creditor whose claim has either been presented to the personal representative or paid, either by delivery of a copy of the required notice to the creditor, or by mailing a copy of the notice to the creditor by certified, registered, or ordinary first class mail addressed to the creditor at the creditor's office or place of residence."*

Page 5, line 30, delete "earlier" and insert "earliest"

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. 572: A bill for an act relating to crimes; increasing the penalty for falsely reporting child abuse to influence child custody hearing; amending Minnesota Statutes 1988, section 609.507.

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. 1040: A bill for an act relating to mechanics' liens; clarifying and simplifying the contractors' and subcontractors' notice; amending Minnesota Statutes 1988, section 514.011, subdivisions 1 and 2.

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

Page 3, line 23, strike "unless,"

Page 3, strike line 24

Page 3, line 25, strike everything before the period

Page 3, line 35, delete "have"

Page 3, line 36, delete "prior to receipt of" and insert "before receiving"

Page 3, after line 36, insert:

"Sec. 3. Minnesota Statutes 1988, section 514.011, is amended by adding a subdivision to read:

*Subd. 6. [USE OF FORMER NOTICE PERMITTED.] Until August 1, 1990, a notice given in conformity with subdivisions 1 and 2 of Minnesota Statutes 1988 is valid.*

Sec. 4. [REPEALER.]

*Section 3 is repealed effective August 1, 1990."*

Amend the title as follows:

Page 1, line 5, delete "and" and insert a comma and before the period, insert ", and by adding a subdivision"

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. 476: A bill for an act relating to game and fish; prohibiting harassment of persons taking wild animals; proposing coding for new law in Minnesota Statutes, chapter 97A.

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

Page 1, line 12, delete everything after the period

Page 1, delete lines 13 to 15

Page 1, delete lines 20 to 25

Page 2, delete lines 1 to 6

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

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

S.F. No. 1235: A bill for an act relating to agricultural societies; permitting county board members to serve on societies; amending Minnesota Statutes 1988, section 38.04.

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

Page 1, line 12, delete everything after the period and insert "*Service on the county agricultural society board or as an officer of the board is not a public office. Elected officials of the state or its political subdivisions may serve on the board or be elected as officers.*"

Page 1, delete lines 13 and 14

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon and insert "clarifying that society board members and officers are not public officials, and that elected officials may serve on the board or as officers"

Page 1, line 3, delete everything before the semicolon

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

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

S.F. No. 1253: A bill for an act relating to metropolitan government; regulating the borrowing authority of the regional transit board; amending Minnesota Statutes 1988, section 473.39, subdivision 1a, and by adding

a subdivision.

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

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

S.F. No. 847: A bill for an act relating to transportation; deregulating persons who provide transportation service under contract to and with assistance from the department of transportation; amending Minnesota Statutes 1988, sections 221.022; 221.025; and 221.031, by adding a subdivision.

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

Page 1, line 14, after "*regulate*" insert "*passenger transportation*"

Page 3, line 11, delete everything after "(o)" and insert "*passenger transportation service provided under*"

Page 3, line 16, delete everything after the comma and insert "*providers of passenger transportation*"

Page 3, line 21, after the period, insert "*This subdivision does not apply to a local transit commission, a transit authority created by the legislature, or special transportation service certified by the commissioner under section 174.30.*"

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

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

S.F. No. 1303: A bill for an act relating to transportation; requiring nonrailroad lessors to comply with certain procedures before sale of property interests; regulating cancellations of leases of railroad right-of-way; amending Minnesota Statutes 1988, sections 222.631, by adding a subdivision; 222.632; and 222.633; proposing coding for new law in Minnesota Statutes, chapter 230.

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

Pages 2 to 4, delete section 4

Page 4, line 27, delete "4" and insert "3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete everything after the semicolon

Page 1, line 5, delete everything before "amending"

Page 1, line 7, delete everything after "222.633" and insert a period

Page 1, delete line 8

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. 762: A bill for an act relating to employment; setting the minimum wage for employees who receive gratuities; amending Minnesota Statutes 1988, section 177.24, subdivision 1.

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

Page 2, line 20, delete "\$3.65" and insert "\$3.85"

Page 2, line 21, delete "\$3.29" and insert "\$3.47"

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. 1374: A bill for an act relating to education; requiring teachers to report unfair discriminatory practices by other teachers; providing that commission of an unfair discriminatory practice or failure to report may be grounds for discharge or demotion; amending Minnesota Statutes 1988, sections 125.12, subdivision 8; and 125.17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 125.

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.

*For purposes of this subdivision, conduct unbecoming a teacher includes an unfair discriminatory practice described in section 363.03, subdivision 5.*

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.

*For purposes of this subdivision, conduct unbecoming a teacher includes an unfair discriminatory practice described in section 363.03, subdivision 5."*

Delete the title and insert:

"A bill for an act relating to education; providing that discrimination against a pupil by a teacher may be grounds for discharge or demotion; amending Minnesota Statutes 1988, sections 125.12, subdivision 8; and 125.17, subdivision 4."

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

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

S.F. No. 180: A bill for an act relating to the office of the secretary of state; establishing a procedure for contesting the registration of a corporation, limited partnership, or assumed name, or a trade or service mark with the secretary of state; providing that the office of the secretary of state is not liable for registrations; proposing coding for new law in Minnesota Statutes, chapter 5.

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

Page 1, line 12, delete "BOND" and insert "DEPOSIT"

Page 1, line 15, delete ", written"

Page 1, line 16, delete "simultaneously"

Page 1, line 19, delete "bond" and insert "deposit,"

Page 1, line 27, delete "judgment" and insert "decision"

Page 2, line 2, delete "14 days"

Page 2, line 8, after the period, insert "*The hearing is not a contested case hearing under chapter 14.*"

*Subd. 3. [STANDARD OF REVIEW.] The secretary of state may order that the contested name be changed on the records of the secretary of state if it is likely that the use of the names will cause confusion, mistake, or deception among the public when applied to the goods or services provided by the businesses. In determining whether confusion, mistake, or deception is likely, the secretary of state shall consider:*

- (1) the strength or unique nature of the names;*
- (2) the similarity of sound, appearance, or meaning of the names;*
- (3) the intent of the parties;*
- (4) the type of businesses engaged in or to be engaged in by the parties;*
- (5) the geographic market areas served by each party and the manner of distribution and marketing used in those areas;*
- (6) the nature and quality of goods or services provided by the parties;*
- (7) the level of sophistication of potential purchasers of goods or services offered by the parties;*
- (8) whether the party contesting the subsequent registration of a name failed to make a timely objection or acquiesced to the use of the name so that it would be inequitable to prohibit its registration; and*
- (9) whether the names in question are in fair use, have been abandoned, or are parodies of other names."*

Page 2, line 9, delete "JUDGMENT" and insert "DECISION"

Page 2, lines 10, 17, and 26, delete "*judgment*" and insert "*decision*"

Renumber the subdivisions in sequence

Page 2, after line 27, insert:

"Sec. 2. Minnesota Statutes 1988, section 300.025, is amended to read:  
300.025 [ORGANIZATION OF FINANCIAL CORPORATIONS.]

*(a) Three or more persons may form a corporation for any of the purposes specified in section 47.12 by applying to the department of commerce and complying with all applicable organizational requirements and the conditions set out in clauses (1) to (7). However, no corporation may be formed under this section if it may be formed under the Minnesota business corporation act. The incorporators must subscribe a certificate specifying:*

- (1) the corporation's name, which must distinguish it from all other corporations authorized to do business in this state, and must contain the word "company," "corporation," "bank," "association," or "incorporated";*
- (2) the general nature of the corporation's business and its principal place of business;*
- (3) the period of its duration, if limited;*
- (4) the names and places of residence of the incorporators;*
- (5) the board in which the management of the corporation will be vested, the date of the annual meeting at which it will be elected, and the names and addresses of the board members until the first election, a majority of*

whom must always be residents of this state;

(6) the amount of capital stock, if any, how the capital stock is to be paid in, the number of shares into which it is to be divided, and the par value of each share; and, if there is to be more than one class, a description and the terms of issue of each class, and the method of voting on each class; and

(7) the highest amount of indebtedness or liability to which the corporation will at any time be subject.

The certificate may contain any other lawful provision defining and regulating the powers and business of the corporation, its officers, directors, trustees, members, and stockholders. However, a corporation subject to sections 48.27 and 51A.22, subdivision 2, may show its highest amount of indebtedness to be 30 times the amount of its capital and actual surplus.

*(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 3. Minnesota Statutes 1988, section 302A.115, is amended by adding a subdivision to read:

*Subd. 8. [CONTEST OF REGISTRATION OF NAME.] A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 4. Minnesota Statutes 1988, section 303.05, is amended by adding a subdivision to read:

*Subd. 4. [CONTEST OF REGISTRATION OF NAME.] A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 5. Minnesota Statutes 1988, section 308.06, is amended by adding a subdivision to read:

*Subd. 5. [CONTEST OF REGISTRATION OF NAME.] A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 6. If S.F. No. 848 is enacted in the 1989 legislative session, Minnesota Statutes, section 308.06, subdivision 5, as amended by section 5 of this act, is repealed and S.F. No. 848, article 1, section 8, is amended by adding a subdivision to read:

*Subd. 3. [CONTEST OF REGISTRATION OF NAME.] A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 7. Minnesota Statutes 1988, section 317.09, is amended by adding a subdivision to read:

*Subd. 4. [CONTEST OF REGISTRATION OF NAME.] A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 8. If S.F. No. 525 is enacted in the 1989 legislative session, Minnesota Statutes, section 317.09, subdivision 4, as amended by section 7 of this act, is repealed and S.F. No. 525, section 12, is amended by adding a subdivision to read:



*Subd. 6. [CONTEST OF REGISTRATION OF NAME.] A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 9. Minnesota Statutes 1988, section 322A.02, is amended to read:

322A.02 [NAME.]

(a) The name of each limited partnership as set forth in its certificate of limited partnership:

(1) shall contain without abbreviation the words "limited partnership";

(2) may not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) may not be the same as, or deceptively similar to, the name of a domestic corporation or limited partnership or a foreign corporation or limited partnership authorized or registered to do business in this state or a name the right to which is reserved or provided for in the manner provided for in sections 302A.117, 322A.03, or 333.001 to 333.54, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of nonuse, of the kind required by section 302A.115, subdivision 1, paragraph (d); and

(4) may not contain the following words: corporation, incorporated.

The secretary of state shall determine whether a name is "deceptively similar" to another name for purposes of this section and section 322A.03. This section does not abrogate or limit the law of unfair competition or unfair practices, nor sections 333.001 to 333.54, nor the laws of the United States with respect to the right to acquire and protect copyrights, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols, nor derogate the common law or principles of equity.

*(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 10. Minnesota Statutes 1988, section 322A.72, is amended to read:

322A.72 [NAME.]

(a) A foreign limited partnership may register with the secretary of state under any name (whether or not it is the name under which it is registered in its state of organization) that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership.

*(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1."*

Amend the title as follows:

Page 1, line 7, after the semicolon, insert "amending Minnesota Statutes 1988, sections 300.025; 302A.115, by adding a subdivision; 303.05, by adding a subdivision; 308.06, by adding a subdivision; 317.09, by adding a subdivision; 322A.02; 322A.72; 1989 S.F. No. 525, section 12, by adding

a subdivision; S.F. No. 848, article 1, section 8, 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 re-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 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

H.F. No. 966 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.
966	878				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 966 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 966 and insert the language after the enacting clause of S.F. No. 878; further, delete the title of H.F. No. 966 and insert the title of S.F. No. 878.

And when so amended H.F. No. 966 will be identical to S.F. No. 878, and further recommends that H.F. No. 966 be given its second reading and substituted for S.F. No. 878, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 553 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
553	500				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the

Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

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

H.F. No. 489 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.
489	1260				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 489 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 489 and insert the language after the enacting clause of S.F. No. 1260, the first engrossment; further, delete the title of H.F. No. 489 and insert the title of S.F. No. 1260, the first engrossment.

And when so amended H.F. No. 489 will be identical to S.F. No. 1260, and further recommends that H.F. No. 489 be given its second reading and substituted for S.F. No. 1260, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

S.F. No. 1355: A bill for an act relating to financial institutions; regulating charges and fees on loans and extensions of credit by financial institutions and others; making various internal reference changes; amending Minnesota Statutes 1988, sections 47.20, subdivision 2; 51A.02, subdivision 14; 51A.38, subdivision 3; 51A.385, subdivisions 4, 5, 6, 7, 8, 9, 12, and 13; 51A.50; 51A.51, subdivision 4; 51A.53; 51A.55, subdivisions 1 and 2; 51A.56; 51A.57; 56.131, subdivision 1; 168.72, subdivision 1; 168.73; and 507.45, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 47.

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

Pages 1 to 7, delete sections 1 and 2 and insert:

"Section 1. Minnesota Statutes 1988, section 51A.01, is amended to read:

51A.01 [CITATION.]

Sections 51A.01 to ~~51A.57~~ 51A.58 may be cited as the "savings association act."

Page 8, line 18, after "association" insert a comma

Page 8, line 19, after "2" insert "*, to the extent not otherwise prohibited by law,*"

Page 9, lines 2 and 6, strike "installment" and insert "*payment*"

Page 13, after line 7, insert:

"Sec. 11. Minnesota Statutes 1988, section 51A.385, subdivision 11, is amended to read:

Subd. 11. [CONSUMER PROTECTIONS.] (a) Associations shall comply with the requirements of the Federal Truth in Lending Act, United States Code, title 15, section 1601 to 1693, in connection with a consumer loan or credit sale for a consumer purpose *where the federal Truth in Lending Act is applicable*.

(b) Associations shall comply with the following consumer protection provisions in connection with a consumer loan or credit sale for a consumer purpose: sections 325G.02 to 325G.05; 325G.06 to 325G.11; 325G.15 to 325G.22; and 325G.29 to 325G.36, and the Code of Federal Regulations, title 12, part 535, *where those statutes or regulations are applicable*.

(c) An assignment of a consumer's earnings by the consumer to an association as payment or as security for payment of a debt arising out of a consumer loan or consumer credit sale is unenforceable by the association and revocable by the consumer."

Page 15, delete section 13

Page 22, line 9, after the period, insert "*The beginning principal balance must be as originally determined under section 168.71.*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "47.20, subdivision 2" and insert "51A.01"

Page 1, line 8, after "9," insert "11," and delete "51A.50;"

Page 1, line 11, delete the third semicolon and insert a period

Page 1, delete lines 12 and 13

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. 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.

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

Page 1, line 15, delete "216B.164" and insert "216B.095"

Page 3, line 11, strike "order" and insert "*by rule require*"

Page 3, line 15, after the period, insert "*The required programs must*

*cover a two-year period."*

Page 3, lines 16 and 30, strike "order" and insert "require"

Page 3, line 21, strike "order" and insert "rules"

Page 4, line 3, reinstate the stricken "significant"

Page 4, lines 4 to 15, delete the new language

Page 4, line 15, after the period, insert *"The department shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization."*

Page 4, line 17, delete "is" and before "that" insert *"is devoted to programs"*

Page 4, line 22, delete "in"

Page 4, line 23, delete *"accordance with"* and strike *"an order"* and after the stricken *"shall"* insert *"under this subdivision"*

Page 4, line 28, after the stricken period, insert *"A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, or the attorney general acting on behalf of consumers and small business interests, may petition the commission to modify or revoke a department decision to require a program under this subdivision, and the commission may do so if it determines that the program is ineffective, does not adequately address the needs of renters and low-income families and individuals, or is otherwise not in the public interest. The person petitioning for commission review has the burden of proof. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest."*

Page 9, delete section 8

Page 10, line 5, after the second comma, insert *"and other money received after the effective date of this section as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations that is not otherwise dedicated by court order,"*

Page 10, after line 27, insert:

*"Sec. 10. [CONSERVATION IMPROVEMENT PROGRAMS.]*

*Notwithstanding section 3, the department of public service may permit utilities governed by that section to carry on programs currently approved by the public utilities commission until the department has adopted rules and approved new programs to cover a two-year program beginning in 1990."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 11, delete everything after the semicolon

Page 1, line 12, delete "subdivision;"

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. 539: A bill for an act relating to state parks; promoting the 100th anniversary of the state park system; 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.

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

S.F. No. 296: A bill for an act relating to game and fish; disallowing refunds on angling licenses paid by a person age 65 or older; amending Minnesota Statutes 1988, section 97A.485, subdivision 6.

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

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

S.F. No. 345: A bill for an act relating to health; providing for the distribution of maternal and child health block grant funds; amending Minnesota Statutes 1988, section 145.882, subdivisions 1, 3, and 7.

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

Page 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 1988, section 145.882, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION TO COMMUNITY HEALTH SERVICES AREAS.] (a) The maternal and child health block grant money remaining after distributions made under ~~subdivisions 4 and subdivision 2~~ must be allocated according to the formula in subdivision 4 to community health services areas for distribution by community health boards as defined in section 145A.02, subdivision 5, to qualified programs that provide essential services within the community health services area *as long as*:

*(1) the Minneapolis community health service area is allocated at least \$1,626,215 per year;*

*(2) the St. Paul community health service area is allocated at least \$822,931 per year; and*

*(3) all other community health service areas are allocated at least \$30,000 per county per year or their 1988-1989 funding cycle award, whichever is less.*

*(b) Notwithstanding paragraph (a), if the total amount of maternal and child health block grant funding decreases, the decrease must be apportioned to reflect a proportional decrease for each recipient, including recipients who would otherwise receive a guaranteed minimum allocation under paragraph (a). If the total amount of block grant funding increases, the guaranteed minimum allocation amounts in paragraph (a), clauses (1) to (3), are increased by three percent or the percentage increase in the total amount of block grant funding, whichever is less."*

Page 3, line 23, before the period, insert “, *except that money may be used for this purpose only if the community health board's application includes program components for the purposes in clauses (1) to (4) in the proposed geographic service area and the total expenditure for injury-related programs under this clause does not exceed ten percent of the total allocation under subdivision 3*”

Page 4, after line 13, insert:

“Sec. 4. [APPROPRIATION.]

*\$44,000 is appropriated from the general fund to the commissioner of health for the biennium ending June 30, 1991, to increase the amount of money available for maternal and child health special project grants to offset the additional costs of section 2, paragraph (a), clause (3). This appropriation must not be treated as an increase in the total amount of funding for the maternal and child health block grant for purposes of section 2, paragraph (b).”*

Amend the title as follows:

Page 1, line 3, 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. 1052: A bill for an act relating to human services; creating a temporary licensure exemption for supportive living arrangements for persons who have mental retardation or chemical dependency or who are frail elderly, or have other functional impairments; requiring the commissioner to adopt licensing rules; amending Minnesota Statutes 1988, section 245A.03, subdivision 2.

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

Delete everything after the enacting clause and insert:

“Section 1. [157.031] [ADDITIONAL LICENSE REQUIRED FOR BOARD AND LODGING ESTABLISHMENTS; SPECIAL SERVICES.]

*Subdivision 1. [DEFINITIONS.] (a) “Supportive services” means the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, and dressing, grooming, or bathing. Supportive services also include providing reminders to residents to take medications that are self administered or providing storage for medications if requested.*

*(b) “Health supervision services” means the provision of assistance in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in bathing or with walking devices.*

*Subd. 2. [REGISTRATION.] A board and lodging establishment that provides supportive services or health supervision services must register with the commissioner by September 1, 1989. The registration must include the name, address, and telephone number of the establishment, the types*

*of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the board and lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the special license rules required by subdivision 5 are effective.*

**Subd. 3. [RESTRICTION ON THE PROVISION OF SERVICES.]** *Effective September 1, 1989, and until the rules required under subdivision 5 are adopted, a board and lodging establishment may provide health supervision services only if a licensed nurse is on site in the facility for at least four hours a week to provide supervision and health monitoring of the residents. A board and lodging facility that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the office of the state fire marshal.*

**Subd. 4. [SPECIAL LICENSE REQUIRED.]** *Upon adoption of the rules required by subdivision 5, a board and lodging establishment that provides either supportive care or health supervision services must obtain a special license from the commissioner. The special license is required until rules resulting from the recommendations made in accordance with section 2 are implemented.*

**Subd. 5. [RULES.]** *By July 1, 1990, the commissioner of health shall adopt rules necessary to implement the special license provisions. The rules may address the type of services that can be provided, staffing requirements, and the training and qualifications of staff. The rules must set a fee for the issuance of the special service license. The special license fee is in addition to the license fee prescribed in section 157.03.*

**Subd. 6. [SERVICES THAT MAY NOT BE PROVIDED IN A BOARD AND LODGING ESTABLISHMENT.]** *A board and lodging establishment may not admit or retain individuals who:*

*(1) would require assistance from facility staff because of the following needs: incontinence, catheter care, use of injectable or parenteral medications, wound care, or dressing changes or irrigations of any kind; or*

*(2) require a level of care and supervision beyond supportive services or health supervision services.*

**Subd. 7. [CERTAIN INDIVIDUALS MAY PROVIDE SERVICES.]** *This section does not prohibit the provision of health care services to residents of a board and lodging establishment by family members of the resident or by a registered or licensed home care agency employed by the resident.*

**Subd. 8. [EXEMPTION FOR ESTABLISHMENTS WITH A HUMAN SERVICES LICENSE.]** *This section does not apply to a board and lodging establishment that is licensed by the commissioner of human services under chapter 245A.*

**Subd. 9. [VIOLATIONS.]** *The commissioner may revoke both the special service license, when issued, and the establishment license, if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.*

**Sec. 2. [SUPPORTIVE RESIDENTIAL PROGRAMS REPORT.]**



**Subdivision 1. [SUPPORTIVE RESIDENTIAL PROGRAM REGULATION RECOMMENDATION.]** *By February 1, 1990, the commissioners of health and human services shall jointly make a recommendation to the legislature on the regulation and licensure of facilities and programs that provide housing services and provide or coordinate supportive services or health supervision services to residents. The recommendations must address:*

*(1) the existing use of residential arrangements with a lodging, hotel, or food service license under Minnesota Statutes, chapter 157;*

*(2) existing county board and local human service agency administrative or certification standards for board and lodging houses or supportive living residences;*

*(3) county referral and placement practices for persons who, in addition to food or lodging services, need assistance with health or supportive services;*

*(4) the status of persons in these facilities with respect to the vulnerable adults abuse reporting act and their need for referral to protective services or social services for assessment prior to placement by the county or referral to the residence by the county;*

*(5) the applicability of laws governing the rights of patients and residents specified in Minnesota Statutes, section 144.651, and the rights of tenants in housing;*

*(6) a determination as to the need for and degree of regulation of these services;*

*(7) recommendations for repeal or revision of existing facility and program statutes and regulations; and*

*(8) a fiscal analysis of the current costs associated with the provision of supportive programs and facilities, recommendations for methods for maximizing all funding sources used for these services, and an analysis of the costs for licensure and regulation.*

**Subd. 2. [CONSULTATION WITH AFFECTED PARTIES.]** *In developing the recommendations, the commissioners may consult other state departments and agencies, the interagency board for quality assurance established under Minnesota Statutes, section 144A.31, counties and other affected political subdivisions, advocacy groups, representatives or owners of facilities and programs, lodging houses and assisted or supportive living services, and service consumers.*

**Subd. 3. [COUNTY REPORTING.]** *No later than September 1, 1989, and annually after that date, the county board or human services board in each county shall report to the commissioner of human services the names and addresses of the owners and operators of all facilities and programs with which the county has a negotiated rate agreement and which are not licensed under Minnesota Statutes, chapter 144, 144A, or 245A. The report must identify the amount of the negotiated rate for each facility or program, services other than the provision of lodging that the owner or operator is responsible for coordinating or providing, the number of persons receiving services, and the per unit cost for the services. No later than September 1, 1989, the county board or human services agency in each county shall also provide the commissioner of human services with a copy of any administrative standards or certification standards adopted by or used by the county for board and lodging facilities and supervised*

*living residences that are in addition to or different from those contained in Minnesota Rules, chapter 4625, or that are for facilities and programs not licensed under Minnesota Statutes, chapter 144, 144A, or 245A.*

Sec. 3. [LICENSURE EXCLUSIONS.]

*Until July 1, 1990, Minnesota Statutes, sections 245A.01 to 245A.16, do not apply to board and lodging establishments licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness and who have refused an appropriate residential program offered by a county agency."*

Delete the title and insert:

"A bill for an act relating to health and human services; requiring registration and a special license for board and lodging establishments that provide supportive services or health supervision; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 157."

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. 1163: A bill for an act relating to human services; requiring proposals for decreasing the size of intermediate care facilities for persons with mental retardation; proposing coding for new law in Minnesota Statutes, chapter 252.

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

Page 1, lines 18 and 19, delete "*county may downsize these services*" and insert "*facility may be downsized*"

Page 1, line 20, delete "*must*" and insert "*may*"

Page 1, line 21, after "*downsizing*" insert "*submitted*" and after "*I*" insert a comma

Page 2, line 9, after the period, insert "*Counties must ensure that residents discharged from facilities participating in the project are moved to their home communities whenever possible. For the purposes of this section, 'home community' means the county of financial responsibility or a county adjacent to the county of financial responsibility. The commissioner shall have the sole authority to waive this requirement based on the choice of the person or the person's legal representative, if any.*"

Page 2, line 20, after the semicolon, insert "*and*"

Page 2, line 22, delete "*20*" and insert "*25*" and delete "*, leaving*" and insert "*and must leave*"

Page 2, line 23, delete the semicolon and insert a period

Page 2, delete lines 24 to 27

Page 2, line 31, after the period, insert "*The decision of the commissioner is final and may not be appealed.*"

Page 3, line 1, after the comma, insert "*operating*"

Page 3, line 2, after "total" insert "allowable operating"

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

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

S.F. No. 272: A bill for an act relating to veterans; requiring the department of administration to consider sites in other areas of northwestern Minnesota in addition to Fergus Falls for establishment of a veterans home; amending Laws 1988, chapter 689, article 1, section 2, subdivision 5.

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

Delete everything after the enacting clause and insert:

"Section 1. [VETERANS HOMES SITING STUDY.]

*Subdivision 1. [STUDY AUTHORIZATION.] The commissioner of administration, in cooperation with the veterans home board of directors, must by January 1, 1990, complete a study that will assist the legislature to determine:*

*(1) if additional veterans homes should be established in any regions of the state; and*

*(2) in which communities homes should be sited if the legislature determines additional homes are necessary.*

*Subd. 2. [NEED FOR ADDITIONAL VETERANS HOMES.] In analyzing whether additional veterans homes should be established in the state, the study should consider the following factors:*

*(1) the number of veterans that are projected to need nursing home care in the state and in each region of the state;*

*(2) the availability and feasibility of other long-term care alternatives for veterans;*

*(3) the impact of additional veterans homes on existing community nursing homes;*

*(4) the availability of federal funding for construction and operation of additional veterans homes and the impact of other federal regulations;*

*(5) the overall cost to the state of a regional system of veterans nursing homes; and*

*(6) the veterans home board of directors' long-term plan for veterans health care.*

*Based on these factors, the study shall recommend in which regions of the state, if any, additional veterans homes should be established.*

*Subd. 3. [ANALYSIS OF SITING ALTERNATIVES.] If the commissioner of administration recommends that additional veterans homes should be established in one or more regions of the state, the study must analyze various potential sites for veterans homes based on the following factors:*

*(1) proximity to a veterans administration medical center;*

*(2) proximity to other medical services in the community;*

- (3) *availability of staff to operate a home;*
- (4) *construction costs;*
- (5) *operating costs;*
- (6) *local financial contributions toward construction and operating costs;*
- (7) *physical features of a site; and*
- (8) *the number of veterans needing nursing care in the area.*

*The commissioner must allow local communities in the affected regions to submit proposals for veterans homes, and the study must recommend in rank order sites for new veterans homes in each affected region.*

*If the commissioner recommends the siting of a veterans home in south-western Minnesota, the commissioner must utilize to the fullest extent possible the study on "Potential Sites for a Minnesota Veterans Home," dated February 1, 1989, in order to avoid any unnecessary duplication of that study.*

Sec. 2. [APPROPRIATION.]

*\$ . . . . . is appropriated from the general fund to the commissioner of administration to conduct the study required by section 1."*

Delete the title and insert:

"A bill for an act relating to veterans; authorizing the commissioner of administration to conduct a study of the need for additional veterans homes in the state; appropriating money."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Mr. Knaak questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 1359: A bill for an act relating to commerce; regulating certain rentals of real property, membership camping practices, and subdivided land sales; amending Minnesota Statutes 1988, sections 82.18; 82.20, subdivision 13; 82A.02, subdivision 6; 83.20, by adding a subdivision; 83.30, subdivision 1; and 83.38, subdivisions 1 and 3.

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

Pages 1 to 3, delete sections 1 to 3 and insert:

"Section 1. Minnesota Statutes 1988, section 82A.02, is amended by adding a subdivision to read:

*Subd. 1a. [ADVANCED PAYMENT.] "Advanced payment" means any money paid in advance regardless of its descriptive nomenclature, including, but not limited to, a management fee, listing, security, or advance fee or payment.*

Sec. 2. Minnesota Statutes 1988, section 82A.13, subdivision 2, is amended to read:

*Subd. 2. [FRAUD.] No person shall, in connection with the offer or sale of any membership camping contract, directly or indirectly:*

- (1) employ any device, scheme, or artifice to defraud;
- (2) make any untrue statement of a material fact, or omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; ~~or~~
- (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; *or*
- (4) *accept an advance payment for services rendered by an agent in connection with the resale of a membership camping contract."*

Pages 4 and 5, delete sections 6 and 7 and insert:

"Sec. 5. [EFFECTIVE DATE.]

*Section 4 is effective retroactive to January 1, 1989, and applies to any report due on or after that date."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "82.18; 82.20, subdivision 13;"

Page 1, line 6, delete "subdivision 6" and insert "by adding a subdivision; 82A.13, subdivision 2" and before "83.30," insert "and"

Page 1, delete line 7 and insert "subdivision 1."

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. 685: A bill for an act relating to the environment; appropriating money for the Western Lake Superior Sanitary District; authorizing sale of state bonds.

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

Page 1, after line 19, insert:

*"The appropriation under this section must be repaid from money recovered by the Western Lake Superior Sanitary District relating to damages recovered for the rupture of the Cloquet to Duluth pipeline as a condition of receiving the money under this section."*

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. 846: A bill for an act relating to state lands; authorizing conveyance of surplus state real property to Leo A. Hoffmann Center, Inc.

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

Page 1, line 14, delete "regional" and insert "nonprofit" and delete "center or" and insert "facility"

Page 1, line 15, delete everything before the period

Page 2, line 9, delete "527.99" and insert "427.95"

Page 2, line 13, delete "341.53" and insert "419.28"

Page 2, line 14, delete "50.00" and insert "150.00"

Page 2, line 16, delete "460.15" and insert "385.15"

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. 452: A bill for an act relating to water; providing urban drought relief; establishing a program of low-interest loans for repairs to drought-damaged homes; providing assistance to certain municipalities with water supply problems; studying surface backwater infiltration of water supplies; appropriating money.

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

Delete everything after the enacting clause and insert:

#### "ARTICLE 1 DAMAGED HOMES

##### Section 1. [DEFINITIONS.]

*Subdivision 1. [SCOPE.] The definitions in this section apply to this article.*

*Subd. 2. [AGENCY.] "Agency" means the Minnesota housing finance agency.*

*Subd. 3. [MUNICIPALITY.] "Municipality" means a statutory or home rule charter city or town.*

##### Sec. 2. [DROUGHT DAMAGE REPAIR LOANS.]

*Subdivision 1. [ELIGIBILITY.] The owner of a home that was damaged as a result of the drought of 1988 so that a serious structural condition has resulted that must be repaired is eligible for a loan under this article.*

*Subd. 2. [INDEBTEDNESS.] The total indebtedness on the home, including all mortgages, home equity loans, and the loan under this article must not exceed 110 percent of the market value of the property.*

*Subd. 3. [AGENCY'S DUTIES.] The agency shall make loans within available funds to eligible homeowners under subdivision 1. The maximum loan to a homeowner is \$20,000.*

*Subd. 4. [LOCAL HOUSING INSPECTOR'S DUTIES.] The building inspector in a municipality shall investigate the damage to the home of an applicant for a loan under this section to determine if the applicant is eligible. The building inspector shall certify that eligibility to the agency on forms prepared by the agency.*

*Subd. 5. [INTEREST; FEES.] The homeowner shall pay interest in an amount necessary to cover the administrative cost of providing periodic service on the loan. The agency shall pay other costs related to the loan.*

*including origination fees charged by the originating lenders.*

*Subd. 6. [QUALITY CONTROL.] Before the agency may make a loan under this article to a homeowner, the homeowner's municipality must:*

*(1) certify a list of approved contractors suitable to undertake the required repair work; or*

*(2) prepare a specific work order for the repair of each home for which a loan under this article has been approved and require homeowners to get a certain minimum number of bids before any repair work is begun.*

### **Sec. 3. [RULES.]**

*The agency shall make rules necessary to administer this article.*

### **Sec. 4. [APPROPRIATION.]**

*\$1,500,000 is appropriated to the Minnesota housing finance agency for the biennium ending June 30, 1991, to make loans to homeowners under sections 1 to 3, up to \$100,000 of which may be used by the agency for administrative expenses.*

## **ARTICLE 2 MUNICIPAL WATER SUPPLIES**

### **Section 1. [DEFINITIONS.]**

*Subdivision 1. [SCOPE.] The definitions in this section apply to this article.*

*Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of natural resources.*

*Subd. 3. [MUNICIPALITY.] "Municipality" means a statutory or home rule charter city or town having a population according to the most recent census certified as reliable by the state planning agency of not more than 50,000 which operates a municipal water utility and relies on a single well or surface water source for 50 percent or more of the annual water supply distributed by the water utility.*

### **Sec. 2. [DUTIES OF THE COMMISSIONER.]**

*Subdivision 1. [CERTIFICATION OF MUNICIPAL ELIGIBILITY.] Upon written application by a municipality to the commissioner, the commissioner shall in cooperation with the department of health conduct an investigation to determine if the drought of 1988 caused the principal well or surface water source used by that municipality's water utility to be inadequate in quantity or quality to meet the needs of customers of the water utility, including a reasonable capacity reserve. If the commissioner determines that the adverse condition exists and was caused by the 1988 drought, the commissioner shall certify that the municipality qualifies for relief under this article.*

*Subd. 2. [TECHNICAL ASSISTANCE.] (a) Within resources available to the commissioner, the commissioner must provide technical assistance to an eligible municipality to evaluate options and alternatives for providing adequate water supplies to water utility customers. Options to be evaluated must include cost-effective opportunities for water conservation.*

*(b) If a municipality adopts a municipal water supply enhancement plan approved by the commissioner, the commissioner shall make grants within available funds to eligible municipalities for up to 50 percent of the cost*

*of implementing the approved plan. The maximum grant to a municipality is \$50,000.*

Sec. 3. [APPROPRIATION.]

*\$1,500,000 is appropriated to the commissioner of natural resources for the biennium ending June 30, 1991, to make grants under this article. Of this amount, up to \$100,000 may be used by the commissioner for administrative expenses."*

Delete the title and insert:

"A bill for an act relating to water; providing urban drought relief; establishing a program of low-interest loans for repairs to drought-damaged homes; providing technical and financial assistance for municipalities to evaluate options and alternatives for municipal water supplies; appropriating money."

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. 1241: A bill for an act relating to education; changing a requirement for teaching in barber school; amending Minnesota Statutes 1988, section 154.065, subdivision 2.

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

Page 1, delete section 2

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

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

S.F. No. 1133: A bill for an act relating to financial institutions; industrial loan and thrifts; regulating capital stock and surplus requirements; regulating the publication of application notices; imposing a residency requirement on directors of certain companies; imposing special dividend conditions for deposit companies; amending Minnesota Statutes 1988, sections 53.015; 53.02; 53.03, subdivisions 1 and 5; 53.05; 53.06; 53.08; and 53.09, subdivision 3.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 46.041, subdivision 2, is amended to read:

Subd. 2. [NOTICE OF FILING APPLICATION; PUBLICATION.] Upon notice of acceptance of an application as complete in all respects for filing, the applicant shall within 30 days of the receipt of the form prescribed by the commissioner, publish a notice of the filing of the application, in a *qualified* newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then ~~at the county seat of the county~~ in a *qualified* newspaper likely to give notice in the



*municipality* in which the bank is proposed to be located. The notice must be in the form prescribed by the commissioner and, in addition to the publication, the applicant shall mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the bank.

Sec. 2. Minnesota Statutes 1988, section 47.015, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL INSTITUTIONS.] As used in this section the term "financial institution" shall include banks, trust companies, banks and trust companies, mutual savings banks, industrial loan and thrift companies having outstanding certificates of indebtedness for investment ~~other than those pledged as security for a loan made contemporaneous therewith,~~ savings and loan associations, ~~building and loan associations,~~ national banking associations, federal reserve banks and federal savings and loan associations doing business in this state, and includes any branch or detached facility of any of them.

Sec. 3. Minnesota Statutes 1988, section 47.101, subdivision 2, is amended to read:

Subd. 2. [BANKING INSTITUTIONS; CERTAIN RELOCATIONS, APPLICATIONS, NOTICE, APPROVAL.] A banking institution defined in section 48.01, subdivision 2, desiring to relocate its main office within a radius of three miles measured in a straight line shall submit an application in a form prescribed by the commissioner of commerce, an investigation fee of \$500 and additional fees as prescribed in section 46.041 if subsequently processed under subdivision 3. After the application is deemed to be complete and accepted by the commissioner of commerce, the applicant shall publish once in a form prescribed by the commissioner a notice of the filing of the application in a *qualified newspaper* published in the municipalities where the banking institution is located and relocating if different. If there ~~is~~ are no such ~~paper newspapers~~, then notice of the filing shall be published ~~at the appropriate county seats of the existing and proposed sites if different~~ in *qualified newspapers likely to give notice in the existing and proposed municipalities*. The applicant shall cause the notice to be publicly displayed in its lobby and sent by certified mail to all banking institutions within three miles of the proposed location measured in a straight line. Upon expiration of a period of 21 days for comment, the commissioner, after considering the applicable conditions for issuance of the bank charter defined in section 46.044, shall within 60 days approve or disapprove the application.

Sec. 4. Minnesota Statutes 1988, section 47.16, subdivision 1, is amended to read:

Subdivision 1. If the commissioner of commerce is satisfied that the corporation has been organized for legitimate purposes, and under such conditions as to merit and have public confidence, and that all provisions of law applicable to every branch of business in which, by the terms of its certificate, it is authorized to engage, have been complied with, the commissioner shall so certify. When the original certificate, ~~with proof of publication thereof,~~ and the certificate of incorporation from the secretary of state is filed with the commissioner of commerce, the commissioner shall, within 60 days thereafter, execute and deliver to it a certificate of authority.

Sec. 5. Minnesota Statutes 1988, section 47.54, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] Any bank desiring to establish a detached facility shall execute and acknowledge a written application in the form prescribed by the commissioner and shall file the application in the commissioner's office with a fee of \$500. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the commissioner in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, shall be paid by the applicant and 50 percent equally by the intervening parties. The applicant shall within 30 days of the receipt of the form prescribed by the commissioner publish a notice of the filing of the application in a *qualified newspaper published in the municipality in which the proposed detached facility is to be located*, and if there is no such newspaper, then ~~at the county seat of the county in which the~~ *in a qualified newspaper likely to give notice in the municipality in which the proposed detached facility is proposed* to be located. In addition to the publication, the applicant must mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the detached facility, measured in the manner provided in section 47.52.

Sec. 6. Minnesota Statutes 1988, section 48.475, subdivision 3, is amended to read:

Subd. 3. [GENERAL REQUIREMENTS.] If the bank at which a trust service office is to be established has exercised trust powers, then the trust company or bank which is establishing the trust service office shall enter into an agreement respecting those fiduciary powers to which the trust company or bank shall succeed and shall file the agreement with the commissioner. The trust company or bank which is establishing a trust service office under subdivision 1 shall publish a notice of the filing in the form prescribed by the commissioner in a newspaper published in the municipality in which the trust service office is to be located, and if there is no such newspaper, then ~~at the county seat of the county in which the trust service office is to be located.~~ *The notice shall be published once in a qualified newspaper in the municipality in which the proposed trust service office is to be located, and if there is no such newspaper, then in a qualified newspaper likely to give notice in the municipality in which the proposed trust service office is to be located,* and proof of publication shall be filed with the commissioner immediately after publication of the notice of filing. After filing and publication, the trust company or bank establishing the trust service office shall, as of the date the office first opens for business, and without further authorization of any kind, succeed to and be substituted for the bank at which the trust service office is located as to all fiduciary powers, rights, duties, privileges, and liabilities of the bank in its capacity as fiduciary for all estates, trusts, conservatorships, guardianships, and other fiduciary relationships of which the bank is then serving as fiduciary, except as may be otherwise specified in the agreement between the bank and the trust company or bank which has established the trust service office. The trust company or bank which has established the trust service office shall also be deemed named as fiduciary in all writings, including, but not limited to, wills, trusts, court orders, and similar documents and instruments, naming the bank at which the trust service office is located signed before the date the trust service office first opens for business, unless expressly negated by the writing or otherwise specified in the agreement

between the trust company or bank and the bank at which the trust service office is located. On the effective date of the substitution, the bank at which the trust service office has been established shall be released and absolved from all fiduciary duties and obligations under the writings and shall discontinue its exercise of trust powers on all matters not specifically retained by the agreement. This subdivision does not absolve the bank from liabilities arising out of any breach of fiduciary duty or obligation occurring prior to the date the trust service office first opens for business. This subdivision does not affect the authority, duties, or obligations of a bank with respect to relationships which may be established without trust powers, whether the relationships arise before or after the establishment of the trust service office.

Sec. 7. Minnesota Statutes 1988, section 48.48, subdivision 1, is amended to read:

Subdivision 1. [SUBMISSION AND PUBLICATION.] At least four times in each year, and at any other time when so requested by the commissioner, every bank or trust company shall, within 30 days of the date of notice, make and transmit to the commissioner, in a form the commissioner prescribes, a report, verified by its president or vice-president and by its cashier or treasurer, and attested by at least two of its directors, stating in detail, under appropriate heads, as required by the commissioner, its assets and liabilities at the close of business on the day specified in the request. The commissioner may accept a report made to a federal authority having supervision of banks or trust companies in fulfilling this requirement. This statement shall be published once at the expense of the bank or trust company in a *qualified newspaper serving in the municipality or town in which the bank or trust company is located*. ~~The newspaper shall be published in the county in which the bank or trust company is located or in an adjoining county, and if there is no such newspaper, then in a qualified newspaper likely to give notice in the municipality or town in which the bank or trust company is located.~~ Proof of publication shall be filed with the commissioner immediately after publication of the report, but no later than 60 days following the date of the notice.

Sec. 8. Minnesota Statutes 1988, section 49.33, is amended to read:

49.33 [CONSOLIDATION AND MERGER, WHEN AUTHORIZED.]

*Subject to the provisions of sections 49.33 to 49.41, with the written consent of the commissioner of commerce, any bank of discount and deposit or trust company may effect a transfer of its assets and liabilities to another bank or trust company for the purpose of consolidating ~~therewith~~ or merging, but the same shall be without prejudice to the creditors of either.*

Sec. 9. Minnesota Statutes 1988, section 49.34, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Any two or more state banks, operating in the same city, may be consolidated *or merged* into a consolidated *or merged* state bank, and any two or more trust companies, operating in the same city, may be consolidated *or merged* into a consolidated *or merged* trust company, and any state bank or state banks and any trust company or trust companies, operating in the same city, may be consolidated *or merged* into a consolidated *or merged* state bank or consolidated *or merged* trust company, as the respective boards of directors thereof may determine. ~~All~~ *The consolidation or merger shall be effected in the manner provided*

in sections 49.35 to 49.41 and when so organized, the consolidated or merged corporation shall be governed and conducted in all other respects as provided by the statutes relating to the respective classes of financial corporations.

Sec. 10. Minnesota Statutes 1988, section 49.35, is amended to read:

49.35 [CONSOLIDATION OR MERGER AGREEMENT.]

The respective boards of directors of the consolidating or merging corporations may, by the majority vote of all of the members of each board, make or authorize to be made between the corporations a written ~~consolidation~~ agreement, in duplicate, for the consolidation or merger of the corporations. ~~This~~ The agreement shall specify each corporation to be a party to the ~~consolidation~~ transaction, and shall prescribe the terms and conditions thereof; the mode of carrying it into effect; the authorized capital stock of the consolidated or surviving corporation, which shall not exceed the aggregate authorized capital stock of all of the corporations that are a party thereto; the name of the consolidated or surviving corporation, which may be the name, in whole or in part, of any corporation which is a party to the agreement, and shall specify the city in which it shall have its principal place of business. It shall name the persons who shall constitute the board of directors of the consolidated or surviving corporation, but the number and qualifications of these persons shall be in accordance with the statutes relating to the number and qualifications of directors of that class of corporation.

Sec. 11. Minnesota Statutes 1988, section 49.36, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] This consolidation or merger agreement and certified copy of the proceedings of the meetings of the respective boards of directors, at which the making of the agreement was authorized, must be submitted to the commissioner of commerce for approval with a fee of \$250 payable to the commissioner of commerce. The fee must be paid in equal parts by the parties to the agreement. ~~The consolidation is, and it shall not be effective until so approved by the commissioner. The commissioner shall take action after the documents are submitted, and shall be is entitled to further information from the consolidated corporation by request any party to the transaction as may be requested by the commissioner, or as may be obtained upon a hearing directed by the commissioner.~~

Sec. 12. Minnesota Statutes 1988, section 49.37, is amended to read:

49.37 [STOCKHOLDERS TO APPROVE; CERTIFICATE OF CONSOLIDATION OR MERGER.]

Either before or after the consolidation or merger agreement has been approved by the commissioner of commerce, it must be submitted to the stockholders of each corporation at a meeting thereof called for that purpose, and it does not become binding upon the corporation until it has been approved at each of the meetings required by this section by the vote or ballot of the stockholders, holding at least a majority of the amount of stock of the respective corporations, or a higher percentage as may be required by the certificate of incorporation of the corporations. Proof of the holding of these meetings and the results thereof must be submitted to the commissioner of commerce. After the ~~consolidation~~ agreement has called for by sections 49.33 to 49.41 has been approved by the stockholders of the respective corporations and by the commissioner of ~~banks~~ commerce,

the latter shall issue a certificate reciting that ~~these~~ *the* corporations have complied with the provisions of sections 49.34 to 49.41; *and* declaring the consolidation *or merger* of these corporations; *and stating* the name of the consolidated *or surviving* corporation, the amount of capital stock thereof, *and* the names of the first board of directors, and the place of business of the consolidated *or surviving* corporation, which must be within the city where any ~~one~~ of the constituent corporations ~~has~~ *have* been previously authorized to have ~~its place~~ *their places* of business. Upon the issuing of this certificate and the filing ~~thereof~~ *of it* for record in the office of the secretary of state, ~~this~~ *the* incorporation is deemed to be complete *in the case of the consolidation, and the assets of the constituent corporations merged into the survivor in the case of a merger*, and the consolidated *or surviving* corporation shall, from the date of this certificate, have the term of corporate existence ~~therein~~ *as may be specified in it*, not exceeding the longest unexpired term of any constituent corporation. The certificate of the commissioner of commerce is prima facie evidence that all of the provisions of sections 49.34 to 49.41 have been complied with, and is conclusive evidence of the existence of the consolidated *or surviving* corporation.

Sec. 13. Minnesota Statutes 1988, section 49.38, is amended to read:

49.38 [CORPORATE EXISTENCE MERGED; RIGHTS, POWERS, OBLIGATIONS.]

Upon the consolidation *or merger* of ~~any such~~ a corporation with *or into* any one or more corporations, ~~into a consolidated corporation~~, as herein provided, the corporate existence of each former corporation shall be merged into that of the consolidated *or merged* corporation, and all and singular its rights, privileges, and franchises, and its right, title, and interest in and to all property of whatsoever kind, whether real, personal, or mixed, and all things in action, and every right, privilege, interest, or asset of conceivable value or benefit then existing which would inure to it under an unmerged or unconsolidated existence, shall be deemed fully and finally transferred to and vested in the consolidated *or surviving* corporation without further act or deed, and the last mentioned corporation shall have and hold the same in its own right as fully as the same was possessed and held by the former corporation from which it was, by operation of sections 49.34 to 49.41, transferred. Its rights, obligations, and relations to any person, creditor, depositor, trustee, or beneficiary of any trust shall remain unimpaired and the corporation into which it shall have been consolidated *or merged* shall succeed to these relations, obligations, trusts, and liabilities and shall execute and perform all such trusts in the same manner as though it had itself assumed the relation or trust, or incurred the obligation or liability; and its liabilities and obligations to creditors existing for any cause shall not be impaired by the consolidation *or merger*, nor shall any obligation or liability of any stockholder, in any corporation which is a party to the consolidation *or merger*, be affected by any such consolidation *or merger*, but these obligations and liabilities shall continue as fully and to the same extent as existed before the consolidation *or merger*. The consolidated *or surviving* corporation shall become, without further act or deed, the successor of the consolidating *or constituent* corporations in any and all fiduciary capacities, in which each consolidated *or constituent* corporation may be acting at the time of the consolidation *or merger*, and shall be liable to all beneficiaries as fully as if the consolidating *or merging*

corporations had continued its separate corporate existence. If any consolidating *or merging* corporation shall be nominated and appointed, or shall have been nominated or appointed, as executor, guardian, administrator, agent, or trustee, or in any other trust ~~relation~~ *relationship* of fiduciary capacities in any will, trust agreement, trust conveyance, or any other conveyance, order, or judgment of any court, or any other instrument prior to the consolidation *or merger*, even though the will or other instrument shall not ~~become~~ *be* operative or effective until after the consolidation *or merger* shall have become effective, every such office, trust relationship, fiduciary capacity, and all of the rights, powers, privileges, duties, discretions, and responsibilities so provided to devolve upon, vest in, or inure to the corporation so nominated or appointed, shall fully and in every respect devolve upon, vest in, and inure to, and be exercised by, the consolidated *or surviving* corporation, whether there be one or more successive mergers or consolidations.

Sec. 14. Minnesota Statutes 1988, section 49.39, is amended to read:

49.39 [CONSOLIDATION *OR MERGER* OF BANKS AND TRUST COMPANIES.]

Upon the consolidation *or merger* of a trust company with a national banking corporation into a consolidated *or merged* banking corporation, as provided by any existing act of Congress of the United States, the corporate existence of that trust company shall be *consolidated or merged* into that of the consolidated *or merged* banking corporation to the same extent and with the same effect provided in section 49.38, relating to the consolidation *or merger* of two or more state banks or trust companies.

Sec. 15. Minnesota Statutes 1988, section 49.40, is amended to read:

49.40 [PENDING ACTIONS OR PROCEEDINGS NOT AFFECTED.]

Any pending action or other judicial proceeding in which any consolidating *or merging* corporation is a party shall not be deemed to have abated or to have discontinued by reason of the consolidation *or merger* but may be prosecuted to final judgment, order, or decree in the same manner as if the consolidation *or merger* had not been made, or the consolidated *or merged* corporation may be substituted as a party to the action or proceeding, and any judgment, order, or decree may be rendered for or against it that might have been rendered for or against that corporation if the consolidation *or merger* had not occurred.

Sec. 16. Minnesota Statutes 1988, section 49.41, is amended to read:

49.41 [RIGHTS OF DISSENTING STOCKHOLDERS.]

Any stockholder not voting in favor of the agreement of consolidation *or merger* at the meeting prescribed in section 49.37 may, at that meeting, or within 20 days thereafter, object to the consolidation *or merger* and demand payment for that person's stock. If the consolidation *or merger* takes effect at any time after this demand, the stockholder may, at any time within 60 days thereafter, apply to the district court in the county wherein is situated the principal place of business of the corporation with which the other or others are consolidated *or merged*, for the appointment of three persons to appraise the value of that person's stock. The court shall thereupon appoint these appraisers and designate the time and place of their first meeting, with such directions in regard to their proceedings as shall be deemed proper, and also direct the time and manner in which payment

shall be made of the value of that person's stock to the stockholder. The appraisers shall meet at the time and place designated, after being duly sworn to discharge their duties honestly and faithfully, make and certify a written estimate of the value of the stock at the time of the appraisal, and deliver one copy to the corporation and another to the stockholder, if demanded. The charges and expenses of the appraisers shall be paid one-half by the stockholder and one-half by the corporation. When the corporation shall have paid the appraised value of this stock, the stock shall be canceled and this stockholder shall cease to be a member of the corporation or to have any interest in this stock or in the corporation or in the corporate property, and this stock may be held and disposed of by the corporation for its own benefit.

Sec. 17. Minnesota Statutes 1988, section 53.015, is amended to read:  
53.015 [DEFINITIONS.]

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

Subd. 2. [~~PAID-IN CAPITAL SURPLUS.~~] "~~Paid-in capital Surplus~~" means *the sum total of all funds: (1) received as consideration received in excess of the par value of preferred or common stock; and (2) transferred from individual profits as dedicated funds, by action of the board of directors.*

Subd. 3. [~~INVESTED INCOME UNDIVIDED PROFITS.~~] "~~Invested income Undivided profits~~" means the net remaining funds resulting from the operation of the corporation and shall include, but not be limited to retained earnings, earned surplus, undivided profits and current earnings.

Subd. 4. [~~DONATED CAPITAL STOCK.~~] "~~Donated capital~~" means *all funds contributed by the stockholders, other than funds received in connection with the issuance of stock, and such amounts transferred from invested income, either by declaration of a share dividend or by action of the board of directors.*

Subd. 5. [~~CONTRIBUTED CAPITAL.~~] "~~Contributed capital~~" means *the sum total of all funds contributed to the corporation by the stockholders and shall include, but not be limited to preferred stock, common stock, paid-in capital and donated capital.*

Subd. 6. [~~APPROPRIATED RESERVES.~~] "~~Appropriated reserves~~" means *dedicated funds transferred from invested income by action of the board of directors, which dedicated funds shall otherwise be known as a capital reserve. "Capital stock" means the par value of preferred or common stock multiplied by the respective number of shares of each type of stock.*

Sec. 18. Minnesota Statutes 1988, section 53.02, is amended to read:  
53.02 [CAPITAL.]

No corporation shall be organized under this chapter or qualified to do business thereunder with a capital represented by shares of common stock of less than \$25,000 in cities with less than 50,000 people; \$50,000 in cities with more than 50,000 people and less than 100,000 people; and \$75,000 in cities with 100,000 people, or more, according to the last official census; each share of that common stock to have a par value of not less than \$1 per share. No corporation shall begin doing business under this chapter unless the required capital is fully paid, and unless a ~~paid-in capital surplus~~ of no less than ten percent of that required capital shall have also

been fully paid and set up. After the required capital of a corporation organized or doing business under this chapter shall have been fully paid and a ~~paid-in capital surplus~~ of not less than ten percent thereof also fully paid and set up, additional capital stock in that corporation may be sold at not less than par, provided, however, that there is always maintained a ~~paid-in capital surplus~~ of at least ten percent of the capital of the corporation represented by shares of common stock.

Sec. 19. Minnesota Statutes 1988, section 53.03, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION, FEE, NOTICE.] Any corporation hereafter organized as an industrial loan and thrift company, shall, after compliance with the requirements set forth in sections 53.01 and 53.02, file a written application with the department of commerce for a certificate of authorization. A corporation that will not sell or issue thrift certificates for investment as permitted by this chapter need not comply with subdivision 2b. The application must be in the form prescribed by the department of commerce. The application must be made in the name of the corporation, executed and acknowledged by an officer designated by the board of directors of the corporation, requesting a certificate authorizing the corporation to transact business as an industrial loan and thrift company, at the place and in the name stated in the application. At the time of filing the application the applicant shall pay a \$1,000 filing fee and a \$500 investigation fee. The fees must be turned over by the commissioner to the state treasurer and credited to the general fund. The applicant shall also submit a copy of the bylaws of the corporation, its articles of incorporation and all amendments thereto at that time. If the application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited to the general fund shall be paid by the applicant and 50 percent equally by the intervening parties. A notice of the filing of the application must be published once within 30 days of the receipt of the form prescribed by the department of commerce, at the expense of the applicant, in a *qualified* newspaper published in the municipality in which the proposed industrial loan and thrift company is to be located, or, if there be none, in a *qualified* newspaper ~~published at the county seat of the county~~ *likely to give notice in the municipality* in which the company is proposed to be located. If the department of commerce receives a written objection to the application from any person within 20 days of the notice having been fully published a contested case hearing must be conducted on the application. Notice of a hearing in connection with this section must be published once in the form prescribed by the department of commerce, at the expense of the applicant, in the same manner as a notice of application.

Sec. 20. Minnesota Statutes 1988, section 53.03, subdivision 5, is amended to read:

Subd. 5. [PLACE OF BUSINESS.] Not more than one place of business may be maintained under any certificate of authorization issued subsequent to the enactment of Laws 1943, chapter 67, pursuant to the provisions of this chapter, but the department of commerce may issue more than one certificate of authorization to the same corporation upon compliance with all the provisions of this chapter governing an original issuance of a certificate of authorization. To the extent that previously filed applicable information remains unchanged, the applicant need not refile this information, unless requested. The filing fee for a branch application shall be \$500 and



the investigation fee \$250. If a corporation has been issued more than one certificate of authorization, the corporation shall allocate a portion of ~~contributed~~ capital stock to each office for which a certificate has been issued, in order to comply with the capital requirements of sections 53.02 and 53.05, clause (2), which sections are applicable to each office and the capital allocated thereto in the same manner as if each certificate had been issued to a separate corporation. An industrial loan and thrift corporation with deposit liabilities may change one or more of its locations upon the written approval of the commissioner of commerce. A fee of \$100 must accompany each application to the commissioner for approval to change the location of an established office. An industrial loan and thrift corporation that does not sell and issue thrift certificates for investment may change one or more locations by giving 30 days' written notice to the department of commerce which shall promptly amend the certificate of authorization accordingly.

Sec. 21. Minnesota Statutes 1988, section 53.05, is amended to read:

53.05 [POWERS, LIMITATION.]

No industrial loan and thrift company may do any of the following:

(1) carry demand banking accounts; use the word "savings" unless the institution's investment certificates, savings accounts, and savings deposits are insured by the Federal Deposit Insurance Corporation and then only if the word is not followed by the words "and loan" in its corporate name; use the word "bank" or "banking" in its corporate name; operate as a savings bank;

(2) have outstanding at any one time certificates of indebtedness, savings accounts, and savings deposits, ~~exclusive of those held by the company, as security for loans made by it of more than seven times the sum of the contributed capital and appropriated reserves of the company until July 1, 1985, or the date an industrial loan and thrift company obtains a commitment for insurance or guarantee of accounts acceptable to the commissioner as required by section 53.10, whichever is earlier, and thereafter 15 30~~ times the sum of contributed capital stock and appropriated reserves surplus of the company;

(3) accept trusts, except as provided in section 47.75, subdivision 1, or act as guardian, administrator, or judicial trustee in any form;

(4) deposit any of its funds in any banking corporation, unless that corporation has been designated by vote of a majority of directors or of the executive committee present at a meeting duly called, at which a quorum was in attendance;

(5) change any allocation of capital made pursuant to section 53.03 or reduce or withdraw in any way any portion of the ~~contributed~~ capital stock and ~~appropriated reserves surplus~~ without prior written approval of the commissioner of commerce;

(6) take any instrument in which blanks are left to be filled in after execution;

(7) lend money in excess of ~~15 20~~ percent of the total of its ~~contributed capital and appropriated reserves stock and surplus at all its authorized locations~~ to a person primarily liable. ~~"Contributed capital and appropriated reserves" means the total of the company's contributed capital and appropriated reserves at all its authorized locations.~~

If a loan has been made to a person primarily liable and payments have been made on a certificate of indebtedness securing it, the amount of the payments may be added to the limitation contained in this clause for the purpose of determining whether additional loans may be made to that person. However, industrial loan and thrift companies with deposit liabilities must comply with the provisions of section 48.24; or

(8) issue cashier's checks pursuant to section 48.151, unless and at all times the aggregate liability to all creditors on these instruments is protected by a special fund in cash or due from banks to be used solely for payment of the cashier's checks.

Sec. 22. Minnesota Statutes 1988, section 53.06, is amended to read:

53.06 [DIRECTORS. RESIDENCE.]

At least three-fourths of the directors of any industrial loan and thrift company holding a certificate that includes the right to issue thrift certificates for investment must be residents of the county in which the industrial loan and thrift company maintains its principal place of business, an adjacent county or any county in which the industrial loan and thrift company maintains a place of business pursuant to this chapter Minnesota.

Sec. 23. Minnesota Statutes 1988, section 53.08, is amended to read:

53.08 [DIVIDENDS.]

*Subdivision 1. [GENERAL CONDITIONS FOR DIVIDENDS.]* When an industrial loan and thrift company is organized under this chapter or operating thereunder, the board of directors may declare a dividend of so much of the net profits of the corporation, after providing for all expenses, reserves, interest, and taxes accrued or due from the corporation, as they shall judge expedient, but before any dividend is declared, not less than one-tenth of the net profits of the industrial loan and thrift company of the preceding half year, or for such period as is covered by the dividend, shall be carried to an invested income fund or appropriated reserves surplus until the aggregate of invested income undivided profits and appropriated reserves surplus shall amount to 20 percent of its capital represented by shares of common stock.

*Subd. 2. [SPECIAL CONDITIONS FOR DEPOSIT COMPANIES.]* In addition to the conditions in subdivision 1, industrial loan and thrift companies having outstanding time certificates of indebtedness, savings accounts, or savings deposits must comply with the following special conditions:

(1) the dividend period for the purpose of declaring dividends shall be the period beginning on January 1 and ending as of the close of business December 31 of each calendar year and the net income for this period shall be determined from the consolidated report of income of each company;

(2) the department of commerce will supply each company with forms to be completed with information called for. The forms must be mailed or delivered to the commissioner within ten days of the date of declaration of any dividend and at least 15 days before the proposed payment date of any dividend. The forms shall contain a statement by the commissioner providing that if certain requirements as set forth in the statement are met, the company may pay a cash dividend or dividends without specific approval of the commissioner in the year after the dividend period in amounts so as not to reduce the company's capital, surplus, undivided profits, and reserves below these requirements;

*(3) declared dividends shall be deducted from undivided profits and carried on the books as another liability entitled "dividends payable." The other liability account shall be reversed upon payment or nonapproval by the commissioner; and*

*(4) except as provided in clause (2), no company shall pay a cash dividend to its stockholders until written approval for the dividend has been obtained from the commissioner.*

Sec. 24. Minnesota Statutes 1988, section 53.09, subdivision 3, is amended to read:

Subd. 3. [PENALTIES.] The penalties for violation of this chapter, or for any wrongdoing in connection therewith, shall be the same as those applied to state banks under the laws of this state. *In addition to being subject to the penalties in section 48.28, a company in violation of section 53.05, clause (2), may cure this violation in the manner provided in section 48.28.*

Sec. 25. Minnesota Statutes 1988, section 54.294, subdivision 1, is amended to read:

Subdivision 1. [DOCUMENTS FILED FOR EXAMINATION.] *Notwithstanding the examination frequency prescribed by section 46.04, the examination of the face amount certificate companies described in Minnesota Statutes 1974, section 54.26, shall be carried out on an annual basis by the commissioner. In conducting such examination, the commissioner may utilize reports which have been audited and attested to by independent certified public accountants. The procedures employed by the independent certified public accountants shall conform to generally accepted auditing standards. Each face amount certificate investment company shall file with the commissioner copies of its prospectuses, semiannual and annual reports to shareholders, S-1 registration statements and amendments thereto, and annual reports to the United States Securities and Exchange Commission, all as filed pursuant to the requirements of the Securities Act of 1933, as amended and the rules and regulations adopted pursuant thereto, the Securities Exchange Act of 1934, as amended and the rules and regulations adopted pursuant thereto, and the Investment Company Act of 1940, as amended and the rules and regulations adopted pursuant thereto. The commissioner may accept as filed copies of the foregoing material previously filed with the commissioner of commerce. Other face amount certificate investment companies described in Minnesota Statutes 1974, section 54.26, shall file with the commissioner copies of their semiannual and annual reports, which annual reports have been audited and attested to by independent certified public accountants as to assets maintained on deposit and the value thereof, and semiannual and annual reports, which annual reports have been certified by independent certified public accountants, as to certificate liabilities.*

Sec. 26. Minnesota Statutes 1988, section 56.131, subdivision 1, is amended to read:

Subdivision 1. [INTEREST RATES AND CHARGES.] (a) On any loan in a principal amount not exceeding \$35,000 or ten percent of a corporate licensee's ~~contributed~~ capital stock and ~~appropriated reserves surplus~~ as defined in section 53.015, if greater, a licensee may contract for and receive interest, calculated according to the actuarial method, not exceeding the equivalent of the greater of any of the following:

(1) the total of: (i) 33 percent per year on that part of the unpaid balance of the principal amount not exceeding \$350; and (ii) 19 percent per year on that part of the unpaid balance of the principal amount exceeding \$350; or

(2) 21.75 percent per year on the unpaid balance of the principal amount.

(b) On any loan where interest has been calculated according to the method provided for in paragraph (a), clause (1), interest must be contracted for and earned as provided in that provision or at the single annual percentage rate computed to the nearest 1/100 of one percent that would earn the same total interest at maturity of the contract as would be earned by the application of the graduated rates provided in paragraph (a), clause (1), when the debt is paid according to the agreed terms and the calculations are made according to the actuarial method.

(c) Loans may be interest-bearing or precomputed.

(d) To compute time on interest-bearing and precomputed loans, including, but not limited to the calculation of interest, a day is considered 1/30 of a month when calculation is made for a fraction of a calendar month. A year is 12 calendar months. A calendar month is that period from a given date in one month to the same numbered date in the following month, and if there is no same numbered date, to the last day of the following month. When a period of time includes a whole month and a fraction of a month, the fraction of a month is considered to follow the whole month.

In the alternative, for interest-bearing loans, a licensee may charge interest at the rate of 1/365 of the agreed annual rate for each actual day elapsed.

(e) With respect to interest-bearing loans:

(1) Interest must be computed on unpaid principal balances outstanding from time to time, for the time outstanding. Each payment must be applied first to the accumulated interest and the remainder of the payment applied to the unpaid principal balance; provided however, that if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest must not be payable in advance or compounded. However, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the new loan contract may include any unpaid interest which has accrued. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in paragraph (f), clause (3). The resulting loan contract is deemed a new and separate loan transaction for all purposes.

(f) With respect to precomputed loans:

(1) Loans must be repayable in substantially equal and consecutive monthly installments of principal and interest combined, except that the first installment period may be more or less than one month by not more than 15 days, and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days and must be reduced by the amount of interest for the number of days less than one month to the first installment payment; and monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until the loan is fully paid. Payments must be applied in the order in which they become due.

(3) When any loan contract is paid in full by cash, renewal or refinancing, or a new loan, one month or more before the final installment due date, a licensee shall refund or credit the borrower with the total of the applicable charges for all fully unexpired installment periods, as originally scheduled or as deferred, which follow the day of prepayment; if the prepayment is made other than on a scheduled payment date, the nearest scheduled installment payment date must be used in the computation; provided further, if the prepayment occurs prior to the first installment due date, the licensee may retain  $1/30$  of the applicable charge for a first installment period of one month for each day from the date of the loan to the date of prepayment, and shall refund or credit the borrower with the balance of the total interest contracted for. If the maturity of the loan is accelerated for any reason and judgment is entered, the licensee shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

(4) If an installment, other than the final installment, is not paid in full within ten days of its scheduled due date, a licensee may contract for and receive a default charge not exceeding five percent of the amount of the installment, but not less than \$4.

A default charge under this subdivision may not be collected on an installment paid in full within ten days of its scheduled due date, or deferred installment due date with respect to deferred installments, even though a default or deferral charge on an earlier installment has not been paid in full. A default charge may be collected at the time it accrues or at any time thereafter.

(5) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a licensee may grant a deferment and may collect a deferment charge as provided in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one-month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred payment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. Should a loan be prepaid in full during a deferment period, the licensee shall make or credit to the borrower a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

(6) If two or more installments are delinquent one full month or more on any due date, and if the contract so provides, the licensee may reduce the unpaid balance by the refund credit which would be required for prepayment in full on the due date of the most recent maturing installment in default. Thereafter, and in lieu of any other default or deferment charges, the single annual percentage rate permitted by this subdivision may be charged on the unpaid balance until fully paid.

(7) Following the final installment as originally scheduled or deferred, the licensee, for any loan contract which has not previously been converted to interest-bearing under ~~paragraph (f),~~ clause (6), may charge interest on any balance remaining unpaid, including unpaid default or deferment charges, at the single annual percentage rate permitted by this subdivision until fully paid.

Sec. 27. Minnesota Statutes 1988, section 56.155, subdivision 2, is amended to read:

Subd. 2. [PROPERTY INSURANCE.] A licensee may require the obligors to provide insurance on real or personal property security against reasonable risks of loss, damage, and destruction. The amount and term of the insurance shall be reasonable in relation to the value of the security, ~~but the amount and term of the insurance and~~ and shall not exceed the principal amount of the loan ~~and term of the loan less any existing insurance, including homeowner's insurance as defined by section 65A.27, subdivision 4, on the secured property as to which the lender has been provided a loss payable clause,~~ except that the lender may insure or arrange for insurance not to exceed the reasonable value of any motor vehicle collateral ~~less any existing insurance on the motor vehicle as to which the lender has been provided a loss payable clause. The term of the insurance shall also be reasonable in relation to the value of the security and shall not exceed the term of the loan.~~ The restrictions contained in this subdivision shall not apply to the sale or provision of homeowner's insurance as defined in section 65A.27. In all cases when insurance is offered the obligor shall be informed that the obligor has the option of providing insurance through existing policies of insurance that the obligor owns or controls, or by procuring and furnishing the offered coverage through any insurer authorized to transact an insurance business within this state. The purchase of such insurance through the licensee or from an agent, broker, or insurer specified by the licensee shall not be required."

Delete the title and insert:

"A bill for an act relating to financial institutions; industrial loan and thrifts; regulating capital stock and surplus requirements; regulating the publication of application notices; imposing a residency requirement on directors of certain companies; imposing special dividend conditions for deposit companies; amending Minnesota Statutes 1988, sections 46.041, subdivision 2; 47.015, subdivision 1; 47.101, subdivision 2; 47.16, subdivision 1; 47.54, subdivision 1; 48.475, subdivision 3; 48.48, subdivision 1; 49.33; 49.34, subdivision 1; 49.35; 49.36, subdivision 1; 49.37; 49.38; 49.39; 49.40; 49.41; 53.015; 53.02; 53.03, subdivisions 1 and 5; 53.05; 53.06; 53.08; 53.09, subdivision 3; 54.294, subdivision 1; 56.131, subdivision 1; and 56.155, subdivision 2."

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

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

S.F. No. 491: A bill for an act relating to health care; providing a program of affordable health care coverage for Minnesota residents; creating a health care access commission to implement and administer the program; establishing eligibility requirements and funding sources; modifying income

eligibility requirements for medical assistance; imposing penalties; appropriating money; amending Minnesota Statutes 1988, section 256B.056, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 290; proposing coding for new law as Minnesota Statutes, chapter 62J.

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

Page 2, delete line 9

Page 2, line 10, delete everything before the second "The" and insert *"Three members are appointed by the governor, one of whom must be an experienced health care professional and one of whom must be a representative of small business. Two members are appointed under the rules of the senate and two members are appointed under the rules of the house of representatives."*

Page 5, line 26, delete "x-rays" and insert "X-rays"

Page 5, line 27, delete "eye glasses" and insert "eyeglasses"

Page 7, after line 17, insert:

*"Subd. 4. [PAYER OF LAST RESORT.] Notwithstanding subdivisions 2 and 3, a health care access commission health plan does not cover medical care or services that are covered under any other health plan, insurance policy, or medical care program."*

Page 7, line 20, delete "1990" and insert "1991"

Page 8, line 4, delete everything after "employed" and insert "in Minnesota."

Page 8, delete line 5

Page 8, line 21, delete everything after the second "income"

Page 8, line 22, delete everything before the semicolon

Pages 9 and 10, delete subdivision 2 and insert:

*"Subd. 2. [SLIDING FEE SCHEDULE FOR PREMIUMS.] A participant's share of the premium for minimum core coverage is based on the participant's family income in relation to the federal poverty guidelines, according to the following schedule:*

**SLIDING FEE SCHEDULE FOR DETERMINING  
INSURANCE PREMIUM SUBSIDIES**

*Income as a percent  
of the federal  
poverty guideline*

*Enrollee share of premium*

*Under 125 percent  
126 - 200 percent  
201 - 250 percent  
251 - 300 percent  
Over 300 percent*

*0 percent  
15 percent  
50 percent  
75 percent  
100 percent"*

Page 12, line 18, delete "sections" and insert "section 8, and other sources of funding established or approved by the legislature."

Page 12, delete line 19

Pages 13 to 18, delete sections 12 to 14 and insert:

"Sec. 12. [HEALTH CARE ACCESS COMMISSION REPORT.]

(a) *The health care access commission shall:*

(1) *develop a financial plan for implementing sections 1 to 11, including an actuarial analysis, a sliding fee scale analysis, reserve fund requirements, and revenue projections from a one percent payroll tax and any alternative sources of financing identified by the commission;*

(2) *develop a system to estimate the total number of uninsured Minnesotans by age, sex, employment status, income level, geography, and other relevant characteristics;*

(3) *define the number, functions, and duties of administrative staff;*

(4) *develop a system for collection of premium payments;*

(5) *prepare a legal analysis of ERISA restrictions and other potential legal issues;*

(6) *develop a system to administer the health care access program created in sections 1 to 11;*

(7) *collect and analyze data regarding the problem of uncompensated health care and report the commission's findings and recommendations, including definitions of the terms "uncompensated care," "unsponsored care," and "bad debt," as they relate to the provision of health care in Minnesota; and recommendations for more equitably distributing the burden of uncompensated health care;*

(8) *identify cost savings to public programs that will result from implementation of sections 1 to 11;*

(9) *develop a cost containment policy after reviewing cost containment methods such as hospital admission precertification, concurrent review of hospital stays, discharge planning, hospital bill audit prior to discharge, primary gatekeepers, claims data analysis, a drug formulary, pharmacy data analysis, bulk discounts, emergency room use, outpatient surgery oversight, protocols for preventive care and common acute care, practice data compared to peers, practitioner rewards and penalties, and other cost containment methods;*

(10) *explore all potential insurance options including size and makeup of risk groups;*

(11) *study and make recommendations on incentives and disincentives to ensure that employers continue to provide health insurance coverage;*

(12) *study and make recommendations regarding the benefits covered by health plans offered by the health care access commission, as described in section 4, including recommendations for changes, if any; and*

(13) *recommendations for other technical improvements or changes to sections 1 to 11.*

(b) *The commission shall report to the legislature by February 15, 1990, with the results of its study and its specific recommendations, including proposed language for legislation necessary to implement sections 1 to 11."*



Page 18, line 27, delete "1990" and insert "1991"

Page 18, line 31, delete "11, 14, and 15" and insert "13"

Page 18, delete line 33

Page 18, line 34, delete "(c)" and insert "(b)" and delete "1990" and insert "1991, but only if the legislature has taken action to provide sufficient funding for the health care access account to allow the health care access commission to offer coverage to eligible persons"

Renumber the sections of article 1 in sequence

Amend the title as follows:

Page 1, line 6, delete "and funding sources"

Page 1, line 10, delete everything after the semicolon

Page 1, line 11, delete everything before "proposing"

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. 262: A bill for an act relating to protection of groundwater; protecting sensitive areas; promoting and requiring certain best management practices; providing financial assistance for certain groundwater protection activities; authorizing local government groundwater and resource protection programs; establishing a 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.

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

as follows:

Delete everything after the enacting clause and insert:

“ARTICLE 1

CHAPTER 103H

GROUNDWATER PROTECTION

Section 1. [103H.001] [DEGRADATION PREVENTION GOAL.]

*Subdivision 1. [GOAL.] The state shall maintain its groundwater as free from degradation as practicable. Where degradation prevention is not currently practicable, the state shall encourage 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 and minimizing 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 PLAN.] *"Water resource protection plan" means voluntary measures established by order for one or more pollutants intended to prevent and minimize pollution of groundwater. Water resource protection plans may include design criteria standards, operation and maintenance procedures, practices to prevent releases, spills, leaks, and incidents, restrictions on use and practices, and recommended treatments.*

Subd. 17. [WATER RESOURCE PROTECTION REQUIREMENTS.] *"Water resource protection requirements" means requirements adopted by rule for one or more pollutants intended to prevent and minimize 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. 18. [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, local water planning authorities, 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 and minimize 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 in consultation with local water planning authorities 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 in consultation with local water planning authorities 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 shall include demonstration projects.*

#### GROUNDWATER QUALITY MONITORING

Sec. 7. [103H.175] [GROUNDWATER QUALITY MONITORING.]

*Subdivision 1. [MONITORING RESULTS TO BE SUBMITTED TO THE ENVIRONMENTAL QUALITY BOARD.] The results of monitoring groundwater quality by state agencies and political subdivisions must be submitted to the environmental quality board.*

*Subd. 2. [COMPUTERIZED DATA BASE.] The environmental quality board 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, department of health, and department of natural resources. The environmental quality board 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 POLLUTION IS DETECTED.] *If groundwater pollution 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 pollution to the extent practicable.*

Subd. 2. [AREAS WHERE DETECTION INDICATES RISKS.] (a) *If, by common detection, groundwater pollution exists, the pollution control agency or for agricultural chemicals the commissioner of agriculture may, or if 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 must:*

- (1) adopt a water resource protection plan; and
- (2) develop more effective best management practices.

(b) The water resources protection plan shall be:

- (1) designed to prevent and reduce the pollution to the extent practicable;
- (2) consistent with the goal of section 1; and
- (3) designed to prevent the pollution from exceeding the adopted long-term risk measurement.

**Subd. 3. [AREAS WHERE SIGNIFICANT HEALTH RISK EXISTS.]**

If, by common detection, groundwater pollution meets or exceeds, 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 and practices the commissioner of agriculture shall adopt by rule water resource protection requirements to prevent and minimize the pollution to the extent practicable. The proposed rule must be submitted to the commission on water for review before adoption. The water resource protection requirements must be based on the use and effectiveness of best management practices, the product use and practices contributing to the pollution detected, economic factors, availability, technical feasibility, implementability, and effectiveness. The water resource protection requirements may be adopted for one or more pollutants or a similar class of pollutants. A water resource protection requirement may not be adopted before January 1, 1991.

(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 nitrate and related 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 nitrogen fertilizer task force. This report shall be submitted to the legislative commission on water by July 1, 1991. The commission 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 and minimize the 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. [EFFECTS OF SUSTAINABLE AGRICULTURE.] The commission shall study the implementation and effects of sustainable agriculture in the state including current and potential practices and their effect on water and groundwater.*

*Subd. 8. [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 on-farm 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. [103B.3361] [CITATION.]**

*Sections 103B.3361 to 103B.3369 may be cited as the "local water resources protection and management program."*

**Sec. 9. [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. 10. [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. 11. 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. 12. 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.

### ARTICLE 3

#### CHAPTER 103I

#### WELLS, BORINGS, AND UNDERGROUND USES

##### Section 1. [103I.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. [103I.005] [DEFINITIONS.]

*Subdivision 1. [APPLICABILITY.] The definitions in this chapter apply to this chapter.*

*Subd. 2. [BORING.] "Boring" means a hole or excavation that is not used to extract water and includes exploratory borings, environmental bore holes, and test holes.*

*Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of health.*

*Subd. 4. [DEPARTMENT.] "Department" means the department of health.*

*Subd. 5. [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. 6. [ELEVATOR SHAFT.] "Elevator shaft" means a bore hole, jack hole, drilled hole, or excavation constructed to install an elevator shaft or hydraulic cylinder.*

*Subd. 7. [ELEVATOR SHAFT CONTRACTOR.] "Elevator shaft contractor" means a person with an elevator shaft contractor's license issued by the commissioner.*

*Subd. 8. [ENVIRONMENTAL BORE HOLE.] "Environmental bore hole" means a hole or excavation in the ground that enters or goes through a water bearing layer and is used to monitor or measure physical, chemical, radiological, or biological parameters without extracting water. 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. 9. [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 petroleum. [156A.02 s. 5]

*Subd. 10. [EXPLORER.] "Explorer" means a person who has the right to drill an exploratory boring. [156A.02 s. 4]*

*Subd. 11. [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. 12. [LIMITED WELL CONTRACTOR.] "Limited well contractor" means a person with a limited well contractor's license issued by the commissioner.*

*Subd. 13. [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 a groundwater quality sampling well.*

*Subd. 14. [MONITORING WELL CONTRACTOR.] "Monitoring well contractor" means a person who is registered by the commissioner to construct monitoring wells.*

*Subd. 15. [PERSON.] "Person" means an individual, firm, partnership, association, or corporation.*

*Subd. 16. [PROVISIONS OF THIS CHAPTER.] "Provisions of this chapter" means the sections in this chapter and rules adopted by the commissioner under this chapter.*

*Subd. 17. [SEALED WELL CERTIFICATE.] "Sealed well certificate" means the certificate containing information required under section 19.*

*Subd. 18. [TEST HOLE.] "Test hole" means a boring that does not enter a water-bearing layer of soil.*

*Subd. 19. [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. 20. [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 includes monitoring wells, drive point wells, and dewatering wells. "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;*

*(3) an excavation to insert media to repressure oil or natural gas bearing formations or to store petroleum, natural gas, or other products;*

(4) *an excavation for nonpotable use for wildfire suppression activities; or*

(5) *borings.* [156A.02 s.1]

*Subd. 21. [WELL CERTIFICATE.] "Well certificate" means a certificate containing the requirements of section 14, subdivision 1, paragraph (d).*

*Subd. 22. [WELL CONTRACTOR.] "Well contractor" means a person with a well contractor's license.* [156A.02 s. 2]

*Subd. 23. [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. [1031.101] [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.*

*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 groundwater 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 16 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]*

**Sec. 7. [103I.113] [APPLICABILITY TO MINING ACTIVITIES.]**

*The provisions of this chapter do not apply to mining activities conducted pursuant to a permit to mine under section 93.481 in an area covered by a current mine operating plan unless water is withdrawn from a well or boring for consumption.*

**WELL CONSTRUCTION AND OWNERSHIP**

**Sec. 8. [103I.115] [COMPLIANCE WITH THIS CHAPTER REQUIRED.]**  
*A person may not construct, repair, or seal a well or boring, except as provided under the provisions of this chapter.*

**Sec. 9. [103I.205] [WELL CONSTRUCTION.]**

*Subdivision 1. [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. 2. [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. 3. [MAINTENANCE PERMIT.] (a) Except as provided under paragraph (b), a well that is not in use and is inoperable must be sealed or be covered under a maintenance permit.*

*(b) If a monitoring well or a dewatering well is in use 14 months after completion of construction, the owner of the property on which the well is located must obtain and annually renew a maintenance permit from the commissioner.*

*Subd. 4. [LICENSE REQUIRED.] (a) Except as provided in paragraph (b), (c), or (d), 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]*

*(b) A person may construct a monitoring well if the person is a professional engineer registered under sections 326.02 to 326.15 in the branches of civil or geological engineering, or hydrologists or hydrogeologists certified by the American Institute of Hydrology, any professional engineer registered with the board of architecture, engineering, land surveying, or landscape architecture, or a geologist certified by the American Institute*

*of Professional Geologists, and registers with the commissioner as a monitoring well contractor on forms provided by the commissioner.*

*(c) A person may do the following work with a limited well contractor's license in possession:*

*(1) modify or repair well casings or well screens;*

*(2) construct drive point wells; or*

*(3) install well pumps or pumping equipment.*

*(d) Notwithstanding other provisions of this chapter requiring a license, a license is not required for a person who complies with the other provisions of this chapter if the person is:*

*(1) an individual who constructs 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 construction or repair of a well or sealing a well at the direction and at the personal supervision of a well contractor.*

*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 rules of the commissioner. The at-grade monitoring wells must be installed with an impermeable double locking cap and must be labeled monitoring wells.*

*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 prescribed by the commissioner by rule unless a variance has been 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. 10. [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;*

*(3) for a well that is inoperable or disconnected from a power supply under a maintenance permit, \$50;*

*(4) for construction of a monitoring well, \$50;*

*(5) for monitoring wells owned by a political subdivision there is no fee;*

*(6) annually for a monitoring well that is unsealed under a maintenance permit, \$50;*

*(7) for a groundwater thermal exchange device, \$50;*

*(8) for a vertical heat exchanger, in addition to the permit fee for wells, \$50;*

*(9) 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; and*

*(10) annually for a dewatering well that is unsealed under a maintenance permit, \$25.*

**Sec. 11. [103I.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. 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. [103I.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. 14. [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 a well not in use, and the cleanup of groundwater contamination due to the fact that a well not in use was not properly sealed at the time of sale. The action must be commenced by the buyer within six years after the date the buyer purchased the real property where the well is located.*

**Sec. 15. [1031.241] [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. 16. [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 for the well.*

*(c) The well owner must have a 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 or a monitoring 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 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. 17. [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. 18. [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 16; 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. 19. [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. 20. [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. 21. [103I.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 after consultation with local water planning authorities, 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. 22. [103I.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 23. 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 23, 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 23, subdivisions 2 and 3.*

**Sec. 23. [103I.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 18, subdivision 2; 21; or 22. 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. 24. [103I.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. 25. [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. 26. [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. 27. [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. 28. [103I.515] [LICENSES NOT TRANSFERABLE.]

*A license or registration issued under this chapter is not transferable.*

## Sec. 29. [103I.521] [FEES DEPOSITED WITH STATE TREASURER.]

*Fees collected for licenses or registration under this chapter shall be deposited in the state treasury.*

## Sec. 30. [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. 31. [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. 32. [1031.535] [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. 33. [103I.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. 34. [103I.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. 35. [103I.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 36. The data examined by the commissioner is not public data before it is submitted under section 36. [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. 36. [103I.605] [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. 37. [1031.621] [PERMITS FOR GROUNDWATER THERMAL EXCHANGE DEVICES.]

*Subdivision 1. [PERMIT.] (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 the 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. 38. [103I.641] [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 the permit 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. 39. [103I.661] [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. [469.141 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. [469.141 s. 4]*

## UNDERGROUND STORAGE OF GAS OR LIQUID

## Sec. 40. [103I.681] [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. [84.621 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. 41. [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. 42. [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. 43. [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. 44. [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. 45. [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. 46. [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. 47. [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. 48. [EFFECTIVE DATE.]**

*Section 14, 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) 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) Except as provided in paragraph (b), a water use processing fee not to exceed \$1,000 must be prescribed by the commissioner in accordance with the following schedule of fees for each 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; and*

*(2) 0.1 cents per 1,000 gallons for the amounts greater than 50 million gallons per year.*

*(b) For once-through cooling systems as defined in subdivision 1c, a water use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each 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.*

*(c) The fee is payable ~~regardless of~~ based on the amount of water ~~appropriated~~ permitted during the year.*

*(d) 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.~~*

*(e) 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.

#### Sec. 8. [CONSUMPTIVE WATER USE STUDY.]

*The commissioner of natural resources shall conduct a study of consumptive water use and its impact on existing aquifers. The commissioner shall review methods of reducing consumptive water use, including the conversion of once-through cooling systems to alternative systems. The commissioner shall report to the legislative commission on water by February 15, 1990, the commissioner's recommendations for alternatives to the once-through cooling systems, including the environmental and economic implications of the alternatives. The recommendations must also include options for converting once-through cooling systems, a time schedule for phasing out existing systems, and recommended technologies to be used to accomplish the conversion.*

### 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 as required by rule.*

Sec. 15. Minnesota Statutes 1988, section 18B.01, subdivision 30, is amended to read:

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

*Insecticide, Fungicide and Rodenticide Act, as amended, including section 2(ee) of that act;*

(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) *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:*

*(1) the pesticide was purchased after the effective date of this section; and*

*(2) a place is not designated in the county for the public to return empty pesticide containers and the unused portion of pesticide.*

*(b) This subdivision does not prohibit the use of refillable and reusable pesticide containers.*

*(c) The legislative commission on water must prepare a report and make a recommendation to the legislature on the handling of waste pesticide containers and waste pesticides.*

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. 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. 30. 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. 31. 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. 32. 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. 33. [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. 34. 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. 35. 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. 36. 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. 37. 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. 38. 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. 39. 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. 40. 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. 41. 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. 42. 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. 43. 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. 44. 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. 45. Minnesota Statutes 1988, section 18B.37, subdivision 1, is amended to read:

Subdivision 1. [PESTICIDE DEALER.] (a) A pesticide dealer must maintain records of all sales of restricted use pesticides as required by the commissioner. Records must be kept *at the time of 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. 46. Minnesota Statutes 1988, section 18B.37, subdivision 2, is amended to read:

Subd. 2. [COMMERCIAL AND NONCOMMERCIAL APPLICATORS.] (a) A commercial or noncommercial applicator, or the applicator's authorized agent, must 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 may be attached to identify treated areas. For the rights-of-way and wood preservative categories, the required record may not exceed five pages.* ~~Invoices~~ An invoice containing the required information may constitute the required record. *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. 47. Minnesota Statutes 1988, section 18B.37, subdivision 3, is amended to read:

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

(1) date of structural pest control application;

(2) target pest;

(3) brand name of the pesticide, *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. 48. Minnesota Statutes 1988, section 18B.37, subdivision 4, is amended to read:

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

Sec. 49. [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. 50. [REPEALER.]

*Minnesota Statutes 1988, sections 18A.49; 18B.15; 18B.16; 18B.18; 18B.19; 18B.20; 18B.21; 18B.22; 18B.23; and 18B.25, are repealed.*

#### Sec. 51. [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. [CUSTOM APPLY.] "Custom apply" means to apply a fertilizer, soil amendment, or plant amendment product for compensation.

Subd. 8. [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. 9. [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. 10. [ENVIRONMENT.] "Environment" means surface water, groundwater, air, land, plants, humans, and animals and their interrelationships.

Subd. 11. [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. 12. [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. 13. [GRADE.] "Grade" means the percentage of total nitrogen (N), available phosphorus (P) or phosphoric acid ( $P_2O_5$ ), and soluble potassium (K) or soluble potash ( $K_2O$ ) 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. 14. [GUARANTOR.] "Guarantor" means the person who is guaranteeing the material to be as stated in the guaranteed analysis. [17.713 s. 9]

Subd. 15. [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. 16. [INVESTIGATIONAL ALLOWANCE.] "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.*

*Subd. 17. [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. 18. [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. 19. [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. 20. [MOBILE MECHANICAL UNIT.] "Mobile mechanical unit" means a portable machine or apparatus used to blend, mix, or manufacture fertilizers. [17.713 s. 11]*

*Subd. 21. [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. 22. [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. 23. [PERCENT; PERCENTAGE.] "Percent" or "percentage" means the percentage by weight. [17.713 s. 14]*

*Subd. 24. [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. 25. [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. 26. [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. 27. [REGISTRANT.] "Registrant" means the person who registers fertilizer, soil amendment, or plant amendment under this chapter. [17.713 s. 16]*

*Subd. 28. [RETAIL FERTILIZER HANDLER.] "Retail fertilizer handler" means a person who sells a fertilizer in a packaged container produced or guaranteed by another person.*



*Subd. 29. [RINSATE.] "Rinsate" means a dilute mixture of a fertilizer or fertilizer with water, solvents, oils, commercial rinsing agents, or other substances.*

*Subd. 30. [SAFEGUARD.] "Safeguard" means a facility, equipment, device, or system, individually or in combination, designed to prevent an incident as required by rule.*

*Subd. 31. [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. 32. [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. 33. [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. 34. [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. 35. [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. 36. [SUBSTANTIALLY ALTERING.] "Substantially altering" means modifying a facility by adding additional safeguards or storage containers, or changing existing storage containers, safeguards, appurtenances, or piping. This does not include routine maintenance of existing safeguards, storage containers, appurtenances, and piping or of existing mixing, blending, weighing, and handling equipment.*

*Subd. 37. [TON.] "Ton" means a net ton of 2,000 pounds avoirdupois. [17.713 s. 21]*

*Subd. 38. [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. 39. [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, rinse, 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-back-siphoning 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>"Total Nitrogen (N)</i>	<i>. . . . . percent</i>
<i>Available Phosphoric Acid (P<sub>2</sub>O<sub>5</sub>)</i>	<i>. . . . . percent</i>
<i>Soluble Potash (K<sub>2</sub>O)</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 23; 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.]**

**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 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 must be accompanied by a nonrefundable \$50 fee.*

(c) *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]

(d) *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.

## REGISTRATION AND LICENSING

### Sec. 20. [18C.401] [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. 21. [18C.405] [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. 22. [18C.411] [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. 23. [18C.415] [FERTILIZER LICENSES.]

Subdivision 1. [LICENSE REQUIRED.] (a) A person may not manufacture, blend, 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.] 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. 24. [18C.421] [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 25, 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. 25. [18C.425] [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 22. [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 22. [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. 26. [18C.501] [DEFINITIONS.]

*Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 26 to 31. [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. 27. [18C.505] [SOIL BUFFERING DEMONSTRATION PROJECT AND STUDY.]**

*Subdivision 1. [PURPOSE.] The purpose of the demonstration project required under sections 26 to 31 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. 28. [18C.511] [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. 29. [18C.515] [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 26 to 31.* [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. 30. [18C.521] [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. 31. [18C.525] [EXEMPTION.]**

*Sections 26 to 31 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. 32. [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. 33. [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. 34. [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 26 to 31 are repealed June 30, 1991.*

### ARTICLE 8

#### CHAPTER 18D

#### AGRICULTURAL CHEMICAL INCIDENTS AND ENFORCEMENT

##### Section 1. [DEFINITIONS.]

*Subdivision 1. [DEFINITIONS IN CHAPTERS 18B AND 18C APPLY.] The definitions in chapters 18B and 18C apply to this chapter.*

*Subd. 2. [APPLICABILITY OF DEFINITIONS IN THIS SECTION.] The definitions in this section apply to this chapter.*

*Subd. 3. [AGRICULTURAL CHEMICAL.] "Agricultural chemical" means a pesticide as defined under chapter 18B or a fertilizer, plant amendment, or soil amendment as defined under chapter 18C.*

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

*Subd. 5. [HAZARDOUS WASTE.] "Hazardous waste" means a substance identified or listed as hazardous waste in the rules adopted under section 116.07, subdivision 4.*

*Subd. 6. [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 an agricultural chemical 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. 7. [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. 8. [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. 9. [PROVISION OF THIS CHAPTER.] "Provision of this chapter" means a provision of this chapter, chapter 18B, chapter 18C, or a rule adopted under those chapters.*

*Subd. 10. [RESPONSIBLE PARTY.] "Responsible party" means a person who at the time of an incident has custody of, control of, or responsibility for a pesticide, fertilizer, pesticide or fertilizer container, or pesticide or fertilizer rinsate.*

## INCIDENTS

### Sec. 2. [18D.101] [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. 3. [18D.105] [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. 4. [18D.111] [LIABILITY FOR COSTS.]**

*Subdivision 1. [CORRECTIVE ACTION COSTS.] (a) A responsible party is liable for the costs including administrative costs for corrective action incurred after the corrective action order has been issued, or for 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 an agricultural chemical on the property;*

*(2) knowingly permitted any person to make regular use of the property for disposal of agricultural chemicals; 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 agricultural chemical use, an end user or landowner is not liable for the cost of active cleanup, or damages associated with or resulting from agricultural chemicals in groundwater if the person has applied or has had others apply agricultural chemicals 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. [LIABILITY OF APPLICATOR'S EMPLOYEES.] A person licensed under chapter 18B or 18C who custom applies an agricultural chemical is civilly liable for violations of this chapter by the person's employees and agents.*

*Subd. 5. [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. 6. [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. 5. [18D.115] [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 agricultural chemical involved;*

*(3) the degree of toxicity of the agricultural chemical 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 agricultural chemical;*

*(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 agricultural chemical.*

*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**

#### **Sec. 6. [18D.201] [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 an agricultural chemical; or*

(2) which the commissioner reasonably believes are affected, or possibly affected, by the use of an agricultural chemical, agricultural chemical container, agricultural chemical rinsate, or agricultural chemical device in violation of this chapter.

(b) The commissioner may enter sites for:

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

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

(3) inspection of storage, handling, distribution, use, or disposal areas of agricultural chemicals or their containers;

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

(5) sampling of agricultural chemicals;

(6) observation of the use and application of an agricultural chemical;

(7) inspection of records related to the manufacture, distribution, storage, handling, use, or disposal of an agricultural chemical;

(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, chapter 18B, or 18C.

(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 requested, the commissioner shall split any samples obtained and provide them to the owner, operator, or agent in charge. 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 after an analysis has been performed. If an analysis is not performed, the commissioner must notify the owner, operator, or agent in charge within 30 days of the decision not to perform the analysis.

(b) The methods of sampling and analysis must be those adopted by the United States Environmental Protection Agency or 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 agricultural chemical 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) The cost of reinspection and reinvestigation may be assessed by the commissioner if the person subject to the corrective action order or remedial action order does not comply with the order in a reasonable time as provided in the order.

(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, issue subpoenas to take and cause to be taken depositions of witnesses, 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.

## ENFORCEMENT

### Sec. 7. [18D.301] [ENFORCEMENT.]

**Subdivision 1. [ENFORCEMENT REQUIRED.]** (a) The commissioner shall enforce this chapter and chapters 18B and 18C.

(b) Violations of chapter 18B or chapter 18C or rules adopted under chapter 18B or chapter 18C are a violation of this chapter.

(c) 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, chapter 18B, or chapter 18C 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. [AGENT FOR SERVICE OF PROCESS.] All nonresident commercial and structural pest control applicator licensees licensed as individuals must appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner is deemed to be service on the licensee.*

#### **Sec. 8. [18D.305] [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) there is 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 agricultural chemical container, rinsate, equipment, or device or facility and notify the owner, custodian, other responsible party, or registrant.*

*(b) The agricultural chemical container, rinsate, equipment, or device may not be sold, used, or removed until the agricultural chemical container, rinsate, equipment, or device has been released under conditions specified by the commissioner, by an administrative law judge, or by a court.*

Sec. 9. [18D.311] [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. 10. [18D.315] [ADMINISTRATIVE PENALTIES.]

Subdivision 1. [ASSESSMENT.] (a) *In determining the amount of the administrative penalty, the commissioner shall consider the economic gain received by the person allowing or committing the violation, 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. 11. [18D.321] [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. 12. [18D.325] [CIVIL PENALTIES.]**

*Subdivision 1. [GENERAL PENALTY.] Except as provided in subdivisions 2 and 3, a person who violates this chapter, chapter 18B or 18C 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, chapter 18B, or chapter 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner that relates to disposal of agricultural chemicals 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. 13. [18D.331] [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, chapter 18B, or chapter 18C 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, chapter 18B, or chapter 18C 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, chapter 18B, or chapter 18C 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 an agricultural chemical so that the product becomes hazardous waste is subject to the penalties in section 115.071.*

**ARTICLE 9**

**CHAPTER 18E**

**AGRICULTURAL CHEMICAL INCIDENT RESPONSE FUND**

**Section 1. [18E.01] [CITATION.]**

*This chapter may be cited as the agricultural chemical incident response fund.*

**Sec. 2. [18E.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 but does not include nitrate and related nitrogen from a natural source.*

*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. If a person or entity makes wholesale and retail sales, the entire amount of the sale of agricultural chemicals to the person or entity is not a wholesale sale unless the purchaser provides an affidavit of the amount that will be sold at retail.*

Sec. 3. [18E.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.*

*(c) The commissioner shall determine the incident response fee so that the balance in the account does not exceed \$5 million. The balance in the*

account may not exceed \$2.5 million during the first year the fee is imposed.

*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. [18E.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 18D, 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 for a pesticide or fertilizer incident which occurred after January 1, 1985, but 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 18D, 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 18D;

~~(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 18D including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18B or 18D, 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;

~~(c)~~ (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 18D, including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18B or 18D, 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 18D for removal or remedial actions that are recoverable under this chapter;*

*(e) (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 10

#### 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) Protection of groundwater recharge areas by conservation easements                              | \$ . . . . . |
| (b) Local water resources protection and management program   | \$ . . . . . |
| (c) Well sealing cost share program   | \$ . . . . . |
| <i>The complement of the board of water and soil resources is increased by . . . . . positions.</i> |              |
| (d) For adoption, administration, and enforcement of shoreland ordinances                           | \$ . . . . . |
| (e) 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:*

<i>(a) Development and implementation of pesticide management plan</i>	<i>\$ . . . . .</i>
<i>(b) Development and adoption of agriculture best management practices for agricultural chemicals and practices</i>	<i>\$ . . . . .</i>
<i>(c) Establishment and management of waste pesticide program</i>	<i>\$ . . . . .</i>
<i>(d) Sustainable agriculture research and practices</i>	<i>\$ . . . . .</i>
<i>(e) Groundwater quality monitoring program</i>	<i>\$ . . . . .</i>
<i>The complement of the department of agriculture is increased by . . . . . positions.</i>	

*Subd. 3. [COMMISSIONER OF HEALTH.] \$ . . . . . is appropriated from the general fund to the commissioner of health for the following purposes:*

<i>(a) Adopting long-term risk measurements for pollutants</i>	<i>\$ . . . . .</i>
<i>(b) Adoption of guidelines for protection of potable groundwater supplies</i>	<i>\$ . . . . .</i>
<i>(c) Development and implementation of wellhead protection program</i>	<i>\$ . . . . .</i>
<i>(d) Emergency well sealing</i>	<i>\$ . . . . .</i>
<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:*

<i>(a) For developing and publishing geological atlases</i>	<i>\$ . . . . .</i>
<i>(b) For conducting and preparing maps of subregional hydrogeological surveys</i>	<i>\$ . . . . .</i>

*Subd. 5. [ENVIRONMENTAL QUALITY BOARD.] \$ . . . . . is appropriated from the general fund to the environmental quality board for the following purposes:*

<i>(a) For designation and adoption of sensitive areas</i>	<i>\$ . . . . .</i>
<i>(b) For report on statewide research needs and coordination of data</i>	<i>\$ . . . . .</i>

*Subd. 6. [POLLUTION CONTROL AGENCY.] \$ . . . . . is appropriated from the general fund to the pollution control agency for the following purposes:*

<i>(a) For development of best management practices</i>	<i>\$ . . . . .</i>
<i>(b) For clean water partnership grants</i>	<i>\$ . . . . .</i>
<i>The complement of the pollution control agency is increased by . . . . . positions.</i>	

*Subd. 7. [UNIVERSITY OF MINNESOTA.] \$ . . . . . is appropriated from the general fund to the University of Minnesota for the following*

*purposes:*

*(a) For the Minnesota geological survey  
for geological atlases and subregional  
hydrogeological surveys*

\$ . . . . .

*(b) 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. 8. [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 9, 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, 30, 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.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; 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; 18B; and 144; proposing coding for new law as Minnesota Statutes, chapters 18C; 18D; 18E; 103A; 103B; 103H; and 103I; repealing Minnesota Statutes 1988, sections 17.711 to 17.73; 18A.49; 18B.15; 18B.16; 18B.18; 18B.19; 18B.20; 18B.21; 18B.22; 18B.23; 18B.25; 84.57 to 84.621; 105.51, subdivision 3; and 156A.01 to 156A.11."

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

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

S.F. No. 1099: A bill for an act relating to public safety; establishing emergency planning and community right-to-know requirements; requiring reports on hazardous substances and chemicals; creating an emergency response commission; establishing the hazardous materials incident response

advisory council; providing penalties; appropriating money; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 299K.

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

Page 11, after line 23, insert:

"Sec. 13. 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 is guilty of a felony who:*

*(1) is required to provide immediate notice of the release of a reportable quantity of a hazardous substance or an extremely hazardous substance at a facility under sections 7 and 8; and*

*(2) knowingly fails to provide the immediate notice.*

*Notice is not required if the release results in exposure only to persons within the site on which the facility is located, or the release is specifically authorized by state law. The notice must be given to the state emergency response center or to a firefighting or law enforcement organization.*

*(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$25,000, or both. For a second or subsequent conviction under this subdivision, the violator may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than \$50,000, or both.*

*(c) For purposes of this subdivision, a "hazardous substance" means a substance on the list established under United States Code, title 42, section 9602.*

*(d) For purposes of this subdivision, an "extremely hazardous substance" means a substance on the list established under United States Code, title 42, section 11002.*

*(e) For purposes of this subdivision, a "reportable quantity" means a quantity that must be reported under United States Code, title 42, section 9602 or 11002."*

Page 12, delete section 16

Page 12, after line 25, insert:

"Sec. 18. [EFFECTIVE DATE.]

*Section 13 is effective August 1, 1989, and applies to crimes committed on or after that date."*

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.

## SECOND READING OF SENATE BILLS

S.E Nos. 703, 1331, 1341, 1034, 572, 1040, 476, 1235, 847, 1303, 762, 180, 1355, 296, 1359, 846, 1241 and 1133 were read the second

time.

## SECOND READING OF HOUSE BILLS

H.F. Nos. 966, 553 and 489 were read the second time.

## MOTIONS AND RESOLUTIONS

Mr. Merriam moved that the name of Mr. Lessard be added as a co-author to S.F. No. 223. The motion prevailed.

Mr. Berg moved that the name of Mr. Davis be added as a co-author to S.F. No. 281. The motion prevailed.

Mr. Ramstad moved that the name of Mr. Pogemiller be added as a co-author to S.F. No. 572. The motion prevailed.

Ms. Berglin moved that the name of Ms. Piper be added as a co-author to S.F. No. 1371. The motion prevailed.

Mr. McGowan moved that the names of Mrs. Adkins and Mr. Schmitz be added as co-authors to S.F. No. 1498. The motion prevailed.

Mr. Bertram introduced—

Senate Resolution No. 99: A Senate resolution encouraging the efforts of the volunteers working for a Minnesota Vietnam Veterans Memorial.

Referred to the Committee on Rules and Administration.

Mr. DeCramer introduced—

Senate Resolution No. 100: A Senate resolution congratulating the Pipestone High School Boys Basketball Team for winning the 1989 State High School Class A Consolation Championship.

Referred to the Committee on Rules and Administration.

Mr. Peterson, R.W. moved that the name of Mr. Merriam be added as a co-author to S.F. No. 1032. The motion prevailed.

Mr. Frederickson, D.J. moved that the name of Mr. Merriam be added as a co-author to S.F. No. 1456. The motion prevailed.

Mr. Marty moved that the name of Ms. Berglin be added as a co-author to S.F. No. 1479. The motion prevailed.

Mr. Pogemiller moved that S.F. No. 364 be withdrawn from the Committee on Governmental Operations and re-referred to the Committee on Education. The motion prevailed.

Messrs. Merriam; Dahl; Frank; Peterson, R.W. and Novak introduced—

Senate Resolution No. 101: A Senate resolution commending the dedicated service of correctional officers and recognizing Minnesota Correctional Officers Week, May 7 to 13, 1989.

Referred to the Committee on Rules and Administration.

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Dahl introduced—

S.F. No. 1499: A bill for an act relating to consumer protection; regulating certain rental-purchase agreements; prescribing the rights and duties of all parties; requiring disclosures; regulating advertising; providing remedies; amending Minnesota Statutes 1988, sections 325G.06, subdivision 2; 325G.12, subdivision 2; and 325G.15, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 325F

Referred to the Committee on Commerce.

Messrs. Schmitz, Diessner, Mrs. Lantry and Mr. Bernhagen introduced—

S.F. No. 1500: A bill for an act relating to taxation; property tax refund; providing a refund for property tax increases of over 20 percent from taxes payable in 1988 to taxes payable in 1990; amending Minnesota Statutes 1988, section 290A.04, subdivision 2h.

Referred to the Committee on Taxes and Tax Laws.

Mr. Bertram introduced—

S.F. No. 1501: A bill for an act relating to state lands; permitting land exchange in Benton county.

Referred to the Committee on Environment and Natural Resources.

Mr. Bertram introduced—

S.F. No. 1502: A bill for an act relating to game and fish; regulating the time when fish houses may be on the ice; amending Minnesota Statutes 1988, section 97C.355, subdivision 7.

Referred to the Committee on Environment and Natural Resources.

Mrs. McQuaid, Messrs. Storm and Knutson introduced—

S.F. No. 1503: A bill for an act relating to education; providing for cost of living differential revenue; appropriating money; amending Minnesota Statutes 1988, section 124A.22, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 124A.

Referred to the Committee on Education.

Ms. Piper and Mr. Frank introduced—

S.F. No. 1504: A bill for an act relating to occupational safety and health; requiring employer payment for vaccinations, immunizations, and medical examinations; amending Minnesota Statutes 1988, section 182.655, subdivision 10a.

Referred to the Committee on Employment.

Ms. Piper introduced—

S.F. No. 1505: A bill for an act relating to the city of Austin; providing for the service of the police and fire chiefs.

Referred to the Committee on Governmental Operations.

Messrs. Bertram and Anderson introduced—

S.F. No. 1506: A bill for an act relating to taxation; sales; repealing the additional tax on liquor; repealing Minnesota Statutes 1988, sections 297A.02, subdivision 3; and 297A.27, subdivision 1a.

Referred to the Committee on Taxes and Tax Laws.

Ms. Reichgott, Mrs. Lantry, Ms. Piper, Messrs. Knutson and Solon introduced—

S.F. No. 1507: A bill for an act relating to occupations and professions regulating the use of medical devices by the board of pharmacy; amending Minnesota Statutes 1988, sections 151.01, subdivisions 3, 11, and by adding a subdivision; 151.06, subdivision 1; 151.13, subdivision 1; 151.19, subdivision 3; and 151.34.

Referred to the Committee on Health and Human Services.

Mr. Chmielewski introduced—

S.F. No. 1508: A bill for an act relating to historical preservation; directing an archaeological site assessment and tourism study of the Fond du Lac area; appropriating funds.

Referred to the Committee on General Legislation and Public Gaming.

Mr. Peterson, R.W. introduced—

S.F. No. 1509: A bill for an act relating to education; simplifying the high school league's audit requirements; amending Minnesota Statutes 1988, section 129.121, subdivision 2.

Referred to the Committee on Education.

Mr. Frederickson, D.J. introduced—

S.F. No. 1510: A bill for an act relating to local planning and zoning; providing for the administration of land use controls; defining authority of local government units; providing for procedures and records; providing penalties; amending Minnesota Statutes 1988, section 473.858, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 465A; repealing Minnesota Statutes 1988, sections 394.21 to 394.37; and 462.351 to 462.364.

Referred to the Committee on Local and Urban Government.

Mr. Merriam, for the Committee on Finance, introduced—

S.F. No. 1511: A bill for an act relating to state government; providing for deficiencies in and supplementing appropriations for the expenses of state government; setting filing fees for mental health service providers;

authorizing the sale of state bonds; appropriating money; amending Minnesota Statutes 1988, section 148B.42, by adding a subdivision.

Under the rules of the Senate, laid over one day.

Mr. Samuelson introduced—

S.F. No. 1512: A bill for an act relating to appropriations; appropriating money for a grant to the city of Baxter for a sewer interceptor line.

Referred to the Committee on Finance.

Messrs. Samuelson and Bertram introduced—

S.F. No. 1513: A bill for an act relating to veterans; designating certain state land in Morrison county as the state veterans memorial park; proposing coding for new law in Minnesota Statutes, chapter 85.

Referred to the Committee on Environment and Natural Resources.

Mrs. Pariseau introduced—

S.F. No. 1514: A bill for an act relating to retirement; volunteer firefighters; excluding volunteer firefighters serving with the Hastings fire department from the definition of public employee.

Referred to the Committee on Governmental Operations.

Mr. Chmielewski introduced—

S.F. No. 1515: A bill for an act relating to tourism; appropriating money for the Cloquet tourist information center.

Referred to the Committee on Economic Development and Housing.

Messrs. Spear; Moe, R.D.; Luther and Benson introduced—

S.F. No. 1516: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors of a noncontroversial nature; amending Minnesota Statutes 1988, section 124.43, subdivision 1, as amended.

Referred to the Committee on Rules and Administration.

Messrs. Stumpf; Johnson, D.J.; Ms. Piper, Messrs. Berg and Langseth introduced—

S.F. No. 1517: A bill for an act relating to taxation; sales; phasing out the accelerated June sales tax payment; amending Minnesota Statutes 1988, section 297A.275; repealing Minnesota Statutes 1988, section 297A.275.

Referred to the Committee on Taxes and Tax Laws.

Mrs. McQuaid, Ms. Olson, Messrs. Ramstad and Mehrkens introduced—

S.F. No. 1518: A bill for an act relating to education; lowering the general education levy; repealing levy equity; amending Minnesota Statutes 1988, section 124A.23, subdivisions 1 and 3; repealing Minnesota Statutes 1988,



section 124A.24.

Referred to the Committee on Education.

Mr. Knaak introduced—

S.F. No. 1519: A bill for an act relating to retirement; volunteer firefighters; excluding volunteer firefighters serving with the White Bear Lake fire department from the definition of public employee.

Referred to the Committee on Governmental Operations.

Mrs. Lantry introduced—

S.F. No. 1520: A bill for an act relating to human services; creating a technology assistance review panel; requiring a study of the feasibility of developing a shared risk pool for technology-assisted persons; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256.

Referred to the Committee on Health and Human Services.

Mr. DeCramer introduced—

S.F. No. 1521: A bill for an act relating to education; allowing the state university board to pay a housing allowance to university presidents; amending Minnesota Statutes 1988, section 136.065.

Referred to the Committee on Education.

Messrs. Ramstad and Benson introduced—

S.F. No. 1522: A bill for an act relating to insurance; no-fault auto; regulating uninsured motorist coverage; amending Minnesota Statutes 1988, section 65B.43, subdivision 18.

Referred to the Committee on Commerce.

Messrs. Benson, Ramstad and Knutson introduced—

S.F. No. 1523: A bill for an act relating to transit; eliminating certain preconditions to regional transit board contracts with recipients of transit assistance; repealing Minnesota Statutes 1988, section 473.384, subdivision 7.

Referred to the Committee on Transportation.

Messrs. Davis; Morse; DeCramer; Frederickson, D.J. and Beckman introduced—

S.F. No. 1524: A bill for an act relating to agriculture; establishing a board of directors of the agricultural utilization research institute; allocating certain amounts of the greater Minnesota fund for agriculture-related uses; amending Minnesota Statutes 1988, sections 116O.09, subdivisions 1, 2, and by adding a subdivision; and 116O.12.

Referred to the Committee on Agriculture and Rural Development.

Mr. Bertram introduced—

S.F. No. 1525: A bill for an act relating to retirement; amending the definition of income which may be earned without penalty upon resumption of teaching; amending Minnesota Statutes 1988, section 354.44, subdivision 5.

Referred to the Committee on Governmental Operations.

Messrs. Kroening; Solon; Ramstad; Frederickson, D.R. and Frederickson, D.J. introduced—

S.F. No. 1526: A bill for an act relating to retirement; governmental employees in general; establishing a normal retirement age of 65 years; changing contribution rates; lowering minimum service periods required for annuities and disability benefits; applying a uniform percentage to all years of service; adopting a rule of 90; altering reductions for early retirement; increasing rates of interest on refunds; increasing interest assumptions; extending the date for full funding; granting authority for certain bylaw amendments; amending Minnesota Statutes 1988, sections 352.01, subdivision 19, and by adding a subdivision; 352.04, subdivisions 2 and 3; 352.113, subdivisions 1 and 12; 352.115, subdivisions 1, 2, and 3; 352.116, subdivisions 1, 2, 4, and by adding a subdivision; 352.12, subdivisions 1, 2, and 6; 352.22, subdivisions 2 and 3; 352.72, subdivisions 1, 2, and 5; 352.85, subdivision 1; 352.93, subdivisions 1 and 3; 352.95, subdivisions 2 and 5; 352B.01, subdivision 11; 352B.08, subdivision 1; 352B.11, subdivisions 1 and 2; 352B.30, subdivision 1; 353.01, by adding a subdivision; 353.27, subdivision 2; 353.29, subdivisions 1, 2, and 3; 353.30, subdivisions 1, 1a, 1b, 1c, and by adding a subdivision; 353.32, subdivisions 1 and 1a; 353.33, subdivisions 1, 3, and 11; 353.34, subdivisions 2, 3, and 3a; 353.651, subdivisions 1 and 2; 353.657, subdivision 2a; 353.71, subdivisions 1, 2, and 5; 353C.06, subdivisions 1, 2, and 4; 353C.08, subdivision 5; 354.05, by adding a subdivision; 354.35; 354.41, subdivision 3; 354.42, subdivisions 2 and 3; 354.44, subdivisions 1, 1a, 6, and 7; 354.46, subdivision 2; 354.47, subdivision 1; 354.48, subdivisions 1, 3, and 10; 354.49, subdivisions 2 and 3; 354.55, subdivision 11; 354.60; 354A.011, subdivision 20, and by adding a subdivision; 354A.12, subdivisions 1 and 2; 354A.21; 354A.31, subdivisions 1, 4, 5, 6, and by adding a subdivision; 354A.35, subdivisions 1 and 2; 354A.36, subdivisions 1, 3, and 10; 354A.37, subdivisions 2, 3, and 4; 354A.39; 356.215, subdivisions 4d and 4g; 356.30, subdivision 1; and 356.32, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 356; repealing Minnesota Statutes 1988, section 354A.32, subdivision 2.

Referred to the Committee on Governmental Operations.

Messrs. Moe, R.D.; Frank and Davis introduced—

S.F. No. 1527: A bill for an act relating to economic development; clarifying the powers and duties of the Greater Minnesota Corporation; expanding auditing and reporting requirements; amending Minnesota Statutes 1988, sections 116O.02, by adding a subdivision; 116O.03, subdivision 1, and by adding a subdivision; 116O.04, by adding a subdivision; 116O.05; 116O.06, subdivisions 1 and 5; 116O.08, subdivision 2; 116O.12; 116O.14; and 116O.15.

Referred to the Committee on Economic Development and Housing.

Mr. Moe, R.D. introduced—

S.F. No. 1528: A bill for an act relating to agriculture; providing assistance for establishing a barley research and promotion council; appropriating money.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Storm, Knutson and McGowan introduced—

S.F. No. 1529: A bill for an act relating to human services; requiring applicants for general assistance, general assistance medical care, and work readiness to have a Minnesota driver's license or identification card; proposing coding for new law in Minnesota Statutes, chapter 256D.

Referred to the Committee on Health and Human Services.

Mr. Chmielewski introduced—

S.F. No. 1530: A bill for an act relating to capital improvements; appropriating money for improvements at the Long Lake Conservation Center; authorizing the sale of state bonds.

Referred to the Committee on Finance.

Mr. Chmielewski introduced—

S.F. No. 1531: A bill for an act relating to capital improvements; appropriating money to build an environmental learning center in the Kettle River-Sandstone area; authorizing the issuance and sale of state bonds.

Referred to the Committee on Finance.

Mr. Freeman, Ms. Reichgott, Messrs. Pogemiller, Belanger and Frank introduced—

S.F. No. 1532: A bill for an act relating to surplus United States government property; directing the commissioner of natural resources to seek acquisition of certain surplus property of the United States government; directing the commissioner to lease the property to a nonprofit organization for development as housing for certain homeless veterans and their families.

Referred to the Committee on Economic Development and Housing.

Messrs. Freeman, Pogemiller, Frank and Belanger introduced—

S.F. No. 1533: A resolution memorializing the President, Congress, and the director of the United States General Services Administration to arrange for prompt lease of certain surplus United States government properties to a nonprofit organization for use as housing for homeless, near homeless, and displaced veterans and their families.

Referred to the Committee on Economic Development and Housing.

Mr. Stumpf introduced—

S.F. No. 1534: A bill for an act relating to education; authorizing a special capital loan for independent school district No. 682, Roseau.

Referred to the Committee on Education.

Mr. Stumpf introduced—

S.F. No. 1535: A bill for an act relating to agriculture; providing grants to pay a portion of the cost of certain federal crop insurance; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 17.

Referred to the Committee on Agriculture and Rural Development.

Mr. Beckman introduced—

S.F. No. 1536: A bill for an act relating to education; providing for stable natural gas supply to schools; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Public Utilities and Energy.

Messrs. Knaak and Benson introduced—

S.F. No. 1537: A bill for an act relating to local government; providing procedures for the conduct of certain detachments and annexations; amending Minnesota Statutes 1988, section 414.061, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 414.

Referred to the Committee on Local and Urban Government.

Messrs. Taylor and Decker introduced—

S.F. No. 1538: A bill for an act relating to traffic safety; authorizing the commissioner of public safety to establish a model victim panel program for first time DWI offenders; authorizing the commissioner to award a grant-in-aid to a volunteer citizen organization to administer the program; appropriating money; amending Minnesota Statutes 1988, section 169.121, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 169.

Referred to the Committee on Judiciary.

Mr. Schmitz introduced—

S.F. No. 1539: A bill for an act relating to metropolitan government; providing for the composition of the metropolitan airports commission; amending Minnesota Statutes 1988, section 473.604, subdivision 1.

Referred to the Committee on Local and Urban Government.

Mr. Chmielewski introduced—

S.F. No. 1540: A bill for an act relating to crimes; enhancing penalties for theft and receiving stolen property offenses when the property stolen is a firearm; amending Minnesota Statutes 1988, sections 609.52, subdivision 3; and 609.53, subdivision 1.

Referred to the Committee on Judiciary.

## ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 2:00 p.m., Thursday, April 13, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate