

EIGHTY-EIGHTH DAY

St. Paul, Minnesota, Wednesday, April 11, 1990

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

CALL OF THE SENATE

Mrs. Lantry imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Albert F. Byrne.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 6, 1990

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State S.F. Nos. 60, 2355 and 2541.

Sincerely,
Rudy Perpich, Governor

April 6, 1990

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 1990 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 1990	Date Filed 1990
	1989	392	1448 hours April 5	April 6
	2242	394	1450 hours April 5	April 6
	2002	397	1451 hours April 5	April 6
2370		398	1545 hours April 5	April 6
	2637	399	1549 hours April 5	April 6
	1983	403	1030 hours April 6	April 6
	1984	404	1034 hours April 6	April 6
	1919	405	1029 hours April 6	April 6
	1883	406	2120 hours April 5	April 6
	2305	407	1102 hours April 6	April 6
	2321	408	1103 hours April 6	April 6
	1921	409	2117 hours April 5	April 6
	1841	411	1105 hours April 6	April 6
	1673	412	1111 hours April 6	April 6
	1977	413	1129 hours April 6	April 6
	1985	415	1134 hours April 6	April 6
	2124	416	2122 hours April 5	April 6
2541		420	1143 hours April 6	April 6
	2462	422	1145 hours April 6	April 6

Sincerely,
Joan Anderson Growe
Secretary of State

April 9, 1990

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State S.F. No. 2373.

Sincerely,
Rudy Perpich, Governor

April 9, 1990

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 1990 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 1990	Date Filed 1990
60		391	1852 hours April 6	April 9
	2393	414	1013 hours April 9	April 9
	2374	417	1847 hours April 6	April 9
	1839	418	1021 hours April 9	April 9
2355		419	1850 hours April 6	April 9
	2042	421	1017 hours April 9	April 9

Sincerely,
Joan Anderson Growe
Secretary of State

April 10, 1990

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 1990 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 1990	Date Filed 1990
2373		438	1600 hours April 9	April 9

Sincerely,
Joan Anderson Growe
Secretary of State

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Peterson, R. W. moved that the following members be excused for a Conference Committee on H.F. No. 2200 at 10:00 a.m.:

Messrs. Brandl, Dicklich, Pehler, Ms. Reichgott and Mr. Peterson, R. W. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Johnson, D.J. moved that the following members be excused for a Conference Committee on H.F. No. 2478 at 10:00 a.m.:

Messrs. Pogemiller, Novak, Stumpf, Belanger and Johnson, D.J. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 1920, 1696, 1995, 2061, 2068, 1365 and 2431.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 9, 1990

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. 1739: A bill for an act relating to metropolitan government; clarifying provisions for compensation; amending Minnesota Statutes 1988, sections 473.123, subdivision 5; and 473.141, subdivision 7; Minnesota Statutes 1989 Supplement, sections 473.605, subdivision 2; and 473.704, subdivision 6.

Senate File No. 1739 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 9, 1990

CONCURRENCE AND REPASSAGE

Mr. Cohen moved that the Senate concur in the amendments by the House to S.F. No. 1739 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1739 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 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Merriam	Ramstad
Anderson	Decker	Knutson	Metzen	Renneke
Beckman	DeCramer	Kroening	Moe, D.M.	Schmitz
Belanger	Diessner	Langseth	Moe, R.D.	Solon
Benson	Flynn	Lantry	Morse	Storm
Berg	Frank	Larson	Novak	Stumpf
Berglin	Frederick	Lessard	Olson	Vickerman
Bernhagen	Frederickson, D.J.	Luther	Pariseau	Waldorf
Bertram	Frederickson, D.R.	Marty	Piepho	
Brataas	Freeman	McGowan	Piper	
Chmielewski	Hughes	McQuaid	Pogemiller	
Cohen	Johnson, D.E.	Mehrkins	Purfeerst	

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

S.F. No. 1874: A bill for an act relating to meetings of public bodies; government data practices; defining final disposition of a disciplinary action regarding personnel records; making clear that meetings may not be closed on the basis of data classification statutes; providing an exception to the open meeting law for preliminary discussions concerning allegations of misconduct against government employees or evaluations of government employees; amending Minnesota Statutes 1988, sections 13.43, subdivision 2; and 471.705, by adding subdivisions.

Senate File No. 1874 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 9, 1990

CONCURRENCE AND REPASSAGE

Mr. Cohen moved that the Senate concur in the amendments by the House to S.F. No. 1874 and that the bill be placed on its repassage as amended.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 6 and nays 49, as follows:

Those who voted in the affirmative were:

Brataas	Knaak	Samuelson	Schmitz	Stumpf
Cohen				

Those who voted in the negative were:

Adkins	Dahl	Freeman	McQuaid	Piper
Anderson	Davis	Hughes	Mehrkens	Pogemiller
Beckman	Decker	Johnson, D.E.	Merriam	Purfeerst
Belanger	DeCramer	Knutson	Metzen	Ramstad
Benson	Diessner	Kroening	Moe, D.M.	Renneke
Berg	Flynn	Lantry	Morse	Solon
Berglin	Frank	Larson	Novak	Storm
Bernhagen	Frederick	Luther	Olson	Vickerman
Bertram	Frederickson, D.J.	Marty	Pariseau	Waldorf
Chmielewski	Frederickson, D.R.	McGowan	Piepho	

The motion did not prevail.

Mr. Cohen moved that S.F. No. 1874 be laid on the table. The motion prevailed.

MESSAGES FROM THE HOUSE - CONTINUED

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. 2213: A bill for an act relating to traffic regulations; regulating wheel flaps and covered loads; imposing a penalty; amending Minnesota Statutes 1988, sections 169.733; and 169.81, subdivision 5, and by adding a subdivision.

Senate File No. 2213 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 9, 1990

Mr. DeCramer moved that the Senate do not concur in the amendments by the House to S.F. No. 2213, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 2317: A bill for an act relating to utilities; providing for the assessment of expenses for adjudicating service area disputes to municipal electric utilities; providing for civil penalties for violations of chapter 237; reestablishing the position of program administrator of the telecommunications access for communication-impaired persons board; extending the electric utility service area task force until 1992; requiring a study; appropriating money; amending Minnesota Statutes 1988, sections 216B.62, subdivision 5; and 237.51, subdivision 5; proposing coding for new law in

Minnesota Statutes, chapter 237.

Senate File No. 2317 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 9, 1990

Mr. Marty moved that S.F. No. 2317 be laid on the table. The motion prevailed.

Mr. President:

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

S.F. No. 2108: A bill for an act relating to liquor; regulating the sale of liqueur-filled candy; authorizing municipalities to issue on-sale wine licenses to bed and breakfast facilities; authorizing removal of partially consumed wine bottles from licensed premises; authorizing additional licenses in the cities of Minneapolis, Brooklyn Center, and Duluth; authorizing the issuance of wine and nonintoxicating malt liquor licenses by the city of St. Paul to its parks and recreation division; authorizing the county board of Anoka county to delegate liquor licensing authority to town boards within the county; authorizing the county board of Itasca county to issue an off-sale or combination license within three miles of an incorporated area; providing for the reporting of wine licenses to the commissioner of public safety; eliminating the requirement for a vote on municipal liquor store continuance upon population change; amending Minnesota Statutes 1988, sections 31.121; 340A.101, subdivision 10; 340A.404, subdivisions 3, 5, and by adding a subdivision; 340A.504, subdivision 1; 340A.601, subdivision 2; Minnesota Statutes 1989 Supplement, sections 340A.404, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 340A.

Senate File No. 2108 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 9, 1990

Mr. Solon moved that the Senate do not concur in the amendments by the House to S.F. No. 2108, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1952, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1952 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 9, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1952

A bill for an act relating to crimes; permitting individuals to request that the commissioner of public safety hold certain information on the individual as private; increasing penalties for certain acts of harassment; expanding the crime of terroristic threats to include threats made through an intermediary; authorizing courts to issue orders to restrain acts of harassment; amending Minnesota Statutes 1988, sections 171.12, by adding a subdivision; and 609.713, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 168 and 609.

April 3, 1990

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1952, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1952 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [168.346] [PRIVACY OF RESIDENCE ADDRESS.]

The registered owner of a motor vehicle may request in writing that the owner's residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor vehicle. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies.

Sec. 2. Minnesota Statutes 1988, section 171.12, is amended by adding a subdivision to read:

Subd. 7. [PRIVACY OF RESIDENCE ADDRESS.] An applicant for a driver's license or a Minnesota identification card may request that the applicant's residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the

applicant consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the driver's license or identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies.

Sec. 3. Minnesota Statutes 1988, section 609.713, subdivision 1, is amended to read:

Subdivision 1. Whoever threatens, *directly or indirectly*, to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation or otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience may be sentenced to imprisonment for not more than five years.

Sec. 4. [609.747] [HARASSMENT; ENHANCED PENALTIES.]

Subdivision 1. [MULTIPLE ACTS OF HARASSMENT.] It is a gross misdemeanor for a person to commit more than one act of harassment in violation of section 609.605, subdivision 1, paragraph (b), clause (7), against the same individual within six consecutive months. As used in this subdivision, "individual" means a natural person.

Subd. 2. [HARASSMENT FOLLOWING ASSAULT OR TERRORISTIC THREAT.] (a) It is a gross misdemeanor for a person who has been convicted of assault or terroristic threat to commit harassment:

(1) against the same victim, within five consecutive years after the conviction; or

(2) against any victim, within two consecutive years after the conviction.

(b) In this subdivision:

(1) "assault" means a violation of section 609.221, 609.222, 609.223, 609.2231, or 609.224;

(2) "harassment" means a violation of section 609.605, subdivision 1, paragraph (b), clause (7); 609.746, subdivision 2; 609.79, subdivision 1, clause (1)(b); or 609.795, subdivision 1, clause (3); and

(3) "terroristic threat" means a violation of section 609.713, subdivision 1 or 3.

Sec. 5. [609.748] [HARASSMENT; RESTRAINING ORDER.]

Subdivision 1. [DEFINITION.] As used in this section, "harassment" means repeated, intrusive, or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.

Subd. 2. [RESTRAINING ORDER; JURISDICTION.] A person who is a victim of harassment may seek a restraining order from the district court in the manner provided in this section. The parent or guardian of a minor who is a victim of harassment may seek a restraining order from the juvenile court on behalf of the minor.

Subd. 3. [CONTENTS OF PETITION.] A petition for relief must allege facts sufficient to show the following:

(1) the name of the alleged harassment victim;

- (2) *the name of the respondent; and*
- (3) *that the respondent has engaged in harassment.*

The petition shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

Subd. 4. [TEMPORARY RESTRAINING ORDER.] (a) The court may issue a temporary restraining order ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person if the petitioner files a petition in compliance with subdivision 3 and if the court finds reasonable grounds to believe that the respondent has engaged in harassment.

(b) Notice need not be given to the respondent before the court issues a temporary restraining order under this subdivision. A temporary restraining order may be entered only against the respondent named in the petition.

(c) The temporary restraining order is in effect until a hearing is held on the issuance of a restraining order under subdivision 5. The court shall hold the hearing on the issuance of a restraining order within seven days after the temporary restraining order is issued unless (1) the time period is extended upon written consent of the parties; or (2) the time period is extended by the court for one additional seven-day period upon a showing that the respondent has not been served with a copy of the temporary restraining order despite the exercise of due diligence.

Subd. 5. [RESTRAINING ORDER.] (a) The court may grant a restraining order ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person if all of the following occur:

- (1) the petitioner has filed a petition under subdivision 3;*
- (2) the sheriff has served respondent with a copy of the temporary restraining order obtained under subdivision 4, and with notice of the time and place of the hearing, or service has been made by publication under paragraph (b); and*
- (3) the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.*

A restraining order may be issued only against the respondent named in the petition. Relief granted by the restraining order must be for a fixed period of not more than two years.

(b) The order may be served on the respondent by means of a one-week published notice under section 645.11, if:

- (1) the petitioner files an affidavit with the court stating that an attempt at personal service made by a sheriff was unsuccessful because the respondent is avoiding service by concealment or otherwise; and*
- (2) a copy of the order is mailed to the respondent at the respondent's residence or the respondent is not known to the petitioner.*

Service under this paragraph is complete seven days after publication.

Subd. 6. [VIOLATION OF RESTRAINING ORDER.] (a) When a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.

Subd. 7. [COPY TO LAW ENFORCEMENT AGENCY.] An order granted under this section shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant. Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order issued under this section.

Subd. 8. [NOTICE.] An order granted under this section must contain a conspicuous notice to the respondent:

- (1) of the specific conduct that will constitute a violation of the order;*
- (2) that violation of an order is a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$700 or both; and*
- (3) that a peace officer must arrest without warrant and take into custody a person if the peace officer has probable cause to believe the person has violated a restraining order.*

Sec. 6. [EFFECTIVE DATE.]

Sections 3 to 5 are effective August 1, 1990, and apply to acts committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; permitting individuals to request that the commissioner of public safety hold certain information on the individual as private; increasing penalties for certain acts of harassment; clarifying that terroristic threats include those made indirectly; authorizing courts to issue orders to restrain acts of harassment; amending Minnesota Statutes 1988, sections 171.12, by adding a subdivision; and 609.713, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 168 and 609."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Randy C. Kelly, Arthur W. Seaberg, Sandy Pappas

Senate Conferees: (Signed) John J. Marty, Allan H. Spear, William V. Belanger, Jr.

Mr. Marty moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1952 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1952 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1857, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1857 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 9, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1857

A bill for an act relating to transportation; providing greater restrictions on eligibility of debarred persons for certain public contracts; increasing scope of interstate motor carrier registration agreements; amending Minnesota Statutes 1988, section 161.315, subdivisions 2 and 3; Minnesota Statutes 1989 Supplement, section 221.601, subdivision 1.

April 4, 1990

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1857, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1857 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 161.315, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] The terms used in this section have the meanings given them in this subdivision.

(a) "Affiliate" means a predecessor or successor of a person ~~under the same or substantially the same control by merger, reorganization, or otherwise, who is, or that has as an officer or director an individual who is, a relative of the person or an individual over whose actions the person exercises substantial influence or control,~~ or a group of entities so connected or associated that one entity controls or has the power to control each of the other entities. "Affiliate" includes the affiliate's principals. One person's ownership of a controlling interest in another entity or a pooling of equipment or income among entities is prima facie evidence that one entity is an affiliate of another.

(b) "Contract crime" means a violation of state or federal antitrust law, fraud, theft, embezzlement, bribery, forgery, misrepresentation, making false statements, falsification or destruction of records, or other criminal offense in connection with obtaining, attempting to obtain, or performing a public or private contract or subcontract.

(c) "Conviction" has the meaning given it in section 609.02, subdivision 5.

(d) "Debar" means to disqualify from receiving a contract or from serving as a subcontractor or material supplier as provided by Laws 1984, chapter 654, article 2, section 8.

(e) "Person" means a natural person or a business, corporation, association, partnership, sole proprietorship, or other entity formed to do business as a contractor, subcontractor, or material supplier and includes an affiliate of a person.

(f) "Pooling" means a combination of persons engaged in the same business or combined for the purpose of engaging in a particular business or commercial venture and who all contribute to a common fund or place their holdings of a given stock or other security in the hand and control of a managing member or committee of the combination.

(g) "Suspend" means to temporarily disqualify from receiving a contract or from serving as a subcontractor or material supplier as provided by Laws 1984, chapter 654, article 2, section 8.

(h) "*Relative*" means an individual related by consanguinity within the second degree as determined by the common law, a spouse, or an individual related to a spouse within the second degree as determined by the common law, and includes an individual in an adoptive relationship within the second degree as determined by the common law.

Sec. 2. Minnesota Statutes 1988, section 161.315, subdivision 3, is amended to read:

Subd. 3. [PROHIBITIONS.] Except as provided in subdivision 4:

(1) neither the commissioner nor a county, town, or home rule or statutory city may award or approve the award of a contract for goods or services to a person who is suspended or debarred;

(2) neither the commissioner nor a county, town, or home rule or statutory

city may award or approve the award of a contract for goods or services under which a debarred or suspended person will serve as a subcontractor or material supplier; ~~and~~

(3) a person to whom a contract for goods or services has been awarded may not subcontract with or purchase materials or services from a debarred or suspended person for performance of that contract; ~~and~~

(4) when a debarred person sells or otherwise transfers to a relative or to any other party over whose actions the debarred person exercises substantial influence or control, a business, corporation, association, partnership, sole proprietorship, or other entity, or an affiliate of the entity, that is ineligible by virtue of the debarment to contract with a governmental entity, the sold or transferred entity remains ineligible for these contracts for the duration of the seller's or transferor's debarment.

Sec. 3. Minnesota Statutes 1989 Supplement, section 221.022, is amended to read:

221.022 [~~METROPOLITAN TRANSIT COMMISSION; EXCEPTION.~~]

The powers granted to the board under sections 221.011 to 221.296 do not include the power to regulate any service or vehicles operated by the metropolitan transit commission or to regulate passenger transportation service provided under contract to the department *or the regional transit board*. A provider of passenger transportation service under contract to the department *or the regional transit board* may not provide charter service without first having obtained a permit to operate as a charter carrier.

Sec. 4. Minnesota Statutes 1989 Supplement, section 221.025, is amended to read:

221.025 [EXEMPTIONS.]

Except as provided in sections 221.031 and 221.033, the provisions of this chapter do not apply to the intrastate transportation described below:

(a) the transportation of students to or from school or school activities in a school bus inspected and certified under section 169.451;

(b) the transportation of rubbish as defined in section 443.27;

(c) a commuter van as defined in section 221.011, subdivision 27;

(d) authorized emergency vehicles as defined in section 169.01, subdivision 5, including ambulances, and tow trucks when picking up and transporting disabled or wrecked motor vehicles and when carrying proper and legal warning devices;

(e) the transportation of grain samples under conditions prescribed by the board;

(f) the delivery of agricultural lime;

(g) the transportation of dirt and sod within an area having a 50-mile radius from the home post office of the person performing the transportation;

(h) a person while exclusively engaged in the transportation of sand, gravel, bituminous asphalt mix, concrete ready mix, concrete blocks or tile, or crushed rock to or from the point of loading or a place of gathering within an area having a 50-mile radius from that person's home post office or a 50-mile radius from the site of construction or maintenance of public roads and streets;

(i) the transportation of pulpwood, cordwood, mining timber, poles, posts, decorator evergreens, wood chips, sawdust, shavings, and bark from the place where the products are produced to the point where they are to be used or shipped;

(j) a person while engaged exclusively in transporting fresh vegetables from farms to canneries or viner stations, from viner stations to canneries, or from canneries to canneries during the harvesting, canning, or packing season, or transporting potatoes, sugar beets, wild rice, or rutabagas from the field of production to the first place of delivery or unloading, including a processing plant, warehouse, or railroad siding;

(k) a person engaged in transporting property or freight, other than household goods and petroleum products in bulk, entirely within the corporate limits of a city or between contiguous cities except as provided in section 221.296;

(l) the transportation of unprocessed dairy products in bulk within an area having a 100-mile radius from the home post office of the person providing the transportation;

(m) a person engaged in transporting agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25-mile radius from the person's home post office and the carrier may transport other commodities within the 25-mile radius if the destination of each haul is a farm;

(n) a person providing limousine service that is not regular route service in a passenger automobile that is not a van, and that has a seating capacity, excluding the driver, of not more than 12 persons;

(o) passenger transportation service that is not charter service and that is under contract to and with operating assistance from the department *or the regional transit board*.

Sec. 5. Minnesota Statutes 1989 Supplement, section 221.031, subdivision 3a, is amended to read:

Subd. 3a. [CONTRACTORS OR RECIPIENTS OF TRANSPORTATION ASSISTANCE.] Notwithstanding subdivision 3, providers of passenger transportation service under contract to and with operating assistance from the department *or the regional transit board* must comply with rules of the commissioner for driver qualifications, safe operation of vehicles, equipment, parts and accessories, maximum hours of service of drivers, inspection, repair and maintenance, and accident reporting. 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.

Sec. 6. Minnesota Statutes 1989 Supplement, section 221.601, subdivision 1, is amended to read:

221.601 [AGREEMENTS WITH OTHER STATES.]

Subdivision 1. [AUTHORITY.] The commissioner may enter *into* agreements with representatives of other states to allow the cooperative registration of motor carriers transporting property or passengers for hire in interstate commerce. The agreement may authorize representatives of other states to issue interstate registration stamps and trip permits; accept the

filing of insurance certificates, *insurance cancellation notices*, and interstate commerce commission orders; *issue suspension and reinstatement orders or notices*; and collect and disburse fees prescribed by this chapter. The agreement may allow the exchange of information for audit, reporting, and enforcement purposes, and the collection and disbursement of fees provided under this chapter and the laws of other states that participate in the agreement. The agreement *and all amendments* must be in writing. The agreement may provide for the gradual adoption of a base state registration system. It may provide that a motor carrier based in another state participating in the agreement, that has filed evidence of financial responsibility in that state that meets the requirements of this chapter and of the agreement, need not file evidence of financial responsibility with the commissioner for its interstate operations in this state.

Sec. 7. [FIBER OPTIC CABLE ALONG I-94; I-494.]

Notwithstanding Minnesota Rules 1989, part 8810.3300, subpart 4, a utility, as defined in Minnesota Rules 1989, part 8810.3100, subpart 4, may lay a fiber optic cable or a conduit containing one or more fiber optic cables inside the control-of-access lines along the portion of the interstate highway designated as I-94 that runs between Maple Grove in Hennepin county and St. Cloud in Stearns county, and the portion of the interstate highway designated as I-494 that runs between Plymouth in Hennepin county and Maple Grove in Hennepin county. The commissioner of transportation may impose reasonable conditions on the time, place, and manner of the utility's installation and maintenance of the cable or conduit and may also charge reasonable fees therefor notwithstanding Minnesota Statutes, chapters 14 and 16A. If the cable or conduit must be relocated because of reconstruction or maintenance work on an interstate highway, the utility shall bear the entire cost of the relocation.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to transportation; providing greater restrictions on eligibility of debarred persons for certain public contracts; exempting provision of passenger transportation service under contract with regional transportation board from some regulation; increasing scope of interstate motor carrier registration agreements; permitting fiber optic cable to be laid along portions of certain interstate highways; amending Minnesota Statutes 1988, section 161.315, subdivisions 2 and 3; Minnesota Statutes 1989 Supplement, sections 221.022; 221.025; 221.031, subdivision 3a; and 221.601, subdivision 1."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Bernard L. Lieder, Andy Steensma, Doug Carlson

Senate Conferees: (Signed) Jim Vickerman, Betty A. Adkins, Mel Frederick

Mr. Vickerman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1857 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1857 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Hughes	McGowan	Pogemiller
Anderson	Davis	Johnson, D.E.	McQuaid	Ramstad
Beckman	Decker	Knaak	Mehrkens	Renneke
Belanger	DeCramer	Knutson	Metzen	Samuelson
Benson	Diessner	Kroening	Moe, D.M.	Solon
Berg	Flynn	Langseth	Moe, R.D.	Storm
Berglin	Frank	Lantry	Morse	Stumpf
Bernhagen	Frederick	Larson	Olson	Vickerman
Bertram	Frederickson, D.J.	Lessard	Pariseau	Waldorf
Brataas	Frederickson, D.R.	Luther	Piepho	
Cohen	Freeman	Marty	Piper	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1846, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1846 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 9, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1846

A bill for an act relating to prostitution; increasing penalties for certain patrons of prostitutes; providing that when a patron uses a motor vehicle during commission of an offense, that fact will be noted on the person's driving record; amending Minnesota Statutes 1988, sections 609.324, subdivisions 2, 3, and by adding subdivisions; and 609.3241.

April 2, 1990

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1846, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1846 be further amended as follows:

Pages 1 and 2, delete sections 2 and 3 and insert:

"Sec. 2. Minnesota Statutes 1988, section 609.324, subdivision 3, is amended to read:

Subd. 3. Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both:

(1) Engages in prostitution with an individual 18 years of age or above; or

(2) Hires or offers or agrees to hire an individual 18 years of age or above to engage in sexual penetration or sexual contact. *Except as otherwise provided in subdivision 4, a person who is convicted of violating clause (1) or (2) while acting as a patron must, at a minimum, be sentenced to pay a fine of at least \$500.*

Whoever violates the provisions of this subdivision within two years of a previous conviction may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. *Except as otherwise provided in subdivision 4, a person who is convicted of a gross misdemeanor violation of this subdivision while acting as a patron, must, at a minimum, be sentenced as follows:*

(1) to pay a fine of at least \$1,500; and

(2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

Sec. 3. Minnesota Statutes 1988, section 609.324, is amended by adding a subdivision to read:

Subd. 4. [COMMUNITY SERVICE IN LIEU OF MINIMUM FINE.] *The court may order a person convicted of violating subdivision 2 or 3 to perform community work service in lieu of all or a portion of the minimum fine required under those subdivisions if the court makes specific, written findings that the convicted person is indigent or that payment of the fine would create undue hardship for the convicted person or that person's immediate family. Community work service ordered under this subdivision is in addition to any mandatory community work service ordered under subdivision 3."*

Page 3, delete section 5 and insert:

"Sec. 5. Minnesota Statutes 1988, section 609.3241, is amended to read:

609.3241 [PENALTY ASSESSMENT AUTHORIZED.]

In any county that has established a multidisciplinary child protection team pursuant to section 626.558, when a court sentences an adult convicted of violating section 609.322, 609.323, or 609.324, while acting other than as a prostitute, the court shall impose an assessment of \$250 for a violation of section 609.324, subdivision 2, or a misdemeanor violation of section 609.324, subdivision 3; otherwise the court shall impose an assessment of \$500. The assessment is to be used for the purposes described in section

626.558, subdivision 2a- ~~This assessment~~ and is in addition to the assessment or surcharge required by section 609.101.”

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Jean Wagenius, Randy C. Kelly, Kathleen Vellenga, Kathleen Blatz, Marcus Marsh

Senate Conferees: (Signed) Lawrence J. Pogemiller, Patrick D. McGowan, Carol Flynn, William V. Belanger, Jr., Ember D. Reichgott

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1846 be now adopted, and that the bill be repassed as amended by the Conference Committee.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 47 and nays 9, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Kroening	Metzen	Renneke
Anderson	Decker	Langseth	Moe, R.D.	Samuelson
Beckman	Flynn	Lantry	Morse	Schmitz
Belanger	Frank	Larson	Olson	Solon
Berg	Frederick	Lessard	Pariseau	Storm
Berglin	Frederickson, D.J.	Luther	Piepho	Stumpf
Bernhagen	Frederickson, D.R.	Marty	Piper	Vickerman
Bertram	Hughes	McGowan	Pogemiller	
Brataas	Johnson, D.E.	McQuaid	Purfeerst	
Chmielewski	Knaak	Mehrkens	Ramstad	

Those who voted in the negative were:

Benson	Davis	Diessner	Knutson	Waldorf
Cohen	DeCramer	Freeman	Merriam	

The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1846 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1913, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1913 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 9, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1913

A bill for an act relating to commerce; regulating dividends on claims in liquidation proceedings; regulating the lending practices of regulated lenders; specifying the loan fees and charges that may be imposed by regulated lenders; amending Minnesota Statutes 1988, sections 49.24, subdivision 9; 56.131, subdivisions 1, and 2; 56.14; and 325G.22, by adding a subdivision.

April 3, 1990

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1913, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1913 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 49.24, subdivision 9, is amended to read:

Subd. 9. [DIVIDENDS ON CLAIMS.] At any time after the expiration of the date fixed for the presentation of claims the commissioner may, out of the funds remaining on hand after the payment of expenses *and amounts due to depositors*, declare one or more dividends, and after the expiration of one year from the first publication of notice to creditors, may declare a final dividend, such dividends to be paid to such persons in such amounts as may be directed by the district court.

If any dividend on any claim shall be less than \$1, the commissioner may hold that dividend until it with subsequent dividends amounts to the sum of \$1 or more. The commissioner shall pay all dividends so withheld with the final dividend.

Sec. 2. 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 and appropriated reserves 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~~ \$750; and (ii) 19 percent per year on that part of the unpaid balance of the principal amount exceeding ~~\$350~~ \$750; 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.

(8) With respect to a loan secured by an interest in real estate, and having a maturity of more than 60 months, the original schedule of installment payments must fully amortize the principal and interest on the loan. The original schedule of installment payments for any other loan secured by an interest in real estate must provide for payment amounts that are sufficient to pay all interest scheduled to be due on the loan.

Sec. 3. Minnesota Statutes 1988, section 56.131, subdivision 2, is amended to read:

Subd. 2. [ADDITIONAL CHARGES.] In addition to the charges provided for by this section and section 56.155, no further or other amount whatsoever, shall be directly or indirectly charged, contracted for, or received for the loan made, except actual out of pocket expenses of the licensee to realize on a security after default, and except for the following additional charges which may be included in the principal amount of the loan:

(a) lawful fees and taxes paid to any public officer to record, file, or release security;

(b) with respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section; provided the costs do not exceed one percent of the principal amount or \$250, whichever is greater:

(1) fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;

(2) fees, if not paid to the licensee, an employee of the licensee, or a person related to the licensee, for preparation of a mortgage, settlement statement, or other documents, fees for notarizing mortgages and other documents, and appraisal fees;

(c) the premium for insurance in lieu of perfecting and releasing a security interest to the extent that the premium does not exceed the fees described in paragraph (a)-;

(d) discount points and appraisal fees may not be included in the principal amount of a loan secured by an interest in real estate when the loan is a refinancing for the purpose of bringing the refinanced loan current and is made within 24 months of the original date of the refinanced loan. For purposes of this paragraph, a refinancing is not considered to be for

the purpose of bringing the refinanced loan current if new funds advanced to the customer, not including closing costs or delinquent installments, exceed \$1,000.

Sec. 4. Minnesota Statutes 1988, section 56.14, is amended to read:

56.14 [DUTIES OF LICENSEE.]

Every licensee shall:

(1) deliver to the borrower (or if there are two or more borrowers to one of them) at the time any loan is made a statement making the disclosures and furnishing the information required by the federal Truth-in-Lending Act, *United States Code, title 15, sections 1601 to 1667e, as amended from time to time*, with respect to the contract of loan. A copy of the loan contract may be delivered in lieu of a statement if it discloses the required information;

(2) deliver or mail to the borrower without request, a written receipt within 30 days following payment for each payment by coin or currency made on account of any loan wherein charges are computed and paid on unpaid principal balances for the time actually outstanding, specifying the amount applied to charges and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of the loan; and wherein pre-computed charges have been added to the principal of the loan specifying the amount of the payment applied to principal and charges combined, the amount applied to default or extension charges, if any, and stating the unpaid balance, if any, of the precomputed loan contract. A periodic statement showing a payment received by mail complies with this clause;

(3) permit payment to be made in advance in any amount on any contract of loan at any time, but the licensee may apply the payment first to all charges in full at the agreed rate up to the date of the payment;

(4) upon repayment of the loan in full, mark indelibly every obligation and security, other than a mortgage or security agreement which secures a new loan to the licensee, signed by the borrower with the word "Paid" or "Canceled," and release any mortgage or security agreement which no longer secures a loan to the licensee, restore any pledge, and cancel and return any note, and any assignment given to the licensee which does not secure a new loan to the licensee within 20 days after the repayment;

(5) display prominently in each licensed place of business a full and accurate schedule, to be approved by the commissioner, of the charges to be made and the method of computing the same; furnish a copy of the contract of loan to any person obligated on it or who may become obligated on it at any time upon the request of that person;

(6) show in the loan contract or statement of loan the rate or rates of charge on which the charge in the contract is based, expressed in terms of rate or rates per annum. The rate expression shall be printed in at least 8-point type on the loan statement or copy of the loan contract given to the borrower.

Sec. 5. Minnesota Statutes 1988, section 325G.22, is amended by adding a subdivision to read:

Subd. 1a. [ADJUSTMENT OF DOLLAR AMOUNTS.] The dollar amount in subdivision 1 shall change periodically as provided in section 550.37, subdivision 4a.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective the day following final enactment."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Linda Scheid, Tom Osthoff, Andy Dawkins, Bob Neuenschwander, Ben Boo

Senate Conferees: (Signed) Sam G. Solon, Allan H. Spear, James P. Metzen, Cal Larson, Gregory L. Dahl

Mr. Solon moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1913 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Freeman moved that the recommendations and Conference Committee Report on H.F. No. 1913 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

The question was taken on the adoption of the motion of Mr. Freeman.

The roll was called, and there were yeas 17 and nays 39, as follows:

Those who voted in the affirmative were:

Beckman	Diessner	Kroening	Merriam	Waldorf
Berglin	Flynn	Lantry	Moe, D.M.	
Chmielewski	Frank	Luther	Morse	
Davis	Freeman	Marty	Vickerman	

Those who voted in the negative were:

Adkins	Brataas	Hughes	McQuaid	Purfeerst
Anderson	Cohen	Johnson, D.E.	Mehrkens	Ramstad
Belanger	Dahl	Knaak	Metzen	Renneke
Benson	Decker	Knutson	Moe, R.D.	Samuelson
Berg	DeCramer	Laidig	Olson	Schmitz
Bernhagen	Frederick	Larson	Pariseau	Solon
Bertram	Frederickson, D.J.	Lessard	Piepho	Storm
Brandl	Frederickson, D.R.	McGowan	Piper	

The motion did not prevail.

The question recurred on the motion of Mr. Solon to adopt the recommendations and Conference Committee Report on H.F. No. 1913 and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1913 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 11, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Frederickson, D.R.	McQuaid	Ramstad
Anderson	Cohen	Hughes	Mehrkens	Samuelson
Beckman	Dahl	Johnson, D.E.	Metzen	Schmitz
Belanger	Davis	Knaak	Moe, R. D.	Solon
Benson	Decker	Knutson	Olson	Storm
Berg	DeCramer	Laidig	Pariseau	Vickerman
Bernhagen	Diessner	Langseth	Piepho	
Bertram	Flynn	Larson	Piper	
Brandl	Frederick	Lessard	Pogemiller	
Brataas	Frederickson, D.J.	McGowan	Purfeerst	

Those who voted in the negative were:

Berglin	Kroening	Luther	Merriam	Morse
Frank	Lantry	Marty	Moe, D.M.	Waldorf
Freeman				

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1730, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1730 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 9, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1730

A bill for an act relating to commerce; requiring seating furniture in public occupancies to meet flammability and labeling standards; proposing coding for new law in Minnesota Statutes, chapter 299F

April 3, 1990

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1730, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1730 be further amended as follows:

Delete everything after the enacting clause and insert:

"FLAMMABILITY STANDARDS FOR SEATING FURNITURE**Section 1. [299F840] [CITATION.]**

Sections 1 to 9 may be cited as the "furniture fire safety act."

Sec. 2. [299F841] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The terms used in sections 1 to 9, have the meanings given them in this section.

Subd. 2. [SELL.] "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, or possess with an intent to sell or dispose of in any other commercial manner.

Subd. 3. [SEATING FURNITURE.] "Seating furniture" means movable or stationary furniture, manufactured on or after January 1, 1992, including children's furniture, that is made of or with loose or attached cushions or pillows or is itself stuffed or filled in whole or in part with filling material; is or can be stuffed or filled in whole or in part with any substance or material, hidden or concealed by fabric or other covering, including cushions or pillows belonging to or forming a part of the furniture; together with the structural units, the filling material, and its container and its covering that can be used as a support for the body of a human being or a person's limbs and feet when sitting or resting in an upright or reclining position.

Subd. 4. [FILLING MATERIAL.] "Filling material" includes cotton, wool, kapok, feathers, down, hair, liquid, or other natural or man-made material, substance, or prefabricated form, concealed or not concealed, to be used or that could be used in seating furniture.

Subd. 5. [MANUFACTURER.] "Manufacturer" means a person or the person's employee or agent who makes an article of seating furniture in whole or in part.

Subd. 6. [PUBLIC OCCUPANCIES.] "Public occupancies" means:

- (1) jails, prisons, and penal institutions;*
- (2) hospitals, mental health facilities, and similar health care facilities;*
- (3) nursing care and convalescent homes;*
- (4) child day-care centers;*
- (5) public auditoriums and stadiums; and*
- (6) public assembly areas of hotels and motels containing more than ten articles of seating furniture.*

Sec. 3. [299F842] [EXEMPT ARTICLES.]

Articles of upholstered furniture, other than juvenile furniture and furniture used for and in facilities designed for the care or treatment of humans, that meet any of the following criteria are exempt from compliance with sections 1 to 9:

- (1) cushions and pads intended solely for outdoor use;*
- (2) articles that are smooth-surfaced and contain no more than one-half inch of filling material, provided that the article does not have a horizontal surface meeting a vertical surface; and*
- (3) articles manufactured solely for recreational use or physical fitness*

purposes, such as weightlifting benches, gymnasium mats or pads, side-horses, and similar articles.

Sec. 4. [299F843] [ENFORCEMENT.]

The state fire marshal shall enforce sections 1 to 9 in accordance with the laws of this state.

Sec. 5. [299F844] [RULES.]

The state fire marshal shall adopt rules necessary for the enforcement of sections 1 to 9 within six months of the effective date of sections 1 to 9. The fire marshal, in adopting rules, shall consider the testing and labeling procedures and requirements set forth in Technical Bulletin 133 of the state of California, "Flammability Testing and Labeling Procedures for Use in Public Occupancies," published in April 1988 by the California Bureau of Home Furnishings and Thermal Insulation and periodically the deletions, revisions, and updates of California Technical Bulletin 133. An amendment to a rule does not apply to seating furniture manufactured before the effective date of the amendment. New seating furniture sold for use in a public occupancy that meets the test criteria under rules adopted by the fire marshal must conform to the labeling requirements specified under the adopted rules.

Sec. 6. [299F845] [SCOPE.]

Sections 1 to 9 apply to seating furniture manufactured on or after the effective date of sections 1 to 9 that is sold or intended for use in public occupancies in this state regardless of its point of origin. New seating furniture sold or intended for use in public occupancies after the effective date of sections 1 to 9 that fails to conform to the applicable flammability standard and labeling requirement provided under sections 1 to 9, or rule of the state fire marshal adopted under section 5, is prohibited from being sold or used for public occupancies.

Sec. 7. [299F846] [PERFORMANCE STANDARDS; TESTING.]

The applicable flammability requirements of sections 1 to 9 or rules adopted under section 5 are to be considered as performance standards. Testing under these standards is at the discretion of the manufacturer. However, new seating furniture offered for sale in this state on or after the effective date of sections 1 to 9 must meet applicable flammability requirements as set out by rule adopted under section 5.

Sec. 8. [299F847] [TEST INSPECTIONS, AUDITS.]

The state fire marshal may inspect or audit the testing of seating furniture as may be considered necessary under rules adopted under section 5.

Sec. 9. [299F848] [CIVIL ACTION.]

The state fire marshal may institute a civil action or proceeding to enjoin a person from selling seating furniture on or after the effective date of sections 1 to 9, that does not meet the requirements of sections 1 to 8, and that is sold or intended for use in public occupancies.

Sec. 10. [EFFECTIVE DATE.]

This act is effective January 1, 1992."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Rich O'Connor, Linda Scheid, Tony L. Bennett

Senate Conferees: (Signed) Marilyn M. Lantry, Sam G. Solon, Phyllis W. McQuaid

Mrs. Lantry moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1730 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1730 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Knaak	McQuaid	Ramstad
Anderson	DeCramer	Knutson	Mehrkens	Renneke
Beckman	Diessner	Kroening	Merriam	Samuelson
Benson	Flynn	Laidig	Metzen	Schmitz
Berglin	Frank	Langseth	Moe, D.M.	Solon
Bertram	Frederick	Lantry	Moe, R.D.	Storm
Brataas	Frederickson, D.J.	Larson	Morse	Vickerman
Chmielewski	Frederickson, D.R.	Lessard	Olson	Waldorf
Cohen	Freeman	Luther	Pariseau	
Dahl	Hughes	Marty	Piepho	
Davis	Johnson, D.E.	McGowan	Piper	

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

MOTIONS AND RESOLUTIONS

Messrs. Decker; Moe, R.D.; Renneke; Frederick and Anderson introduced—

Senate Resolution No. 181: A Senate resolution urging the Congress and President of the United States to authorize a United States postage stamp commemorating the centennial of the founding of Itasca State Park and the Minnesota State Park System.

WHEREAS, Jacob V. Brower, who was a lawyer, surveyor, archaeologist, and former state legislator, paid for and personally carried out the surveying of the entire Mississippi headwaters in 1889; and

WHEREAS, Brower then took up a battle that saw success in 1891 with the establishment of the 20,000 acre Itasca State Park. It was the state's first and one of the nation's earliest state parks; and

WHEREAS, the difficulty of convincing the Legislature and the people of a need for a wilderness state park in a state with then seemingly inexhaustible wilderness cannot be overestimated; and

WHEREAS, from the park's founding in 1891, until his death in 1905, Brower was Itasca's first commissioner and he fought against desecration of the wilderness; and

WHEREAS, the creation of Itasca State Park eventually led to today's state park system consisting of 64 parks totalling 200,000 acres that is recognized as one of the nation's finest park systems; and

WHEREAS, as the source of the Mississippi River, the founding of Itasca State Park has national significance; NOW, THEREFORE,

BE IT RESOLVED by the Senate of the State of Minnesota that it requests that the Congress enact, and the President approve, legislation authorizing the issuance of a United States postage stamp commemorating the centennial of the founding of Itasca State Park and the Minnesota State Park system.

BE IT FURTHER RESOLVED that the Secretary of the Senate is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Chairman of the Senate Rules and Administration Committee, and that it be presented to the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, the President of the United States, and to Minnesota's Senators and Representatives in Congress.

Mr. Decker moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Mr. Cohen moved that S.F. No. 1874 be taken from the table. The motion prevailed.

S.F. No. 1874: A bill for an act relating to meetings of public bodies; government data practices; defining final disposition of a disciplinary action regarding personnel records; making clear that meetings may not be closed on the basis of data classification statutes; providing an exception to the open meeting law for preliminary discussions concerning allegations of misconduct against government employees or evaluations of government employees; amending Minnesota Statutes 1988, sections 13.43, subdivision 2; and 471.705, by adding subdivisions.

Mr. Cohen moved that the Senate do not concur in the amendments by the House to S.F. No. 1874, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. Laidig introduced—

Senate Resolution No. 182: A Senate resolution congratulating the Mahometti Girls Gymnastics Team for their achievements during the 1989-1990 gymnastics season.

Referred to the Committee on Rules and Administration.

Mr. Frederickson, D.R. introduced—

Senate Resolution No. 183: A Senate resolution congratulating the Springfield High School Band and Chorus on their magnificent performances at the All-American Music Festival Competition in Orlando, Florida.

Referred to the Committee on Rules and Administration.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time and referred to the committee indicated.

Messrs. Laidig, Waldorf, Mrs. Pariseau, Messrs. Larson and Belanger introduced—

S.F. No. 2635: A bill for an act relating to probate; defining anatomical gifts; amending Minnesota Statutes 1988, section 525.921, by adding a subdivision.

Referred to the Committee on Judiciary.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Samuelson moved that the following members be excused for a Conference Committee on S.F. No. 2621 at 12:30 p.m.:

Mses. Piper, Berglin, Messrs. Knutson, Solon and Samuelson. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1731 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1731: A bill for an act relating to human services; clarifying treatment and assessment requirements under the Minnesota comprehensive mental health acts for adults and children; amending Minnesota Statutes 1988, section 245.467, subdivision 2; Minnesota Statutes 1989 Supplement, sections 245.467, subdivision 3; 245.469; 245.4711, subdivisions 1, 2, and 3; 245.483, subdivision 3; 245.487, subdivisions 2 and 5; 245.4871, subdivision 3; 245.4873, subdivision 2; 245.4874; 245.4875, subdivision 5; 245.4876, subdivisions 2, 3, and 4; 245.4879; 245.4881, subdivisions 1, 2, 3, and 4; 245.4882, subdivision 1; 245.4883, subdivision 1; 245.4885, subdivisions 1 and 2; 245.696, subdivision 2; 245.697, subdivision 2a; 245.73, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 245; repealing Minnesota Statutes 1989 Supplement, sections 245.4711, subdivisions 6, 7, and 8; and 245.4881, subdivisions 6 to 10.

Ms. Berglin moved to amend S.F. No. 1731 as follows:

Page 11, line 2, delete everything after "(2)"

Page 11, line 3, delete everything before "*assure*"

Page 12, line 30, after "*monthly*" insert "*, unless otherwise determined by the counsel or subcommittee but not less than quarterly,*"

The motion prevailed. So the amendment was adopted.

S.F. No. 1731 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Frederickson, D.R.	Lessard	Olson
Anderson	Dahl	Hughes	Luther	Pariseau
Beckman	Davis	Johnson, D.E.	Marty	Piepho
Benson	Decker	Knaak	McGowan	Piper
Berg	DeCramer	Knutson	McQuaid	Ramstad
Berglin	Diessner	Kroening	Mehrkins	Renneke
Bernhagen	Flynn	Laidig	Merriam	Solon
Bertram	Frank	Langseth	Metzen	Storm
Brataas	Frederick	Lantry	Moe, R.D.	Vickerman
Chmielewski	Frederickson, D.J.	Larson	Morse	Waldorf

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2248 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2248: A bill for an act relating to education; entering the Mid-western Higher Education Compact; providing the appointment of members; proposing coding for new law in Minnesota Statutes, chapter 135A.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 51 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Hughes	Marty	Piper
Anderson	Davis	Johnson, D.E.	McGowan	Ramstad
Beckman	Decker	Knaak	McQuaid	Renneke
Benson	DeCramer	Knutson	Mehrkins	Solon
Berg	Dicklich	Kroening	Merriam	Storm
Berglin	Diessner	Laidig	Metzen	Vickerman
Bernhagen	Flynn	Langseth	Moe, R.D.	Waldorf
Bertram	Frank	Lantry	Morse	
Brataas	Frederick	Larson	Olson	
Chmielewski	Frederickson, D.J.	Lessard	Pariseau	
Cohen	Frederickson, D.R.	Luther	Piepho	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 2458 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 2458: A bill for an act relating to hazardous materials; directing the commissioner of public safety to plan a system for a regional hazardous materials incident response program; establishing an advisory task force.

Mr. Merriam moved that the amendment made to H.F. No. 2458 by the Committee on Rules and Administration in the report adopted April 6, 1990, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 2458 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Hughes	Marty	Piper
Anderson	Davis	Johnson, D.E.	McGowan	Ramstad
Beckman	Decker	Knaak	McQuaid	Reichgott
Benson	DeCramer	Knutson	Mehrkens	Renneke
Berg	Dicklich	Kroening	Merriam	Schmitz
Berglin	Diessner	Laidig	Metzen	Solon
Bernhagen	Flynn	Langseth	Moe, R.D.	Storm
Bertram	Frank	Lantry	Morse	Vickerman
Brataas	Frederick	Larson	Olson	Waldorf
Chmielewski	Frederickson, D.J.	Lessard	Pariseau	
Cohen	Frederickson, D.R.	Luther	Piepho	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1674 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1674: A bill for an act relating to agriculture; providing grasshopper control; authorizing the commissioner to exempt certain lands from grasshopper control; exempting certain persons from losses relating to grasshopper control; clarifying when public utilities are subject to grasshopper control; providing for notices for control and approval of grasshopper control costs; authorizing levies; appropriating money; amending Minnesota Statutes Second 1989 Supplement, section 275.50, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 18; repealing Minnesota Statutes 1989 Supplement, section 18.0226.

Mr. Morse moved to amend S.F. No. 1674 as follows:

Page 3, delete lines 1 to 9 and insert:

“(c) A pesticide applicator must not apply grasshopper control pesticides on blooming alfalfa, clover, or sunflowers except during the first three hours after sunrise or during the last hour before sunset within two miles of honeybee colonies registered under section 19.64, subdivision 1.

(d) A person who applies pesticides or contracts to have pesticides applied must provide written or oral notice to owners of honeybee colonies registered under section 19.64, subdivision 1, that are located within two miles of the application site not more than seven days nor less than 24 hours before the pesticide application occurs.”

Page 3, line 10, delete “(d)” and insert “(e)”

Page 11, line 2, before the period, insert *“including up to \$75,000 for a research program by the commissioner of agriculture in consultation with the commissioner of natural resources and the University of Minnesota extension service to evaluate non-pesticide alternatives to grasshopper control”*

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 40 and nays 16, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Merriam	Ramstad
Anderson	Davis	Johnson, D.J.	Metzen	Reichgott
Beckman	Decker	Knaak	Moe, D.M.	Renneke
Benson	DeCramer	Lantry	Morse	Schmitz
Berglin	Diessner	Luther	Novak	Solon
Brandl	Flynn	Marty	Olson	Spear
Brataas	Frederick	McGowan	Pehler	Vickerman
Cohen	Hughes	McQuaid	Pogemiller	Waldorf

Those who voted in the negative were:

Belanger	Chmielewski	Kroening	Larson	Piepho
Berg	Frederickson, D.J.	Laidig	Pariseau	Storm
Bernhagen	Frederickson, D.R.	Langseth	Peterson, R. W.	Stumpf
Bertram				

The motion prevailed. So the amendment was adopted.

S.F. No. 1674 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 53 and nays 5, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Berglin	Kroening	Lantry	Spear	Waldorf
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So the bill, as amended, was passed and its title was agreed to.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mrs. Lantry moved that the following members be excused for a Conference Committee on S.F. No. 2018 at 2:00 p.m.:

Messrs. Diessner, Purfeerst, Mrs. McQuaid, Ms. Reichgott and Mrs. Lantry. The motion prevailed.

The question recurred on H.F. No. 1855.

SPECIAL ORDER

H.F. No. 1855: A bill for an act relating to family law; modifying dissolution statistical report requirements; regulating child custody and visitation in dissolution and other proceedings; modifying standards for joint legal custody; providing for the award of temporary attorney fees; providing standards for visitation and custody rights when a parent has been convicted of certain crimes; providing funding for legal representation in family law matters; amending Minnesota Statutes 1988, sections 144.224; 257.025;

257.541, subdivision 2; 518.003, subdivision 3, and by adding a subdivision; 518.131, subdivisions 1 and 7; 518.14; 518.156; 518.167, subdivision 2; 518.175, by adding a subdivision; 518.551, subdivision 5; and 518.619; Minnesota Statutes 1989 Supplement, sections 518.17, subdivision 2; 518.175, subdivisions 1 and 5; and 518.64, subdivision 2; proposing coding for new law in chapter 518.

Ms. Reichgott moved to amend H.F. No. 1855, the unofficial engrossment, as follows:

Pages 11 and 12, delete section 14

Page 12, line 10, delete "*subdivision 8*" and insert "*section 18*"

Pages 12 to 15, delete sections 16 and 17 and insert:

"Sec. 15. Minnesota Statutes 1988, section 518.18, is amended to read:
518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with clause (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with clause (c).

(c) The time limitations prescribed in clauses (a) and (b) shall not prohibit a motion to modify a custody order if the court finds that there is persistent and willful denial or interference with visitation, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order unless it finds, upon the basis of facts that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the custodian and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custodian established by the prior order unless:

(i) The custodian agrees to the modification;

(ii) The child has been integrated into the family of the petitioner with the consent of the custodian; or

(iii) The child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

In addition, a court may modify a custody order under section 18."

Page 18, after line 5, insert:

"Sec. 18. [631.52] [EFFECT OF CERTAIN CONVICTIONS ON CUSTODY AND VISITATION RIGHTS.]

Subdivision 1. [SUSPENSION OF VISITATION RIGHTS; TRANSFER OF CUSTODY.] (a) If a person who has custody of a child or visitation

rights is convicted of a crime listed in subdivision 2 and if no action is pending regarding custody or visitation, the sentencing court shall:

(1) grant temporary custody to the noncustodial parent, unless it finds that another custody arrangement is in the best interests of the child; or

(2) suspend visitation rights, unless it finds that visitation with the convicted person is in the best interests of the child.

The defendant has the burden of proving that continued custody or visitation with the defendant is in the best interests of the child. In a county that has a family law division, the sentencing court shall refer the matter to the appropriate court for action under this section.

(b) If a person who has child custody or visitation rights has been convicted of a crime listed in subdivision 2 and is currently incarcerated, on probation, or under supervised release for that offense, then any interested party may petition the sentencing court for relief under paragraph (a) unless the court already made a determination under this subdivision.

Subd. 2. [APPLICATION.] Subdivision 1 applies to the following crimes or similar crimes under the laws of the United States or any other state:

(1) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(2) manslaughter in the first degree under section 609.20;

(3) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

(4) kidnapping under section 609.25;

(5) depriving another of custodial or parental rights under section 609.26;

(6) soliciting, inducing, or promoting prostitution involving a minor under section 609.322;

(7) receiving profit from prostitution involving a minor under section 609.323;

(8) criminal sexual conduct in the first degree under section 609.342;

(9) criminal sexual conduct in the second degree under section 609.343;

(10) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);

(11) solicitation of a child to engage in sexual conduct under section 609.352;

(12) incest under section 609.365;

(13) malicious punishment of a child under section 609.377; or

(14) neglect of a child under section 609.378."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Ms. Olson moved to amend H.F. No. 1855, the unofficial engrossment, as follows:

Page 18, after line 5, insert:

"Sec. 20. Minnesota Statutes 1989 Supplement, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) *Except as provided in paragraph (b), the terms of a decree respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair. On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court shall take into consideration the needs of the children and shall not consider the financial circumstances of each party's spouse, if any. A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party. Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.*

(b) An award of temporary spousal maintenance for a period of limited duration may not be modified to extend the period of time during which maintenance payments must be made or to provide for a permanent maintenance award."

Page 18, after line 12, insert:

"Sec. 22. [EFFECTIVE DATE.]

Section 20 is effective August 1, 1990, and applies to motions brought on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

CALL OF THE SENATE

Mr. Cohen imposed a call of the Senate for the balance of the proceedings on H.F. No. 1855. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Olson amendment.

The roll was called, and there were yeas 14 and nays 35, as follows:

Those who voted in the affirmative were:

Chmielewski
Diessner
Frederick

Frederickson, D.R.
Knaak
Kroening

Larson
Lessard
McQuaid

Merriam
Metzen
Olson

Pariseau
Piepho

Those who voted in the negative were:

Adkins	Bertram	Frederickson, D.J.	McGowan	Reichgott
Anderson	Brandl	Hughes	Moe, R.D.	Renneke
Beckman	Brataas	Johnson, D.E.	Morse	Schmitz
Belanger	Cohen	Johnson, D.J.	Pehler	Spear
Berg	Decker	Lantry	Peterson, R.W.	Storm
Berglin	Dicklich	Luther	Pogemiller	Stumpf
Bernhagen	Flynn	Marty	Ramstad	Vickerman

The motion did not prevail. So the amendment was not adopted.

Mr. Knaak moved to amend H.F. No. 1855, the unofficial engrossment, as follows:

Pages 8 and 9, delete section 10 and insert:

"Sec. 10. Minnesota Statutes 1988, section 518.14, is amended to read:

518.14 [COSTS AND DISBURSEMENTS AND ATTORNEY FEES.]

~~In a proceeding brought either for dissolution or legal separation under this chapter, the court, from time to time, after considering the financial resources of both parties, may require one party to pay a reasonable amount necessary to enable the other spouse to carry on or to contest the proceeding, and to pay attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement or after entry of judgment. In a proceeding under this chapter, the court shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided it finds:~~

(1) that the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding; and

(2) that the party from whom fees, costs, and disbursements are sought has the means to pay them.

Nothing in this section precludes the court from awarding, in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding. Fees, costs, and disbursements provided for in this section may be awarded at any point in the proceeding. The court may adjudge costs and disbursements against either party. The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay the same may be enforced as above provided or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award shall also survive the proceeding and may be enforced in the same manner as last above provided."

The motion prevailed. So the amendment was adopted.

Mr. Knaak then moved to amend H.F. No. 1855, the unofficial engrossment, as follows:

Pages 4 to 6, delete sections 4 and 5

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 11 and nays 41, as follows:

Those who voted in the affirmative were:

Anderson	Decker	Knaak	McQuaid	Olson
Belanger	Diessner	Larson	Mehrkins	Pariseau
Bernhagen				

Those who voted in the negative were:

Adkins	Dicklich	Lantry	Novak	Schmitz
Berg	Flynn	Lessard	Pehler	Spear
Bertram	Frederickson, D.J.	Luther	Peterson, R.W.	Stumpf
Brandl	Frederickson, D.R.	Marty	Piepho	Vickerman
Brataas	Hughes	McGowan	Pogemiller	Waldorf
Chmielewski	Johnson, D.E.	Merriam	Purfeerst	
Cohen	Johnson, D.J.	Metzen	Ramstad	
Dahl	Kroening	Moe, R.D.	Reichgott	
Davis	Langseth	Morse	Renneke	

The motion did not prevail. So the amendment was not adopted.

Mr. Spear moved to amend the second Knaak amendment to H.F. No. 1855, adopted by the Senate April 9, 1990, as follows:

Delete page 1, line 3, to page 4, line 18, and insert:

"Page 11, after line 17, insert:

"Sec. 14. Minnesota Statutes 1988, section 518.17, subdivision 3, is amended to read:

Subd. 3. [CUSTODY AND SUPPORT ORDER.] (a) Upon adjudging the nullity of a marriage, or in a dissolution or separation proceeding, or in a child custody proceeding, the court shall make such further order as it deems just and proper concerning:

- (1) the legal custody of the minor children of the parties which shall be sole or joint;
- (2) their physical custody and residence; and
- (3) their support.

Both parents are responsible for the support of their children to the extent of their ability. It is presumed that a parent who has physical custody of a child supports the child by providing for the daily care and residence of the child. In determining custody, the court shall consider the best interests of each child and shall not prefer one parent over the other solely on the basis of the sex of the parent.

(b) The court shall grant the following rights to each of the parties, unless specific findings are made under paragraph (c), and every custody order must include the following notice to the parties:

NOTICE IS HEREBY GIVEN TO THE PARTIES:

Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record

or information to the requesting party.

Each party shall keep the other party informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent-teacher conferences. The school is not required to hold a separate conference for each party.

In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

Each party has the right to reasonable access and telephone contact with the minor children.

(c) The court may waive all or part of the notice required under paragraph (b) if it finds that it is necessary to protect the welfare of a party or child."

Page 4, after line 18, insert:

"Sec. 19. Minnesota Statutes 1988, section 518.57, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Upon a decree of dissolution, legal separation or annulment, the court ~~may~~ *shall* make a further order which is just and proper concerning the maintenance of the minor children as provided by section 518.551, and for the maintenance of any child of the parties as defined in section 518.54, as support money, and may make the same a lien or charge upon the property of the parties to the proceeding, or either of them, either at the time of the entry of the judgment or by subsequent order upon proper application."

Mr. Knaak moved to amend the Spear amendment to the second Knaak amendment adopted by the Senate April 9, 1990, to H.F. No. 1855 as follows:

Page 1, delete line 4 and insert:

"Page 1, after line 2, insert:"

Page 1, line 16, after "are" insert "*presumed equally*"

Page 1, line 17, delete "*It is presumed*" and insert "*In determining the level of support provided by a parent, the court may consider*"

Page 2, after line 14, insert:

"Page 1, line 17, delete "*obligors*" and insert "*equally responsible for the support of the children of the marriage*"

Page 2, line 15, delete "15" and insert "4" and delete "29" and insert "18"

Mr. Knaak requested division of the amendment as follows:

First portion:

Page 1, delete line 4 and insert:

"Page 1, after line 2, insert:"

Page 1, line 16, after "are" insert "*presumed equally*"

Page 1, line 17, delete "*It is presumed*" and insert "*In determining the level of support provided by a parent, the court may consider*"

Second portion:

Page 2, after line 14, insert:

"Page 1, line 17, delete "*obligors*" and insert "*equally responsible for the support of the children of the marriage*""

Page 2, line 15, delete "15" and insert "4" and delete "29" and insert "18"

The question was taken on the adoption of the first portion of the amendment. The motion prevailed. So the first portion of the amendment was adopted.

Mr. Knaak withdrew the second portion of his amendment.

The question recurred on the adoption of the Spear amendment, as amended. The motion prevailed. So the Spear amendment, as amended, was adopted.

Mr. Knaak moved to amend the second Knaak amendment to H.F. No. 1855, adopted by the Senate April 9, 1990, as follows:

Page 1, line 17, delete "*obligors*" and insert "*equally responsible for the support of the children of the marriage*"

The motion prevailed. So the amendment to the amendment was adopted.

H.F. No. 1855 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 47 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Metzen	Ramstad
Anderson	Decker	Laidig	Moe, D.M.	Reichgott
Beckman	DeCramer	Langseth	Moe, R. D.	Spear
Belanger	Diessner	Lantry	Morse	Storm
Berg	Flynn	Lessard	Novak	Stumpf
Bernhagen	Frederickson, D.J.	Luther	Pariseau	Vickerman
Bertram	Frederickson, D.R.	Marty	Pehler	Waldorf
Brandl	Hughes	McGowan	Peterson, R.W.	
Brataas	Johnson, D.E.	Mehrkins	Piepho	
Cohen	Johnson, D.J.	Merriam	Pogemiller	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1996 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1996: A bill for an act relating to waste management; making several technical changes to the waste management act; establishing a time period for local decision-making on siting of solid waste facilities; establishing time periods for state and metropolitan council approval of county solid waste management plans; clarifying jurisdiction of county plans; clarifying order of funding priority for grants for solid waste management projects; adjusting procedures for the creation of solid waste management districts; increasing the authority of the districts; authorizing counties to set civil penalties by ordinance for violation of designation ordinances; authorizing additional county fees on in-county disposal of out-of-county

solid waste; adding procedures and requirements for cities to meet when they organize solid waste collection; requiring a supplementary incinerator ash report; delaying the date for incinerator ash to be considered special waste; providing waste management training and certification programs; authorizing counties to charge property owners, lessees, and occupants for solid waste management services; authorizing metropolitan counties to charge reasonable rates for solid waste facilities; restricting the authority of certain local governments to prevent establishment, operation, or expansion of solid waste disposal facilities; providing buffer areas around landfill operations; extending the solid waste ash project report; authorizing sanitary districts to use the greater Minnesota landfill cleanup fee; specifying use of the greater Minnesota landfill fee; providing a landfill compliance and financial assurance study; authorizing Winona county to give political subdivisions the authority to accept responsibility for managing their solid waste; amending provisions for forgiving a grant to Winona county; reducing time for metropolitan review of local government solid waste facility siting decisions; repealing the requirement that government agencies use degradable polyethylene bags; changing references; amending Minnesota Statutes 1988, sections 16B.61, subdivision 3a; 115A.03, subdivision 23; 115A.06, subdivisions 2, 5, 5a, 6, 8, 10, 11, 12, and 13; 115A.07, subdivisions 1 and 2; 115A.075; 115A.10; 115A.11, subdivision 1a; 115A.158, subdivision 2; 115A.191, subdivisions 1 and 2; 115A.192, subdivisions 1 and 2; 115A.193; 115A.194, subdivision 2; 115A.411, subdivision 1; 115A.46, subdivision 1, and by adding a subdivision; 115A.49; 115A.53; 115A.54, subdivision 3; 115A.64, subdivisions 2, 4, and 6; 115A.66, subdivision 3; 115A.67; 115A.86, by adding a subdivision; 115A.914; 115A.94, subdivisions 3 and 4; 115A.97, subdivisions 4 and 5; 325E.045, subdivision 1; 400.08, subdivisions 1 and 3; 473.811, subdivision 3, and by adding a subdivision; 473.823, subdivision 5, and by adding a subdivision; 473.833, by adding a subdivision; 473.845, subdivision 4; 473.846; Minnesota Statutes 1989 Supplement, sections 115A.14, subdivision 4; 115A.195; 115A.54, subdivision 2a; 115A.84, subdivision 2; 115A.86, subdivision 5; 115A.919; 115B.04, subdivision 4; 116.41, subdivision 2; 116C.69, subdivision 3; Minnesota Statutes Second 1989 Supplement, sections 115A.072, subdivisions 1 and 4; 115A.55, subdivision 3; 115A.551, subdivisions 4 and 7; 115A.558; 115A.961, subdivisions 2 and 4; Laws 1987, First Special Session chapter 5, section 1; Laws 1988, chapter 685, section 42; Laws 1989, chapter 325, sections 72, subdivision 2; 75; and 79; and chapter 335, article 1, section 269; proposing coding for new law in Minnesota Statutes, chapter 115A; repealing Minnesota Statutes 1988, sections 115A.09, subdivision 5; 115A.90, subdivision 2; 325E.045, subdivisions 3 and 4; Minnesota Statutes 1989 Supplement, sections 115A.922; 115A.923, subdivisions 2 to 5; 115A.924; 115A.925; 115A.927; 115A.928; and Laws 1987, chapter 348, section 51, subdivision 5.

Mr. Merriam moved to amend S.F. No. 1996 as follows:

Page 30, line 34, after the first period, insert "*Sections 17 and 18 are effective August 1, 1990, and apply to cities, towns, and counties that initiate action to organize solid waste collection on or after that date.*"

The motion prevailed. So the amendment was adopted.

Ms. Berglin moved to amend S.F. No. 1996 as follows:

Page 28, after line 40, insert:

"Sec. 40. [TRANSFER STATION PROHIBITION; LEGISLATIVE

RECOMMENDATION.]

Subdivision 1. [PROHIBITION.] Until July 1, 1991, no county may locate or develop a facility for the transfer of mixed municipal solid waste that was not permitted by the pollution control agency prior to the effective date of this act and that would be located within 1,000 feet of a residence, a residential health care facility, or a food-related commercial or retail facility.

Subd. 2. [TRANSFER STATION LOCATION; LEGISLATIVE RECOMMENDATION.] By January 1, 1991, the legislative commission on waste management shall recommend new legislation or amendments to Minnesota Statutes, chapters 115A and 473, that will require counties to locate and develop facilities for the transfer of mixed municipal solid waste in areas and in a manner that will minimize adverse impacts on residential, commercial, and retail areas. Legislation recommended under this section must also:

(1) require each county to locate and develop all types of solid waste management facilities in relation to the location and type of all other existing and planned solid waste management facilities to ensure that the burden of hosting the facilities is proportionately shared by all the cities, towns, and communities in the county to the extent possible;

(2) require that any plan to locate and develop a mixed municipal solid waste facility include specific plans for reducing the quantity of mixed municipal solid waste that will be accepted at the facility over time;

(3) require that any plan to locate and develop a mixed municipal solid waste facility include separate collection and processing of recyclable materials and materials that pose processing or disposal problems when they are included in the waste stream; and

(4) set guidelines for whether and under what circumstances a county should compensate a community for the adverse effects of a mixed municipal solid waste management facility."

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail. So the amendment was not adopted.

Mr. Lessard moved to amend S.F. No. 1996 as follows:

Page 16, after line 31, insert:

"Sec. 22. Minnesota Statutes 1988, section 116.07, subdivision 4h, is amended to read:

Subd. 4h. [FINANCIAL RESPONSIBILITY RULES.] (a) The agency shall adopt rules requiring the operator or owner of a solid waste disposal facility to submit to the agency proof of the operator's or owner's financial capability to provide reasonable and necessary response during the operating life of the facility and for 20 years after closure, and to provide for the closure of the facility and postclosure care required under agency rules. Proof of financial responsibility is required of the operator or owner of a facility receiving an original permit or a permit for expansion after adoption of the rules. Within 180 days of the effective date of the rules or by July 1, 1987, whichever is later, proof of financial responsibility is required of

an operator or owner of a facility with a remaining capacity of more than five years or 500,000 cubic yards that is in operation at the time the rules are adopted. Compliance with the rules is a condition of obtaining or retaining a permit to operate the facility.

(b) The agency shall adopt rules to allow a municipality, as defined in section 475.51, subdivision 2, including a sanitary district, that owns or operates a solid waste disposal facility to meet its financial responsibility for all or a portion of the contingency action portion of the reasonable and necessary response costs at the facility through its authority to issue bonds. The rules must ensure that when funds are needed for a contingency action, sufficient bonds can and will be issued by the municipality to meet its responsibility. The rules that allow a municipality to meet financial assurance under this paragraph must include at least requirements that a municipality:

(1) adopt an ordinance that clearly accepts responsibility for the costs of contingency action at the facility and that reserves, during the operating life of the facility and for 20 years after closure, a portion of the debt limit of the municipality, as established under section 475.53 or other law, that is equal to the total contingency action costs calculated under the rules;

(2) meets a portion of its financial responsibility by relying on its authority to issue bonds, begins setting aside funds that will cover a portion of the potential contingency action costs at the facility, the amount not to exceed five percent to be determined by the agency for each facility based on at least the likelihood and potential timing of conditions arising at the facility that will necessitate response action; and

(3) have and consistently maintain an investment grade bond rating as a condition of using bonding authority to meet financial responsibility under this section."

Page 24, after line 25, insert:

"Sec. 35. Minnesota Statutes 1988, section 475.53, is amended by adding a subdivision to read:

Subd. 8. [DEBT LIMIT RESERVATION.] A municipality must, by ordinance, reserve a portion of its unencumbered debt limit for the purpose of providing proof of financial responsibility for the contingency action portion of the response costs at a solid waste disposal facility, under rules adopted by the pollution control agency, if the municipality by resolution meets financial assurance under section 116.07, subdivision 4h. Reservation of a portion of a municipality's debt limit under this subdivision may not be revoked by the municipality until the expiration of the required time period for maintaining proof of financial responsibility or the municipality adopts and adequately funds, as of the date of implementation, an alternate method of financial responsibility under the rules of the agency, whichever occurs earlier."

Page 28, line 49, delete "until"

Page 28, line 50, delete everything before the period

Page 29, delete lines 1 to 7

Page 29, line 8, delete everything before the second "the"

Page 29, delete lines 11 to 17

Pages 29 and 30, delete section 42

Page 30, delete section 44

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Larson moved to amend S.F. No. 1996 as follows:

Page 28, line 50, before the period, insert “, *except that the operator of a facility that is owned by a statutory or home rule charter city shall pay the fee to the city that owns the facility*”

The motion prevailed. So the amendment was adopted.

Mr. Luther moved to amend S.F. No. 1996 as follows:

Page 17, after line 20, insert:

“Sec. 23. Minnesota Statutes 1989 Supplement, section 116.85, is amended to read:

116.85 [MONITORS REQUIRED FOR INCINERATORS.]

Subdivision 1. [EMISSION MONITORS.] Notwithstanding any other law to the contrary, an incinerator permit that contains emission limits for dioxin, cadmium, chromium, lead, or mercury must, as a condition of the permit, require the installation of an air emission monitoring system approved by the commissioner. The monitoring system must provide continuous measurements to ensure optimum combustion efficiency for the purpose of ensuring optimum dioxin destruction. The system shall also be capable of providing a permanent record of monitored emissions that will be available upon request to the commissioner and the general public. The commissioner shall provide periodic inspection of the monitoring system to determine its continued accuracy. The facility must conduct periodic stack testing for mercury at intervals not to exceed 90 days. Refuse-derived fuel facilities must conduct periodic stack testing for mercury at intervals not to exceed 15 months unless a previous test showed a permit exceedance after which the agency may require quarterly testing until permit requirements are satisfied.

Subd. 2. [CONTINUOUSLY MONITORED EMISSIONS.] Should, at any time after normal startup, the permitted facility's continuously monitored emissions exceed permit requirements, based on accurate and valid emissions data, the facility shall immediately report the exceedance to the commissioner and immediately either commence appropriate modifications to the facility to ensure its ability to meet permitted requirements or commence shutdown if the modifications cannot be completed within 72 hours. Compliance with permit requirements must then be demonstrated based on additional testing.

Subd. 3. [PERIODICALLY TESTED EMISSIONS.] Should, at any time after normal startup, the permitted facility's periodically tested emissions exceed permit requirements based on accurate and valid emissions data, the facility shall immediately report the exceedance to the commissioner, and the commissioner shall direct the facility to commence appropriate modifications to the facility to ensure its ability to meet permitted requirements within 30 days, or to commence appropriate testing for a maximum

period of 30 days to assure compliance with applicable permit limits. If the commissioner determines that compliance has not been achieved after 30 days, then the facility shall shut down until compliance with permit requirements is demonstrated based on additional testing. This section shall not be construed to limit the authority of the agency to regulate incinerator operations under any other law."

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Bernhagen moved to amend S.F. No. 1996 as follows:

Page 15, line 5, delete "1992" and insert "1991"

The motion prevailed. So the amendment was adopted.

Mr. Storm moved to amend S.F. No. 1996 as follows:

Pages 20 and 21, delete section 28

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

CALL OF THE SENATE

Mr. Dahl imposed a call of the Senate for the balance of the proceedings on S.F. No. 1996. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Storm amendment.

Mr. Merriam moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 32 and nays 34, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Johnson, D.J.	McQuaid	Reichgott
Beckman	Decker	Knaak	Mehrkens	Renneke
Belanger	Frank	Knutson	Olson	Schmitz
Benson	Frederick	Kroening	Pariseau	Storm
Berg	Frederickson, D.J.	Laidig	Piepho	
Berglin	Frederickson, D.R.	Larson	Purfeerst	
Bernhagen	Johnson, D.E.	McGowan	Ramstad	

Those who voted in the negative were:

Adkins	DeCramer	Lantry	Moe, R.D.	Samuelson
Bertram	Dicklich	Lessard	Morse	Solon
Brandl	Diessner	Luther	Novak	Spear
Chmielewski	Flynn	Marty	Pehler	Stumpf
Cohen	Freeman	Merriam	Peterson, R.W.	Vickerman
Dahl	Hughes	Metzen	Piper	Waldorf
Davis	Langseth	Moe, D.M.	Pogemiller	

The motion did not prevail. So the amendment was not adopted.

Mr. Storm then moved to amend S.F. No. 1996 as follows:

Page 21, line 1, delete the first comma and insert "or" and delete ", or expansion"

The question was taken on the adoption of the Storm amendment.

Mr. Merriam moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 32 and nays 33, as follows:

Those who voted in the affirmative were:

Anderson	Chmielewski	Knaak	McQuaid	Reichgott
Belanger	Decker	Knutson	Mehrkens	Renneke
Benson	Frank	Kroening	Olson	Schmitz
Berg	Frederick	Laidig	Pariseau	Storm
Berglin	Frederickson, D.J.	Larson	Piepho	
Bernhagen	Frederickson, D.R.	Lessard	Purfeerst	
Brataas	Johnson, D.E.	McGowan	Ramstad	

Those who voted in the negative were:

Adkins	DeCramer	Lantry	Morse	Solon
Beckman	Dicklich	Luther	Novak	Spear
Bertram	Diessner	Marty	Pehler	Stumpf
Brandl	Flynn	Merriam	Peterson, R.W.	Vickerman
Cohen	Freeman	Metzen	Piper	Waldorf
Dahl	Hughes	Moe, D.M.	Pogemiller	
Davis	Langseth	Moe, R.D.	Samuelson	

The motion did not prevail. So the amendment was not adopted.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Freeman moved that the following members be excused for a Conference Committee on H.F. No. 2651 from 3:15 to 4:40 p.m.:

Messrs. Benson; Merriam; Moe, R.D.; Waldorf and Freeman. The motion prevailed.

Mr. Laidig moved to amend S.F. No. 1996 as follows:

Page 20, line 36, delete "*A local government unit*" and insert "*The city of Eden Prairie*"

Page 21, line 1, delete everything after "*of*"

Page 21, delete lines 2 to 4

Page 21, line 5, delete everything before the comma and insert "*Flying Cloud Landfill*"

Page 21, line 6, delete "*local government unit*" and insert "*city of Eden Prairie*"

The motion did not prevail. So the amendment was not adopted.

Mr. Storm moved to amend S.F. No. 1996 as follows:

Page 16, after line 3, insert:

"Sec. 21. [115A.998] [ONLY COUNCIL, COUNTY, AND AGENCY APPROVAL REQUIRED FOR CERTAIN SITES.]

A local government unit may not prevent the establishment, operation, or expansion of a solid waste disposal facility that had approval of the metropolitan council, or pollution control agency for facilities outside the metropolitan area, to expand, and has received approval of the pollution control agency and the county where the facility is located, except that

with the approval of the metropolitan council, or pollution control agency for facilities outside the metropolitan area, the local government unit may impose reasonable conditions respecting the construction, inspection, monitoring, and maintenance of a facility."

Pages 20 and 21, delete section 28

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Decker	Knutson	Mehrkens	Purfeerst
Belanger	Frank	Laidig	Moe, D.M.	Ramstad
Benson	Frederickson, D.J.	Larson	Olson	Reichgott
Berg	Johnson, D.E.	McGowan	Pariseau	Renneke
Berglin	Knaak	McQuaid	Piepho	Storm

Those who voted in the negative were:

Adkins	Dahl	Hughes	Merriam	Schmitz
Beckman	Davis	Langseth	Metzen	Spear
Bertram	DeCramer	Lantry	Morse	Stumpf
Brataas	Diessner	Lessard	Novak	Vickerman
Chmielewski	Flynn	Luther	Piper	Waldorf
Cohen	Freeman	Marty	Pogemiller	

The motion did not prevail. So the amendment was not adopted.

Mr. Novak moved to amend S.F. No. 1996 as follows:

Page 12, line 35, reinstate the stricken language and delete the new language

Page 14, after line 30, insert:

"(g) Subdivision 5 shall not apply to a city or town which studies organized collection, considers state and county recycling goals, holds a public hearing, and determines that its goals can be met through licensing rather than organized collection and notifies the county in writing of its findings and action taken."

Mr. Merriam requested division of the amendment as follows:

First portion:

Page 12, line 35, reinstate the stricken language and delete the new language

Second portion:

Page 14, after line 30, insert:

"(g) Subdivision 5 shall not apply to a city or town which studies organized collection, considers state and county recycling goals, holds a public hearing, and determines that its goals can be met through licensing rather than organized collection and notifies the county in writing of its findings and action taken."

The question was taken on the adoption of the first portion of the amendment. The motion prevailed. So the first portion of the amendment was

adopted.

The question was taken on the adoption of the second portion of the amendment. The motion did not prevail. So the second portion of the amendment was not adopted.

Mr. Knaak moved to amend S.F. No. 1996 as follows:

Page 51, after line 9, insert:

“Sec. 39. [YARD WASTE COMPOSTING.]

Each county in the metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2, shall establish at least one yard waste composting facility within the county that accepts yard waste at no charge from licensed solid waste collectors. The county shall fund at least 50 percent of the operation of the facility from funds received under Minnesota Statutes, section 115A.557.”

Renumber the sections of article 2 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 1996 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1950 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1950: A bill for an act relating to housing; requiring state interagency coordination on homelessness; providing for treatment of certain obligations upon foreclosure of certain mortgages; appropriating non-refundable bond allocation deposits to the housing trust fund account; amending Minnesota Statutes 1988, sections 462A.201, subdivision 2; 462C.07, by adding a subdivision; 469.155, by adding a subdivision; and 474A.21; proposing coding for new law in Minnesota Statutes, chapter 462A.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2055 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2055: A bill for an act relating to appropriations; providing refunds of bond allocation deposits; appropriating money.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 51 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Johnson, D.E.	McGowan	Samuelson
Anderson	DeCramer	Johnson, D.J.	McQuaid	Schmitz
Beckman	Dicklich	Knaak	Merriam	Solon
Benson	Diessner	Knutson	Metzen	Spear
Berg	Flynn	Kroening	Moe, R.D.	Stumpf
Berglin	Frank	Langseth	Novak	Vickerman
Bernhagen	Frederick	Lantry	Olson	Waldorf
Bertram	Frederickson, D.J.	Larson	Piper	
Brataas	Frederickson, D.R.	Lessard	Pogemiller	
Chmielewski	Freeman	Luther	Ramstad	
Cohen	Hughes	Marty	Renneke	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2395 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2395: A bill for an act relating to unemployment compensation; making various technical changes; regulating eligibility of conservation corps members and entertainers; increasing the income disregard; regulating eligibility for persons receiving holiday pay; regulating administrative hearings; providing for data sharing; appropriating certain federal money; amending Minnesota Statutes 1988, sections 268.08, subdivision 3; 268.10,

subdivision 9; and 268.12, subdivision 13; Minnesota Statutes 1989 Supplement, sections 84.965, subdivision 2; 84.98, subdivision 5; 268.04, subdivision 12; 268.07, subdivision 2; 268.12, subdivision 12; 270B.14, subdivision 8; and 290.92, subdivision 21.

Mr. Chmielewski moved to amend S.F. No. 2395 as follows:

Pages 2 to 14, delete section 3

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2395 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2375 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2375: A bill for an act relating to workers' compensation; providing for loggers; requiring the commissioner of labor and industry to study issues concerning loggers; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 176.

Mr. Chmielewski moved to amend S.F. No. 2375 as follows:

Page 3, line 6, delete "1" and insert "15"

Page 4, line 13, delete "1" and insert "15"

The motion prevailed. So the amendment was adopted.

S.F. No. 2375 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2177 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2177: A bill for an act relating to traffic safety; providing for administrative impoundment of license plates of vehicles owned by repeat violators of laws relating to driving while intoxicated; providing for issuance of special plates to certain members of the violator's household; requiring peace officers to serve a notice of intent to impound when serving a notice of intent to revoke the violator's driver's license; providing for administrative and judicial review of impoundment orders; eliminating the alcohol problem screening for persons convicted of offenses associated with driving under the influence of alcohol or a controlled substance; modifying procedures for chemical use assessments, programs, and funding; changing the maximum rate for reimbursement of counties from the general fund for the assessments; expanding the crime of refusing to submit to an implied consent test; expanding the crime of aggravated driving while intoxicated; removing requirement that negligence be proven for conviction of criminal vehicular operation if driver's alcohol concentration was 0.10 or more; imposing penalties for criminal vehicular operation resulting in substantial bodily harm; prohibiting constructive possession of alcohol in a private motor vehicle; expanding the definition of possession; appropriating money; amending Minnesota Statutes 1988, sections 168.041, subdivisions 3, 8, and 10; 169.122, subdivision 2; 169.124, subdivision 1; 169.126, subdivisions 1, 2, 6, and by adding a subdivision; and 169.129; Minnesota Statutes 1989 Supplement, sections 169.041, subdivision 4; 169.121, subdivisions 1a and 3b; 169.126, subdivision 4; 260.193, subdivision 8; and 609.21; proposing coding for new law in Minnesota Statutes, chapter 168; repealing Minnesota Statutes 1988, sections 168.041, subdivision 3a; 169.124, subdivisions 2 and 3; and 169.126, subdivisions 2, 3, and 4b; and Minnesota Statutes 1989 Supplement, sections 168.041, subdivision 4a; and 169.126, subdivision 4a.

Mr. Spear moved to amend S.F. No. 2177 as follows:

Page 7, after line 25, insert:

"Subd. 12. [ISSUANCE OF SPECIAL REGISTRATION PLATES.] A violator or registered owner may apply to the commissioner for new registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. The commissioner may authorize the issuance of special plates if:

- (1) a member of the violator's household has a valid driver's license;*
- (2) the violator or registered owner has a limited license issued under section 171.30;*
- (3) the registered owner is not the violator and the registered owner has a valid or limited driver's license; or*
- (4) a member of the registered owner's household has a valid driver's license.*

The commissioner may issue the special plates on payment of a \$25 fee for each vehicle for which special plates are requested."

Renumber the subdivisions in sequence

Page 14, after line 28, insert:

"Sec. 2. Minnesota Statutes 1988, section 169.121, is amended by adding a subdivision to read:

Subd. 3c. [NOTICE OF ENHANCED PENALTIES.] When a court sentences a person for a misdemeanor violation of this section, it shall inform the defendant of the statutory provisions that provide for enhancement of criminal penalties for repeat violators. The failure of a court to provide this information to a defendant does not affect the future applicability of these enhanced penalties to that defendant."

Renumber the sections of article 3 in sequence and correct the internal references

Page 18, after line 29, insert:

"ARTICLE 6

AIRCRAFT OPERATION WHILE INTOXICATED PROVISIONS

Section 1. Minnesota Statutes 1989 Supplement, section 169.121, subdivision 3, is amended to read:

Subd. 3. [CRIMINAL PENALTIES.] (a) A person who violates subdivision 1 or an ordinance in conformity with it is guilty of a misdemeanor.

(b) A person is guilty of a gross misdemeanor who violates subdivision 1 or an ordinance in conformity with it within five years of a prior impaired driving conviction, or within ten years of the first of two or more prior impaired driving convictions.

For purposes of this paragraph, a prior impaired driving conviction is a prior conviction under this section, section 84.91, subdivision 1, paragraph (a), 169.129, 361.12, subdivision 1, paragraph (a), 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), 609.21, subdivision 4, clause (2) or (3), section 4, or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult.

(c) A person who violates subdivision 1a is guilty of a gross misdemeanor.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations

of this section.

When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior impaired driving convictions from a court, the court must furnish the information without charge.

Sec. 2. Minnesota Statutes 1988, section 360.075, subdivision 1, is amended to read:

Subdivision 1. [MISDEMEANOR.] Every person who:

(1) Operates an aircraft either on or over land or water in this state without the consent of the owner of such aircraft; or

~~(2) Operates, or attempts to operate, any aircraft in this state while under the influence of intoxicating liquor or of any narcotic or other habit-forming drug; or~~

~~(3) Knowingly permits any individual who may be under the influence of intoxicating liquor or of any narcotic or other habit-forming drug to operate any aircraft owned by or in the custody or control of such person; or~~

(4) Operates aircraft while in the possession of any federal license, certificate, or permit or any certificate of registration issued by the transportation department of this state, or displays, or causes or permits to be displayed, such federal license, certificate, or permit or such state certificate of registration, knowing either to have been canceled, revoked, suspended, or altered; or

~~(5)~~ (3) Lends to, or knowingly permits the use of by, one not entitled thereto of any federal airman's or aircraft license, certificate, or permit, or any state airman's or aircraft certificate of registration issued to that person; or

~~(6)~~ (4) Displays or represents as the person's own any federal airman's or aircraft license, certificate, or permit or any state airman's or aircraft certificate of registration not issued to that person; or

~~(7)~~ (5) Tamper with, climbs upon or into, makes use of, or navigates any aircraft without the knowledge or consent of the owner or person having control thereof, whether while the same is in motion or at rest, or hurls stones or any other missiles at aircraft, or the occupants thereof, or otherwise damages or interferes with the same, or places upon any portion of any airport any object, obstruction, or other device tending to injure aircraft or parts thereof; or

~~(8)~~ (6) Uses a false or fictitious name, gives a false or fictitious address, knowingly makes any false statement or report, or knowingly conceals a material fact, or otherwise commits a fraud in any application or form required under the provisions of sections 360.011 to 360.076, or by any rules or orders of the commissioner; or

~~(9)~~ (7) Operates any aircraft in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property; or

~~(10)~~ (8) Carries on or over land or water in this state in an aircraft other than a public aircraft any explosive substance except as permitted by the Federal Explosives Act, being the Act of October 6, 1917, as amended by Public Law Number 775, 77th Congress, approved November 24, 1942; or

~~(11)~~ (9) Discharges a gun, pistol, or other weapon in or from any aircraft in this state except as the hunting of certain wild animals from aircraft may be permitted by other laws of this state, or unless the person is the pilot or officer in command of the aircraft or a peace officer or a member of the military or naval forces of the United States, engaged in the performance of duty; or

~~(12)~~ (10) Carries in any aircraft, other than a public aircraft, any shotgun, rifle, pistol, or small arms ammunition except in the manner in which such articles may be lawfully carried in motor vehicles in this state, or is a person excepted from the provisions of clause ~~(11)~~ (9); or

~~(13)~~ (11) Engages in acrobatic or stunt flying without being equipped with a parachute and without providing any other occupants of the aircraft with parachutes and requiring that they be worn; or

~~(14)~~ (12) While in flying over a thickly inhabited area or over a public gathering in this state, engages in trick or acrobatic flying or in any acrobatic feat; or

~~(15)~~ (13) Except while in landing or taking off, flies at such low levels as to endanger persons on the surface beneath, or engages in advertising through the playing of music or transcribed or oral announcements, or makes any noise with any siren, horn, whistle, or other audible device which is not necessary for the normal operation of the aircraft, except that sound amplifying devices may be used in aircraft when operated by or under the authority of any agency of the state or federal government for the purpose of giving warning or instructions to persons on the ground; or

~~(16)~~ (14) Drops any object, except loose water, loose fuel, or loose sand ballast, without the prior written consent of the commissioner of transportation and the prior written consent of the municipality or property owner where objects may land; drops objects from an aircraft that endanger person or property on the ground, or drops leaflets for any purpose whatsoever; or

~~(17)~~ (15) While in flight in an aircraft, whether as a pilot, passenger, or otherwise, endangers, kills or attempts to kill any birds or animals or uses any aircraft for the purpose of concentrating, driving, rallying, or stirring up migratory waterfowl, except as may be permitted by other laws of this state shall be guilty of a misdemeanor.

Sec. 3. Minnesota Statutes 1988, section 360.075, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL PENALTIES, CERTAIN VIOLATIONS.] For any violation of subdivisions 1 and 5, *section 4*, or of any rule issued pursuant to section 360.015, in addition to the penalties provided in this section *or section 4*, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may prohibit the violator from operating an aircraft within the state for such period as it may determine, but not to exceed one year. Violation of the duly imposed prohibition of the court may be punished as a contempt of court. Upon a plea of guilty or conviction under said sections, in any case involving an airman, the court shall issue an order prohibiting the airman from exercising, in the state of Minnesota, the privileges granted to the airman by federal certificate for a period, in the discretion of the court, not to exceed one year, and shall notify the commissioner of any action involving a violation under this section *or section 4* by mailing a report to

the commissioner showing the name and address of the violator, the offense charged, the time and place of violation, the plea, the finding of the court or jury, and the penalty imposed.

Sec. 4. [360.0752] [AIRCRAFT OPERATORS UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES.]

Subdivision 1. [DEFINITION.] As used in this section and section 5, "operate" includes the acts of all crew members with responsibility to operate the aircraft.

Subd. 2. [CRIME.] It is a crime for any person to operate or attempt to operate an aircraft on or over land or water within this state or over any boundary water of this state:

(a) when the person is under the influence of alcohol;

(b) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(c) when the person is under the influence of a combination of any two or more of the elements named in clauses (a), (b), and (f);

(d) when the person's alcohol concentration is 0.04 or more;

(e) when the person's alcohol concentration as measured within two hours of the time of operation or attempted operation is 0.04 or more;

(f) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate the aircraft; or

(g) within eight hours of having consumed any alcoholic beverage or used any controlled substance.

Subd. 3. [ALLOWING OPERATION.] It is a crime for any person to knowingly permit any individual who is in violation of subdivision 2 to operate any aircraft owned by or in the custody or control of the person.

Subd. 4. [ARREST.] A peace officer may lawfully arrest a person for violation of subdivision 2 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence. The express grant of arrest powers in this subdivision does not limit the arrest powers of peace officers pursuant to sections 626.65 to 626.70 or section 629.40 in cases of arrests for violation of subdivision 2 or any other provision of law.

Subd. 5. [EVIDENCE.] Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for operating or attempting to operate an aircraft in violation of subdivision 2, the court may admit evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine as shown by an analysis of those items.

Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 2, clause (e), that the defendant consumed a sufficient quantity of alcohol after the time of the violation and before the administration of the evidentiary test to cause the defendant's

alcohol concentration to exceed 0.04; provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 5, subdivision 4, paragraph (b).

Subd. 6. [CRIMINAL PENALTIES.] (a) A person who violates subdivision 2, clause (g); or 3, is guilty of a misdemeanor.

(b) A person who violates subdivision 2, clauses (a) to (f), is guilty of a gross misdemeanor.

(c) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations shall also be responsible for prosecution of gross misdemeanor violations of this section.

Subd. 7. [PRELIMINARY SCREENING TEST.] When a peace officer has reason to believe that a person may be violating or has violated subdivision 2, the officer may require the person to provide a sample of the person's breath for a preliminary screening test using a device approved by the commissioner of public safety or the commissioner of transportation for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether to require the tests authorized in section 5, but shall not be used in any court action except to prove that a test was properly required of a person pursuant to section 5. Following the screening test, additional tests may be required of the person pursuant to the provisions of section 5.

A person who refuses to furnish a sample of the person's breath is subject to the provisions of section 5 unless, in compliance with section 5, the person submits to a blood, breath, or urine test to determine the presence of alcohol or a controlled substance.

Sec. 5. [360.0753] [TESTING PROCEDURES.]

Subdivision 1. [PEACE OFFICER DEFINED.] For purposes of this section, the term "peace officer" means an employee of a political subdivision or state law enforcement agency who is licensed by the Minnesota board of peace officers standards and training, who is charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state, and who has full power of arrest, and shall also include the Minnesota state patrol and metropolitan airports commission peace officers, but does not include employees of the department of natural resources.

Subd. 2. [IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.] (a) Any person who operates or attempts to operate an aircraft in or over this state or over any boundary water of this state consents, subject to the provisions of this section and section 4, to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has probable cause to believe the person was operating or attempting to operate an aircraft in violation of

section 4 and one of the following conditions exists:

(1) the person has been lawfully placed under arrest for violation of section 4;

(2) the person has been involved in an aircraft accident or collision resulting in property damage, personal injury, or death;

(3) the person has refused to take the screening test provided for by section 4;

(4) the screening test was administered and recorded an alcohol concentration of 0.04 or more; or

(5) the officer had probable cause to believe that the person was operating or attempting to operate an aircraft with any amount of alcohol present in the person's body.

(b) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test to determine the presence of alcohol or to determine if the person is under the influence of alcohol or a controlled substance;

(2) that if testing is refused, the person will be disqualified from operating an aircraft for a minimum period of one year;

(3) that if a test is taken and the results indicate an alcohol concentration of 0.04 or more or that the person is under the influence of a controlled substance, the person will be subject to criminal penalties and the person may be prohibited from operating an aircraft in this state for up to one year;

(4) that after submitting to testing, the person has the right to consult with an attorney and to have additional tests made by someone of the person's own choosing; and

(5) that if the person refuses to take a test, the refusal will be offered into evidence against the person at trial.

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered, and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

Subd. 3. [REQUIREMENT OF URINE OR BLOOD TEST.] Notwithstanding subdivision 2, if there is probable cause to believe there is impairment by a controlled substance that is not subject to testing by a breath test, a urine or blood test may be required even after a breath test has been administered. Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered, and action may be taken against a person who refuses to take a urine test only if a blood test was offered.

Subd. 4. [BREATH TEST USING AN INFRARED BREATH-TESTING INSTRUMENT.] (a) In the case of a breath test administered using an infrared breath-testing instrument, the test shall consist of analyses in the following sequence: one adequate breath sample analysis, one calibration standard analysis, and a second, adequate breath sample analysis.

(b) In the case of a test administered using an infrared breath-testing

instrument, a sample is adequate if the instrument analyzes the sample and does not indicate the sample is deficient.

(c) For purposes of this section, when a test is administered using an infrared breath-testing instrument, failure of a person to provide two separate, adequate breath samples in the proper sequence constitutes a refusal.

Subd. 5. [CONSENT OF PERSON INCAPABLE OF REFUSAL NOT WITHDRAWN.] *A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subdivision 2 and the test may be given.*

Subd. 6. [MANNER OF MAKING TEST; ADDITIONAL TESTS.] *Only a physician, medical technician, physician's trained mobile intensive care paramedic, registered nurse, medical technologist, or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the presence of alcohol or controlled substance. This limitation does not apply to the taking of a breath or urine sample. The person tested has the right to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer. The physician, medical technician, physician's trained mobile intensive care paramedic, medical technologist, laboratory assistant, or registered nurse drawing blood at the request of a peace officer for the purpose of determining alcohol concentration shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test shall be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety or the commissioner of transportation.*

Subd. 7. [REFUSAL TO PERMIT TEST; CEASE AND DESIST ORDER.] *If a person under arrest refuses to permit chemical testing, none shall be given, but the commissioner of transportation, upon the receipt of a certificate of the peace officer that the officer had reasonable and probable grounds to believe the arrested person had been operating or attempting to operate an aircraft in violation of section 4 and that the person had refused to permit the test, shall issue a cease and desist order prohibiting the operation of an aircraft for a period of one year.*

Subd. 8. [NOTICE OF CEASE AND DESIST ORDER; REQUEST FOR HEARING.] *No cease and desist order under subdivision 7 shall be made until the commissioner notifies the person by certified mail of intention to issue a cease and desist order and allows the person a 20-day period after the date of receiving the notice to request of the commissioner, in writing, a hearing as herein provided. If no request is filed within the 20-day period, the commissioner may then issue a cease and desist order. However, if a request for hearing is filed, no cease and desist order shall be made until final judicial determination resulting in an adverse decision to the person.*

Subd. 9. [HEARING.] *The hearing shall be before a district court in the county where the arrest occurred, unless there is agreement that the hearing may be held in some other county. The hearing shall be recorded*

and proceed as in a criminal matter, without the right of trial by jury, and its scope shall cover the issues of whether the peace officer had reasonable and probable grounds to believe the person was operating or attempting to operate an aircraft in violation of section 4; whether the person was lawfully placed under arrest; whether the person refused to permit the test, and if the person refused whether the person had reasonable grounds for refusing to permit the test; and whether at the time of request for the test the peace officer informed the person that the right to fly might be denied if the person refused to permit the test and of the right to have additional tests made by someone of the person's own choosing. The court shall order either that the denial be rescinded or sustained and refer the order to the commissioner of transportation for further action.

Subd. 10. [NOTICE OF ACTION TO OTHER STATES.] When it has been finally determined that a nonresident's privilege to operate an aircraft in this state has been denied, the commissioner shall give information in writing of the action taken to the appropriate federal authorities and any state in which the nonresident operates an aircraft or has a license to operate an aircraft.

Sec. 6. [REPEALER.]

Minnesota Statutes 1988, sections 360.075, subdivision 7; and 360.0751, are repealed."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mrs. Pariseau moved to amend S.F. No. 2177 as follows:

Page 15, line 35, delete "or"

Page 16, line 1, delete the comma and insert "; or

(5) in a negligent manner while having an alcohol concentration of 0.05 or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years,"

Page 16, line 15, delete "or"

Page 16, line 17, delete the comma and insert "; or

(5) in a negligent manner while having an alcohol concentration of 0.05 or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years,"

Page 16, line 30, delete "or"

Page 16, line 32, delete the comma and insert "; or

(5) in a negligent manner while having an alcohol concentration of 0.05 or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years,"

Page 17, line 10, delete "or"

Page 17, line 12, delete the comma and insert "; or

(5) in a negligent manner while having an alcohol concentration of 0.05 or more, if the actor has previously been convicted of violating section

169.121 or 169.129 once within the past five years or two or more times within the past ten years,”

Page 17, line 30, delete “or”

Page 17, line 32, delete the comma and insert “; or

(5) in a negligent manner while having an alcohol concentration of 0.05 or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years,”

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 25, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Johnson, D.E.	McQuaid	Ramstad
Beckman	Decker	Knaak	Mehrkens	Renneke
Belanger	Frank	Kroening	Olson	Storm
Benson	Frederick	Larson	Pariseau	Vickerman
Bernhagen	Frederickson, D.R.	McGowan	Piepho	Waldorf

Those who voted in the negative were:

Adkins	Davis	Freeman	Luther	Morse
Berg	DeCramer	Hughes	Marty	Novak
Bertram	Diessner	Langseth	Merriam	Pogemiller
Chmielewski	Flynn	Lantry	Moe, D.M.	Purfeerst
Cohen	Frederickson, D.J.	Lessard	Moe, R.D.	Spear

The motion did not prevail. So the amendment was not adopted.

Mr. Waldorf moved to amend S.F. No. 2177 as follows:

Page 15, line 35, delete “or”

Page 16, line 1, delete the comma and insert “; or

(5) in a negligent manner while having an alcohol concentration of 0.07 or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years,”

Page 16, line 15, delete “or”

Page 16, line 17, delete the comma and insert “; or

(5) in a negligent manner while having an alcohol concentration of 0.07 or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years,”

Page 16, line 30, delete “or”

Page 16, line 32, delete the comma and insert “; or

(5) in a negligent manner while having an alcohol concentration of 0.07 or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years,”

Page 17, line 10, delete “or”

Page 17, line 12, delete the comma and insert “; or

(5) in a negligent manner while having an alcohol concentration of 0.07

or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years."

Page 17, line 30, delete "or"

Page 17, line 32, delete the comma and insert "; or

(5) in a negligent manner while having an alcohol concentration of 0.07 or more, if the actor has previously been convicted of violating section 169.121 or 169.129 once within the past five years or two or more times within the past ten years,"

CALL OF THE SENATE

Mr. Spear imposed a call of the Senate for the balance of the proceedings on S.F. No. 2177. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Waldorf amendment.

Mr. Waldorf moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 26 and nays 34, as follows:

Those who voted in the affirmative were:

Anderson	Decker	Knaak	Mehrkens	Storm
Beckman	Diessner	Kroening	Olson	Waldorf
Belanger	Frank	Langseth	Pariseau	
Benson	Frederick	Larson	Piepho	
Bernhagen	Frederickson, D.R.	McGowan	Ramstad	
Brataas	Johnson, D.E.	McQuaid	Renneke	

Those who voted in the negative were:

Adkins	DeCramer	Lantry	Moe, R.D.	Samuelson
Berg	Dicklich	Lessard	Morse	Schmitz
Bertram	Flynn	Luther	Novak	Solon
Brandl	Frederickson, D.J.	Marty	Pehler	Spear
Chmielewski	Freeman	Merriam	Peterson, R.W.	Stumpf
Cohen	Hughes	Metzen	Pogemiller	Vickerman
Davis	Johnson, D.J.	Moe, D.M.	Reichgott	

The motion did not prevail. So the amendment was not adopted.

S.F. No. 2177 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2178 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2178: A bill for an act relating to peace officer education; requiring the POST board and the state higher education boards to study ways of restructuring professional peace officer education programs to include a requirement for a baccalaureate degree; requiring a report to the legislature; increasing the percentage of penalty assessments funds allocated for skills course reimbursement; amending Minnesota Statutes 1988, section 626.86; repealing Minnesota Statutes 1989 Supplement, section 626.861, subdivision 4.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 52 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2160 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2160: A bill for an act relating to education; providing for the environmental education act; creating the office of environmental education; proposing coding for new law as Minnesota Statutes, chapter 126A; repealing Minnesota Statutes 1988, sections 116E.01; 116E.02; 116E.03, subdivisions 2, 3, 4, 5, 6, 7, 7a, 8, and 9; and 116E.04; Minnesota Statutes 1989 Supplement, sections 116E.03, subdivision 1; and 116E.035.

Mrs. Pariseau moved to amend S.F. No. 2160 as follows:

Page 2, line 27, after the period, insert "*Four of the citizen members shall have completed at least master's level programs in natural resource management, education, or the natural sciences.*"

Page 3, line 22, delete "*may*" and insert "*shall*"

Mr. Merriam requested division of the amendment as follows:

First portion:

Page 3, line 22, delete "may" and insert "shall"

Second portion:

Page 2, line 27, after the period, insert "*Four of the citizen members shall have completed at least master's level programs in natural resource management, education, or the natural sciences.*"

The question was taken on the adoption of the first portion of the amendment. The motion prevailed. So the first portion of the amendment was adopted.

The question was taken on the adoption of the second portion of the amendment. The motion did not prevail. So the second portion of the amendment was not adopted.

S.F. No. 2160 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 49 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Johnson, D.J.	Mehrkens	Ramstad
Anderson	DeCramer	Knaak	Merriam	Renneke
Beckman	Diessner	Knutson	Metzen	Samuelson
Belanger	Frank	Kroening	Moe, R.D.	Schmitz
Berg	Frederick	Lantry	Morse	Solon
Bernhagen	Frederickson, D.J.	Larson	Novak	Storm
Bertram	Frederickson, D.R.	Luther	Olson	Stumpf
Chmielewski	Freeman	Marty	Piepho	Vickerman
Cohen	Hughes	McGowan	Piper	Waldorf
Davis	Johnson, D.E.	McQuaid	Pogemiller	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2037 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2037: A bill for an act relating to agriculture; changing the definition of farm products; changing provisions related to wholesale produce dealers; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 17.14, subdivision 3; 27.01, subdivisions 2, 5, 8, and by adding a subdivision; 27.03, subdivision 1, and by adding subdivisions; 27.04; 27.041; 27.05; 27.06; and 27.19; proposing coding for new law in Minnesota Statutes, chapter 27.

Mr. Morse moved to amend S.F. No. 2037 as follows:

Page 15, after line 11, insert:

"Sec. 19. [EFFECTIVE DATE.]

This act is effective July 1, 1990, except section 11, subdivision 2, is effective the day following final enactment and applies to licenses issued or renewed under that subdivision."

The motion prevailed. So the amendment was adopted.

Mr. Morse then moved to amend S.F. No. 2037 as follows:

Page 10, after line 25, insert:

“Sec. 15. [27.137] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to this section and section 16.

Subd. 2. [COMMISSIONER.] “Commissioner” means the commissioner of agriculture.

Subd. 3. [DUE DATE.] “Due date” has the definition given in section 27.01, subdivision 5.

Subd. 4. [PERSON.] “Person” means an individual, partnership, corporation, firm, or association.

Subd. 5. [PROCEEDS.] “Proceeds” means whatever is received upon the sale, exchange, collection, or transfer of produce, products of produce, or proceeds from the produce or products of produce.

Subd. 6. [PRODUCE.] “Produce” means perishable fruits and vegetables, milk and cream and products manufactured from milk and cream, and poultry and poultry products.

Subd. 7. [PRODUCTS OF PRODUCE.] “Products of produce” means products derived from produce through manufacturing, processing, or packaging.

Subd. 8. [SELLER.] “Seller” means a farmer or wholesale produce dealer, whether the person is the owner of the produce or produces it for another person who holds title to the produce.

Subd. 9. [TRUST ASSETS.] “Trust assets” means produce, products of produce, and proceeds from the produce or products of produce.

Subd. 10. [WHOLESALE PRODUCE DEALER.] “Wholesale produce dealer” has the meaning given in section 27.01, subdivision 8, and includes the person whether or not the person is licensed.

Sec. 16. [27.138] [WHOLESALE PRODUCE DEALERS’ TRUST.]

Subdivision 1. [TRUST ESTABLISHMENT AND MAINTENANCE.] (a) The produce and products of produce of a wholesale produce dealer and proceeds are held in trust for the benefit of unpaid sellers.

(b) The trust assets are to be maintained as a nonsegregated floating trust. Commingling of the trust assets is contemplated.

(c) The wholesale produce dealer must maintain the trust assets in a manner that makes the trust assets freely available to satisfy the amounts owed to unpaid sellers and may not divert trust assets in a manner that impairs the ability of unpaid sellers to recover amounts due.

(d) A wholesale produce dealer must maintain the trust assets in trust until payment has been made in full to unpaid sellers. Payment is not made if a seller receives a payment instrument that is dishonored.

(e) A wholesale produce dealer holds trust assets in trust for the seller except that the wholesale produce dealer may transfer title to trust assets if the proceeds of the transfer are maintained as trust assets. Until a seller is paid, a wholesale produce dealer does not transfer title to trust assets:

(1) in a transaction made to another wholesale produce dealer;

(2) in a transaction intended to impair the ability of unpaid sellers to recover amounts due; or

(3) for which the value is inadequate to satisfy filed beneficiaries notices.

Subd. 2. [SELLERS' RIGHTS TO TRUST ASSETS.] (a) An unpaid seller may recover trust assets for the net amount unpaid after the due date after allowing deductions of contemplated expenses or advances made in connection with the transaction. An amount is considered unpaid if a seller receives a payment instrument that is dishonored.

(b) An unpaid seller may recover trust assets after filing a beneficiaries notice with the wholesale produce dealer to whom the produce was transferred, the commissioner, and the appropriate filing office under section 336.9-401 as if the trust were a security interest in the trust assets by 40 days after the due date for the payment to the seller or 40 days after a payment instrument to the seller for the produce is dishonored, whichever is later.

Subd. 3. [BENEFICIARIES NOTICE.] (a) A beneficiaries notice must be in writing and in a form prescribed by the commissioner after consultation with the secretary of state.

(b) The beneficiaries notice must contain:

(1) the name and address of the seller;

(2) the name and address of the wholesale produce dealer maintaining the trust assets;

(3) the produce, amount of produce, amount to be paid the seller, and the due date of transactions that are unpaid or, if appropriate, the date a payment instrument was dishonored; and

(4) a description of the trust assets.

(c) The filing officer shall enter on the beneficiaries notice the time of day and date of filing. The filing officer shall accept filings, amendments, and terminations of a beneficiaries notice and charge the same filing fees as provided in section 336.9-403 for a financing statement. A beneficiaries notice is void and may be removed from the filing system 18 months after the date of filing. The beneficiaries notice may be physically destroyed 30 months after the date of filing.

Subd. 4. [PRIORITY OF UNPAID SELLERS' INTERESTS IN TRUST ASSETS.] (a) The unpaid sellers' interest in trust assets is paramount to all other liens, security interests, and encumbrances in the trust assets. An unpaid seller who recovers trust assets recovers them free of any liens, security interests, or encumbrances.

(b) If the trust assets are inadequate to pay unpaid sellers the amount due, the unpaid sellers shall share proportionately in the trust assets.

Subd. 5. [RECOVERY ACTIONS.] An action to recover trust assets may be brought in district court in a county where trust assets are located after the beneficiaries notice is filed. The beneficiaries notice may be amended, except the amount due, by leave of the court in furtherance of justice. An action to recover trust assets is barred if it is not brought by 18 months after the date the beneficiaries notice is filed.

Subd. 6. [TERMINATIONS OF BENEFICIARIES NOTICE.] A seller must terminate a beneficiaries notice by ten days after the amount due for

the wholesale produce dealer is paid. The commissioner may terminate a beneficiaries notice upon request and demonstration by the wholesale produce dealer that the amounts due under the beneficiaries notice have been paid.

Sec. 17. [27.185] [SEIZURE AND CONFISCATION OF MOTOR VEHICLES.]

Subdivision 1. [SEIZURE.] (a) A sheriff on request of the commissioner must seize all motor vehicles in the name of the state that are used to sell or transport produce in violation of this chapter.

Subd. 2. [PROCEDURE FOR CONFISCATION OF PROPERTY SEIZED.] The sheriff must hold the seized property, subject to the order of the court having jurisdiction where the offense was committed. The property held is confiscated when the commissioner complies with this section and the person from whom it was seized is convicted of the offense.

Subd. 3. [COMPLAINT AGAINST PROPERTY.] The commissioner shall file with the court a separate complaint against the property held. The complaint must identify the property, describe its use in the violation, and specify the time and place of the violation. A copy of the complaint must be served upon the defendant or the owner of the property.

Subd. 4. [RELEASE OF PROPERTY AFTER POSTING BOND.] At any time after seizure of the property specified in this section, the property must be returned to the owner or person having the legal right to possession upon execution of a valid bond to the state with a corporate surety. The bond must be approved by a judge of the court of jurisdiction, conditioned to abide by an order and judgment of the court and to pay the full value of the property at the time of seizure. The bond must be for \$100 or for a greater amount not more than twice the value of the property seized.

Subd. 5. [COURT ORDER.] (a) If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the person legally entitled to it.

(b) Upon conviction of the person, the court shall issue an order directed to any person that may have any right, title, or interest in, or lien upon, the seized property. The order must describe the property and state that it was seized and that a complaint against it has been filed. The order shall require a person claiming right, title, or interest in, or lien upon, the property to file with the court administrator an answer to the complaint, stating the claim, within ten days after the service of the order. The order shall contain a notice that if the person fails to file an answer within the time limit, the property may be ordered sold by the commissioner.

(c) The court order must be served upon any person known or believed to have any right, title, interest, or lien in the same manner as provided for service of a summons in a civil action, and upon unknown persons by publication, in the same manner as provided for publication of a summons in a civil action.

Subd. 6. [COURT ORDERED SALE AFTER NO ANSWER.] If an answer is not filed within the time provided in subdivision 5, the court administrator shall notify the court and the court shall order the commissioner to sell the property. The net proceeds of the sale shall be deposited in the state treasury and credited to the game and fish fund.

Subd. 7. [HEARING AFTER ANSWER.] If an answer is filed within

the time provided in subdivision 5, the court shall schedule a hearing within ten to 30 days after the time expired for filing the answer. The court, without a jury, shall determine whether any of the property was used in a violation specified in the complaint and whether the owner had knowledge or reason to believe that the property was being used, or intended to be used, in the violation. The court shall order the commissioner to sell the property that was unlawfully used with knowledge of the owner and to return to the owner property that was not unlawfully used with the knowledge of the owner. If the property is to be sold, the court shall determine the priority of liens against the property and whether the lienholders had knowledge that the property was being used or was intended to be used. Lienholders that had knowledge of the property's use in the violation are not to be paid. The court order must state the priority of the liens to be paid.

Subd. 8. [PROCEEDS OF SALE.] After determining the expense of seizing, keeping, and selling the property, the commissioner must pay the liens from the proceeds according to the court order. The remaining proceeds shall be deposited in the state treasury and credited to the general fund.

Subd. 9. [CANCELLATION OF SECURITY INTERESTS.] A sale under this section cancels all liens on and security interests in the property sold."

Page 13, delete lines 30 to 36

Page 14, delete lines 1 and 2

Pages 14 and 15, delete section 16

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2037 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1779 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1779: A bill for an act relating to agriculture; providing for mediation and arbitration of certain contract disputes; providing for recapture of capital investments required by certain agricultural contracts; clarifying responsibility of parent companies for affiliates; requiring good faith; prohibiting unfair practices; creating an ombudsman; appropriating money; amending Laws 1989, chapter 350, article 20, section 25; proposing coding for new law in Minnesota Statutes, chapters 17 and 514.

Mr. Davis moved to amend S.F. No. 1779 as follows:

Page 3, line 28, after "19," insert "by all parties"

Page 4, line 7, after "guarantee" insert "from the provider of the inputs"

Page 6, line 11, after "(3)" insert "the date"

Page 6, line 27, after the period, insert "*If the lienholder does not remove the lien statement the commissioner shall remove the lien statement upon request of an affected party and providing proof is furnished that the lien has been terminated.*"

The motion prevailed. So the amendment was adopted.

S.F. No. 1779 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	McQuaid	Ramstad
Anderson	Decker	Knaak	Mehrkens	Renneke
Beckman	DeCramer	Knutson	Merriam	Samuelson
Belanger	Diessner	Kroening	Metzen	Schmitz
Benson	Frank	Langseth	Moe, D.M.	Solon
Berg	Frederick	Lantry	Moe, R.D.	Stumpf
Bernhagen	Frederickson, D.J.	Larson	Morse	Vickerman
Bertram	Frederickson, D.R.	Lessard	Novak	Waldorf
Brataas	Freeman	Luther	Olson	
Chmielewski	Hughes	Marty	Piepho	
Cohen	Johnson, D.E.	McGowan	Piper	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2490 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2490: A bill for an act relating to workers' compensation; including mentally retarded persons and those with related conditions to the list of registrable conditions for the subsequent disability special fund; providing rapid response to injured employees; regulating medical data access; providing for preventative treatment to employees exposed to rabies; regulating notice of insurance coverage and cancellation; amending Minnesota Statutes 1988, sections 176.102, by adding a subdivision; 176.131, subdivision 8; 176.138; 176.185, subdivision 1; 176.231, by adding a subdivision; Minnesota Statutes 1989 Supplement, section 176.135, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 176.

Mr. Chmielewski moved to amend S.F. No. 2490 as follows:

Page 1, after line 23, insert:

"Sec. 2. Minnesota Statutes 1988, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury results in disability or death, and if the injury, death, or disability would not have occurred except for the preexisting physical impairment registered with the special compensation fund, the employer shall pay all compensation provided by this chapter, and shall be fully reimbursed from the special compensation fund for the compensation except that this full reimbursement shall not be made for cardiac disease or a condition registered pursuant to subdivision 8, clause ~~(t)~~ (u) or ~~(u)~~ (v), unless the commissioner by rule provides otherwise."

Page 6, line 8, delete "All other" and insert "Nonwritten" and delete "described"

Page 6, line 9, delete "above" and delete "are" and insert "is"

Page 6, line 28, reinstate the stricken "This" and after the stricken "section" insert "clause" and reinstate the stricken "applies only to written medical data"

Page 6, line 29, reinstate the stricken language

Page 7, line 11, after the period, insert "*Any person who is the subject of the data which is used in a manner not allowed by this section has a cause of action for actual damages and punitive damages for a minimum of \$5,000.*"

Renumber the sections in sequence and correct the internal references
Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski then moved to amend S.F. No. 2490 as follows:

Pages 7 and 8, delete section 6 and insert:

"Sec. 6. Minnesota Statutes 1988, section 176.185, subdivision 1, is amended to read:

Subdivision 1. [NOTICE OF COVERAGE, TERMINATION, CANCELLATION.] (a) Within ten days after the issuance of a policy of insurance covering the liability to pay compensation under this chapter written by an insurer licensed to insure such liability in this state, the insurer shall file notice of coverage with the commissioner under rules and on forms prescribed by the commissioner. No policy shall be canceled by the insurer within the policy period nor terminated upon its expiration date until a notice in writing is delivered or mailed to the insured and filed with the commissioner, fixing the date on which it is proposed to cancel it, or declaring that the insurer does not intend to renew the policy upon the expiration date. A cancellation or termination is not effective until 30 days after written notice has been filed with the commissioner in a manner prescribed by the commissioner unless prior to the expiration of the 30-day period the employer obtains other insurance coverage or an order exempting the employer from carrying insurance as provided in section 176.181. Upon receipt of the notice the commissioner shall notify the insured that the insured must obtain coverage from some other licensed

carrier and that, if unable to do so, the insured shall request the commissioner of commerce to require the issuance of a policy as provided in section 79.251, subdivision 4. Upon a cancellation or termination of a policy by the insurer the employer is entitled to be assigned a policy in accordance with sections 79.251 and 79.252.

(b) Notice of cancellation or termination by the insured shall be served upon the insurer by written statement mailed or delivered to the insurer. Upon receipt of the notice the insurer shall notify the commissioner of the cancellation or termination and the commissioner shall ask the employer for the reasons for the cancellation or termination and notify the employer of the duty under this chapter to insure the employer's employees.

(c) *In addition to the requirements under paragraphs (a) and (b), with respect to any trucker employer in classifications 7219, 7230, 7231, or 7360 pursuant to the classification plan required to be filed under section 79.61, if the insurer or its agent has delivered or mailed a written certificate of insurance certifying that a policy in the name of a trucker employer under this paragraph is in force, then the insurer or its agent shall also deliver or mail written notice of any mid-term cancellation to the trucker employer recipient of the certificate of insurance at the address listed on the certificate. If an insurer or its agent fails to mail or deliver notice of any mid-term cancellation of the trucker employer's policy to the trucker employer recipient of the certificate of insurance, then the special compensation fund shall indemnify and hold harmless the recipient from any award of benefits or other damages under this chapter resulting from the failure to give notice."*

The motion prevailed. So the amendment was adopted.

Mrs. Brataas moved to amend S.F. No. 2490 as follows:

Page 1, delete section 1

Pages 4 and 5, delete section 4

Page 8, delete section 7

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Merriam moved to amend S.F. No. 2490 as follows:

Page 7, line 7, delete everything after "claim"

Page 7, delete lines 8 and 9

Page 7, line 10, delete "the contrary"

Page 7, line 11, before the period, insert "and must be destroyed after verification that there has been no duplicative billing"

The motion prevailed. So the amendment was adopted.

S.F. No. 2490 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Hughes	McGowan	Piper
Anderson	Davis	Johnson, D.E.	McQuaid	Pogemiller
Beckman	Decker	Johnson, D.J.	Mehrkens	Ramstad
Belanger	DeCramer	Knutson	Merriam	Renneke
Benson	Diessner	Kroening	Metzen	Schmitz
Berg	Frank	Lantry	Moe, R.D.	Solon
Bernhagen	Frederick	Larson	Morse	Storm
Bertram	Frederickson, D.J.	Lessard	Novak	Stumpf
Brataas	Frederickson, D.R.	Luther	Olson	Vickerman
Chmielewski	Freeman	Marty	Piepho	Waldorf

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 851 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 851: A bill for an act relating to courts; increasing certain fees collected by the court administrator; amending Minnesota Statutes 1988, sections 171.06, subdivisions 2 and 4; 357.021, subdivision 2; and 525.22.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 37 and nays 11, as follows:

Those who voted in the affirmative were:

Anderson	Frank	Knaak	McQuaid	Schmitz
Beckman	Frederick	Kroening	Merriam	Solon
Brataas	Frederickson, D.J.	Laidig	Metzen	Stumpf
Cohen	Frederickson, D.R.	Lantry	Moe, R.D.	Vickerman
Davis	Freeman	Lessard	Morse	Waldorf
Decker	Hughes	Luther	Novak	
DeCramer	Johnson, D.E.	Marty	Olson	
Diessner	Johnson, D.J.	McGowan	Piper	

Those who voted in the negative were:

Belanger	Bertram	Knutson	Piepho	Renneke
Benson	Chmielewski	Larson	Ramstad	Storm
Bernhagen				

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2126 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2126: A bill for an act relating to health; providing regulations for bulk pesticide storage; amending provisions relating to pesticide registration fees and application fees; requiring permits for sources of irrigation water; requiring a permit for construction of a fertilizer distribution facility; requiring a responsible party to immediately take reasonable action necessary to abate an agricultural chemical incident; requiring certain administrative hearings on contested orders within 14 days; crediting certain agricultural penalties to the pesticide or fertilizer regulatory accounts; amending provisions relating to the agricultural chemical response and reimbursement fee; appropriating money from the general fund to be reimbursed with response and reimbursement fees; amending provisions relating

to response and reimbursement eligibility; providing commissioner of agriculture authority under chapter 115B for agricultural chemical incidents; clarifying requirements for water well construction and ownership; clarifying provisions for at-grade monitoring wells; establishing reduced isolation distances for facilities with safeguards; clarifying conditions to issue a limited well contractor's license; amending effective dates; amending appropriations; amending Minnesota Statutes 1988, sections 18B.14, subdivision 2; 18B.27, subdivision 3; 18B.28, subdivision 4; 105.37, by adding a subdivision; 105.41, subdivision 4, and by adding a subdivision; 115B.02, subdivisions 3, 4, and by adding a subdivision; Minnesota Statutes 1989 Supplement, sections 18B.26, subdivision 3; 18C.205, subdivision 2; 18C.305, subdivision 1; 18D.103, subdivision 1; 18D.321, subdivision 2; 18E.03, subdivisions 3, 5, and by adding a subdivision; 18E.04, subdivision 1; 103B.3369, subdivision 5; 103I.005, subdivisions 2, 8, 9, 16, and by adding a subdivision; 103I.101, subdivisions 2, 5, and 6; 103I.111, subdivision 5, and by adding a subdivision; 103I.205, subdivisions 1, 2, 4, 5, 6, and 8; 103I.208, subdivision 2; 103I.235; 103I.301, subdivision 3; 103I.311, subdivision 3; 103I.325, subdivision 2; 103I.525, subdivisions 1, 5, and 6; 103I.531, subdivision 4; 103I.541, subdivision 1, and by adding subdivisions; 103I.681; 103I.685; 103I.691; 103I.705, subdivisions 2 and 3; 105.41, subdivisions 1c and 5a; Laws 1989, chapters 326, article 3, section 49; article 6, section 33, subdivision 2; article 8, section 10; and 335, article 1, section 23, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 18D and 103I; repealing Minnesota Statutes 1988, section 115B.17, subdivision 8; Minnesota Statutes 1989 Supplement, sections 103I.005, subdivision 19; 103I.211; 103I.301, subdivision 5; 103I.321; and 103I.325, subdivision 1.

Mr. Morse moved to amend S.F. No. 2126 as follows:

Page 21, line 3, after "if" insert "*the closing occurs before November 1, 1990, or*"

Page 21, after line 7, insert:

"If a deed is given pursuant to a contract for deed, the well certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer."

Page 22, line 15, strike "and reasonable attorney fees"

Page 22, line 16, before the comma, insert "*and reasonable attorney fees for collection of costs from the seller*"

Page 31, line 4, after "terminated" insert "*for reasons relating to design life*"

Page 37, after line 11, insert:

"Sec. 67. [RESPONSE TO AGRICULTURAL CHEMICAL INCIDENTS.]

The commissioner of agriculture may take corrective action under Minnesota Statutes, chapter 18D, or response and remedial action under Minnesota Statutes, chapter 115B, or both, as provided under those chapters, in responding to an agricultural chemical incident, release, or threatened release."

Page 37, line 22, delete "13" and insert "14"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Morse then moved to amend S.F. No. 2126 as follows:

Page 33, after line 35, insert:

"Sec. 59. Minnesota Statutes 1989 Supplement, section 116C.69, subdivision 3, is amended to read:

Subd. 3. [FUNDING; ASSESSMENT.] The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site certificates and construction permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the board against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Until June 30, 1992, the assessment shall also include an amount sufficient to cover 60 percent of the costs to the pollution control agency of achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45, reprinting informational booklets on acid rain, and costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The director of the pollution control agency must prepare a work plan and budget and submit them annually by June 30 to the pollution control agency board. The agency board must take public testimony on the budget and work plan. After the agency board approves the work plan and budget they must be submitted annually to the legislative water commission ~~on waste management~~ for review and recommendation before an assessment is levied. Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the board. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the board for carrying out the purposes of this subdivision plus 60 percent of the annual budget of the pollution control agency for achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45, for reprinting informational booklets on acid rain, and for costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The assessment for the second quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the board and the pollution control agency for the preceding fiscal year were more or less than the estimated expenditures previously assessed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Waldorf moved to amend S.F. No. 2126 as follows:

Page 30, line 35, delete "2010" and insert "1999"

The motion did not prevail. So the amendment was not adopted.

S.F. No. 2126 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 52 and nays 4, as follows:

Those who voted in the affirmative were:

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

Messrs. Berg, Decker, Larson and Renneke voted in the negative.

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 576 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 576: A bill for an act relating to human services; providing that medical certification for general assistance benefits may be made by a licensed chiropractor; amending Minnesota Statutes 1988, section 256D.02, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 49 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.E.	McQuaid	Piper
Anderson	Davis	Johnson, D.J.	Mehrkens	Ramstad
Beckman	Decker	Knaak	Merriam	Renneke
Belanger	DeCramer	Kroening	Metzen	Schmitz
Benson	Diessner	Laidig	Moe, D.M.	Solon
Berg	Frank	Langseth	Morse	Storm
Bernhagen	Frederick	Lantry	Novak	Stumpf
Bertram	Frederickson, D.J.	Lessard	Olson	Vickerman
Brataas	Frederickson, D.R.	Marty	Pehler	Waldorf
Chmielewski	Hughes	McGowan	Piepho	

Messrs. Brandl and Knutson voted in the negative.

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2609 a Special Order to be heard

immediately.

SPECIAL ORDER

S.F. No. 2609: A bill for an act relating to the environment; providing for the management and cleanup of tax-forfeited lands; requiring a report by the pollution control agency; authorizing a levy by Lake county; authorizing a purchase of tax-forfeited land in St. Louis county; amending Minnesota Statutes 1988, sections 115B.02, subdivision 11; 115B.03, by adding a subdivision; 115C.02, subdivision 8; 115C.021, by adding a subdivision; 116.49, by adding a subdivision; and 282.08; proposing coding for new law in Minnesota Statutes, chapter 282.

Mr. Morse moved to amend S.F. No. 2609 as follows:

Page 4, line 1, delete “, its” and insert “*or the commissioner of agriculture, their*”

Page 4, lines 10 and 27, after “agency” insert “*or the commissioner of agriculture*”

Page 5, lines 3, 25, 28, and 34, after “agency” insert “*or the commissioner of agriculture*”

Page 6, lines 1 and 3, after “agency” insert “*or the commissioner of agriculture*”

Page 7, line 9, after “agency” insert “*or the commissioner of agriculture*” in both places

Page 8, after line 1, insert:

“Sec. 9. Minnesota Statutes 1988, section 514.671, subdivision 2, is amended to read:

Subd. 2. [AGENCY.] “Agency” means the pollution control agency *and the commissioner of agriculture*.

Sec. 10. Minnesota Statutes 1988, section 514.671, subdivision 5, is amended to read:

Subd. 5. [COMMISSIONER.] “Commissioner” means the commissioner of the pollution control agency *and the commissioner of agriculture*.”

Page 8, line 15, after “agency” insert “*and the commissioner of agriculture*”

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Johnson, D.J. moved to amend S.F. No. 2609 as follows:

Page 9, after line 7, insert:

“Sec. 12. [ST. LOUIS COUNTY; LEASE OF RESTRICTED LAND.]

Notwithstanding Minnesota Statutes, section 84.027, subdivision 10, or other law to the contrary, the city of Cook may lease the St. Louis county highway garage No. 4106 and the surrounding premises as described in this section for economic development purposes.

The property that may be leased for economic development purposes is

described as:

Lots 24 through 32, Block 12, Plat of Ashawa, City of Cook."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2609 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 41 and nays 15, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.J.	Mehrrens	Schmitz
Anderson	Davis	Knaak	Metzen	Solon
Beckman	DeCramer	Kroening	Moe, D.M.	Storm
Belanger	Diessner	Laidig	Moe, R.D.	Stumpf
Bernhagen	Frank	Langseth	Morse	Vickerman
Bertram	Frederickson, D.J.	Lantry	Novak	
Brataas	Frederickson, D.R.	Lessard	Pehler	
Chmielewski	Hughes	Luther	Piper	
Cohen	Johnson, D.E.	Marty	Renneke	

Those who voted in the negative were:

Benson	Decker	Larson	Merriam	Piepho
Berg	Frederick	McGowan	Olson	Ramstad
Brandl	Knutson	McQuaid	Peterson, R. W.	Waldorf

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1473 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1473: A bill for an act relating to the environment; requiring a report to the legislature on carbon dioxide emissions; appropriating money.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules

and Administration, designated S.F. No. 2223 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2223: A bill for an act relating to local government; reauthorizing Ramsey county and the city of St. Paul to issue general obligation bonds to finance the restoration of the concourse of the St. Paul union depot; repealing Minnesota Statutes 1988, section 383A.65, as amended.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 173 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 173: A bill for an act relating to agriculture; providing customer information when artificial cheese is used in certain foods; proposing coding for new law in Minnesota Statutes, chapter 31.

Mr. Vickerman moved to amend H.F. No. 173, as amended pursuant to Rule 49, adopted by the Senate April 5, 1990, as follows:

(The text of the amended House File is identical to S.F. No. 2468.)

Page 1, line 9, delete "ARTIFICIAL" and delete "PRODUCTS" and insert "PRODUCT SUBSTITUTES"

Page 1, line 18, delete "ARTIFICIAL" and delete "PRODUCTS" and insert "PRODUCT SUBSTITUTES"

Page 1, line 26, delete "*used principally for cosmetic purposes*"

Amend the title as follows:

Page 1, lines 3 and 5, delete "artificial" and delete "products" and insert "product substitutes"

The motion prevailed. So the amendment was adopted.

H.F. No. 173 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 27 and nays 27, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Hughes	Metzen	Solon
Beckman	Decker	Johnson, D.J.	Moe, R.D.	Stumpf
Bertram	DeCramer	Langseth	Morse	Vickerman
Chmielewski	Dicklich	Larson	Piper	
Cohen	Diessner	Lessard	Pogemiller	
Dahl	Frederickson, D.J.	Luther	Schmitz	

Those who voted in the negative were:

Anderson	Brataas	Knutson	McQuaid	Renneke
Belanger	Frank	Kroening	Mehrkens	Storm
Benson	Frederick	Laidig	Merriam	Waldorf
Berg	Frederickson, D.R.	Lantry	Olson	
Bernhagen	Johnson, D.E.	Marty	Piepho	
Brandl	Knaak	McGowan	Ramstad	

So the bill, as amended, failed to pass.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1854 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1854: A bill for an act relating to real estate; validating certain cancellation of contracts; validating certain conveyances by religious corporations; allowing county boards to set certain fees charged by the examiner of titles; providing for the effect of dissolution on joint tenancy; permitting the filing of summaries of dissolution judgments in real estate filings; clarifying provisions on certain liens by reordering clauses; amending Minnesota Statutes 1988, sections 287.01, by adding a subdivision; 500.19, subdivision 5; and 514.12, subdivision 3; Minnesota Statutes Second 1989 Supplement, section 508A.82; proposing coding for new law in Minnesota Statutes, chapters 315, 518, and 559; repealing Minnesota Statutes 1988, section 580.031.

Mr. Peterson, R.W. moved that the amendment made to H.F. No. 1854 by the Committee on Rules and Administration in the report adopted April 9, 1990, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Mr. Luther moved to amend H.F. No. 1854 as follows:

Page 7, after line 8, insert:

"Sec. 9. Laws 1989, chapter 344, section 13, subdivision 1, is amended to read:

Subdivision 1. [INCREASE IN LIMITS.] The conciliation court jurisdictional limits provided in sections 1, 2, 5, 6, 9, and 10, *other than the \$2,000 limit for actions involving consumer credit transactions*, shall increase to \$4,000 on July 1, 1990."

Page 7, line 17, delete "Section 9 is" and insert "Sections 9 and 10 are"

Renumber the sections in sequence and correct the internal references
Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1854 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

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

S.F. No. 2173: A bill for an act relating to the environment; providing assistance to eligible recipients on methods to prevent toxic pollution; providing financial assistance to research and demonstrate alternative means to prevent toxic pollution; requiring facilities to develop plans to prevent toxic pollution; providing for chlorofluorocarbon reduction; requiring an air pollution study; providing penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 116 and 325E; proposing coding for new law as Minnesota Statutes, chapter 115D.

Senate File No. 2173 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1990

Mr. Lessard moved that the Senate do not concur in the amendments by the House to S.F. No. 2173, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following

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

S.F. No. 1983: A bill for an act relating to liquor; authorizing the metropolitan airports commission to issue off-sale liquor licenses for the sale of Minnesota wine; amending Minnesota Statutes 1988, section 340A.405, by adding a subdivision.

Senate File No. 1983 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1990

Mr. Bertram moved that the Senate do not concur in the amendments by the House to S.F. No. 1983, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 1807: A bill for an act relating to local government; permitting the issuance of obligations by the Hennepin county board for a public safety building; permitting Rosemount to incur debt for an armory; requiring a planning process and public hearing.

Senate File No. 1807 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1990

Mr. Moe, R.D. moved that S.F. No. 1807 be laid on the table. The motion prevailed.

Mr. President:

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

S.F. No. 1854: A bill for an act relating to government data practices; establishing procedures for computerized comparisons of data; requiring matching agreements; providing for contesting of data; requiring reviews and reports; imposing penalties; proposing coding for new law as Minnesota Statutes, chapter 13B.

Senate File No. 1854 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1990

Mr. Peterson, R.W. moved that the Senate do not concur in the amendments by the House to S.F. No. 1854, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 2156: A bill for an act relating to local government; allowing municipalities to enter into certain contracts to reduce energy and operating costs; amending Minnesota Statutes 1988, section 471.345, by adding a subdivision; repealing Minnesota Statutes 1988, section 471.345, subdivision 9.

Senate File No. 2156 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1990

Mr. Pehler moved that the Senate do not concur in the amendments by the House to S.F. No. 2156, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2131, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2131 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 11, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2131

A bill for an act relating to crimes; prohibiting wild land arson fires; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

April 9, 1990

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 2131, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment and that H.F. No. 2131 be further amended as follows (page and line references are to S.F. No. 2175, the second engrossment):

Page 1, line 21, delete "*felony*" and insert "*gross misdemeanor*"

Page 2, line 4, delete "*three years*" and insert "*one year*"

Page 2, line 5, delete "\$5,000" and insert "\$3,000"

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Bob Johnson, Randy C. Kelly, Dave Bishop, Dennis Ozment, Tom Rukavina

Senate Conferees: (Signed) Gregory L. Dahl, Gene Merriam, Fritz Knaak, Randolph W. Peterson, Bob Lessard

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2131 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2131 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2025, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2025 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 11, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2025

A bill for an act relating to agriculture; creating a restricted seed potato growing area and historic certified seed potato area; providing restrictions; requiring a study; imposing a penalty; proposing coding for new law in Minnesota Statutes, chapter 21.

April 6, 1990

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 2025, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Jim Tunheim, Jerry J. Bauerly, Bernard L. Lieder

Senate Conferees: (Signed) LeRoy A. Stumpf, Keith Langseth

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2025 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2025 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 10, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.E.	Metzen	Schmitz
Anderson	Dahl	Johnson, D.J.	Moe, R.D.	Solon
Beckman	Davis	Kroening	Morse	Storm
Belanger	Decker	Laidig	Novak	Stumpf
Berg	DeCramer	Langseth	Pehler	Vickerman
Bernhagen	Diessner	Lessard	Peterson, R.W.	Waldorf
Bertram	Frank	Luther	Piper	
Brandl	Frederickson, D.J.	Marty	Pogemiller	
Brataas	Frederickson, D.R.	McGowan	Ramstad	
Chmielewski	Hughes	Merriam	Renneke	

Those who voted in the negative were:

Benson	Knaak	Lantry	McQuaid	Olson
Frederick	Knutson	Larson	Mehrkens	Piepho

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No.

2480, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2480 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 11, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2480

A bill for an act relating to taxation; making technical corrections and administrative changes to property, sales and use, motor vehicle excise, income, franchise, insurance, petroleum products, pull-tab and tipboard taxes, firefighter state aids, and property tax refunds; making technical corrections and administrative changes to certain aids to local government; including lottery prizes as refunds in the revenue recapture act; providing for posting of certain tax delinquencies; requiring a social security number on certain probate applications; imposing a tax on untaxed pull-tabs and tipboards; recodifying license inquiry provisions; providing for payment and settlement of state elections campaign funds to political party state committees; transferring certain powers and duties; recodifying and providing for tax administrative, enforcement, and collection procedures; imposing penalties; amending Minnesota Statutes 1988, sections 60A.198, by adding a subdivision; 69.771, subdivision 3; 69.772, subdivision 2a; 69.774, subdivision 1; 116K.04, subdivision 4; 270.65; 270.67, subdivisions 1 and 2; 270.68, subdivisions 1 and 3; 270.69, subdivisions 2, 3, 7, 8, and by adding a subdivision; 270.70, subdivision 1; 270A.03, subdivision 7; 274.01, subdivision 1; 275.54; 287.21, subdivision 2; 290.05, subdivision 4; 290.17, subdivision 5; 290.39, subdivision 5; 290.49, subdivision 3; 290.92, subdivisions 6a, 12, 23, and 24; 290.93, subdivision 1; 290A.03, subdivision 3; 290A.04, subdivision 1; 290A.07, subdivision 3; 290A.19; 296.06, subdivision 2; 296.18, subdivisions 2 and 3; 296.25; 297A.01, subdivision 8; 297A.03, subdivision 2; 297A.041; 297A.14, subdivision 1; 297A.18; 297A.211, subdivision 3; 297A.25, subdivision 31; 297A.255, by adding a subdivision; 297B.035, subdivision 1; 299E21, subdivision 1; 349.212, by adding a subdivision; 477A.011, by adding a subdivision; 524.3-1001; 524.3-301; Minnesota Statutes 1989 Supplement, sections 38.18; 50.14, subdivision 4; 69.021, subdivision 6; 110.70; 118.12; 163.04, subdivision 3; 163.06, subdivision 6; 165.10, subdivision 1; 168.013, subdivision 5; 168A.10, subdivision 1; 270.06; 270.73, subdivision 1; 270B.07, by adding a subdivision; 272.16; 273.01; 273.11, subdivision 1; 290.39, subdivision 4; 290.92, subdivision 4c; 290.9201, subdivisions 7 and 8; 290.9705, subdivision 4; 297A.17; 365.025, subdivision 4; 368.01, subdivision 23; 368.44; 368.47; 370.01; 383.06; 385.31; 386.34; 412.081, subdivision 1; 412.221, subdivision 2; 430.102, subdivision 2; 465.04; 469.177, subdivision 1a; 471.24; 471.73; 475.58, subdivision 2; 475.73, subdivision 1; 477A.011, subdivision 15; 505.173, subdivision 1; Minnesota Statutes Second 1989 Supplement, sections 10A.31, subdivision 5; 60A.15, subdivision 1; 273.13, subdivision 25; 273.1391, subdivision 2; 273.1398, subdivision 1, 2, 5a, and 6; 274.14; 274.175; 275.07, subdivision 3; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, and 6; 287.29, subdivision 1; 290.17, subdivision 2; 290A.04, subdivisions 2h and 2i; 290A.07, subdivision 2a; 349.212, subdivision 4; 373.40, subdivision 1; 473F08, subdivision 8a; 477A.012, subdivision 3; 477A.013, subdivision

3; Laws 1989, chapter 28, section 24; and Laws 1989, First Special Session chapter 1, articles 3, section 35; and 9, section 86; proposing coding for new law in Minnesota Statutes, chapters 270 and 289A; repealing Minnesota Statutes 1988, sections 270.08; 270.10, subdivision 4; 270.651; 272.70; 290.05, subdivision 5; 290.067, subdivision 5; 290.23, subdivision 15; 290.281, subdivision 5; 290.29; 290.37, as amended; 290.39, as amended; 290.391; 290.40; 290.41; 290.42; 290.43; 290.44; 290.45; 290.46; 290.47; 290.49; 290.50, as amended; 290.52; 290.521; 290.522; 290.523, as amended; 290.53, subdivisions 1, 1a, 2, 2a, 3, 3a, 4, 5, 7, 8, 9, 10, and 11; 290.54; 290.56; 290.57; 290.58; 290.59; 290.611, subdivision 5; 290.612; 290.65; 290.92, subdivisions 6, 7, 8, 11, 13, 14, 15, and 18; 290.9201, subdivisions 4, 5, 9, and 10; 290.923, subdivision 7; 290.93; 290.931; 290.932; 290.933; 290.934, as amended; 290.935; 290.936; 290.9705, subdivision 2; 290.974; 290A.06; 290A.11, subdivisions 1, 2, 3, and 4; 290A.111; 290A.112, as amended; 290A.12; 291.09; 291.11; 291.131; 291.14; 291.15, subdivisions 1 and 3; 291.215, subdivisions 2 and 3; 291.31, subdivisions 1 and 2; 291.32; 296.027; 296.16, subdivision 3; 296.17, subdivision 13; 296.18, subdivisions 3a and 7; 296.24; 297A.08; 297A.121; 297A.15, subdivision 3; 297A.26, subdivisions 1 and 4; 297A.27; 297A.275; 297A.29; 297A.30; 297A.31; 297A.32; 297A.33, subdivisions 1, 3, 4, and 5; 297A.34; 297A.35; 297A.37; 297A.39, subdivisions 1, 2, 2a, 3, 4, 5, 7, and 8; 297A.40; 297A.41; 297A.42; 297A.431; 297A.44, subdivision 2; Minnesota Statutes 1989 Supplement, sections 290A.11, subdivision 1a; and 297A.20; Minnesota Statutes Second 1989 Supplement, sections 270.77 and 290.38; Minnesota Rules, parts 8052.0100; 8052.0200; and 8130.7800.

April 7, 1990

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 2480, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 2480 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

PROCEDURES

Section 1. [289A.01] [APPLICATION OF CHAPTER.]

This chapter applies to taxes administered by or paid to the commissioner under chapters 290, 290A, 291, and 297A.

Sec. 2. [289A.02] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] Unless the context clearly requires otherwise, the following terms used in this chapter have the following meanings.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of revenue of the state of Minnesota or a person to whom the commissioner has delegated functions.

Subd. 3. [TAXPAYER.] *"Taxpayer" means a person subject to, or liable for, a state tax; a person required to file a return with respect to, or to pay, or withhold or collect and remit, a state tax; or a person required to obtain a license or a permit or to keep records under a law imposing a state tax.*

Subd. 4. [PERSON.] *"Person" means an individual, partnership, corporation, association, governmental unit or agency, or public or private organization of any kind, under a duty to comply with state tax laws because of its character or position.*

Subd. 5. [OTHER WORDS.] *Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the same meanings as they are defined in chapters 290, 290A, 291, and 297A.*

Sec. 3. [289A.021] [FILING REQUIREMENTS FOR INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, AND ENTERTAINMENT TAXES.]

Subdivision 1. [GENERALLY; INDIVIDUALS.] *(a) A taxpayer must file a return for each taxable year the taxpayer is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1989, except that an individual who is not a Minnesota resident for any part of the year is not required to file a Minnesota income tax return if the individual's gross income derived from Minnesota sources as determined under sections 290.081, paragraph (a), and 290.17, is less than the filing requirements for a single individual who is a full year resident of Minnesota.*

(b) The decedent's final income tax return, and other income tax returns for prior years where the decedent had gross income in excess of the minimum amount at which an individual is required to file and did not file, must be filed by the decedent's personal representative, if any. If there is no personal representative, the return or returns must be filed by the transferees, as defined in section 289A.06, subdivision 13, who receive property of the decedent.

(c) The term "gross income," as it is used in this section, has the same meaning given it in section 290.01, subdivision 20.

Subd. 2. [RETURNS FILED BY FIDUCIARIES.] *(a) The trustee or other fiduciary of property held in trust must file a return with respect to the taxable net income of the trust or estate if it exceeds an amount determined by the commissioner and if the trust belongs to the class of taxable persons.*

(b) The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer must file a return with respect to the taxable net income of the taxpayer if a return is required.

Subd. 3. [CORPORATIONS.] *A corporation that is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, must file a return, except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return. The return must be signed by a person designated by the corporation. The commissioner shall adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report. Members of an affiliated group that elect to file one return on behalf of the members*

of the group under rules adopted by the commissioner may change or rescind the election by filing the form required by the commissioner.

Subd. 4. [EXEMPT ORGANIZATIONS; UNRELATED BUSINESS INCOME.] An exempt organization that is subject to tax on unrelated business income under section 290.05, subdivision 3, must file a return for each taxable year in which the organization is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1989, because of the receipt of unrelated business income. If an organization is required to file a return under federal law but has no federal tax liability for the taxable year, the commissioner may provide that the filing requirement under this paragraph is satisfied by filing a copy of the taxpayer's federal return.

Subd. 5. [ANNUAL RETURN; EXCEPTIONS.] A return under this section must cover a 12-month period, except in the following cases:

(1) A return made by or for a taxpayer in existence for less than the whole of a taxable year must cover the part of the taxable year the taxpayer was in existence;

(2) A taxpayer who, in keeping books, regularly computes income on the basis of an annual period that varies from 52 to 53 weeks and ends always on the same day of the week, and ends always (i) on the date that day of the week last occurs in a calendar month or (ii) on the date that day of the week falls that is nearest to the last day of a calendar month, may compute the taxpayer's net income and taxable net income on the basis of that annual period in accordance with rules prescribed by the commissioner. If the effective date or the applicability of a provision of this chapter or chapter 290 is expressed in terms of taxable years beginning or ending with reference to a named date that is the first or last day of a month, a taxable year must be treated as beginning with the first day of the calendar month beginning nearest to the first day of that taxable year, or as ending with the last day of the calendar month ending nearest to the last day of that taxable year, as the case may be;

(3) A taxpayer who changes from one taxable year to another must make a return for the fractional parts of the year, under section 290.32.

Subd. 6. [RETURNS OF MARRIED PERSONS.] A husband and wife must file a joint Minnesota income tax return if they filed a joint federal income tax return. If the husband and wife have elected to file separate federal income tax returns, they must file separate Minnesota income tax returns. This election to file a joint or separate return must be changed if they change their election for federal purposes. In the event taxpayers desire to change their election, the change must be done in the manner and on the form prescribed by the commissioner.

The determination of whether an individual is married shall be made under the provisions of section 7703 of the Internal Revenue Code of 1986, as amended through December 31, 1989.

Subd. 7. [COMPOSITE INCOME TAX RETURNS FOR NONRESIDENT PARTNERS, SHAREHOLDERS, AND BENEFICIARIES.] (a) The commissioner may allow a partnership with five or more nonresident partners to file a composite return and to pay the tax on behalf of nonresident partners who have no other Minnesota source income. This composite return must include the names, addresses, social security numbers, income allocation, and tax liability for the nonresident partners electing to be

covered by the composite return.

(b) The computation of a partner's tax liability must be determined by multiplying the income allocated to that partner by the highest rate used to determine the tax liability for individuals under section 290.06, subdivision 2c. Nonbusiness deductions, standard deductions, or personal exemptions are not allowed.

(c) The partnership must submit a request to use this composite return filing method for nonresident partners on or before the due date for filing the individual income tax returns. The request may be made a part of the return filed.

(d) The electing partner must not have any Minnesota source income other than the income from the partnership and other electing partnerships. If it is determined that the electing partner has other Minnesota source income, the inclusion of the income and tax liability for that partner under this provision will not constitute a return to satisfy the requirements of subdivision 1. The tax paid for the individual as part of the composite return is allowed as a payment of the tax by the individual on the date on which the composite return payment was made. If the electing nonresident partner has no other Minnesota source income, filing of the composite return is a return for purposes of subdivision 1.

(e) This subdivision does not negate the requirement that an individual pay estimated tax if the individual's liability would exceed the requirements set forth in section 289A.026. A composite estimate may, however, be filed in a manner similar to and containing the information required under paragraph (a).

(f) If an electing partner's share of the partnership's gross income from Minnesota sources is less than the filing requirements for a nonresident under this subdivision, the tax liability is zero. However, a statement showing the partner's share of gross income must be included as part of the composite return.

(g) The election provided in this subdivision is not available to any partner other than a full-year nonresident individual who has no other Minnesota source income.

(h) A corporation defined in section 290.9725 and its nonresident shareholders may make an election under this paragraph. The provisions covering the partnership apply to the corporation and the provisions applying to the partner apply to the shareholder.

(i) Estates and trusts distributing current income only and the nonresident individual beneficiaries of the estates or trusts may make an election under this paragraph. The provisions covering the partnership apply to the estate or trust. The provisions applying to the partner apply to the beneficiary.

Subd. 8. [RETURNS OF ENTERTAINMENT ENTITIES.] An entertainment entity subject to the tax imposed by section 290.9201 shall file an annual return for the calendar year with the commissioner.

Subd. 9. [VERIFICATION.] If a return is prepared for a taxpayer by an individual (or individuals) or a firm (including partnerships, corporations, etc.), the individual or firm responsible for the preparation must complete the statement of verification provided on the tax return forms in the following manner:

(1) If the individual (or individuals) responsible for the preparation of the return is an individual acting in a personal capacity, the statement of verification must be signed by the individual.

(2) If a firm is responsible for the preparation of the return, the statement of verification must be signed with the firm name. However, if the firm name is stamped or typed, it should be followed by the signature of an individual authorized to sign the verification on behalf of the firm. The firm may authorize an officer, member, or employee to sign the verification.

Verification is not required if the actual preparation of the return is a regular and usual incident of the employment of one regularly and continuously employed full time by the person for whom the return is made (such as a clerk, secretary, bookkeeper, etc.).

Subd. 10. [FILING OF PROPER RETURN.] The return must specifically set forth the items of gross income, deductions, credits against the tax, and any other data necessary for computing the amount of any item required for determining the amount of the net income tax liability. The return must be in the form the commissioner prescribes. The filing of a return required under this section is considered an assessment.

Subd. 11. [INFORMATION INCLUDED IN INCOME TAX RETURN.] The return must state the name of the taxpayer, or taxpayers, if the return is a joint return, and the address of the taxpayer in the same name or names and same address as the taxpayer has used in making the taxpayer's income tax return to the United States, and must state the social security number of the taxpayer, or taxpayers, if a social security number has been issued by the United States with respect to the taxpayers, and must state the amount of the taxable income of the taxpayer as it appears on the federal return for the taxable year to which the Minnesota state return applies. The taxpayer must attach to the taxpayer's Minnesota state income tax return a copy of the federal income tax return that the taxpayer has filed or is about to file for the period.

Subd. 12. [CONFESSION OF JUDGMENT.] The return must contain (1) a written declaration that it is correct and complete, and (2) language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown due to the extent not timely paid.

Subd. 13. [LONG AND SHORT FORMS.] The commissioner shall provide a long form individual income tax return and may provide a short form individual income tax return. The returns shall be in a form that is consistent with the provisions of chapter 290, notwithstanding any other law to the contrary. The nongame wildlife checkoff provided in section 290.431 and the dependent care credit provided in section 290.067 must be included on the short form.

Subd. 14. [VOTER REGISTRATION FORM.] The commissioner shall insert securely in the individual income tax return form or instruction booklet a voter registration form, returnable to the secretary of state. The form shall be designed according to rules adopted by the secretary of state.

Sec. 4. [289A.0212] [FILING REQUIREMENTS FOR TAXES WITHHELD FROM WAGES FROM COMPENSATION OF ENTERTAINERS AND FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS; AND TAXES WITHHELD BY PARTNERSHIPS AND SMALL BUSINESS CORPORATIONS.]

Subdivision 1. [RETURNS.] (a) An employer who is required to deduct and withhold tax under section 290.92, subdivision 2a or 3, and a person required to deduct and withhold tax under section 290.923, subdivision 2, must file a return with the commissioner for each quarterly period unless otherwise prescribed by the commissioner.

(b) A person or corporation required to make deposits under section 290.9201, subdivision 8, must file an entertainer withholding tax return with the commissioner.

(c) A person required to withhold an amount under section 290.9705, subdivision 1, must file a return.

(d) A partnership required to deduct and withhold tax under section 290.92, subdivision 4b, must file a return.

(e) An S corporation required to deduct and withhold tax under section 290.92, subdivision 4c, must also file a return.

(f) Returns must be filed in the form and contain the information prescribed by the commissioner. Every return must contain a written declaration that it is correct and complete, and a confession of judgment for the amount of tax shown due, to the extent not timely paid.

Subd. 2. [WITHHOLDING STATEMENT TO EMPLOYEE OR PAYEE AND TO COMMISSIONER.] (a) A person required to deduct and withhold from an employee a tax under section 290.92, subdivision 2a or 3, or section 290.923, subdivision 2, or who would have been required to deduct and withhold a tax under section 290.92, subdivision 2a or 3, or persons required to withhold tax under section 290.923, subdivision 2, determined without regard to section 290.92, subdivision 19, if the employee or payee had claimed no more than one withholding exemption, or who paid wages or made payments not subject to withholding under section 290.92, subdivision 2a or 3, or section 290.923, subdivision 2, to an employee or person receiving royalty payments in excess of \$600, or who has entered into a voluntary withholding agreement with a payee under section 290.92, subdivision 20, must give every employee or person receiving royalty payments in respect to the remuneration paid by the person to the employee or person receiving royalty payments during the calendar year, on or before January 31 of the succeeding year, or, if employment is terminated before the close of the calendar year, within 30 days after the date of receipt of a written request from the employee if the 30-day period ends before January 31, a written statement showing the following:

(1) name of the person;

(2) the name of the employee or payee and the employee's or payee's social security account number;

(3) the total amount of wages as that term is defined in section 290.92, subdivision 1(1); the total amount of remuneration subject to withholding under section 290.92, subdivision 20; the amount of sick pay as required under section 6051(f) of the Internal Revenue Code of 1986, as amended through December 31, 1989; and the amount of royalties subject to withholding under section 290.923, subdivision 2; and

(4) the total amount deducted and withheld as tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2.

(b) The statement required to be furnished by this paragraph with respect

to any remuneration must be furnished at those times, must contain the information required, and must be in the form the commissioner prescribes.

(c) The commissioner may prescribe rules providing for reasonable extensions of time, not in excess of 30 days, to employers or payers required to give the statements to their employees or payees under this subdivision.

(d) A duplicate of any statement made under this subdivision and in accordance with rules prescribed by the commissioner, along with a reconciliation in the form the commissioner prescribes of the statements for the calendar year, including a reconciliation of the quarterly returns required to be filed under subdivision 1, must be filed with the commissioner on or before February 28 of the year after the payments were made.

(e) The employer must submit the statements required to be sent to the commissioner on magnetic media, if the magnetic media was required to satisfy the federal reporting requirements of section 6011(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, and the regulations issued under it.

Sec. 5. [289A.0214] [FILING REQUIREMENTS FOR ESTATE TAX RETURNS.]

Subdivision 1. [RETURN REQUIRED.] In the case of a decedent who has an interest in property with a situs in Minnesota, the personal representative must submit a Minnesota estate tax return to the commissioner, on a form prescribed by the commissioner, in instances in which a federal estate tax return is required to be filed.

The return must be accompanied by a federal estate tax return, a schedule of the assets in the estate at their date of death values, and must contain a computation of the Minnesota estate tax due. The return must be signed by the personal representative.

Subd. 2. [DOCUMENTS REQUIRED.] The commissioner may designate on the return the documents that are required to be filed together with the return to determine the computation of tax.

Subd. 3. [DEFINITIONS.] For purposes of this section, the definitions contained in section 291.005 apply.

Sec. 6. [289A.0216] [FILING REQUIREMENTS FOR SALES AND USE TAX RETURNS.]

Subdivision 1. [RETURN REQUIRED.] Except as provided in section 289A.023, subdivision 4, for the month in which taxes imposed by sections 297A.01 to 297A.44 are payable, or for which a return is due, a return for the preceding reporting period must be filed with the commissioner in the form the commissioner prescribes. The return must be verified by a written declaration that it is made under the criminal penalties for making a false return, and in addition must contain a confession of judgment for the amount of the tax shown due to the extent not timely paid. A person making sales at retail at two or more places of business may file a consolidated return subject to rules prescribed by the commissioner.

Subd. 2. [LIQUOR SALES.] A person required to collect the tax imposed by section 297A.02, subdivision 3, on sales of intoxicating liquor and nonintoxicating malt liquor, shall report the total sales tax liability, including the sales tax on items other than intoxicating liquor and nonintoxicating malt liquor, on a distinct sales tax return prescribed by the commissioner.

Subd. 3. [WHO MUST FILE RETURN.] *For purposes of the sales tax, a return must be filed by a retailer who is required to hold a permit. For the purposes of the use tax, a return must be filed by a retailer required to collect the tax and by a person buying any items, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax to a retailer required to collect the tax. The returns must be signed by the person filing the return or by the person's agent duly authorized in writing.*

Sec. 7. [289A.0218] [FILING REQUIREMENTS FOR INFORMATION RETURNS AND REPORTS.]

Subdivision 1. [REPORTS BY EXEMPT CORPORATIONS, ORGANIZATIONS, ESTATES, AND TRUSTS.] *Corporations, estates, trusts, and organizations exempt from state income and franchise taxes under section 290.05, subdivision 2, must file with the commissioner of revenue an initial report that furnishes the information required under section 290.05, subdivision 4, paragraph (a), and later annual reports as required by section 290.05, subdivision 4.*

Subd. 2. [RETURNS REQUIRED OF BANKS; COMMON TRUST FUNDS.] *A bank maintaining a common trust fund must make a return for a taxable year, stating specifically with respect to the fund, the items of gross income and deductions provided by section 290.281, subdivision 1. The return must include the names and addresses of the participants entitled to share the net income if distributed and the amount of the proportionate share of each participant.*

Subd. 3. [RETURNS OR REPORTS BY PARTNERSHIPS, FIDUCIARIES, AND S CORPORATIONS.] *(a) Partnerships must make a return for each taxable year. The return must conform to the requirements of section 290.31, and must include the names and addresses of the partners entitled to a distributive share in their taxable net income, gain, loss, or credit, and the amount of the distributive share to which each is entitled. The return must contain a written declaration that it is correct and complete. A partnership required to file a return for a partnership taxable year must furnish a copy of the information required to be shown on the return to a person who is a partner at any time during the taxable year, on or before the day on which the return for the taxable year was filed.*

(b) The fiduciary of an estate or trust making the return required to be filed under section 289A.021, subdivision 2, for a taxable year must give a beneficiary who receives a distribution from the estate or trust with respect to the taxable year or to whom any item with respect to the taxable year is allocated, a statement containing the information required to be shown on the return, on or before the date on which the return was filed.

(c) An S corporation must make a return for a taxable year during which an election under section 290.9725 is in effect, stating specifically the names and addresses of the persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by a shareholder at all times during the taxable year, the shareholder's pro rata share of each item of the corporation for the taxable year, and other information the commissioner requires. An S corporation required to file a return under this paragraph for any taxable year must furnish a copy of the information shown on the return to the person who is a shareholder at any time during the taxable year, on or before the day on which the return for the taxable year was filed.

Subd. 4. [RETURNS BY PERSONS, CORPORATIONS, COOPERATIVES, GOVERNMENTAL ENTITIES, OR SCHOOL DISTRICTS.] *To the extent required by section 6041 of the Internal Revenue Code of 1986, as amended through December 31, 1989, a person, corporation, or cooperative, the state of Minnesota and its political subdivisions, and a city, county, and school district in Minnesota, making payments in the regular course of a trade or business during the taxable year to any person or corporation of \$600 or more on account of rents or royalties, or of \$10 or more on account of interest, or \$10 or more on account of dividends or patronage dividends, or \$600 or more on account of either wages, salaries, commissions, fees, prizes, awards, pensions, annuities, or any other fixed or determinable gains, profits or income, not otherwise reportable under section 289A.0212, subdivision 2, or on account of earnings of \$10 or more distributed to its members by savings, building and loan associations or credit unions chartered under the laws of this state or the United States, (1) must make a return (except in cases where a valid agreement to participate in the combined federal and state information reporting system has been entered into, and the return is filed only with the commissioner of internal revenue under the applicable filing and informational reporting requirements of the Internal Revenue Code of 1986, as amended through December 31, 1989) with respect to the payments in excess of the amounts named, giving the names and addresses of the persons to whom the payments were made, the amounts paid to each, and (2) must make a return with respect to the total number of payments and total amount of payments, for each category of income named, which were in excess of the amounts named. This subdivision does not apply to the payment of interest or dividends to a person who was a nonresident of Minnesota for the entire year.*

A person, corporation, or cooperative required to file returns under this subdivision must file the returns on magnetic media if magnetic media was used to satisfy the federal reporting requirement under section 6011(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, unless the person establishes to the satisfaction of the commissioner that compliance with this requirement would be an undue hardship.

Subd. 5. [RETURNS BY BROKERS.] *The commissioner may, within 30 days after notice and demand, require a person doing business as a broker to give the commissioner the names and addresses of customers for whom they have transacted business, and the details regarding gross proceeds and other information concerning the transactions as will enable the commissioner to determine whether the income tax due on profits or gains of those customers has been paid. The provisions of section 6045 of the Internal Revenue Code of 1986, as amended through December 31, 1989, which define terms and require that a statement be furnished to the customer apply.*

Subd. 6. [RETURNS BY AGENTS.] *The commissioner may, within 30 days after notice and demand, require a person acting as agent for another to make a return furnishing the information reasonably necessary to properly assess and collect the tax imposed by chapter 290 upon the person for whom the agent acts.*

Subd. 7. [RETURNS FOR REAL PROPERTY HOLDINGS OF ALIENS.] *A person or corporation required to make a return under section 6039C (relating to information return on a foreign person holding a United States real property interest) of the Internal Revenue Code of 1986, as amended*

through December 31, 1989, must make a similar return for the commissioner for foreign persons holding a Minnesota real property interest.

Subd. 8. [RETURNS FOR UNEMPLOYMENT COMPENSATION.] A person who makes payments of unemployment compensation totaling \$10 or more to any individual during a calendar year and who is required to make and file a return under section 6050B of the Internal Revenue Code of 1986, as amended through December 31, 1989, must file a copy of the return with the commissioner.

Subd. 9. [RETURNS FOR PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.] A person who is required to make a return under section 6041A (relating to information returns regarding payments of remuneration for services and direct sales) of the Internal Revenue Code of 1986, as amended through December 31, 1989, must file a copy of the return containing the information required under that section with the commissioner. The provisions of that section govern the requirements of a statement that must be given to persons with respect to whom information is required to be given.

Subd. 10. [RETURNS RELATING TO SOCIAL SECURITY BENEFITS.] The appropriate federal official who is required to make a return under section 6050F (relating to social security benefits) of the Internal Revenue Code of 1986, as amended through December 31, 1989, shall file a copy of the return containing the information required under that section with the commissioner.

Subd. 11. [RETURNS BY TRUSTEES.] The trustee of an individual retirement account and the issuer of an endowment contract or an individual retirement annuity who is required to make a report under section 408(i) of the Internal Revenue Code of 1986, as amended through December 31, 1989, must file with the commissioner a copy of that report containing the information required under that subsection. The provisions of that subsection govern when the reports are to be filed and the requirements of a statement that must be given to persons with respect to whom information must be given.

Subd. 12. [STATEMENTS TO PAYEES.] A person making a return under subdivisions 4 to 10 must furnish to a person whose name is set forth in the return a written statement showing the name and address of the person making the return, and the aggregate amount of payments to the person shown on the return.

This written statement must be given to the person on or before January 31 of the year following the calendar year for which the return was made. A duplicate of this written statement, along with a reconciliation of all the statements for the calendar year in the form the commissioner prescribes, must be furnished to the commissioner on or before February 28 of the year following the calendar year for which the return was made.

Subd. 13. [SUPPLYING OF SOCIAL SECURITY NUMBER.] An individual with respect to whom a return, statement, or other document is required under this section to be made by another person must furnish to that person the individual's social security account number. A person required under this section to make a return, statement, or other document with respect to another person who is an individual must request from that individual and must include in the return, statement, or other document the individual's social security account number. A return of an estate or

trust with respect to its liability for tax, and any statement or other document in its support, is considered a return, statement, or other document with respect to the individual beneficiary of the estate or trust; otherwise, a return of an individual with respect to the individual's liability for tax, or any statement or other document in its support, is not considered a return, statement, or other document with respect to another person.

Sec. 8. [289A.023] [DUE DATES FOR FILING OF RETURNS.]

Subdivision 1. [INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, AND ENTERTAINMENT TAXES; PARTNERSHIP AND S CORPORATION RETURNS; INFORMATION RETURNS.]
The returns required to be made under sections 289A.021 and 289A.0218 must be filed at the following times:

(1) returns made on the basis of the calendar year must be filed on April 15 following the close of the calendar year, except that returns of corporations must be filed on March 15 following the close of the calendar year;

(2) returns made on the basis of the fiscal year must be filed on the 15th day of the fourth month following the close of the fiscal year, except that returns of corporations must be filed on the 15th day of the third month following the close of the fiscal year;

(3) returns for a fractional part of a year must be filed on the 15th day of the fourth month following the end of the month in which falls the last day of the period for which the return is made, except that the returns of corporations must be filed on the 15th day of the third month following the end of the month in which falls the last day of the period for which the return is made;

(4) in the case of a final return of a decedent for a fractional part of a year, the return must be filed on the 15th day of the fourth month following the close of the 12-month period that began with the first day of that fractional part of a year;

(5) in the case of the return of a cooperative association, returns must be filed on or before the 15th day of the ninth month following the close of the taxable year;

(6) if a corporation has been divested from a unitary group and files a return for a fractional part of a year in which it was a member of a unitary business that files a combined report under section 290.34, subdivision 2, the divested corporation's return must be filed on the 15th day of the third month following the close of the common accounting period that includes the fractional year; and

(7) returns of entertainment entities must be filed on April 15 following the close of the calendar year.

Subd. 2. [WITHHOLDING RETURNS, ENTERTAINER WITHHOLDING RETURNS, RETURNS FOR WITHHOLDING FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS, AND WITHHOLDING RETURNS FROM PARTNERSHIPS AND SMALL BUSINESS CORPORATIONS.]
Withholding returns are due on or before the last day of the month following the close of the quarterly period. However, if the return shows timely deposits in full payment of the taxes due for that period, the return may be filed on or before the tenth day of the second calendar month following the period. An employer, in preparing a quarterly return, may take credit

for monthly deposits previously made for that quarter. Entertainer withholding tax returns are due within 30 days after each performance. Returns for withholding from payments to out-of-state contractors are due within 30 days after the payment to the contractor. Returns for withholding by partnerships are due on or before the due date specified for filing partnership returns. Returns for withholding by small business corporations are due on or before the due date specified for filing corporate franchise tax returns.

Subd. 3. [ESTATE TAX RETURNS.] An estate tax return must be filed with the commissioner within nine months after the decedent's death.

Subd. 4. [SALES AND USE TAX RETURNS.] Sales and use tax returns must be filed on or before the 20th day of the month following the close of the preceding reporting period. In addition, on or before June 20 of a year, a retailer who has a May liability of \$1,500 or more must file a return with the commissioner for one-half of the estimated June liability, in addition to filing a return for the May liability. On or before August 20 of a year, the retailer must file a return showing the actual June liability.

Subd. 5. [PROPERTY TAX REFUND CLAIMS.] A claim for a refund based on property taxes payable must be filed with the commissioner on or before August 15 of the year in which the property taxes are due and payable. Any claim for refund based on rent paid must be filed on or before August 15 of the year following the year in which the rent was paid.

Sec. 9. [289A.024] [EXTENSIONS FOR FILING RETURNS.]

Subdivision 1. [INDIVIDUAL INCOME, FIDUCIARY INCOME, ENTERTAINMENT TAX, AND INFORMATION RETURNS.] When, in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing individual and fiduciary income tax returns, entertainment tax returns, and information returns for not more than six months. If an extension to file the federal individual or fiduciary income tax return or information return has been granted under section 6081 of the Internal Revenue Code of 1986, as amended through December 31, 1989, the time for filing the state return is extended for that period. The commissioner may require the taxpayer to file a tentative return when the regularly required return is due, and to pay a tax on the basis of the tentative return at the times required for the payment of taxes on the basis of the regularly required return from the taxpayer.

Subd. 2. [CORPORATE FRANCHISE TAXES.] The commissioner may grant an extension of up to seven months for filing the return of a corporation subject to tax under chapter 290 if:

(1) the corporation files a tentative return when the regularly required return is due;

(2) the corporation pays the tax on the basis of the tentative return and the amount of tax, determined without regard to any prepayment of tax, shown on the tentative return, or the amount of tax paid on or before the regular due date of the return, is at least 90 percent of the amount shown on the corporation's regularly required return;

(3) the balance due shown on the regularly required return is paid on or before the extended due date of the return; and

(4) interest on any balance due is paid at the rate specified in section 270.75 from the regular due date of the return until the tax is paid.

Subd. 3. [WITHHOLDING RETURNS.] *Where good cause exists, the commissioner may grant an extension of time of not more than 60 days for filing a withholding return.*

Subd. 4. [ESTATE TAX RETURNS.] *Where good cause exists, the commissioner may extend the time for filing an estate tax return for not more than six months. When an extension to file the federal estate tax return has been granted under section 6081 of the Internal Revenue Code of 1986, as amended through December 31, 1989, the time for filing the estate tax return is extended for that period.*

Subd. 5. [SALES AND USE TAX RETURNS.] *Where good cause exists, the commissioner may extend the time for filing sales and use tax returns for not more than 60 days.*

Subd. 6. [PROPERTY TAX REFUND RETURNS.] *Where good cause exists, the commissioner may extend the time for filing claims under chapter 290A for not more than six months. A claim filed after the original or extended due date shall be allowed if the initial claim is filed within one year after the original due date for filing the claim, subject to the provisions of section 289A.14, subdivision 12, paragraph (e).*

Sec. 10. [289A.025] [DUE DATES FOR MAKING PAYMENTS OF TAX.]

Subdivision 1. [INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, AND ENTERTAINMENT TAXES.] *(a) Individual income, fiduciary, and corporate franchise taxes must be paid to the commissioner on or before the date the return must be filed under section 289A.023, subdivision 1, or the extended due date as provided in section 289A.024, unless an earlier date for payment is provided.*

Notwithstanding any other law, a taxpayer whose unpaid liability for income or corporate franchise taxes, as reflected upon the return, is \$1 or less need not pay the tax.

(b) Entertainment taxes must be paid on or before the date the return must be filed under section 289A.023, subdivision 1.

Subd. 2. [WITHHOLDING FROM WAGES, ENTERTAINER WITHHOLDING, WITHHOLDING FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS, AND WITHHOLDING BY PARTNERSHIPS AND SMALL BUSINESS CORPORATIONS.] *(a) A tax required to be deducted and withheld during the quarterly period must be paid on or before the last day of the month following the close of the quarterly period, unless an earlier time for payment is provided. A tax required to be deducted and withheld from compensation of an entertainer and from a payment to an out-of-state contractor must be paid on or before the date the return for such tax must be filed under section 289A.023, subdivision 2. Taxes required to be deducted and withheld by partnerships and S corporations must be paid on or before the date the return must be filed under section 289A.023, subdivision 2.*

(b)(1) Unless clause (2) applies, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under section 290.92, subdivision 2a or 3, or under section 290.923, subdivision 2, exceeds \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days

after the close of the calendar month. (2) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer, or person withholding tax under section 290.92, subdivision 2a or 3, or section 290.923, subdivision 2, shall deposit the undeposited taxes with the commissioner within three banking days after the close of the eighth-monthly period. For purposes of this clause, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the part of a calendar month following the 25th day of the month.

(c) The commissioner may prescribe by rule other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify payors according to the amount of their tax liability and may adopt an appropriate reporting period for the class that the commissioner judges to be consistent with efficient tax collection. In no event will the duration of the reporting period be more than one year.

(d) If less than the correct amount of tax is paid to the commissioner, proper adjustments with respect to both the tax and the amount to be deducted must be made, without interest, in the manner and at the times the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment will be assessed and collected in the manner and at the times the commissioner prescribes.

Subd. 3. [ESTATE TAX.] Taxes imposed by chapter 291 take effect at and upon the death of the person whose estate is subject to taxation and are due and payable on or before the expiration of nine months from that death.

Subd. 4. [SALES AND USE TAX.] (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the taxable event occurred or following another reporting period as the commissioner prescribes.

(b) A vendor having a liability of \$1,500 or more in May of a year must remit the June liability in the following manner:

(1) On or before June 20 of the year, the vendor must remit the actual May liability and one-half of the estimated June liability to the commissioner.

(2) On or before August 20 of the year, the vendor must pay any additional amount of tax not remitted in June.

(c) When a retailer located outside of a city that imposes a local sales and use tax collects use tax to be remitted to that city, the retailer is not required to remit the tax until the amount collected reaches \$10.

Sec. 11. [289A.026] [PAYMENT OF ESTIMATED TAX BY INDIVIDUALS.]

Subdivision 1. [REQUIREMENTS TO PAY.] An individual must, when prescribed in subdivision 3, paragraph (b), make payments of estimated tax. The term "estimated tax" means the amount the individual estimates is the sum of the taxes imposed by chapter 290 for the taxable year. If the individual is an infant or incompetent person, the payments must be made

by the individual's guardian. If joint payments on estimated tax are made but a joint return is not made for the taxable year, the estimated tax for that year may be treated as the estimated tax of either the husband or the wife or may be divided between them.

Notwithstanding the provisions of this section, no payments of estimated tax are required if the estimated tax, as defined in this subdivision, less the credits allowed against the tax, is less than \$500.

Subd. 2. [ADDITIONS TO TAX FOR UNDERPAYMENT.] (a) In the case of any underpayment of estimated tax by an individual, except as provided in subdivision 6 or 7, there must be added to and become a part of the taxes imposed by chapter 290, for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of the underpayment for the period of the underpayment.

(b) For purposes of paragraph (a), the amount of underpayment shall be the excess of

(1) the amount of the installment required to be paid, over

(2) the amount, if any, of the installment paid on or before the last day prescribed for the payment.

Subd. 3. [PERIOD OF UNDERPAYMENT.] (a) The period of the underpayment shall run from the date the installment was required to be paid to the earlier of the following dates:

(1) The 15th day of the fourth month following the close of the taxable year.

(2) With respect to any part of the underpayment, the date on which that part is paid. For purposes of this clause, a payment of estimated tax on any installment date is considered a payment of any unpaid required installments in the order in which the installments are required to be paid.

(b) For purposes of this subdivision, there shall be four required installments for a taxable year. The times for payment of installments shall be:

For the following

required installments:

1st

2nd

3rd

4th

The due date is:

April 15

June 15

September 15

January 15 of the following
taxable year

Subd. 4. [NO ADDITION TO TAX WHERE TAX IS SMALL.] No addition to tax is imposed under subdivision 2 for a taxable year if the tax shown on the return for the taxable year (or, if no return is filed, the tax) reduced by the credits allowable is less than \$500.

Subd. 5. [AMOUNT OF REQUIRED INSTALLMENT.] The amount of any installment required to be paid shall be 25 percent of the required annual payment except as provided in clause (3). The term "required annual payment" means the lesser of

(1) 90 percent of the tax shown on the return for the taxable year or 90 percent of the tax for the year if no return is filed, or

(2) the total tax liability shown on the return of the individual for the preceding taxable year, if a return showing a liability for the taxes was

filed by the individual for the preceding taxable year of 12 months, or

(3) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income and alternative minimum taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. The applicable percentage of the tax is 22.5 percent in the case of the first installment, 45 percent for the second installment, 67.5 percent for the third installment, and 90 percent for the fourth installment. For purposes of this clause, the taxable income and alternative minimum taxable income shall be placed on an annualized basis by

(i) multiplying by 12 (or in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income and alternative minimum taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid; and

(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which the installment date falls.

Subd. 6. [EXCEPTION TO ADDITION TO TAX.] No addition to the tax shall be imposed under this section for any taxable year if:

(1) the individual did not have liability for tax for the preceding taxable year,

(2) the preceding taxable year was a taxable year of 12 months, and

(3) the individual was a resident of Minnesota throughout the preceding taxable year.

Subd. 7. [WAIVER OF ADDITION TO TAX.] No addition to the tax is imposed under this section with respect to an underpayment to the extent the commissioner determines that the provisions of section 6654(e)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1989, apply.

Subd. 8. [APPLICATION OF SECTION; TAX WITHHELD ON WAGES.] For purposes of this section, the estimated tax must be computed without reduction for the amount that the individual estimates as the individual's credit under section 290.92, subdivision 12 (relating to tax withheld at source on wages), and any other refundable credits allowed against income tax liability, and the amount of those credits for the taxable year is considered a payment of estimated tax, and an equal part of those amounts is considered paid on the installment date, determined under subdivision 3, paragraph (b), for that taxable year, unless the taxpayer establishes the dates on which the amounts were actually withheld, in which case the amounts so withheld are considered payments of estimated tax on the dates on which the amounts were actually withheld.

Subd. 9. [SPECIAL RULE FOR RETURN FILED ON OR BEFORE JANUARY 31.] If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no addition to tax is imposed under subdivision 2 with respect to any underpayment of the fourth required installment for the taxable year.

Subd. 10. [SPECIAL RULE FOR FARMERS AND FISHERMEN.] For purposes of this section, if an individual is a farmer or fisherman as defined

in section 6654(f)(2) of the Internal Revenue Code of 1986, as amended through December 31, 1989, for a taxable year, only one installment is required for the taxable year, the due date of which is January 15 of the following taxable year, the amount of which is equal to the required annual payment determined under subdivision 5 by substituting "66-2/3 percent" for "90 percent," and subdivision 9 shall be applied by substituting "March 1" for "January 31," and by treating the required installment described as the fourth required installment.

Subd. 11. [FISCAL YEAR TAXPAYER.] *The application of this section to taxable years beginning other than January 1 must be made by substituting, for the months named in this section, the months that correspond. This section must be applied to taxable years of less than 12 months, under rules issued by the commissioner.*

Subd. 12. [TRUSTS AND ESTATES.] *The provisions of this section do not apply to an estate or trust.*

Subd. 13. [OVERPAYMENT OF ESTIMATED TAX INSTALLMENT.] *If an installment payment of estimated tax exceeds the correct amount of the installment payment, the overpayment must be credited against the unpaid installments, if any.*

Sec. 12. [289A.027] [PAYMENT OF ESTIMATED TAX BY CORPORATIONS.]

Subdivision 1. [MINIMUM LIABILITY.] *A corporation subject to taxation under chapter 290 (excluding section 290.92) must make payment of estimated tax for the taxable year if its tax liability so computed can reasonably be expected to exceed \$500, or in accordance with rules prescribed by the commissioner for an affiliated group of corporations electing to file one return as permitted under section 289A.021, subdivision 3.*

Subd. 2. [AMOUNT AND TIME FOR PAYMENT OF INSTALLMENTS.] *The estimated tax payment required under subdivision 1 must be paid in four equal installments on or before the 15th day of the third, sixth, ninth, and 12th month of the taxable year.*

Subd. 3. [SHORT TAXABLE YEAR.] *(a) A corporation with a short taxable year of less than 12 months, but at least four months, must pay estimated tax in equal installments on or before the 15th day of the third, sixth, ninth, and final month of the short taxable year, to the extent applicable based on the number of months in the short taxable year.*

(b) A corporation is not required to make estimated tax payments for a short taxable year unless its tax liability before the first day of the last month of the taxable year can reasonably be expected to exceed \$500.

(c) No payment is required for a short taxable year of less than four months.

Subd. 4. [UNDERPAYMENT OF ESTIMATED TAX.] *If there is an underpayment of estimated tax by a corporation, there shall be added to the tax for the taxable year an amount determined at the rate in section 270.75 on the amount of the underpayment, determined under subdivision 5, for the period of the underpayment determined under subdivision 6. This subdivision does not apply in the first taxable year that a corporation is subject to the tax imposed under section 290.02.*

Subd. 5. [AMOUNT OF UNDERPAYMENT.] For purposes of subdivision 4, the amount of the underpayment is the excess of

(1) the required installment, over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Subd. 6. [PERIOD OF UNDERPAYMENT.] The period of the underpayment runs from the date the installment was required to be paid to the earlier of the following dates:

(1) the 15th day of the third month following the close of the taxable year; or

(2) with respect to any part of the underpayment, the date on which that part is paid. For purposes of this clause, a payment of estimated tax shall be credited against unpaid required installments in the order in which those installments are required to be paid.

Subd. 7. [REQUIRED INSTALLMENTS.] (a) Except as otherwise provided in this subdivision, the amount of a required installment is 25 percent of the required annual payment.

(b) Except as otherwise provided in this subdivision, the term "required annual payment" means the lesser of:

(1) 90 percent of the tax shown on the return for the taxable year, or if no return is filed, 90 percent of the tax for that year; or

(2) 100 percent of the tax shown on the return of the corporation for the preceding taxable year provided the return was for a full 12-month period, showed a liability, and was filed by the corporation.

(c) Except for determining the first required installment for any taxable year, paragraph (b), clause (2), does not apply in the case of a large corporation. The term "large corporation" means a corporation or any predecessor corporation that had taxable net income of \$1,000,000 or more for any taxable year during the testing period. The term "testing period" means the three taxable years immediately preceding the taxable year involved. A reduction allowed to a large corporation for the first installment that is allowed by applying paragraph (b), clause (2), must be recaptured by increasing the next required installment by the amount of the reduction.

(d) In the case of a required installment, if the corporation establishes that the annualized income installment is less than the amount determined in paragraph (a), the amount of the required installment is the annualized income installment and the recapture of previous quarters' reductions allowed by this paragraph must be recovered by increasing later required installments to the extent the reductions have not previously been recovered.

(e) The "annualized income installment" is the excess, if any, of:

(1) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income:

(i) for the first two months of the taxable year, in the case of the first required installment;

(ii) for the first two months or for the first five months of the taxable

year, in the case of the second required installment;

(iii) for the first six months or for the first eight months of the taxable year, in the case of the third required installment; and

(iv) for the first nine months or for the first 11 months of the taxable year, in the case of the fourth required installment, over

(2) the aggregate amount of any prior required installments for the taxable year.

(3) For the purpose of this paragraph, the annualized income shall be computed by placing on an annualized basis the taxable income for the year up to the end of the month preceding the due date for the quarterly payment multiplied by 12 and dividing the resulting amount by the number of months in the taxable year (2, 5, 6, 8, 9, or 11 as the case may be) referred to in clause (1).

(4) The "applicable percentage" used in clause (1) is:

For the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90

(f)(1) If this paragraph applies, the amount determined for any installment must be determined in the following manner:

(i) take the taxable income for the months during the taxable year preceding the filing month;

(ii) divide that amount by the base period percentage for the months during the taxable year preceding the filing month;

(iii) determine the tax on the amount determined under item (ii); and

(iv) multiply the tax computed under item (iii) by the base period percentage for the filing month and the months during the taxable year preceding the filing month.

(2) For purposes of this paragraph:

(i) the "base period percentage" for a period of months is the average percent that the taxable income for the corresponding months in each of the three preceding taxable years bears to the taxable income for the three preceding taxable years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this paragraph only applies if the base period percentage for any six consecutive months of the taxable year equals or exceeds 70 percent; and

(iv) the commissioner may provide by rule for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(3) In the case of a required installment determined under this paragraph, if the corporation determines that the installment is less than the amount determined in paragraph (a), the amount of the required installment is the

amount determined under this paragraph and the recapture of previous quarters' reductions allowed by this paragraph must be recovered by increasing later required installments to the extent the reductions have not previously been recovered.

Subd. 8. [DEFINITION OF TAX.] *The term "tax" as used in this section means the tax imposed by chapter 290.*

Subd. 9. [FAILURE TO FILE AN ESTIMATE.] *In the case of a corporation that fails to file an estimated tax for a taxable year when one is required, the period of the underpayment runs from the four installment dates in subdivision 2 or 3, whichever applies, to the earlier of the periods in subdivision 6, clauses (1) and (2).*

Subd. 10. [PAYMENT ON ACCOUNT.] *Payment of the estimated tax or any installment of it shall be considered payment on account of the taxes imposed by chapter 290, for the taxable year.*

Subd. 11. [OVERPAYMENT OF ESTIMATED TAX INSTALLMENT.] *If the amount of an installment payment of estimated tax exceeds the amount determined to be the correct amount of the installment payment, the overpayment must be credited against the unpaid installments, if any.*

Sec. 13. [289A.028] [EXTENSIONS FOR PAYING TAX.]

Subdivision 1. [INDIVIDUAL AND FIDUCIARY INCOME, CORPORATE FRANCHISE TAX.] *Where good cause exists, the commissioner may extend the time for payment of the amount determined as an individual or fiduciary income tax or corporate franchise tax by the taxpayer, or an amount determined as a deficiency, for a period of not more than six months from the date prescribed for the payment of the tax.*

Subd. 2. [ESTATE TAX.] *Where good cause exists, the commissioner may extend the time for payment of estate tax for a period of not more than six months. If an extension to pay the federal estate tax has been granted under section 6161 of the Internal Revenue Code of 1986, as amended through December 31, 1989, the time for payment of the estate tax without penalty is extended for that period. A taxpayer who owes at least \$5,000 in taxes and who, under section 6161 or 6166 of the Internal Revenue Code of 1986, as amended through December 31, 1989, has been granted an extension for payment of the tax shown on the return, may elect to pay the tax due to the commissioner in equal amounts at the same time as required for federal purposes. A taxpayer electing to pay the tax in installments must notify the commissioner in writing no later than nine months after the death of the person whose estate is subject to taxation. If the taxpayer fails to pay an installment on time, unless it is shown that the failure is due to reasonable cause, the election is revoked and the entire amount of unpaid tax plus accrued interest is due and payable 90 days after the date on which the installment was payable.*

Sec. 14. [289A.029] [LIABILITY FOR PAYMENT OF TAX.]

Subdivision 1. [INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, AND ENTERTAINMENT TAXES.] *(a) Individual income, fiduciary income, and corporate franchise taxes, and interest and penalties, must be paid by the taxpayer upon whom the tax is imposed, except in the following cases:*

(1) The tax due from a decedent for that part of the taxable year in which the decedent died during which the decedent was alive and the taxes,

interest, and penalty due for the prior years must be paid by the decedent's personal representative, if any. If there is no personal representative, the taxes, interest, and penalty must be paid by the transferees, as defined in section 289A.06, subdivision 13, to the extent they receive property from the decedent;

(2) The tax due from an infant or other incompetent person must be paid by the person's guardian or other person authorized or permitted by law to act for the person;

(3) The tax due from the estate of a decedent must be paid by the estate's personal representative;

(4) The tax due from a trust, including those within the definition of a corporation, as defined in section 290.01, subdivision 4, must be paid by a trustee; and

(5) The tax due from a taxpayer whose business or property is in charge of a receiver, trustee in bankruptcy, assignee, or other conservator, must be paid by the person in charge of the business or property so far as the tax is due to the income from the business or property.

(b) Entertainment taxes are the joint and several liability of the entertainer and the entertainment entity. The payor is liable to the state for the payment of the tax required to be deducted and withheld under section 290.9201, subdivision 7, and is not liable to the entertainer for the amount of the payment.

Subd. 2. [JOINT INCOME TAX RETURNS.] If a joint income tax return is made by a husband and wife, the liability for the tax is joint and several. A spouse who is relieved of a liability attributable to a substantial underpayment under section 6013(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, is also relieved of the state income tax liability on the substantial underpayment.

In the case of individuals who were a husband and wife prior to the dissolution of their marriage, for tax liabilities reported on a joint or combined return, the liability of each person is limited to the proportion of the tax due on the return that equals that person's proportion of the total tax due if the husband and wife filed separate returns for the taxable year. This provision is effective only when the commissioner receives written notice of the marriage dissolution from the husband or wife. No refund may be claimed by an ex-spouse for any taxes paid before receipt by the commissioner of the written notice.

Subd. 3. [TRANSFEREES AND FIDUCIARIES.] The amounts of the following liabilities are, except as otherwise provided in section 289A.06, subdivision 13, assessed, collected, and paid in the same manner and subject to the same provisions and limitations as a deficiency in a tax imposed by chapter 290, including any provisions of law for the collection of taxes:

(1) the liability, at law or in equity, of a transferee of property of a taxpayer for tax, including interest, additional amounts, and additions to the tax provided by law, imposed upon the taxpayer by chapter 290; and

(2) the liability of a fiduciary under subdivision 4 for the payment of tax from the estate of the taxpayer. The liability may reflect the amount of tax shown on the return or any deficiency in tax.

Subd. 4. [TAX AS A PERSONAL DEBT OF A FIDUCIARY.] *The tax imposed by chapter 290, and interest and penalties, is a personal debt of the taxpayer from the time the liability arises, regardless of when the time for discharging the liability by payment occurs. The debt is, in the case of the personal representative of the estate of a decedent and in the case of any fiduciary, that of the individual in the individual's official or fiduciary capacity only, unless the individual has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the individual is personally liable for the deficiency.*

Subd. 5. [WITHHOLDING TAX, WITHHOLDING FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS, AND WITHHOLDING BY PARTNERSHIPS AND SMALL BUSINESS CORPORATIONS.] *(a) Except as provided in paragraph (b), an employer or person withholding tax under section 290.92 or 290.923, subdivision 2, who fails to pay to or deposit with the commissioner a sum or sums required by those sections to be deducted, withheld, and paid, is personally and individually liable to the state for the sum or sums, and added penalties and interest, and is not liable to another person for that payment or payments. The sum or sums deducted and withheld under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, must be held as a special fund in trust for the state of Minnesota.*

(b) If the employer or person withholding tax under section 290.92 or 290.923, subdivision 2, fails to deduct and withhold the tax in violation of those sections, and later the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld will not be collected from the employer. This does not, however, relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold.

(c) Liability for payment of withholding taxes includes a responsible person or entity described in the personal liability provisions of section 290.101.

(d) Liability for payment of withholding taxes includes a third party lender or surety described in section 290.92, subdivision 22.

(e) A partnership or S corporation required to withhold and remit tax under section 290.92, subdivisions 4b and 4c, is liable for payment of the tax to the commissioner, and a person having control of or responsibility for the withholding of the tax or the filing of returns due in connection with the tax is personally liable for the tax due.

(f) A payor of sums required to be withheld under section 290.9705, subdivision 1, is liable to the state for the amount required to be deducted, and is not liable to an out-of-state contractor for the amount of the payment.

Subd. 6. [ESTATE TAX.] *The personal representative and person to whom property that is subject to taxation under this chapter is transferred, other than a bona fide purchaser, mortgagee, or lessee, is personally liable for that tax, until its payment, to the extent of the value of the property at the time of the transfer. The exemption from personal liability extends to subsequent transferees from bona fide purchasers, mortgagees, and lessees.*

Subd. 7. [SALES AND USE TAX.] *(a) The sales and use tax required to be collected by the retailer under chapter 297A constitutes a debt owed by the retailer to Minnesota, and the sums collected must be held as a*

special fund in trust for the state of Minnesota.

A retailer who does not maintain a place of business within this state as defined by section 297A.21, subdivision 1, shall not be indebted to Minnesota for amounts of tax that it was required to collect but did not collect unless the retailer knew or had been advised by the commissioner of its obligation to collect the tax.

(b) The use tax required to be paid by a purchaser is a debt owed by the purchaser to Minnesota.

(c) The tax imposed by sections 297A.01 to 297A.44, and interest and penalties, is a personal debt of the individual required to file a return from the time the liability arises, irrespective of when the time for payment of that liability occurs. The debt is, in the case of the executor or administrator of the estate of a decedent and in the case of a fiduciary, that of the individual in an official or fiduciary capacity unless the individual has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which case the individual is personally liable for the deficiency.

(d) Liability for payment of sales and use taxes includes any responsible person or entity described in the personal liability provisions of section 270.101.

Sec. 15. [289A.03] [ASSESSMENTS.]

The commissioner shall make determinations, corrections, and assessments with respect to state taxes, including interest, additions to taxes, and assessable penalties. The commissioner may audit and adjust the taxpayer's computation of federal taxable income to make it conform with the provisions of section 290.01, subdivisions 19 to 19g, or the items of federal tax preferences or federal credit amounts to make them conform with the provisions of chapter 290. If a taxpayer fails to file a required return, the commissioner, from information in the commissioner's possession or obtainable by the commissioner, may make a return for the taxpayer. The return will be prima facie correct and valid. If a return has been filed, the commissioner shall examine the return and make any audit or investigation that is considered necessary. The commissioner may use statistical or other sampling techniques consistent with generally accepted accounting principles in examining returns or records and making assessments.

Sec. 16. [289A.04] [EXAMINATIONS; AUDITS AND COLLECTIONS.]

Subdivision 1. [EXAMINATION OF TAXPAYER.] To determine the accuracy of a return or report, or in fixing liability under state tax law, or for the purpose of collection, the commissioner may make reasonable examinations or investigations of a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.

Subd. 2. [ACCESS TO RECORDS OF OTHER PERSONS IN CONNECTION WITH EXAMINATION OF TAXPAYER.] When conducting an investigation or an audit of a taxpayer, or for the purpose of collection, the commissioner may examine, except where privileged by law, the relevant records and files of any person, business, institution, financial institution, state agency, agency of the United States government, or agency of any other state where permitted by statute, agreement, or reciprocity.

The commissioner may compel production of these records by subpoena. A subpoena may be served directly by the commissioner.

Subd. 3. [POWER TO COMPEL TESTIMONY.] *In the administration of state tax law, the commissioner may:*

(1) administer oaths or affirmations and compel by subpoena the attendance of witnesses, testimony, and the production of a person's pertinent books, records, papers, or other data;

(2) examine under oath or affirmation any person regarding the business of any taxpayer concerning any relevant matter incident to the administration of state tax law. The fees of witnesses required by the commissioner to attend a hearing are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of state tax law; and

(3) in addition to other remedies that may be available, bring an action in equity by the state against a taxpayer for an injunction ordering the taxpayer to file a complete and proper return or amended return. The district courts of this state have jurisdiction over the action and disobedience of an injunction issued under this clause will be punished as a contempt of district court.

Subd. 4. [THIRD PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS KNOWN.] *An investigation may extend to a person that the commissioner determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records as described in subdivision 2 is served on a third-party recordkeeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner.*

The provisions of this subdivision relating to notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

Subd. 5. [THIRD PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS NOT KNOWN.] *A subpoena that does not identify the person or persons whose tax liability is being investigated may be served only if:*

(1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with tax laws administered by the commissioner;

(3) the information sought to be obtained from the examination of the records, and the identity of the person or persons with respect to whose liability the subpoena is issued, is not readily available from other sources;

(4) the subpoena is clear and specific concerning the information sought

to be obtained; and

(5) the information sought to be obtained is limited solely to the scope of the investigation.

The party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued may, within 20 days after service of the subpoena, petition the district court in the judicial district in which that party is located for a determination concerning whether the commissioner has complied with the requirements in clauses (1) to (5), and thus, whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the subpoena has the effect of a court order.

Subd. 6. [REQUEST BY TAXPAYER FOR SUBPOENA.] When the commissioner has the power to issue a subpoena for investigative or auditing purposes, the commissioner shall honor a reasonable request by the taxpayer to issue a subpoena on the taxpayer's behalf, if in connection with the investigation or audit.

Subd. 7. [APPLICATION TO COURT FOR ENFORCEMENT OF SUBPOENA.] The commissioner or the taxpayer may apply to the district court of the county of the taxpayer's residence, place of business, or county where the subpoena can be served as with any other case at law, for an order compelling the appearance of the subpoenaed witness or the production of the subpoenaed records. If the subpoenaed party fails to comply with the order of the court, the party may be punished by the court as for contempt.

Subd. 8. [COST OF PRODUCTION OF RECORDS.] The cost of producing records of a third party required by a subpoena must be paid by the taxpayer, if the taxpayer requests the subpoena to be issued, or if the taxpayer has the records available but has refused to provide them to the commissioner. In other cases where the taxpayer cannot produce records and the commissioner then initiates a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer.

Sec. 17. [289A.05] [ORDER OF ASSESSMENT.]

Subdivision 1. [ORDER OF ASSESSMENT; NOTICE AND DEMAND TO TAXPAYER.] (a) When a return has been filed and the commissioner determines that the tax disclosed by the return is different than the tax determined by the examination, the commissioner shall send an order of assessment to the taxpayer. The order must explain the basis for the assessment and must explain the taxpayer's appeal rights. An order of assessment is final when made but may be reconsidered by the commissioner under section 289A.16.

(b) An amount of unpaid tax shown on the order must be paid to the commissioner: (1) within 60 days after notice of the amount and demand for its payment have been mailed to the taxpayer by the commissioner; or (2) if an administrative appeal is filed under section 289A.16, within 60 days following the determination of the appeal.

Subd. 2. [ERRONEOUS REFUNDS.] An erroneous refund is considered an underpayment of tax on the date made. An assessment of a deficiency

arising out of an erroneous refund may be made at any time within two years from the making of the refund. If part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time.

Subd. 3. [ASSESSMENT PRESUMED VALID.] *A return or assessment of tax made by the commissioner is prima facie correct and valid. The taxpayer has the burden of establishing its incorrectness or invalidity in any related action or proceeding.*

Subd. 4. [AGGREGATE REFUND OR ASSESSMENT.] *The commissioner, on examining returns of a taxpayer for more than one year or period, may issue one order covering the period under examination that reflects the aggregate refund or additional tax due.*

Subd. 5. [SUFFICIENCY OF NOTICE.] *An order of assessment, sent postage prepaid by United States mail to the taxpayer at the taxpayer's last known address, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.*

Subd. 6. [ORDER OF ASSESSMENT IF JOINT INCOME TAX RETURN.] *If a joint income tax return is filed by a husband and wife, an order of assessment may be a single joint notice. If the commissioner has been notified by either spouse that that spouse's address has changed and if that spouse requests it, then, instead of the single joint notice mailed to the last known address of the husband and wife, a duplicate or original of the joint notice must be sent to the requesting spouse at the address designated by the requesting spouse. The other joint notice must be mailed to the other spouse at that spouse's last known address. An assessment is not invalid for failure to send it to a spouse if the spouse actually receives the notice in the same period as if it had been mailed to that spouse at the correct address or if the spouse has failed to provide an address to the commissioner other than the last known address.*

Sec. 18. [289A.06] [LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.]

Subdivision 1. [GENERAL RULE.] *Except as otherwise provided in this section, the amount of taxes assessable must be assessed within 3-1/2 years after the date the return is filed.*

Subd. 2. [FILING DATE.] *For purposes of this section, a tax return filed before the last day prescribed by law for filing is considered to be filed on the last day.*

Subd. 3. [ESTATE TAXES.] *Estate taxes must be assessed within 180 days after the return and the documents required under section 289A.0214, subdivision 2, have been filed.*

Subd. 4. [PROPERTY TAX REFUND.] *For purposes of computing the limitation under this section, the due date of the property tax refund return as provided for in chapter 290A is the due date for an income tax return covering the year in which the rent was paid or the year preceding the year in which the property taxes are payable.*

Subd. 5. [FALSE OR FRAUDULENT RETURN; NO RETURN.] *Notwithstanding the limitations under subdivisions 1 and 3, the tax may be assessed at any time if a false or fraudulent return is filed or when a*

taxpayer fails to file a return.

Subd. 6. [OMISSION IN EXCESS OF 25 PERCENT.] *Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if:*

(1) the taxpayer omits from gross income an amount properly includable in it that is in excess of 25 percent of the amount of gross income stated in the return;

(2) the taxpayer omits from a sales or withholding tax return an amount in excess of 25 percent of the taxes reported in the return; or

(3) the taxpayer omits from the gross estate assets in excess of 25 percent of the gross estate reported in the return.

Subd. 7. [FEDERAL TAX CHANGES.] *If the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer as reported to the Internal Revenue Service is changed or corrected by the commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or sub-contract with the United States results in a change in income, items of tax preference, deductions, or credits, or, in the case of estate tax, where there are adjustments to the taxable estate resulting in a change to the credit for state death taxes, the taxpayer shall report the change or correction or renegotiation results in writing to the commissioner, in the form required by the commissioner. The report must be submitted within 90 days after the final determination and must concede the accuracy of the determination or state how it is wrong. A taxpayer filing an amended federal tax return must also file a copy of the amended return with the commissioner of revenue within 90 days after filing the amended return.*

Subd. 8. [FAILURE TO REPORT CHANGE OR CORRECTION OF FEDERAL RETURN.] *If a taxpayer fails to make a report as required by subdivision 7, the commissioner may recompute the tax, including a refund, based on information available to the commissioner. The tax may be recomputed within six years after the report should have been filed, notwithstanding any period of limitations to the contrary.*

Subd. 9. [REPORT MADE OF CHANGE OR CORRECTION OF FEDERAL RETURN.] *If a taxpayer is required to make a report under subdivision 7, and does report the change or files a copy of the amended return, the commissioner may recompute and reassess the tax due, including a refund (1) within one year after the report or amended return is filed with the commissioner, notwithstanding any period of limitations to the contrary, or (2) within any other applicable period stated in this section, whichever period is longer. The period provided for the carryback of any amount of loss or credit is also extended as provided in this subdivision, notwithstanding any law to the contrary.*

Subd. 10. [INCORRECT DETERMINATION OF FEDERAL ADJUSTED GROSS INCOME.] *Notwithstanding any other provision of this chapter, if a taxpayer whose gross income is determined under section 290.01, subdivisions 20 and 20e, omits from income an amount that will under the Internal Revenue Code of 1986, as amended through December 31, 1989, extend the statute of limitations for the assessment of federal income taxes, or otherwise incorrectly determines the taxpayer's federal adjusted gross income resulting in adjustments by the Internal Revenue Service, then the*

period of assessment and determination of tax will be that under the Internal Revenue Code of 1986, as amended through December 31, 1989. When a change is made to federal income during the extended time provided under this subdivision, the provisions under subdivisions 7 to 9 regarding additional extensions apply.

Subd. 11. [NET OPERATING LOSS CARRYBACK.] If a deficiency of tax is attributable to a net operating loss carryback that has been disallowed in whole or in part, the deficiency may be assessed at any time that a deficiency for the taxable year of the loss may be assessed.

Subd. 12. [REQUEST FOR EARLY AUDIT FOR INDIVIDUAL INCOME, FIDUCIARY INCOME, AND CORPORATE FRANCHISE TAXES.] (a) Tax must be assessed within 18 months after written request for an assessment has been made in the case of income received (1) during the lifetime of a decedent, (2) by the decedent's estate during the period of administration, (3) by a trustee of a terminating trust or other fiduciary who, because of custody of assets, would be liable for the payment of tax under section 289A.029, subdivision 4, or (4) by a corporation. A proceeding in court for the collection of the tax must begin within two years after written request for the assessment (filed after the return is made and in the form the commissioner prescribes) by the personal representative or other fiduciary representing the estate of the decedent, or by the trustee of a terminating trust or other fiduciary who, because of custody of assets, would be liable for the payment of tax under section 289A.029, subdivision 4, or by the corporation. Except as provided in section 289A.10, subdivision 1, an assessment must not be made after the expiration of 3-1/2 years after the return was filed, and an action must not be brought after the expiration of four years after the return was filed.

(b) Paragraph (a) only applies in the case of a corporation if:

(1) the written request notifies the commissioner that the corporation contemplates dissolution at or before the expiration of the 18-month period;

(2) the dissolution is begun in good faith before the expiration of the 18-month period; and

(3) the dissolution is completed within the 18-month period.

Subd. 13. [TIME LIMIT FOR ASSESSMENT AND COLLECTION FOR TRANSFEREE OR FIDUCIARY.] The period of limitation for assessment and collection of any liability of a transferee or fiduciary is as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer, the tax may be assessed within one year after the expiration of the period of limitation of assessment against the taxpayer. The tax may be collected by action brought within one year after the expiration of the period of limitation for the starting of an action against the taxpayer.

(2) In the case of the liability of the transferee of a transferee of the property of the taxpayer, the tax may be assessed within one year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within 3-1/2 years after the expiration of the period of limitation for assessment against the taxpayer. The tax may be collected by action brought within one year after the expiration of the period of limitation for the starting of an action against the preceding transferee, but only if within four years after the expiration of the period of limitation for bringing an action against the taxpayer; except that if

before the expiration of the period of limitation for the assessment of the liability of the transferee a court proceeding for the collection of the tax or liability has been begun against the taxpayer or last preceding transferee, liability of the transferee expires one year after the return of execution in the court proceeding and the period of limitation for collection by action will expire one year after the liability is assessed.

(3) In the case of the liability of a fiduciary, the tax may be assessed up to one year after the liability arises or not later than the expiration of the period for collection of the tax for which the liability arises, whichever is later, and may be collected by action brought within one year after assessment.

(4) For the purposes of this subdivision, if the taxpayer is deceased, or in the case of a corporation, has ended its existence, the period of limitation for assessment against the taxpayer will be the period that would be in effect had death or termination of existence not occurred.

As used in this subdivision, the term "transferee" includes heir, legatee, devisee, and distributee.

Subd. 14. [FAILURE TO TIMELY FILE WITHHOLDING RECONCILIATION.] *If an employer fails to timely file the reconciliation required by section 289A.0212, subdivision 2, paragraph (d), withholding taxes may be assessed within the period prescribed in subdivision 1, or within one year from the date the reconciliation is filed with the commissioner, whichever is later.*

Sec. 19. [289A.07] [LIMITATIONS; ARMED SERVICES.]

Subdivision 1. [EXTENSIONS FOR SERVICE MEMBERS.] *The limitations of time provided by this chapter and chapter 290 relating to income taxes and chapter 271 relating to the tax court for filing returns, paying taxes, claiming refunds, commencing action thereon, appealing to the tax court from orders relating to income taxes, and appealing to the Supreme Court from decisions of the tax court relating to income taxes are extended, with respect to an individual, for the period during which the individual serves in the armed forces of the United States, or serves in support of the armed forces and as provided in section 7508 of the Internal Revenue Code of 1986, as amended through December 31, 1989, or serves in an area designated by the president as a combat zone or is hospitalized outside the United States as a result of injury received while serving in the combat during that time and for a further period of six months.*

Subd. 2. [INTEREST AND PENALTIES.] *Interest on income tax must not be assessed or collected from an individual, and interest must not be paid upon an income tax refund to any individual, with respect to whom, and for the period during which, the limitations or time are extended as provided in subdivision 1. A penalty will not be assessed or collected from an individual for failure during that period to perform an act required by the laws described in subdivision 1.*

Subd. 3. [ASSESSMENTS; ACTIONS.] *The time limitations provided for the assessment of a tax, penalty, or interest, are extended, with respect to those individuals and for the period provided in subdivision 1 and for a further period of six months; and the time limitations for the commencement of action to collect a tax, penalty, or interest from those individuals are extended for a period ending six months after the expiration of the time for assessment as provided in this section.*

Subd. 4. [APPLICABILITY.] Nothing in this section reduces the time within which an act is required or permitted under this chapter.

Subd. 5. [EXTENSION LIMITATIONS.] This section does not extend the time for performing any of the acts set forth in this chapter beyond the expiration of three months after the appointment of a personal representative or guardian, in this state, for any individual described in this section, except as provided in subdivision 6.

Subd. 6. [DEATH WHILE SERVING IN ARMED FORCES.] If an individual dies while in active service as a member of the military or naval forces of the United States or of any of the United Nations, an income tax imposed under chapter 290 will not be imposed for the taxable year in which the individual dies. Income tax imposed for a prior taxable year that is unpaid at the date of death (including additions to the tax, penalties) must not be assessed, and if assessed, the assessment must be abated. In addition, upon the filing of a claim for refund within seven years from the date the return was filed, the tax paid or collected with respect to any taxable year beginning after December 31, 1949, during which the decedent was in active service must be refunded.

Subd. 7. [DEATH OF CIVILIAN WHILE OUTSIDE UNITED STATES.] If an individual dies while a civilian employee of the United States as a result of wounds or injuries incurred while the individual was a civilian employee of the United States, and which were incurred outside the United States in a terroristic or military action, a tax imposed by chapter 290 does not apply with respect to the taxable year in which the death falls and with respect to any prior taxable years in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred. Terroristic or military action has the meaning given it in section 692(c)(2) of the Internal Revenue Code of 1986, as amended through December 31, 1989.

Sec. 20. [289A.08] [LIMITATIONS ON CLAIMS FOR REFUND.]

Subdivision 1. [TIME LIMIT; GENERALLY.] Unless otherwise provided in this chapter, a claim for a refund of an overpayment of state tax must be filed within 3-1/2 years from the date prescribed for filing the return, plus any extension of time granted for filing the return, but only if filed within the extended time, or two years from the time the tax is paid in full, whichever period expires later.

Subd. 2. [BAD DEBT LOSS.] If a claim relates to an overpayment because of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim is considered timely if filed within seven years from the date prescribed for the filing of the return. The refund or credit is limited to the amount of overpayment attributable to the loss.

Subd. 3. [NET OPERATING LOSS; INDIVIDUALS.] A refund or credit must be allowed for a net operating loss carryback to any taxable year authorized by section 290.095, or section 172 of the Internal Revenue Code of 1986, as amended through December 31, 1989, but the refund or credit is limited to the amount of overpayment arising from the carryback.

Sec. 21. [289A.09] [BANKRUPTCY; SUSPENSION OF TIME.]

The running of the period during which a tax must be assessed or collection proceedings commenced is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after either

notice to the commissioner of revenue that the bankruptcy proceedings have been closed or dismissed, or the automatic stay has been terminated or has expired, whichever occurs first.

The suspension of the statute of limitations under this section applies to the person the petition in bankruptcy is filed against and other persons who may also be wholly or partially liable for the tax.

Sec. 22. [289A.10] [CONSENT TO EXTEND STATUTE.]

Subdivision 1. [EXTENSION AGREEMENT.] If before the expiration of time prescribed in sections 289A.06 and 289A.08 for the assessment of tax or the filing of a claim for refund, both the commissioner and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax may be assessed or the claim for refund filed at any time before the expiration of the agreed upon period. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon.

Subd. 2. [FEDERAL EXTENSIONS.] A taxpayer who consents to an extension of time for the assessment of federal income taxes must notify the commissioner within 90 days of the execution of the consent. The period in which the commissioner may recompute the tax is also extended, notwithstanding any period of limitations to the contrary, as follows:

- (1) for the periods provided in section 289A.06, subdivisions 8 and 9;*
- (2) for six months following the expiration of the extended federal period of limitations when no change is made by the federal authority.*

Sec. 23. [289A.11] [CLAIMS FOR REFUNDS.]

Subdivision 1. [GENERAL RIGHT TO REFUND.] (a) Subject to the requirements of this section and section 289A.08, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return, or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds \$1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than \$1, the commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding or estimated taxes exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment.

(e) If the entertainment tax withheld at the source exceeds by \$1 or more the taxes, penalties, and interest reported in the return of the entertainment

entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than \$1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

Subd. 2. [REFUND OF SALES TAX TO VENDORS; LIMITATION.] If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to the tax imposed by chapter 297A, the tax is refundable to the vendor only if and to the extent that it is credited to amounts due to the vendor by the purchaser or returned to the purchaser by the vendor.

Subd. 3. [WITHHOLDING TAX AND ENTERTAINER WITHHOLDING TAX REFUNDS.] When there is an overpayment of withholding tax by an employer or a person making royalty payments, or an overpayment of entertainer withholding tax by the payor, a refund allowable under this section is limited to the amount of the overpayment that was not deducted and withheld from employee wages or from the royalty payments, or from the compensation of an entertainer.

Subd. 4. [NOTICE OF REFUND.] The commissioner shall determine the amount of refund, if any, that is due, and notify the taxpayer of the determination as soon as practicable after a claim has been filed.

Subd. 5. [WITHHOLDING OF REFUNDS FROM CHILD SUPPORT DEBTORS.] (a) If a court of this state finds that a person obligated to pay child support is delinquent in making payments, the amount of child support unpaid and owing, including attorney fees and costs incurred in ascertaining or collecting child support, must be withheld from a refund due the person under chapter 290. The public agency responsible for child support enforcement or the parent or guardian of a child for whom the support, attorney fees, and costs are owed may petition the district or county court for an order providing for the withholding of the amount of child support, attorney fees, and costs unpaid and owing as determined by court order. The person from whom the refund may be withheld must be notified of the petition under the rules of civil procedure before the issuance of an order under this subdivision. The order may be granted on a showing to the court that required support payments, attorney fees, and costs have not been paid when they were due.

(b) On order of the court and on payment of \$3 to the commissioner, the commissioner shall withhold the money from the refund due to the person obligated to pay the child support. The amount withheld shall be remitted to the public agency responsible for child support enforcement or to the parent or guardian petitioning on behalf of the child, after any delinquent tax obligations of the taxpayer owed to the revenue department have been satisfied. An amount received by the responsible public agency or the petitioning parent or guardian in excess of the amount of public assistance spent for the benefit of the child to be supported, or the amount of any

support, attorney fees, and costs that had been the subject of the claim under this subdivision that has been paid by the taxpayer before the diversion of the refund, must be paid to the person entitled to the money. If the refund is based on a joint return, the part of the refund that must be paid to the petitioner is the proportion of the total refund that equals the proportion of the total federal adjusted gross income of the spouses that is the federal adjusted gross income of the spouse who is delinquent in making the child support payments.

(c) A petition filed under this subdivision remains in effect with respect to any refunds due under this section until the support money, attorney fees, and costs have been paid in full or the court orders the commissioner to discontinue withholding the money from the refund due the person obligated to pay the support, attorney fees, and costs. If a petition is filed under this subdivision and a claim is made under chapter 270A with respect to the individual's refund and notices of both are received before the time when payment of the refund is made on either claim, the claim relating to the liability that accrued first in time must be paid first. The amount of the refund remaining must then be applied to the other claim.

Subd. 6. [OFFSETTING OF INCOME TAX REFUNDS.] Notwithstanding any other law to the contrary, in the case of an overpayment, the commissioner, within the applicable period of limitations, may credit the amount of the overpayment against a liability with respect to Minnesota income tax on the part of the person who made the overpayment or against a liability with respect to Minnesota income tax on the part of either spouse who filed a joint return for the taxable year in which the overpayment was made and must refund a balance of more than \$1 to the person if the taxpayer so requests.

Subd. 7. [REMEDIES.] (a) If the taxpayer is notified by the commissioner that the refund claim is denied in whole or in part, the taxpayer may:

(1) file an administrative appeal as provided in section 289A.16, or an appeal with the tax court, within 60 days after issuance of the commissioner's notice of denial; or

(2) file an action in the district court to recover the refund.

(b) An action in the district court on a denied claim for refund must be brought within 18 months of the date of the denial of the claim by the commissioner.

(c) No action in the district court or the tax court shall be brought within six months of the filing of the refund claim unless the commissioner denies the claim within that period.

(d) If a taxpayer files a claim for refund and the commissioner has not issued a denial of the claim, the taxpayer may bring an action in the district court or the tax court at any time after the expiration of six months of the time the claim was filed, but within four years of the date that the claim was filed.

(e) The commissioner and the taxpayer may agree to extend the period for bringing an action in the district court.

(f) An action for refund of tax by the taxpayer must be brought in the district court of the district in which lies the county of the taxpayer's residence or principal place of business. In the case of an estate or trust,

the action must be brought at the principal place of its administration. Any action may be brought in the district court for Ramsey county.

Subd. 8. [MISTAKE DISCOVERED BY COMMISSIONER.] If money has been erroneously collected from a taxpayer or other person, the commissioner shall, within the period named in section 289A.08 for filing a claim for refund, and, subject to the provisions of section 270.07, subdivision 5, chapter 270A, and this section, grant a refund to that taxpayer or other person.

Sec. 24. [289A.12] [INTEREST PAYABLE TO COMMISSIONER.]

Subdivision 1. [INTEREST RATE.] When interest is required under this section, interest is computed at the rate specified in section 270.75.

Subd. 2. [LATE PAYMENT.] If a tax is not paid within the time named by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.

Subd. 3. [EXTENSIONS.] When an extension of time for payment has been granted, interest must be paid from the date the payment should have been made, if no extension had been granted, until the date the tax is paid.

Subd. 4. [ADDITIONAL ASSESSMENTS.] When a taxpayer is liable for additional taxes because of a redetermination by the commissioner, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to an extension allowed, until the date the tax is paid.

Subd. 5. [EXCESSIVE CLAIMS FOR REFUNDS UNDER CHAPTER 290A.] When it is determined that a claim for a property tax refund was excessive, the amount that the taxpayer must repay bears interest from the date the claim was paid until the date of repayment.

Subd. 6. [ERRONEOUS REFUNDS.] In the case of an erroneous refund, interest begins to accrue from the date the refund was paid unless the erroneous refund results from a mistake of the department, in which case no interest or penalty will be imposed, unless the deficiency assessment is not satisfied within 60 days of the order.

Subd. 7. [INSTALLMENT PAYMENTS; ESTATE TAX.] Interest must be paid on unpaid installment payments of the tax authorized under section 289A.028, subdivision 2, beginning on the date the tax was due without regard to extensions allowed or extensions elected, at the rate of interest in effect under section 270.75, nine months following the date of death.

Subd. 8. [INTEREST ON JUDGMENTS.] Notwithstanding section 549.09, if judgment is entered in favor of the commissioner with regard to any tax, the judgment bears interest at the rate given in section 270.75 from the date the judgment is entered until the date of payment.

Subd. 9. [INTEREST ON PENALTIES.] (a) A penalty imposed under section 289A.14, subdivision 1, 2, 3, 4, 5, or 6, bears interest from the date the return or payment was required to be filed or paid, including any extensions, to the date of payment of the penalty.

(b) A penalty not included in paragraph (a) bears interest only if it is not paid within ten days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.

Sec. 25. [289A.13] [INTEREST ON OVERPAYMENTS.]

Subdivision 1. [INTEREST RATE.] When interest is due on an overpayment under this section, it must be computed at the rate specified in section 270.76.

Subd. 2. [CORPORATE FRANCHISE, INDIVIDUAL AND FIDUCIARY INCOME, AND ENTERTAINER TAX OVERPAYMENTS.] Interest must be paid on an overpayment refunded or credited to the taxpayer from the date of payment of the tax until the date the refund is paid or credited. For purposes of this subdivision, the prepayment of tax made by withholding of tax at the source or payment of estimated tax before the due date is considered paid on the last day prescribed by law for the payment of the tax by the taxpayer. A return filed before the due date is considered as filed on the due date.

When the amount of tax withheld at the source or paid as estimated tax or allowable as other refundable credits, or withheld from compensation of entertainers, exceeds the tax shown on the original return by \$10, the amount refunded bears interest from 90 days after (1) the due date of the return of the taxpayer, or (2) the date on which the original return is filed, whichever is later, until the date the refund is paid to the taxpayer. Where the amount to be refunded is less than \$10, no interest is paid. However, to the extent that the basis for the refund is a net operating loss carryback, interest is computed only from the end of the taxable year in which the loss occurs.

Subd. 3. [WITHHOLDING TAX, ENTERTAINER WITHHOLDING TAX, WITHHOLDING FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS, ESTATE TAX, AND SALES TAX OVERPAYMENTS.] When a refund is due for overpayments of withholding tax, entertainer withholding tax, withholding from payments to out-of-state contractors, estate tax, or sales tax, interest is computed from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.

Subd. 4. [CAPITAL EQUIPMENT REFUNDS.] Notwithstanding subdivision 3, for refunds payable under section 297A.15, subdivision 5, interest is computed from the date the refund claim is filed with the commissioner.

Subd. 5. [SALES OR MOTOR VEHICLE EXCISE TAX; RETAILERS.] In the case of a refund allowed under section 297A.211, subdivision 3, interest is allowed only from the date on which the person has both registered as a retailer and filed a claim for refund.

Subd. 6. [PROPERTY TAX REFUNDS UNDER CHAPTER 290A.] (a) When a renter is owed a property tax refund, an unpaid refund bears interest after August 14, or 60 days after the refund claim was made, whichever is later, until the date the refund is paid.

(b) When any other claimant is owed a property tax refund, the unpaid refund bears interest after September 29, or 60 days after the refund claim was made, whichever is later, until the date the refund is paid.

Sec. 26. [289A.14] [CIVIL PENALTIES.]

Subdivision 1. [PENALTY FOR FAILURE TO PAY TAX.] If a tax is not paid or amounts required to be withheld are not remitted within the time specified for payment, a penalty must be added to the amount required to be shown as tax. The penalty is three percent of the tax not paid on or

before the date specified for payment of the tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 24 percent in the aggregate.

Subd. 2. [PENALTY FOR FAILURE TO MAKE AND FILE RETURN.] If a taxpayer fails to make and file a return within the time prescribed or an extension, a penalty is added to the tax. The penalty is three percent of the amount of tax not paid on or before the date prescribed for payment of the tax including any extensions if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days, during which the failure continues, not exceeding 23 percent in the aggregate.

If a taxpayer fails to file a return, other than an income tax return of an individual, within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision must not be less than the lesser of: (1) \$200; or (2) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax, or (b) \$50.

Subd. 3. [COMBINED PENALTIES.] When penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined must not exceed 38 percent.

Subd. 4. [SUBSTANTIAL UNDERSTATEMENT OF LIABILITY; PENALTY.] The commissioner of revenue shall impose a penalty for substantial understatement of any tax payable to the commissioner, except a tax imposed under chapter 297A.

There must be added to the tax an amount equal to 20 percent of the amount of any underpayment attributable to the understatement. There is a substantial understatement of tax for the period if the amount of the understatement for the period exceeds the greater of: (1) ten percent of the tax required to be shown on the return for the period; or (2)(a) \$10,000 in the case of a corporation other than an S corporation as defined in section 290.9725 when the tax is imposed by chapter 290, or (b) \$5,000 in the case of any other taxpayer, and in the case of a corporation any tax not imposed by chapter 290. The term "understatement" means the excess of the amount of the tax required to be shown on the return for the period, over the amount of the tax imposed that is shown on the return. The amount of the understatement shall be reduced by that part of the understatement that is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment, or any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. The special rules in cases involving tax shelters provided in section 6662(d)(2)(C) of the Internal Revenue Code of 1986, as amended through December 31, 1989, shall apply and shall apply to a tax shelter the principal purpose of which is the avoidance or evasion of state taxes. The commissioner may abate all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement, or part of it, and that the taxpayer acted in good faith. The additional tax and penalty shall bear interest at the rate specified in section

270.75 from the time the tax should have been paid until paid.

Subd. 5. [PENALTY FOR INTENTIONAL DISREGARD OF LAW OR RULES.] *If part of an additional assessment is due to negligence or intentional disregard of the provisions of the applicable tax laws or rules of the commissioner, but without intent to defraud, there must be added to the tax an amount equal to ten percent of the additional assessment.*

Subd. 6. [PENALTY FOR FALSE OR FRAUDULENT RETURN, EVASION.] *If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax, less amounts paid by the person on the basis of the false or fraudulent return, due for the period to which the return related.*

Subd. 7. [PENALTY FOR FRIVOLOUS RETURN.] *If an individual files what purports to be a tax return required by chapter 290 but which does not contain information on which the substantial correctness of the assessment may be judged or contains information that on its face shows that the assessment is substantially incorrect and the conduct is due to a position that is frivolous or a desire that appears on the purported return to delay or impede the administration of Minnesota tax laws, then the individual shall pay a penalty of \$500. In a proceeding involving the issue of whether or not a person is liable for this penalty, the burden of proof is on the commissioner.*

Subd. 8. [PENALTY FOR FAILURE TO FILE INFORMATIONAL RETURN.] *In the case of a failure to file an informational return required by section 289A.0218 with the commissioner on the date prescribed (determined with regard to any extension of time for filing), the person failing to file the return shall pay a penalty of \$50 for each failure or in the case of a partnership, S corporation, or fiduciary return, \$50 for each partner, shareholder, or beneficiary; but the total amount imposed on the delinquent person for all failures during any calendar year must not exceed \$25,000. If a failure to file a return is due to intentional disregard of the filing requirement, then the penalty imposed under the preceding sentence must not be less than an amount equal to:*

(1) in the case of a return not described in clause (2) or (3), ten percent of the aggregate amount of the items required to be reported;

(2) in the case of a return required to be filed under section 289A.0218, subdivision 5, five percent of the gross proceeds required to be reported; and

(3) in the case of a return required to be filed under section 289A.0218, subdivision 9, relating to direct sales, \$100 for each failure; however, the total amount imposed on the delinquent person for intentional failures during a calendar year must not exceed \$50,000. The penalty must be collected in the same manner as a delinquent income tax.

Subd. 9. [PENALTIES FOR FAILURE TO GIVE ANNUAL REPORT INFORMATION BY EXEMPT INDIVIDUALS, CORPORATIONS.] *In the case of a failure to give annual report information as prescribed by section 290.05, subdivision 4, the exempt individual or corporation shall pay the commissioner a penalty of \$100 for each failure.*

Subd. 10. [PENALTY FOR FAILURE TO PROVIDE SOCIAL SECURITY NUMBER AS REQUIRED.] *A person who is required by law to:*

(1) give the person's social security account number to another person; or
(2) include in a return, statement, or other document made with respect to another person that individual's social security account number, who fails to comply with the requirement when prescribed, must pay a penalty of \$50 for each failure. The total amount imposed on a person for failures during a calendar year must not exceed \$25,000.

Subd. 11. [PENALTIES RELATING TO INFORMATION REPORTS, WITHHOLDING.] (a) When a person required under section 289A.0212, subdivision 2, to give a statement to an employee or payee and a duplicate statement to the commissioner, or to give a reconciliation of the statements and quarterly returns to the commissioner, gives a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements and quarterly returns to the commissioner, or fails to give a statement or the reconciliation in the manner, when due, and showing the information required by section 289A.0212, subdivision 2, or rules prescribed by the commissioner under that section, that person is liable for a penalty of \$50 for an act or failure to act. The total amount imposed on the delinquent person for failures during a calendar year must not exceed \$25,000.

(b) In addition to any other penalty provided by law, an employee who gives a withholding exemption certificate or a residency affidavit to an employer that the employee has reason to know contains a materially incorrect statement is liable to the commissioner of revenue for a penalty of \$500 for each instance.

(c) In addition to any other penalty provided by law, an employer who fails to submit a copy of a withholding exemption certificate or a residency affidavit required by section 290.92, subdivision 5a, clause (1)(a), (1)(b), or (2) is liable to the commissioner of revenue for a penalty of \$50 for each instance.

(d) An employer or payor who fails to file an application for a withholding account number, as required by section 290.92, subdivision 24, is liable to the commissioner for a penalty of \$100.

Subd. 12. [PENALTIES RELATING TO PROPERTY TAX REFUNDS.] (a) If the commissioner determines that a property tax refund claim is or was excessive and was filed with fraudulent intent, the claim must be disallowed in full. If the claim has been paid, the amount disallowed may be recovered by assessment and collection.

(b) If it is determined that a property tax refund claim is excessive and was negligently prepared, ten percent of the corrected claim must be disallowed. If the claim has been paid, the amount disallowed must be recovered by assessment and collection.

(c) An owner or managing agent who knowingly fails to give a certificate of rent constituting property tax to a renter, as required by section 290A.19, paragraph (a), is liable to the commissioner for a penalty of \$100 for each failure.

(d) If the owner or managing agent knowingly gives rent certificates that report total rent constituting property taxes in excess of the amount of actual property taxes paid on the rented part of a property, the owner or managing agent is liable for a penalty equal to the greater of (1) \$100 or (2) 50 percent of the excess that is reported.

(e) A claim filed after the original or extended due date will be reduced by five percent of the amount otherwise allowable, plus an additional five percent for each month of delinquency, not exceeding a total reduction of 25 percent, which may be canceled or reduced by the commissioner if the delinquency is due to reasonable cause. In any event, no claim is allowed if the initial claim is filed more than one year after the original due date for filing the claim.

Subd. 13. [PENALTIES FOR TAX RETURN PREPARERS.] (a) If an understatement of liability with respect to a return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is a tax return preparer with respect to the return or claim, the person shall pay to the commissioner a penalty of \$500. If a part of a property tax refund claim is excessive due to a willful attempt in any manner to overstate the claim for relief allowed under chapter 290A by a person who is a tax refund or return preparer, the person shall pay to the commissioner a penalty of \$500 with respect to the claim. These penalties may not be assessed against the employer of a tax return preparer unless the employer was actively involved in the willful attempt to understate the liability for a tax or to overstate the claim for refund. These penalties are income tax liabilities and may be assessed at any time as provided in section 289A.06, subdivision 5.

(b) A civil action in the name of the state of Minnesota may be commenced to enjoin any person who is a tax return preparer doing business in this state from further engaging in any conduct described in paragraph (c). An action under this paragraph must be brought by the attorney general in the district court for the judicial district of the tax return preparer's residence or principal place of business, or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exercise its jurisdiction over the action separate and apart from any other action brought by the state of Minnesota against the tax return preparer or any taxpayer.

(c) In an action under paragraph (b), if the court finds that a tax return preparer has:

(1) engaged in any conduct subject to a civil penalty under section 289A.14 or a criminal penalty under section 289A.15;

(2) misrepresented the preparer's eligibility to practice before the department of revenue, or otherwise misrepresented the preparer's experience or education as a tax return preparer;

(3) guaranteed the payment of any tax refund or the allowance of any tax credit; or

(4) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of state tax law, and injunctive relief is appropriate to prevent the recurrence of that conduct,

the court may enjoin the person from further engaging in that conduct.

(d) If the court finds that a tax return preparer has continually or repeatedly engaged in conduct described in paragraph (c), and that an injunction prohibiting that conduct would not be sufficient to prevent the person's interference with the proper administration of state tax laws, the court may enjoin the person from acting as a tax return preparer. The

court may not enjoin the employer of a tax return preparer for conduct described in paragraph (c) engaged in by one or more of the employer's employees unless the employer was also actively involved in that conduct.

(e) For purposes of this subdivision, the term "understatement of liability" means an understatement of the net amount payable with respect to a tax imposed by state tax law, or an overstatement of the net amount creditable or refundable with respect to a tax. The determination of whether or not there is an understatement of liability must be made without regard to any administrative or judicial action involving the taxpayer. For purposes of this subdivision, the amount determined for underpayment of estimated tax under either section 289A.026 or 289A.027 is not considered an understatement of liability.

(f) For purposes of this subdivision, the term "overstatement of claim" means an overstatement of the net amount refundable with respect to a claim for property tax relief provided by chapter 290A. The determination of whether or not there is an overstatement of a claim must be made without regard to administrative or judicial action involving the claimant.

(g) For purposes of this section, the term "tax refund or return preparer" means an individual who prepares for compensation, or who employs one or more individuals to prepare for compensation, a return of tax, or a claim for refund of tax. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. An individual is not considered a tax return preparer merely because the individual:

- (1) gives typing, reproducing, or other mechanical assistance;
- (2) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the individual is regularly and continuously employed;
- (3) prepares a return or claim for refund of any person as a fiduciary for that person; or
- (4) prepares a claim for refund for a taxpayer in response to a tax order issued to the taxpayer.

Subd. 14. [PENALTY FOR USE OF SALES TAX EXEMPTION CERTIFICATES TO EVADE TAX.] A person who uses an exemption certificate to buy property that will be used for purposes other than the exemption claimed, with the intent to evade payment of sales tax to the seller, is subject to a penalty of \$100 for each transaction where that use of an exemption certificate has occurred.

Subd. 15. [ACCELERATED PAYMENT OF JUNE SALES TAX LIABILITY; PENALTY FOR UNDERPAYMENT.] If a vendor is required by law to submit an estimation of June sales tax liabilities and one-half payment by a certain date, and the vendor fails to remit the balance due by the date required, the vendor shall pay a penalty equal to ten percent of the amount of actual June liability required to be paid in June less the amount remitted in June. The penalty must not be imposed, however, if the amount remitted in June equals the lesser of: (1) 45 percent of the actual June liability, or (2) 50 percent of the preceding May's liability.

Subd. 16. [PENALTY FOR SALES AFTER REVOCATION.] A person who engages in the business of making retail sales after revocation of a permit under section 297A.07 is liable for a penalty of \$100 for each day

the person continues to make taxable sales.

Subd. 17. [OPERATOR OF FLEA MARKETS; PENALTY.] *A person who fails to comply with the provisions of section 297A.041 is subject to a penalty of \$100 for each day of each selling event that the operator fails to obtain evidence that a seller is the holder of a valid seller's permit issued under section 297A.04.*

Subd. 18. [PAYMENT OF PENALTIES.] *The penalties imposed by this section are collected and paid in the same manner as taxes.*

Subd. 19. [PENALTIES ARE ADDITIONAL.] *The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.*

Sec. 27. [289A.15] [CRIMINAL PENALTIES.]

Subdivision 1. [PENALTIES FOR KNOWING FAILURE TO FILE OR PAY; WILLFUL EVASION.] *(a) A person required to file a return, report, or other document with the commissioner, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor. A person required to file a return, report, or other document who willfully attempts in any manner to evade or defeat a tax by failing to file it when required, is guilty of a felony.*

(b) A person required to pay or to collect and remit a tax, who knowingly, rather than accidentally, inadvertently, or negligently, fails to do so when required, is guilty of a gross misdemeanor. A person required to pay or to collect and remit a tax, who willfully attempts to evade or defeat a tax law by failing to do so when required, is guilty of a felony.

Subd. 2. [FALSE OR FRAUDULENT RETURNS; PENALTIES.] *(a) A person who files with the commissioner a return, report, or other document, known by the person to be fraudulent or false concerning a material matter, is guilty of a felony.*

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

Subd. 3. [SALES WITHOUT PERMIT; VIOLATIONS.] *(a) A person who engages in the business of making retail sales in Minnesota without the permit or permits required under chapter 297A, or a responsible officer of a corporation who so engages in business, is guilty of a gross misdemeanor.*

(b) A person who engages in the business of making retail sales in Minnesota after revocation of a permit under section 297A.07, when the commissioner has not issued a new permit, is guilty of a felony.

Subd. 4. [ADVERTISING NO SALES OR USE TAX; VIOLATION.] *It is a misdemeanor for a person to broadcast or publish, or arrange to have broadcast or published, an advertisement in a publication or broadcast media, printed, distributed, broadcast, or intended to be received in this state, that states that no sales or use tax is due, when the person knows the advertisement is false.*

Subd. 5. [EMPLOYEE GIVING EMPLOYER FALSE INFORMATION.] *An employee required to supply information to an employer under section*

290.92, subdivisions 4a and 5, who knowingly fails to supply information or who knowingly supplies false or fraudulent information to an employer, is guilty of a gross misdemeanor.

Subd. 6. [COLLECTION OF TAX; PENALTY.] *An agent, canvasser, or employee of a retailer, who is not authorized by permit from the commissioner, may not collect the sales tax as imposed by chapter 297A, nor sell, solicit orders for, nor deliver, any tangible personal property in this state. An agent, canvasser, or employee violating the provisions of sections 297A.14 to 297A.25 is guilty of a misdemeanor.*

Subd. 7. [UNAUTHORIZED DISCLOSURE.] *Any person disclosing any particulars of any tax return, without the written consent of the taxpayer making such return, in violation of the provisions of section 290.611, is guilty of a gross misdemeanor.*

Subd. 8. [CRIMINAL PENALTIES.] *Criminal penalties imposed by this section are in addition to any civil penalties imposed by this chapter.*

Subd. 9. [STATUTE OF LIMITATIONS.] *Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense named in this section, in the proper court within six years after the offense is committed.*

Subd. 10. [PERSON DEFINED.] *The term "person" as used in this section includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member, or employee is under a duty to perform the act in respect to which the violation occurs.*

Sec. 28. Minnesota Statutes 1988, section 290.05, subdivision 4, is amended to read:

Subd. 4. (a) Corporations, individuals, estates, trusts or organizations claiming exemption under ~~the provisions of~~ subdivision 2 shall furnish information ~~as to~~ concerning their exempt status under the Internal Revenue Code.

(b) ~~Such~~ Corporations, individuals, estates, trusts, and organizations shall file with the commissioner of revenue a copy of ~~any~~ an annual report that is required to be filed with the Internal Revenue Service, no later than ten days after filing ~~the same~~ it with the Internal Revenue Service. ~~Any~~ An annual report required of a pension plan under sections 6057 to 6059 of the Internal Revenue Code of 1954, does not need to be filed with the commissioner.

~~Any person required to file a copy of a federal return pursuant to the preceding paragraph who willfully fails to file such return shall be guilty of a misdemeanor.~~

(c) ~~In the event that~~ If the Internal Revenue Service revokes, cancels or suspends, in whole or part, the exempt status of any corporation, individual, estate, trust or organization referred to in ~~clause~~ paragraph (a), or if the amount of gross income, deductions, credits, items of tax preference or taxable income is changed or corrected by either the taxpayer or the Internal Revenue Service, or if the taxpayer consents to any extension of time for assessment of federal income taxes ~~such~~, the corporation, individual, estate, trust or organization shall notify the commissioner in writing of ~~such~~ the action within 90 days ~~thereafter~~ after that date.

(d) The periods of limitations contained in section ~~290.56~~ *shall* 289A.10, subdivision 2, apply ~~whenever~~ *when* there has been any action referred to in ~~clause~~ *paragraph* (c), notwithstanding any period of limitations to the contrary.

Sec. 29. Minnesota Statutes Second 1989 Supplement, section 290.92, subdivision 4b, is amended to read:

Subd. 4b. [WITHHOLDING BY PARTNERSHIPS.] (a) A partnership shall deduct and withhold a tax as provided in paragraph (b) when the partnership pays or credits amounts to any of its nonresident individual partners on account of their distributive shares of partnership income for a taxable year of the partnership.

(b) The amount of tax withheld is determined by multiplying the partner's distributive share allocable to Minnesota under section 290.17, paid or credited during the taxable year by the highest rate used to determine the income tax liability for an individual under section 290.06, subdivision 2c, except that the amount of tax withheld may be determined based on tables provided by the commissioner if the partner submits a withholding exemption certificate under subdivision 5.

(c) ~~A partnership required to deduct and withhold tax under this subdivision shall file a return with the commissioner. The tax required to be deducted and withheld during that year must be paid with the return. The return and payment is due on or before the due date specified for filing the partnership return under section 290.42.~~

(d) ~~A partnership required to withhold and remit tax under this subdivision is liable for payment of the tax to the commissioner, and a person having control of or responsibility for the withholding of the tax or the filing of returns due under this subdivision is personally liable for the tax due. The commissioner may reduce or abate the tax withheld under this subdivision if the partnership had reasonable cause to believe that no tax was due under this section.~~

(e) (d) Notwithstanding paragraph (a), a partnership is not required to deduct and withhold tax for a nonresident partner if:

(1) the partner elects to have the tax due paid as part of the partnership's composite return under section 290.39, subdivision 5;

(2) the partner has Minnesota assignable federal adjusted gross income from the partnership of less than \$1,000; or

(3) the partnership is liquidated or terminated, the income was generated by a transaction related to the termination or liquidation, and no cash or other property was distributed in the current or prior taxable year; or

(4) the distributive shares of partnership income are attributable to:

(i) income required to be recognized because of discharge of indebtedness;

(ii) income recognized because of a sale, exchange, or other disposition of real estate, depreciable property, or property described in section 179 of the Internal Revenue Code of 1986, as amended through December 31, 1988; or

(iii) income recognized on the sale, exchange, or other disposition of any property that has been the subject of a basis reduction pursuant to section 108, 734, 743, 754, or 1017 of the Internal Revenue Code of 1986,

as amended through December 31, 1988,

to the extent that the income does not include cash received or receivable or, if there is cash received or receivable, to the extent that the cash is required to be used to pay indebtedness by the partnership or a secured debt on partnership property.

~~(f)~~ (e) For purposes of ~~subdivisions 6, paragraph (1)(e), subdivision 6a, 7, 11, and 15, and sections 289A.0212, subdivision 2, 289A.025, subdivision 2, paragraph (c), 289A.11, 289A.13, 289A.14, and 289A.15,~~ a partnership is considered an employer.

~~(g)~~ (f) To the extent that income is exempt from withholding under paragraph ~~(e)~~ (d), clause (4), the commissioner has a lien in an amount up to the amount that would be required to be withheld with respect to the income of the partner attributable to the partnership interest, but for the application of paragraph ~~(e)~~ (d), clause (4). The lien arises under section 270.69 from the date of assessment of the tax against the partner, and attaches to that partner's share of the profits and any other money due or to become due to that partner in respect of the partnership. Notice of the lien may be sent by mail to the partnership, without the necessity for recording the lien. The notice has the force and effect of a levy under section 270.70, and is enforceable against the partnership in the manner provided by that section. Upon payment in full of the liability subsequent to the notice of lien, the partnership must be notified that the lien has been satisfied.

Sec. 30. Minnesota Statutes 1989 Supplement, section 290.92, subdivision 4c, is amended to read:

Subd. 4c. [WITHHOLDING BY SMALL BUSINESS CORPORATIONS.] (a) A corporation having a valid election in effect under section 290.9725 shall deduct and withhold a tax as provided in paragraph (b) when it pays or credits amounts to any of its nonresident individual shareholders as dividends or as their share of the corporations's undistributed taxable income for the taxable year.

(b) The amount of tax withheld is determined by multiplying the amount of dividends or undistributed income allocable to Minnesota under section 290.17, paid or credited to a nonresident shareholder during the taxable year by the highest rate used to determine the income tax liability of an individual under section 290.06, subdivision 2c, except that the amount of tax withheld may be determined based on tables provided by the commissioner if the shareholder submits a withholding exemption certificate under subdivision 5.

~~(c) A corporation required to deduct and withhold tax under this subdivision shall file a return with the commissioner. The tax required to be deducted and withheld during that year must be paid with the return. The return and payment is due on or before the due date specified for filing the corporate income tax return under section 290.42.~~

~~(d) A corporation required to withhold and remit tax under this section is liable for payment of the tax to the commissioner, and a person having control of or responsibility for the withholding of the tax or the filing of returns due under this subdivision is personally liable for the tax due.~~

~~(e) Notwithstanding paragraph (a), a corporation is not required to deduct and withhold tax for a nonresident shareholder, if:~~

(1) the shareholder elects to have the tax due paid as part of the corporation's composite return under section 290.39, subdivision 5;

(2) the shareholder has Minnesota assignable federal adjusted gross income from the corporation of less than \$1,000; or

(3) the corporation is liquidated or terminated, the income was generated by a transaction related to the termination or liquidation, and no cash or other property was distributed in the current or prior taxable year.

~~(f) (d) For purposes of subdivisions 6, paragraph (1)(c), subdivision 6a, 7, 11, and 15, and sections 289A.0212, subdivision 2, 289A.025, subdivision 2, paragraph (c), 289A.11, 289A.13, 289A.14, and 289A.15, a corporation is considered an employer.~~

Sec. 31. Minnesota Statutes 1988, section 290.92, subdivision 6a, is amended to read:

Subd. 6a. [FAILURE TO COMPLY WITH WITHHOLDING PROVISIONS.] (a) ~~Whenever any~~ When a person who is required to deduct, withhold, pay over, or deposit any tax imposed by this chapter, at the time and in the manner prescribed by law or rules fails to deduct, withhold, or pay over ~~such the~~ tax, or fails to make deposits or payments of ~~such the~~ tax and is notified of ~~any such the~~ failure by notice served upon the person in the manner prescribed for service of a summons in civil actions, then ~~all the~~ requirements of paragraph (b) shall be ~~complied with met~~. In the case of a corporation, partnership or trust, notice served upon an officer, partner or trustee shall, for purposes of this subdivision, be ~~deemed to be considered~~ notice served upon ~~such the~~ corporation, partnership, or trust and ~~all their~~ officers, partners, or trustees ~~thereof~~.

(b) ~~Any~~ A person who is required to deduct, withhold, pay over, or deposit ~~any a~~ tax imposed by this chapter, if notice has been served upon ~~such that~~ person in accordance with paragraph (a), shall ~~thereafter after that date~~ deduct, withhold, and collect ~~such the~~ taxes and shall (not later than the end of the second banking day after any amount of such taxes is deducted, withheld or collected) deposit ~~such the~~ taxes in a separate account in a bank, savings bank or savings and loan association and shall keep the amount of ~~such the~~ taxes in ~~such that~~ account until ~~payment over paid~~ to the state of Minnesota. ~~Any such The account shall constitute constitutes~~ and ~~must be designated as a special fund in trust for the state of Minnesota payable to the state of Minnesota by such that person as trustee. It shall be the duty of such The person upon whom such notice is served to shall~~ notify the commissioner of revenue in writing of the name and address of the bank, savings bank or savings and loan association wherein ~~such the~~ account is kept, together with ~~such other~~ information as the commissioner may require. In lieu of the trust fund account, the commissioner may, when necessary ~~in order~~ to secure the withholding of the tax imposed by this chapter, require an employer to file with the department of revenue a bond in an amount determined by the commissioner, or in lieu ~~thereof of it~~, security in a form and in an amount as the commissioner determines, not ~~to exceed more than~~ twice the estimated average liability for future monthly withholding tax periods.

(c) The commissioner of revenue, on being satisfied with respect to any notification made under paragraph (a) ~~of this subdivision that all the~~ requirements of law and rules with respect to the taxes imposed by this chapter have been and will ~~henceforth~~ be complied with, may cancel ~~such~~

~~the notification. Such~~ The cancellation shall take effect at ~~such the time as is specified in the notice of such the cancellation.~~ All notices authorized or required under this subdivision ~~shall must~~ be in ~~such the form as the commissioner may determine determines.~~

(d) Any person who fails to comply with any provisions of this subdivision ~~shall, in addition to any other penalties provided by law, be guilty of a gross misdemeanor, except that the provisions of this paragraph shall not apply~~

(1) to any person if such person shows that there was reasonable doubt as to (a) whether the law required deduction, withholding or payment of tax or (b) what person was required by law to deduct, withhold or pay; or

(2) to any person, if such person shows that the failure to comply with the provisions of paragraph (b) is due to circumstances beyond the person's control. A lack of funds existing immediately after the payment of wages (whether or not created by such payment) shall not be considered to be circumstances beyond the control of a person.

Sec. 32. Minnesota Statutes 1988, section 290.92, subdivision 24, is amended to read:

Subd. 24. [APPLICATION FOR ACCOUNT NUMBER.] An employer, or person withholding tax under section 290.923, desiring to engage in business in Minnesota shall file with the commissioner an application for a withholding account number on or before the due date of the first payment required to be made under the provisions of subdivision 6. An application for an account number ~~shall must~~ be made upon a form prescribed by the commissioner ~~and shall set forth. It must give the name of the employer or payor, the location of the place or places of business, the names, addresses and social security numbers of the owners or partners, or if the employer or payor is a corporation of the officers, or if the employer or payor is a trust of the trustees, and such other information as the commissioner may require.~~ The application ~~shall must~~ be filed by the owner if the employer or payor is a natural person; by a member or partner if the employer or payor is an association or partnership; by a trustee if the employer or payor be a trust, or by a person authorized to sign the application if the employer or payor is a corporation.

No fee shall be charged for the application.

The account number is not assignable.

An employer or payor who fails to file an application for a withholding account number shall be liable to the commissioner for a penalty of \$100. The penalty shall be collected in the same manner as delinquent withholding tax is collected. The commissioner may abate this penalty.

Sec. 33. Minnesota Statutes 1989 Supplement, section 290.9201, subdivision 7, is amended to read:

Subd. 7. [WITHHOLDING ON COMPENSATION OF ENTERTAINERS.] The tax on compensation of an entertainer must be withheld at a rate of two percent of all compensation paid to the entertainment entity by the person or corporation having legal control of the payment of the compensation. The payor is liable to the state for the payment of the tax required to be deducted and withheld, and is not liable to a person for the amount of the payment. The compensation subject to withholding under this section is not subject to the withholding provisions of section 290.92, subdivision

2a, 3, or 28, except the provisions of ~~section~~ *sections* 290.92, subdivisions 6a, 7, 14, 15, and 18, 270.06, *paragraph* (16), 289A.0212, *subdivision* 2, 289A.14, and 289A.15 shall apply to withholding under this section as if the withholding were upon wages.

Sec. 34. Minnesota Statutes 1989 Supplement, section 290.9201, subdivision 8, is amended to read:

Subd. 8. [DEPOSIT OF ENTERTAINER WITHHOLDING.] (a) The person or corporation having legal control of the payment of compensation taxable under this section shall deposit the earnings tax with the commissioner, ~~and shall file an entertainer withholding tax return with the commissioner, within 30 days of each performance.~~

(b) ~~The withholding tax return must be in the form prescribed by the commissioner.~~

Sec. 35. Minnesota Statutes 1989 Supplement, section 290.9705, subdivision 4, is amended to read:

Subd. 4. [DEPOSITS USED AS SURETY FOR COMPLIANCE WITH INCOME AND SALES TAX PROVISIONS.] The amounts deposited with the commissioner under ~~subdivisions 2 and 3~~ *subdivision 1* are considered a surety to guarantee payment of income, franchise, withholding, and sales and use taxes of the contractor. The commissioner shall retain the money deposited until the commissioner determines the contractor's liability for state income, franchise, sales and use taxes, and taxes withheld under section 290.92. ~~If the deposit exceeds the liability, the commissioner shall refund the difference to the contractor with interest at the rate specified in section 270.76 computed from the dates the amounts were deposited with the commissioner.~~

Sec. 36. Minnesota Statutes Second 1989 Supplement, section 290A.07, subdivision 2a, is amended to read:

Subd. 2a. A claimant who is a renter or a homeowner who occupies a manufactured home, as defined in section 274.19, subdivision 8, paragraph (c), shall receive full payment after August 1 and ~~prior to before~~ August 15 or 60 days after receipt of the application, whichever is later. ~~Interest shall be added at the rate specified in section 270.76 from August 15 or 60 days after receipt of the application whichever is later.~~

Sec. 37. Minnesota Statutes 1988, section 290A.07, subdivision 3, is amended to read:

Subd. 3. ~~Any~~ A claimant not included in subdivision 2a shall receive full payment after September 15 and ~~prior to before~~ September 30. ~~Interest shall be added at the rate specified in section 270.76 from September 30 or 60 days after receipt of the application, whichever is later. Interest will be computed until the date the claim is paid.~~

Sec. 38. Minnesota Statutes 1988, section 290A.19, is amended to read:

290A.19 [OWNER OR MANAGING AGENT TO FURNISH RENT CERTIFICATE; ~~PENALTY.~~]

(a) The owner or managing agent of any property for which rent is paid for occupancy as a homestead ~~shall must~~ furnish a certificate of rent constituting property tax to ~~each~~ a person who is a renter on December 31, in the form prescribed by the commissioner. If the renter moves ~~prior to before~~ December 31, the owner or managing agent ~~has the option to either~~

~~provide~~ *may give* the certificate to the renter at the time of moving, or mail the certificate to the forwarding address if an address has been provided by the renter. The certificate ~~shall must~~ be made available to the renter ~~not later than January 31 before February 1~~ of the year following the year in which the rent was paid.

(b) ~~Any owner or managing agent who willfully fails to furnish a certificate to the renter and the commissioner as required by this section is liable to the commissioner for a penalty of \$100 for each act or failure to act. The penalty shall be assessed and collected in the manner provided in chapter 290 for the assessment and collection of income tax. If the owner or managing agent willfully furnishes certificates that report total rent constituting property taxes in excess of the amount of actual property taxes paid on the rented part of a property, as determined under this section, the owner or managing agent is liable for a penalty equal to the greater of (1) \$100 or (2) 50 percent of the excess that is reported. If the owner or managing agent reports a total amount of rent constituting property taxes that exceeds by ten percent or more the actual property taxes, the report is deemed to be willful.~~

(e) ~~If the owner or managing agent elects to provide~~ *provides* the renter with the certificate at the time of moving, rather than after December 31, the amount of rent constituting property taxes ~~shall must~~ be computed as follows:

(i) The net tax ~~shall must~~ be reduced by 1/12 for each month remaining in the calendar year.

(ii) In calculating the denominator of the fraction ~~pursuant to~~ *under* section 290A.03, subdivision 11, the gross rent paid through the last month of claimant's occupancy ~~shall must~~ be substituted for "the gross rent paid for the calendar year for the property in which the unit is located."

(d) ~~(c)~~ The certificate of rent constituting property taxes ~~shall must~~ include the address of the property, including the county, and the property tax parcel identification number and any additional information ~~which that~~ the commissioner determines is appropriate.

(e) ~~(d)~~ If the owner or managing agent fails to provide the renter with a certificate of rent constituting property taxes, the commissioner shall allocate the net tax on the building to the unit on a square footage basis or other appropriate basis as the commissioner determines. The renter shall supply the commissioner with a statement from the county treasurer ~~which that~~ gives the amount of property tax on the parcel, the address and property tax parcel identification number of the property, and the number of units in the building.

(f) ~~The owner or managing agent must file a copy of the certificate of rent paid with the commissioner before April 15 of the year following the year in which the rent was paid. The commissioner may require that each owner or managing agent report on a single form the total property taxes for a property and the allocation of the property taxes as rent constituting property taxes among the renters of the property.~~

Sec. 39. Minnesota Statutes 1988, section 297A.03, subdivision 2, is amended to read:

Subd. 2. ~~It shall be unlawful for any retailer to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or~~

~~any part thereof will be assumed or absorbed by the retailer, or that it will not be added to the sales price or that, if added, it or any part thereof will be refunded except that In computing the tax to be collected as the result of any transaction amounts of tax less than one-half of one cent may be disregarded and amounts of tax if of one-half cent or more may be considered an additional cent. If the sales price of any sale at retail is eight cents or less, no tax shall be collected. Any person violating this provision shall be guilty of a misdemeanor.~~

Sec. 40. Minnesota Statutes 1988, section 297A.041, is amended to read:

297A.041 [OPERATOR OF FLEA MARKETS; SELLER'S PERMITS REQUIRED; PENALTY.]

The operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event, as a prerequisite to renting or leasing space on the premises owned or controlled by the operator to a person desiring to engage in or conduct business as a seller, shall obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to under section 297A.04, or a written statement from the seller that the seller is not offering for sale any item that is taxable under this chapter.

Flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event, as used in this section, means an activity involving a series of sales sufficient in number, scope, and character to constitute a regular course of business, and ~~which~~ that would not qualify as an isolated or occasional sale pursuant to under section 297A.25, subdivision 12.

~~Any operator who fails or refuses to comply with the provisions of this section shall be subject to a penalty payable to the commissioner of revenue of \$100 for each day of each selling event that the operator fails to obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to section 297A.04.~~

This section does not apply to an operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event ~~which~~ that is: (1) held in conjunction with a community sponsored festival ~~which~~ that has a duration of four or fewer consecutive days no more than once a year; or (2) conducted by a nonprofit organization annually or less frequently.

Sec. 41. Minnesota Statutes 1989 Supplement, section 297A.17, is amended to read:

297A.17 [TAX TO BE COLLECTED; STATUS AS DEBT.]

The use tax required to be collected by the retailer constitutes a debt owed by the retailer to Minnesota and shall be a debt from the purchaser to the retailer recoverable at law in the same manner as other debts. A retailer who does not maintain a place of business within this state, as defined in section 297A.21, subdivision 1, shall not be indebted to Minnesota for amounts of use tax which it was required to collect but did not collect unless the retailer knew or had been advised by the commissioner of its obligation to collect the use tax.

Sec. 42. Minnesota Statutes 1988, section 297A.18, is amended to read:

297A.18 [ADVERTISING NO TAX; MINIMUM TAX.]

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the use tax or any part thereof will be assumed or absorbed by the retailer, or that it will not be added to the sales price or that, if added, it or any part thereof will be refunded except that in computing the tax to be collected as the result of any transaction amounts of tax less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

It is unlawful for a person to broadcast or publish, or arrange to have broadcast or published, an advertisement in a publication or broadcast media, printed, distributed, broadcast, or intended to be received in this state, that states that no sales or use tax is due under this chapter, when the person knows the advertisement is false.

Sec. 43. Minnesota Statutes 1988, section 297A.211, subdivision 3, is amended to read:

Subd. 3. ~~Any~~ A person who pays the tax to the seller as provided in under section 297A.03 or pays the tax to the motor vehicle registrar as required by section 297B.02 and who meets the requirements of section 297A.211 at the time of the sale, except that the person has not registered as a retailer pursuant to under this section at the time of the sale, may register as a retailer, make a return, and file for a refund of the difference between the tax calculated under section 297A.02, 297A.14, or 297B.02 and the tax calculated under subdivision 2. ~~The person must file for a refund within the time limitations provided in section 297A.35. Notwithstanding the provisions of section 297A.35, subdivision 1, interest shall be allowed for any refund allowed under this subdivision only from the date on which the person has both registered as a retailer and filed a claim for refund.~~

Sec. 44. [PURPOSE.]

It is the intent of the legislature to simplify Minnesota's tax laws by consolidating and recodifying tax administration and compliance provisions now contained in several chapters of Minnesota Statutes. Due to the complexity of the recodification, prior provisions are repealed on the effective date of the new provisions. The repealed provisions, however, continue to remain in effect until superseded by the analogous provision in the new law.

Sec. 45. [REPEALER.]

Minnesota Statutes 1988, sections 270.651; 290.05, subdivision 5; 290.067, subdivision 5; 290.281, subdivision 5; 290.29; 290.37, as amended by Laws 1989, First Special Session chapter 1, article 10, section 32; 290.39, as amended by Laws 1989, chapter 335, article 1, section 188; 290.391; 290.40; 290.41; 290.42; 290.43; 290.44; 290.45; 290.46; 290.47; 290.49; 290.50, as amended by Laws 1989, chapter 184, article 2, section 20; 290.521; 290.522; 290.523, as amended by Laws 1989, chapter 184, article 2, section 21; 290.53, subdivisions 1, 1a, 2, 2a, 3, 3a, 4, 7, 8, 9, 10, and 11; 290.54; 290.56; 290.57; 290.58; 290.59; 290.611, subdivision 5; 290.65; 290.92, subdivisions 6, 7, 8, 11, 13, 14, 15, and 18; 290.923, subdivision 7; 290.93; 290.931; 290.932; 290.933; 290.934, as amended by Laws 1989, First Special Session chapter 1, article 10, section 37; 290.935; 290.936; 290.974; 290A.06; 290A.11, subdivisions 1, 2, 3, and

4; 290A.111; 290A.112, as amended by Laws 1989, chapter 184, article 2, section 26; 290A.12; 291.09; 291.11; 291.131; 291.14; 291.15, subdivisions 1 and 3; 291.215, subdivisions 2 and 3; 291.31, subdivision 1; 291.32; 297A.08; 297A.121; 297A.15, subdivision 3; 297A.26, subdivisions 1 and 4; 297A.27; 297A.275; 297A.30; 297A.31; 297A.32; 297A.33, subdivisions 1, 3, 4, and 5; 297A.34; 297A.35; 297A.39, subdivisions 1, 2, 2a, 3, 4, 7, and 8; 297A.40; 297A.41; 297A.42; and 297A.44, subdivision 2, are repealed. Minnesota Statutes 1989 Supplement, sections 290.9201, subdivisions 4, 5, 9, and 10; 290.9705, subdivision 2; 290A.11, subdivision 1a; and 297A.20, are repealed. Minnesota Statutes Second 1989 Supplement, sections 270.77 and 290.38 are repealed. Minnesota Rules, parts 8052.0100, 8052.0200, and 8130.7800, are repealed.

Sec. 46. [INSTRUCTIONS TO REVISOR.]

(a) If a provision of a section of Minnesota Statutes repealed or amended by this article is amended by the 1990 regular session, the revisor shall codify the amendment consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary.

(b) In the next edition of Minnesota Statutes, in the sections referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C. The revisor may change the references in column C to the sections of Minnesota Statutes in which the bill sections are compiled.

Column A	Column B	Column C
60A.15, subd. 6	290.53, subd. 1	289A.14, subd. 1
60A.15, subd. 9a	290.53, subd. 2	289A.14, subd. 2
60A.15, subd. 9b	290.53, subd. 3a	289A.14, subd. 6
60A.15, subd. 9c	290.53, subd. 3	289A.14, subd. 5
60A.15, subd. 9d	290.53, subd. 4	289A.15, subds. 1 and 3
60A.199, subd. 4	290.53, subd. 2	289A.14, subd. 2
60A.199, subd. 5	290.53, subd. 3a	289A.14, subd. 6
60A.199, subd. 6	290.53, subd. 3	289A.14, subd. 5
69.59	290.53	289A.14
115B.24, subd. 4	290.936	289A.11
270.10, subd. 1	290.42, clause (6)	289A.024, subds. 1 and 2
270A.07, subd. 5	290.92, subd. 13, clause (1)	289A.13, subd. 2
290.01, subd. 10	290.40(2)	289A.021, subd. 5
290.05, subd. 4	290.56	289A.06, subds. 8 and 9
290.095, subd. 7	290.37, subd. 1	289A.021, subd. 9
290.095, subd. 9	290.46	289A.08
290.095, subd. 9	290.50	289A.11
290.30	290.29	289A.029, subd. 3
290.371, subd. 2	290.37	289A.021
290.923, subd. 3	290.92, subd. 6	289A.0212 and 289A.025, subd. 2
290.923, subd. 4	290.92, subd. 7	289A.0212, subd. 2
290A.24	290.93	289A.026
291.09, subd. 3a	291.11	289A.10, subd. 1

297.09, subd. 1	Minnesota Statutes	270.06
	1945, 290.56 to	
	290.58	
297.37, subd. 1	290.56 to 290.58	270.06
297A.04	297A.27, subd. 2	289A.0216, subd. 3
297A.15, subd. 5	297A.34	289A.08
297A.211, subd. 2	297A.26 and	289A.025, subd. 4
	297A.27	and 289A.0216
297A.211, subd. 3	297A.35	289A.08
299F21, subd. 2	290.53, subd. 1	289A.14, subd. 1
299F23, subd. 2	290.53, subd. 2	289A.14, subd. 2
299F23, subd. 3	290.53, subd. 3a	289A.14, subd. 6
299F23, subd. 4	290.53, subd. 3	289A.14, subd. 5
302A.821, subd. 1	290.37	289A.021
302A.821, subd. 1	290.974	289A.0218, subd. 3
349.2121, subd. 6	297A.39	289A.14
356.62	290.41	289A.0218
356.62	290.42	289A.0218
388.051, subd. 2	290.53, subds. 4	289A.15, subds. 1,
	and 11	2, 4, and 6
	290.92, subd. 15	
	290A.11, subd. 2	
	297A.08	
	297A.39, subds. 4	
	and 8	
469.171, subd. 10	290.50	289A.11
588.21	290.39, subd. 1	289A.04, subd. 3

Sec. 47. [EFFECTIVE DATES.]

Sections 1, 2, and 44 are effective the day following final enactment.

Sections 15 and 16 are effective for audits or investigations initiated on or after August 1, 1990.

Section 17 is effective for assessments or other determinations made on or after August 1, 1990.

Section 18 is effective for returns becoming due on or after August 1, 1990.

Sections 20 and 23 are effective for overpayments of taxes or other payments first becoming due on or after August 1, 1990.

Section 24 is effective for interest on amounts first becoming due to the commissioner on or after August 1, 1990.

Sections 3 to 14 and 25 are effective for returns, reports, taxes, or other payments first becoming due on or after August 1, 1990, except that the exclusion for foreign operating corporations from the filing requirements in section 3 is effective on the effective date of Minnesota Statutes, section 290.01, subdivision 6b.

Section 26 is effective for payments, returns, reports, or other documents first becoming due, or acts committed, on or after August 1, 1990.

Section 27 is effective for crimes committed on or after August 1, 1990.

Sections 19, 21, 22, 28 to 43, and 45 are effective August 1, 1990.

ARTICLE 2

COLLECTIONS

Section 1. Minnesota Statutes 1989 Supplement, section 270.06, is amended to read:

270.06 [POWERS AND DUTIES.]

The commissioner of revenue shall:

(1) have and exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county, and city boards of review and equalization, and all other assessing officers in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state;

(2) confer with, advise, and give the necessary instructions and directions to local assessors and local boards of review throughout the state as to their duties under the laws of the state;

(3) direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the laws of this state governing returns of assessment and taxation of property, and cause complaints to be made against local assessors, members of boards of equalization, members of boards of review, or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty;

(4) require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture and punishment for violation of the laws of this state in respect to the assessment and taxation of property in their respective districts or counties;

(5) require town, city, county, and other public officers to report information as to the assessment of property, collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the department of revenue, in such form and upon such blanks as the commissioner may prescribe;

(6) require individuals, copartnerships, companies, associations, and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes, as well as all other statements now required by law for taxation purposes;

(7) summon witnesses, *at a time and place reasonable under the circumstances*, to appear and give testimony, and to produce books, records, papers and documents relating to any tax matter which the commissioner may have authority to investigate or determine. Provided, that any summons which does not identify the person or persons with respect to whose tax liability the summons is issued may be served only if (a) the summons relates to the investigation of a particular person or ascertainable group or class of persons, (b) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any tax law administered by the commissioner, (c) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources, (d) the summons is clear

and specific as to the information sought to be obtained, and (e) the information sought to be obtained is limited solely to the scope of the investigation. Provided further that the party served with a summons which does not identify the person or persons with respect to whose tax liability the summons is issued shall have the right, within 20 days after service of the summons, to petition the district court for the judicial district in which lies the county in which that party is located for a determination as to whether the commissioner of revenue has complied with all the requirements in (a) to (e), and thus, whether the summons is enforceable. If no such petition is made by the party served within the time prescribed, the summons shall have the force and effect of a court order;

(8) cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions in the district court, in any matter which the commissioner may have authority to investigate or determine;

(9) investigate the tax laws of other states and countries and to formulate and submit to the legislature such legislation as the commissioner may deem expedient to prevent evasions of assessment and taxing laws, and secure just and equal taxation and improvement in the system of assessment and taxation in this state;

(10) consult and confer with the governor upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the department of revenue, and furnish the governor, from time to time, such assistance and information as the governor may require relating to tax matters;

(11) transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even numbered year, the report of the department of revenue for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form;

(12) inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their compliance with the laws requiring the assessment of all property not exempt from taxation;

(13) ~~exercise and perform such further powers and duties as may be required or imposed upon the commissioner of revenue by law; administer and enforce the assessment and collection of state taxes and, from time to time, make, publish, and distribute rules for the administration and enforcement of state tax laws. The rules have the force of law;~~

(14) ~~promulgate rules having the force and effect of law, for the administration and enforcement of the property tax; prepare blank forms for the returns required by state tax law and distribute them throughout the state, furnishing them subject to charge on application;~~

(15) ~~execute and administer any agreement with the secretary of the treasury of the United States regarding the exchange of information and administration of the tax laws of both the United States and the state of Minnesota; prescribe rules governing the qualification and practice of agents, attorneys, or other persons representing taxpayers before the commissioner. The rules may require that those persons, agents, and attorneys show that they are of good character and in good repute, have the necessary~~

qualifications to give taxpayers valuable services, and are otherwise competent to advise and assist taxpayers in the presentation of their case before being recognized as representatives of taxpayers. After due notice and opportunity for hearing, the commissioner may suspend and disbar from further practice before the commissioner any person, agent, or attorney who is shown to be incompetent or disreputable, who refuses to comply with the rules, or who with intent to defraud, willfully or knowingly deceives, misleads, or threatens a taxpayer or prospective taxpayer, by words, circular, letter, or by advertisement. This clause does not curtail the rights of individuals to appear in their own behalf or partners or corporations' officers to appear in behalf of their respective partnerships or corporations;

(16) appoint agents as the commissioner considers necessary to make examinations and determinations. The agents have the rights and powers conferred on the commissioner to examine books, records, papers, or memoranda, subpoena witnesses, administer oaths and affirmations, and take testimony. Upon demand of an agent, the clerk or court administrator of any court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, or memoranda before the agent. The commissioner may also issue subpoenas. Disobedience of subpoenas issued under this chapter shall be punished by the district court of the district in which the subpoena is issued, or in the case of a subpoena issued by the commissioner, by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of the district court;

(17) appoint and employ additional help, purchase supplies or materials, or incur other expenditures in the enforcement of state tax laws as considered necessary. The salaries of all agents and employees provided for in this chapter shall be fixed by the appointing authority, subject to the approval of the commissioner of administration;

(18) execute and administer any agreement with the secretary of the treasury of the United States or a representative of another state regarding the exchange of information and administration of the tax laws;

~~(16)~~ (19) administer and enforce the provisions of sections 325D.30 to 325D.42, the Minnesota unfair cigarette sales act; and

~~(17)~~ (20) authorize the use of unmarked motor vehicles to conduct seizures or criminal investigations pursuant to the commissioner's authority; and

(21) exercise other powers and perform other duties required of or imposed upon the commissioner of revenue by law.

Sec. 2. [270.101] [PERSONAL LIABILITY.]

Subdivision 1. [LIABILITY IMPOSED.] A person who, either singly or jointly with others, has the control of, supervision of, or responsibility for filing returns or reports, paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or a person who is liable under any other law, is liable for the payment of taxes, penalties, and interest arising under chapters 296, 297, 297A, and 297C, or sections 290.92, 349.212, and 349.2121.

Subd. 2. [PERSON DEFINED.] The term "person" includes, but is not limited to, a corporation, estate, trust, organization, or association, whether organized for profit or not, an officer or director of a corporation, a

member of a partnership, an employee, a third party (including, but not limited to, a financial institution, lender, or surety), and any other individual or entity.

Subd. 3. [PROCEDURE FOR ASSESSMENT.] The commissioner may assess liability for the taxes described in subdivision 1 against a person liable under this section. The assessment may be based upon information available to the commissioner. It must be made within the prescribed period of limitations for assessing the underlying tax. An order assessing personal liability under this section is reviewable under section 289A.16 and is appealable to tax court.

Sec. 3. Minnesota Statutes 1988, section 270.65, is amended to read:
270.65 [DATE OF ASSESSMENT; DEFINITION.]

For purposes of this chapter and chapters 290, 296, and 297A, taxes administered by the commissioner, the term "date of assessment" means the date a return was filed or the date a return should have been filed, whichever is later; or, in the case of taxes determined by the commissioner, "date of assessment" means the date of the order assessing taxes; or, in the case of an amended return filed by the taxpayer, the assessment date is the date the return was filed with the commissioner.

Sec. 4. [270.652] [ALLOCATION OF PAYMENT.]

In the discretion of the commissioner of revenue, payments received for taxes may be credited first to the oldest liability not secured by a judgment or lien. For liabilities to which payments are applied, the commissioner may credit payments first to penalties, next to interest, and then to the tax due.

Sec. 5. Minnesota Statutes 1988, section 270.67, subdivision 1, is amended to read:

Subdivision 1. [LIABILITY AGREEMENTS.] The commissioner of revenue, or any officer or employee of the department of revenue authorized in writing by the commissioner, is authorized to enter into an agreement in writing with any taxpayer, or duly authorized agent or representative of the taxpayer, relating to the liability of the taxpayer in respect of any state tax administered by the commissioner for any taxable period ending prior to the date of the agreement. If the agreement is approved by the commissioner within the time stated in the agreement, or later agreed to, The agreement shall be final and conclusive; and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon, or the agreement modified, by any officer, employee, or agent of the state; and, in any suit, action, or proceeding, the agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, shall not be annulled, modified, set aside, or disregarded.

Sec. 6. Minnesota Statutes 1988, section 270.67, subdivision 2, is amended to read:

Subd. 2. [EXTENSION AGREEMENTS.] When any portion of any tax payable to the commissioner of revenue together with interest and penalty thereon, if any, has not been paid six months from the date prescribed by law for its payment, the commissioner may extend the time for payment for a further period not to exceed 36 months. When the authority of this section is invoked, the extension shall be evidenced by written agreement

signed by the taxpayer and the commissioner, stating the amount of the tax with penalty and interest, if any, and providing for the payment of the amount in regular weekly, semimonthly or monthly installments. The agreement shall contain a confession of judgment for the amount and for any unpaid portion thereof and shall provide that the commissioner may forthwith enter judgment against the taxpayer in the district court of the county of residence as shown upon the taxpayer's tax return for the unpaid portion of the amount specified in the extension agreement. *The commissioner may accept other collateral the commissioner considers appropriate to secure satisfaction of the tax liability.* The principal sum specified in the agreement shall bear interest at the rate specified in section 270.75 on all unpaid portions thereof until the same has been fully paid or the unpaid portion thereof has been entered as a judgment. The judgment shall bear interest at the rate specified in section 270.75. If it appears to the commissioner that the tax reported by the taxpayer is in excess of the amount actually owing by the taxpayer, the extension agreement or the judgment entered pursuant thereto shall be corrected. If after making the extension agreement or entering judgment with respect thereto, the commissioner determines that the tax as reported by the taxpayer is less than the amount actually due, the commissioner shall assess a further tax in accordance with the provisions of law applicable to the tax. The authority granted to the commissioner by this section is in addition to any other authority granted to the commissioner by law to extend the time of payment or the time for filing a return and shall not be construed in limitation thereof.

Sec. 7. Minnesota Statutes 1988, section 270.68, subdivision 1, is amended to read:

Subdivision 1. [LEGAL ACTION.] In addition to all other methods authorized by law for the collection of tax, if any tax payable to the commissioner of revenue or to the department of revenue, including penalties and interest thereon, is not paid within 60 days after it is required by law to be paid, the commissioner of revenue may ~~proceed under this subdivision.~~ Within five years after the date of assessment of the tax, ~~or, if the action is to renew a judgment, at any time before the judgment's expiration, the commissioner may bring an action at law against the person liable for the payment or collection of the tax, in the name of the state, for the recovery of the tax and interest and penalties due in respect thereof.~~ The action shall be brought in the district court of the judicial district in which lies the county of the residence or principal place of business within this state of the taxpayer, or, in the case of an estate or trust, of the place of its principal administration, and for this purpose the place named as such in the return, if any, made by the taxpayer shall be conclusive against the taxpayer in this matter. If no place is named in the return, the action may be commenced in Ramsey county. The action shall be commenced by filing with the court administrator a statement showing the name and address of the taxpayer, if known, an itemized summary of the taxable periods and the type of tax, the tax due and unpaid and the interest and penalties due with respect thereto under the provisions of law applicable to the tax, and shall contain a prayer that the court adjudge the taxpayer to be indebted on account of the taxes, interest, and penalties in the amount specified in the statement; a copy of the statement shall be furnished to the court administrator therewith. The court administrator shall mail a copy of the statement by certified mail to the taxpayer at the address given in the return, if any; ~~and, if no address is given, then at~~ to the taxpayer's last known address, within five days after the same is filed, except that, if the taxpayer's address is not

known, notice shall be made by posting a copy of the statement for ten days in the place in the courthouse where public notices are regularly posted. To litigate the claim, or any part thereof of it, the taxpayer shall file a ~~verified~~ *serve an answer with the court administrator setting forth objections to the claim, or any part thereof; the answer shall be filed upon the commissioner* on or before the 20th day after the date of mailing the statement; or, if notice has been given by posting, on or before the 20th day after the expiration of the period during which the notice was required to be posted. If no answer is ~~filed~~ *served* within the specified time, the court administrator, upon the filing of an affidavit of default, shall enter judgment for the state in the amount prayed for, plus costs of \$10. If an answer is filed, the issues raised shall stand for trial as soon as possible after the filing of the answer, and the court shall determine the issues and direct judgment accordingly; and, if the taxes, interest, or penalties are sustained to any extent over the amount rendered by the taxpayer, shall assess \$10 costs against the taxpayer. The court shall disregard all technicalities and matters of form not affecting the substantial merits. The commissioner may call upon the county attorney or the attorney general to conduct the proceedings on behalf of the state. Execution shall be issued upon the judgment at the request of the commissioner, and the execution shall, in all other respects, be governed by the laws applicable to executions issued on judgments. Only the homestead and household goods of the judgment debtor shall be exempt from seizure and sale upon the execution.

Sec. 8. Minnesota Statutes 1988, section 270.68, subdivision 3, is amended to read:

Subd. 3. [TAX PRESUMED VALID.] The tax, as assessed by the commissioner, with any penalties included therein, shall be presumed to be valid and correctly determined and assessed, and the burden shall be upon the taxpayer to show its incorrectness or invalidity. ~~The A statement filed by the commissioner with the court administrator, as provided in subdivision 1, or any other certificate by the commissioner of showing the amount of the tax and penalties as determined or assessed by the commissioner, shall be~~ *is* admissible in evidence and shall establish prima facie the facts set forth therein.

Sec. 9. Minnesota Statutes 1988, section 270.69, subdivision 2, is amended to read:

Subd. 2. [FILING OF LIENS NECESSARY FOR ENFORCEABILITY AGAINST CERTAIN PERSONS.] The lien imposed by subdivision 1 is not enforceable against any purchaser, mortgagee, pledgee, holder of a uniform commercial code security interest, mechanic's lienor, or judgment lien creditor *whose interest has been duly perfected or is entitled to protection under applicable provisions of state law*, until a notice of lien has been filed by the commissioner of revenue in the office of the county recorder of the county in which ~~the real~~ property is situated, or in the case of personal property belonging to an individual who is not a resident of this state, or ~~which is~~ *to a corporation, partnership, or other organization, in the office of the secretary of state, or in the case of personal property belonging to a resident individual, in the office of the county recorder of the county of residence of the individual.* Notwithstanding any other law to the contrary, the department of revenue is exempt from the payment of fees at the time the lien is offered for filing or recording. The fee for filing or recording the lien must be paid at the time the release of lien is offered for filing or recording. Notwithstanding any law to the contrary, the fee for

filing or recording the lien or the release of lien is \$15.

Sec. 10. Minnesota Statutes 1988, section 270.69, subdivision 3, is amended to read:

Subd. 3. [EXEMPT PROPERTY.] The lien imposed on personal property by this section, even though properly filed, is not enforceable: (1) against a purchaser with respect to tangible personal property purchased at retail, in the ordinary course of the seller's trade or business, unless at the time of purchase the purchaser intends the purchase to or knows the purchase will hinder, evade, or defeat the collection of a tax; or (2) against the personal property listed as exempt in sections 550.37, 550.38, and 550.39.

Sec. 11. Minnesota Statutes 1988, section 270.69, subdivision 7, is amended to read:

Subd. 7. [NOTICE OF MORTGAGE FORECLOSURE OR CONTRACT TERMINATION.] ~~If a lien has been filed by the commissioner of revenue against real property pursuant to this section, and, subsequent to the recording of the lien, in the case of a mortgage foreclosure upon the real property is commenced under chapter 580, or a termination of contract of sale of the real property is commenced under section 559.21, if the commissioner has filed a lien under this section before the foreclosure sale or date of termination, notice of the mortgage foreclosure or termination of contract of sale shall be mailed to the commissioner not less than 25 days prior to the foreclosure sale or date of termination. Provided, notice need not be given pursuant to this subdivision if the lien of the commissioner has been filed within 30 days or less prior to the foreclosure sale or date of termination. The contents of the notice shall be as prescribed in section 7425(c)(1) of the Internal Revenue Code of 1954, as amended through December 31, 1982, must contain the following information: (1) the name and address of the taxpayer; (2) a copy of the notice of mortgage foreclosure or contract for deed cancellation; (3) a copy of the lien filed by the commissioner; (4) the total unpaid balance of the mortgage or contract for deed; (5) a legal description of the property; and (6) the fair market value of the property.~~

Sec. 12. Minnesota Statutes 1988, section 270.69, subdivision 8, is amended to read:

Subd. 8. [FILING ENTITLEMENT.] Execution of notices of liens or of other notices affecting state tax liens by the original or facsimile signature of the commissioner of revenue or a delegate entitles them to be filed, and no other attestation, certification, or acknowledgment is necessary.

Sec. 13. Minnesota Statutes 1988, section 270.69, is amended by adding a subdivision to read:

Subd. 12. [LIEN RELEASE FEE.] A fee of \$25 must be paid to the commissioner of revenue for each duplicate of an original release of lien.

Sec. 14. Minnesota Statutes 1988, section 270.70, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY OF COMMISSIONER.] If any tax payable to the commissioner of revenue or to the department of revenue is not paid when due, such tax may be collected by the commissioner of revenue within five years after the date of assessment of the tax, or if a lien has been filed, during the period the lien is enforceable, or if the tax judgment has been filed, within the statutory period of enforcement of a valid tax judgment, by a levy upon all property and rights to property, including any property

in the possession of law enforcement officials, of the person liable for the payment or collection of such tax (except that which is exempt from execution pursuant to section 550.37) or property on which there is a lien provided in section 270.69. For this purpose, the term "tax" shall include any penalty, interest and costs properly payable. The term "levy" includes the power of distraint and seizure by any means.

Sec. 15. Minnesota Statutes 1989 Supplement, section 270.73, subdivision 1, is amended to read:

Subdivision 1. [POSTING, NOTICE.] Pursuant to section 270B.12, subdivision 4, the commissioner shall, by the 15th of each month, submit to the commissioner of public safety a list of all taxpayers who are required to withhold or collect the tax imposed by section 290.92 or 297A.02, *or local sales and use tax payable to the commissioner of revenue*, and who are 30 days or more delinquent in either filing a tax return or paying the tax. At least ten days before notifying the commissioner of public safety, the commissioner of revenue shall notify the taxpayer of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a taxpayer previously listed cures the delinquency by filing all returns and paying all taxes, the commissioner shall notify the commissioner of public safety within two business days that the delinquency was cured.

Sec. 16. Minnesota Statutes 1988, section 290.92, subdivision 23, is amended to read:

Subd. 23. [WITHHOLDING BY EMPLOYER OF DELINQUENT TAXES.] (1) The commissioner may, within five years after the date of assessment of the tax, *or if a lien has been filed under section 270.69, within the statutory period for enforcement of the lien*, give notice to any employer deriving income which has a taxable situs in this state regardless of whether the income is exempt from taxation, that an employee of that employer is delinquent in a certain amount with respect to any state taxes, including penalties, interest and costs. The commissioner can proceed under this subdivision only if the tax is uncontested or if the time for appeal of the tax has expired. The commissioner shall not proceed under this subdivision until the expiration of 30 days after mailing to the taxpayer, at the taxpayer's last known address, a written notice of (a) the amount of taxes, interest, and penalties due from the taxpayer and demand for their payment, and (b) the commissioner's intention to require additional withholding by the taxpayer's employer pursuant to this subdivision. The effect of the notice shall expire 180 days after it has been mailed to the taxpayer provided that the notice may be renewed by mailing a new notice which is in accordance with this subdivision. The renewed notice shall have the effect of reinstating the priority of the original claim. The notice to the taxpayer shall be in substantially the same form as that provided in section 571.41. The notice shall further inform the taxpayer of the wage exemptions contained in section 550.37, subdivision 14. If no statement of exemption is received by the commissioner within 30 days from the mailing of the notice, the commissioner may proceed under this subdivision. The notice to the taxpayer's employer may be served by mail or by delivery by an employee of the department of revenue and shall be in substantially the same form as provided in section 571.495. Upon receipt of notice, the employer shall withhold from compensation due or to become due to the employee, the

total amount shown by the notice, subject to the provisions of section 571.55. The employer shall continue to withhold each pay period until ~~the total amount shown by the notice is paid in full released by the commissioner under section 270.709.~~ Upon receipt of notice by the employer, the claim of the state of Minnesota shall have priority over any subsequent garnishments or wage assignments. The commissioner may arrange between the employer and the employee for withholding a portion of the total amount due the employee each pay period, until the total amount shown by the notice plus accrued interest has been withheld.

The "compensation due" any employee is defined in accordance with the provisions of section 571.55. The maximum withholding allowed under this subdivision for any one pay period shall be decreased by any amounts payable pursuant to a garnishment action with respect to which the employer was served prior to being served with the notice of delinquency and any amounts covered by any irrevocable and previously effective assignment of wages; the employer shall give notice to the department of the amounts and the facts relating to such assignments within ten days after the service of the notice of delinquency on the form provided by the department of revenue as noted in this subdivision. ~~In crediting amounts withheld against delinquent taxes of an employee, the department shall apply amounts withheld in the following order: penalties, interest, tax and costs.~~

(2) If the employee ceases to be employed by the employer before the full amount set forth in a notice of delinquency plus accrued interest has been withheld, the employer shall immediately notify the commissioner in writing of the termination date of the employee and the total amount withheld. No employer may discharge any employee by reason of the fact that the commissioner has proceeded under this subdivision. If an employer discharges an employee in violation of this provision, the employee shall have the same remedy as provided in section 571.61, subdivision 2.

(3) ~~Within ten days after the expiration of such pay period,~~ the employer shall, ~~by the date prescribed in subdivision 6,~~ remit to the commissioner, on a form and in the manner prescribed by the commissioner, the amount withheld during ~~the calendar quarter~~ each pay period under this subdivision. Should any employer, after notice, willfully fail to withhold in accordance with the notice and this subdivision, or willfully fail to remit any amount withheld as required by this subdivision, the employer shall be liable for the total amount set forth in the notice together with accrued interest which may be collected by any means provided by law relating to taxation. No amount required to be paid by an employer by reason of the employer's failure to remit under this subdivision, may be deducted from the gross income of the employer, under sections 290.09, subdivision 4 or 290.01, subdivisions 20 to 20f. Any amount collected from the employer for failure to withhold or for failure to remit under this subdivision shall be credited to the employee's account in the following manner: penalties, interest, tax and costs.

(4) Clauses (1), (2) and (3), except provisions imposing a liability on the employer for failure to withhold or remit, shall apply to cases in which the employer is the United States or any instrumentality thereof or this state or any municipality or other subordinate unit thereof.

(5) The commissioner shall refund to the employee excess amounts withheld from the employee under this subdivision. If any excess results from payments by the employer because of willful failure to withhold or remit

as prescribed in clause (3) above, the excess attributable to the employer's payment shall be refunded to the employer.

(6) Employers required to withhold delinquent taxes, penalties, interest and costs under this subdivision shall not be required to compute any additional interest, costs or other charges to be withheld.

(7) The collection remedy provided to the commissioner by this subdivision shall have the same legal effect as if it were a levy made pursuant to section 270.70.

Sec. 17. Minnesota Statutes 1988, section 524.3-1001, is amended to read:

524.3-1001 [FORMAL PROCEEDINGS TERMINATING ADMINISTRATION; TESTATE OR INTESTATE; ORDER OF DISTRIBUTION, DECREE, AND GENERAL PROTECTION.]

(a) (1) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(2) In such petition for complete settlement of the estate, the petitioner may apply for a decree. Upon the hearing, if in the best interests of interested persons, the court may issue its decree which shall determine the persons entitled to the estate and assign the same to them in lieu of ordering the assignment by the personal representative. The decree shall name the heirs and distributees, state their relationship to the decedent, describe the property, and state the proportions or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all heirs be ascertained.

(3) In solvent estates, the hearing may be waived by written consent to the proposed account and decree of distribution or order of distribution by all heirs or distributees, and the court may then enter its order allowing the account and issue its decree or order of distribution.

(4) Where a decree or order for distribution is issued, the personal representative shall not be discharged until all property is paid or transferred to the persons entitled thereto, and the personal representative has otherwise fully discharged the trust. If ~~objections are an order assessing estate tax or request for documents~~ is filed with the court by the commissioner of revenue, no discharge shall be issued until the ~~objections are determined assessment is paid or the request is complied with~~. If no ~~objection order assessing estate tax or request for documents~~ is filed, the court shall have the power to settle and distribute the estate and discharge the personal representative without regard to tax obligations.

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Sec. 18. [REPEALER.]

(a) Minnesota Statutes 1988, section 270.10, subdivision 4, is repealed.

(b) Minnesota Statutes 1988, section 270.08 is repealed.

(c) Minnesota Statutes 1988, sections 290.53, subdivision 5 and 297A.39, subdivision 5, are repealed.

(d) Minnesota Statutes 1988, sections 290.52; 291.31, subdivision 2; 297A.29; and 297A.37, are repealed.

Sec. 19. [EFFECTIVE DATES.]

Sections 1, 3, 13, 15, 16, 17, and 18, paragraph (d), are effective August 1, 1990.

Sections 5, 6, 7, 8, 14, and 18, paragraph (b), are effective the day following final enactment.

Sections 9 and 10 are effective for liens imposed on or after August 1, 1990.

Section 11 is effective for mortgage foreclosures or terminations of contracts of sale of real property commenced after August 1, 1990.

Section 12 is effective for notices executed on or after August 1, 1990.

Sections 4 and 18, paragraph (c), are effective for payments received on or after August 1, 1990.

Sections 2 and 18, paragraph (a), are effective for taxes becoming due on or after August 1, 1990.

ARTICLE 3

GASOLINE AND SPECIAL FUEL TAXES

Section 1. Minnesota Statutes 1988, section 296.18, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO USE OR SELL GASOLINE OR SPECIAL FUEL FOR INTENDED PURPOSES; REPORTS REQUIRED.] (1) Any person who shall buy aviation gasoline or special fuel for aircraft use and who shall have paid the excise taxes due thereon directly or indirectly through the amount of the tax being included in the price thereof, or otherwise, and shall use said gasoline or special fuel in motor vehicles or shall knowingly sell it to any person for use in motor vehicles shall, on or before the twenty-third day of the month following that in which such gasoline or

special fuel was so used or sold, report the fact of such use or sale to the commissioner in such form as the commissioner may prescribe.

(2) Any person who shall buy gasoline other than aviation gasoline and who shall have paid the motor vehicle gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, or otherwise, who shall knowingly sell such gasoline to any person to be used for the purpose of producing or generating power for propelling aircraft, or who shall receive, store, or withdraw from storage such gasoline to be used for that purpose, shall, on or before the 23rd day of the month following that in which such gasoline was so sold, stored, or withdrawn from storage, report the fact of such sale, storage, or withdrawal from storage to the commissioner in such form as the commissioner may prescribe.

(3) Any person who shall buy aviation gasoline or special fuel for aircraft use and who shall have paid the excise taxes directly or indirectly through the amount of the tax being included in the price thereof, or otherwise, who shall not use it in motor vehicles or receive, sell, store, or withdraw it from storage for the purpose of producing or generating power for propelling aircraft, shall be reimbursed and repaid the amount of the tax paid upon filing with the commissioner a signed claim in writing in such form and containing such information as the commissioner shall require and accompanied by the original invoice thereof. By signing any such claim which is false or fraudulent, the applicant shall be subject to the penalties provided in this section 296.25 for knowingly or willfully making a false claim. The claim shall set forth the total amount of the aviation gasoline or special fuel for aircraft use so purchased and used by the applicant, and shall state when and for what purpose it was used. When a claim contains an error in computation or preparation, the commissioner is authorized to adjust the claim in accordance with the evidence shown on the claim or other information available to the commissioner. The commissioner, on being satisfied that the claimant is entitled to payment, shall approve the claim and transmit it to the commissioner of finance. No repayment shall be made unless the claim and invoice shall be filed with the commissioner within one year from the date of the purchase. The postmark on the envelope in which the claim is mailed shall determine the date of filing.

Sec. 2. Minnesota Statutes 1988, section 296.18, subdivision 3, is amended to read:

Subd. 3. **[PENALTIES CIVIL PENALTY FOR FILING FALSE CLAIMS CLAIM.]** Every person who shall make any false statement in any claim or invoice filed with the commissioner, or knowingly file with the commissioner any claim or invoice containing any false statement or collect or cause to be paid to the person or to another a refund without being entitled thereto, when acting pursuant to the provisions of subdivision 1 or 2, clause 3, shall forfeit the full amount of the claim and be guilty of a misdemeanor. Every A person who violates section 296.25, subdivision 1, paragraph (a) or (b), shall forfeit the full amount of the claim. In addition, a person who is convicted under the provisions of this subdivision shall section 296.25, subdivision 1, paragraph (a) or (b), for filing a false statement or claim shall, in addition to any criminal penalties imposed, be prohibited from filing with the commissioner any claim for refund upon gasoline purchased within six months after such conviction.

Sec. 3. Minnesota Statutes 1988, section 296.25, is amended to read:
296.25 **[VIOLATIONS, CRIMINAL PENALTIES.]**

Subdivision 1. [PENALTIES IMPOSED.] Any person who fails to comply with any provisions of sections 296.01 to 296.421, or who makes any false statement in any report, record, or sales ticket required by sections 296.12, 296.14, 296.17, subdivision 5, 296.18, subdivision 2, or 296.21, shall be guilty of a misdemeanor. A minimum fine of \$200 shall be imposed on a person who fails to obtain a license or trip permit required under section 296.17, subdivisions 10 and 17.

Prosecutions commenced under this section may be brought in the county in which the defendant resides or in Ramsey county.

The county attorney of any county in which the action is commenced, shall on request of the commissioner of revenue, prosecute violations of this chapter. Costs, fees, and expenses incurred by any county attorney in litigation in connection with the action may be paid from appropriations to the commissioner of revenue for the administration of this chapter. (a) A person who fails to comply with a provision of sections 296.01 to 296.421, or who knowingly provides false information, including, but not limited to, false odometer readings, or who knowingly makes a false statement in a report, record, claim, or sales ticket required by sections 296.12; 296.14; 296.17, subdivisions 5, or 7 to 22; 296.18, subdivision 2; or 296.21, is guilty of a gross misdemeanor.

(b) A person who willfully attempts in any manner to evade or defeat any tax imposed by sections 296.01 to 296.421, including, but not limited to, making and subscribing any false statement in any report, record, claim, or sales ticket required by sections 296.12; 296.14; 296.17, subdivisions 5, or 7 to 22; 296.18, subdivision 2; and 296.21; or making a false claim for a refund under section 296.18, subdivision 4, is guilty of a felony.

(c) It is a misdemeanor for a person to operate, or cause to be operated, a licensed motor vehicle on the public highways of this state on special fuel on which the excise tax provided by this chapter has not been paid or the liability therefore assumed by another person licensed under this chapter. A person who uses gasoline, delivered into an on-farm bulk storage tank and on which no tax has been collected, for propelling a motor vehicle on the public highways of this state is also guilty of a misdemeanor.

(d) An officer or employee of the state of Minnesota charged with the enforcement of a provision of sections 296.01 to 296.421 who is employed by or who engages in business as a distributor or dealer in petroleum products is guilty of a misdemeanor.

(e) The authorization in this chapter for the collection of the excise taxes by persons other than the commissioner for and in behalf of the state of Minnesota establishes a fiduciary relationship, for the violation of which, in failure to make payment when due and payable, the person so authorized to collect these excise taxes shall be deemed guilty of a violation of section 609.54, and punished accordingly.

(f) A minimum fine of \$200 shall be imposed on a person who fails to obtain a license or trip permit required under section 296.17, subdivisions 10 and 17.

Subd. 2. [PROSECUTION OF VIOLATIONS.] It is a misdemeanor for any person to operate, or cause to be operated, a licensed motor vehicle on the public highways of this state on special fuel on which the excise tax provided by this chapter has not been paid or the liability therefor assumed by another person licensed under this chapter. Prosecutions under

this section may be brought in the county in which the defendant resides or in Ramsey county. On request of the commissioner of revenue, the county attorney of a county in which the action is commenced shall prosecute violations of this chapter. Costs, fees, and expenses incurred by any county attorney in litigation in connection with the action may be paid from appropriations to the commissioner of revenue for the administration of this chapter.

Sec. 4. [REPEALER.]

Minnesota Statutes 1988, sections 296.027; 296.16, subdivision 3; 296.17, subdivision 13; 296.18, subdivisions 3a and 7; and 296.24, are repealed.

Sec. 5. [EFFECTIVE DATES.]

Section 1 is effective for sales occurring on or after August 1, 1990.

Section 2 is effective for statements or claims filed on or after August 1, 1990.

Section 3 is effective for acts or violations occurring on or after August 1, 1990.

Section 4 is effective August 1, 1990.

ARTICLE 4

SALES AND USE, MOTOR VEHICLE EXCISE,
AND PETROLEUM PRODUCTS TAXES

Section 1. Minnesota Statutes 1989 Supplement, section 168A.10, subdivision 1, is amended to read:

Subdivision 1. If an owner transfers interest in a vehicle other than by the creation of a security interest, the owner shall at the time of the delivery of the vehicle execute an assignment and warranty of title to the transferee and shall state the actual selling price in the space provided therefor on the certificate. With respect to motor vehicles subject to the provisions of section 325E.15, the transferor shall also, in the space provided therefor on the certificate, state the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the transferor to be different from the true mileage. The transferor shall cause the certificate and assignment to be delivered to the transferee immediately.

Sec. 2. Minnesota Statutes 1988, section 296.06, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS FOR ISSUANCE.] A distributor's license shall be issued to any responsible person qualifying as a distributor who makes application therefor, and who shall pay to the commissioner at the time thereof and annually thereafter a license fee of \$10, and who shall further comply with the following conditions:

(1) A written application shall be made in a manner approved by the commissioner, who shall require the applicant or licensee to deposit with the state treasurer securities of the United States government or the state of Minnesota or to execute and file a bond, with a corporate surety approved by the commissioner, to the state of Minnesota in an amount to be determined by the commissioner and in a form to be fixed by the commissioner and approved by the attorney general, and which shall be conditioned for the payment when due of all excise taxes, inspection fees, penalties, and

accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the state of Minnesota; the bond shall cover all places of business within the state where petroleum products are received by the licensee; and the applicant or licensee shall designate and maintain an agent in this state upon whom service may be had for all purposes of this section.

(2) An initial applicant for a distributor's license shall furnish a bond in a minimum sum of \$3,000 for the first year;

(3) The commissioner, on reaching the opinion that the bond given by a licensee is inadequate in amount to fully protect the state, shall require an additional bond in such amount as the commissioner deems sufficient;

(4) A licensee who desires to be exempt from depositing securities or furnishing such bond, as hereinbefore provided shall furnish an itemized financial statement showing the assets and the liabilities of the applicant and if it shall appear to the commissioner, from the financial statement or otherwise, that the applicant is financially responsible, then the commissioner may exempt such applicant from depositing such securities or furnishing such bond until the commissioner otherwise orders.

~~(5) The premium on any bond required under clauses (1) and (2); and on any additional bond required under clause (3); shall be paid by the commissioner out of a bond premium fund required to be set up from an appropriation by the legislature from whatever funds are available. All of said bonds required during each license period shall be purchased by the commissioner of administration from the lowest responsible bidder after advertising for competitive bids in the manner prescribed by Laws 1939, chapter 431, article II, as amended. The commissioner of administration shall call for bids within a reasonable period prior to the commencement of license period.~~

(6) Each license period shall be for one year ending each June 30.

~~(7)~~ (6) Upon application to the commissioner and compliance by the applicant with the provisions of this subdivision, the commissioner also shall issue a distributor's license to (a) any person engaged in this state in the bulk storage of petroleum products and the distribution thereof by tank car or tank truck or both, and (b) any person holding an unrevoked license as a distributor since January 1, 1947, and (c) any person holding a license and performing a function under the motor fuel tax law of an adjoining state equivalent to that of a distributor under this act, who desires to ship or deliver petroleum products from that state to persons in this state not licensed as distributors in this state and who agrees to assume with respect to all petroleum products so shipped or delivered the liabilities of a distributor receiving petroleum products in this state, provided, however, that any such license shall be issued only for the purpose of permitting such person to receive in this state the petroleum products so shipped or delivered. Except as herein provided, all persons licensed as distributors under this clause shall have the same rights and privileges and be subject to the same duties, requirements and penalties as other licensed distributors.

Sec. 3. Minnesota Statutes Second 1989 Supplement, section 297A.01, subdivision 3, is amended to read:

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter;

(b) The production, fabrication, printing or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing;

(c) The furnishing, preparing, or serving for a consideration of food, meals or drinks, ~~not including~~. *"Sale" does not include:*

(1) meals or drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizens homes, and correctional, detention, and detoxification facilities,

(2) meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served, *or*

(3) meals and lunches served at public and private schools, universities or colleges. ~~"Sales" also includes meals furnished by employers to employees at less than fair market value, except meals furnished to employees of restaurants, resorts, and hotels, and except meals furnished at no charge to employees of hospitals, nursing homes, boarding care homes, sanitariums, group homes, and correctional, detention, and detoxification facilities, who are required to eat with the patients, residents, or inmates residing in them.~~ Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) heated food or drinks;

(ii) sandwiches prepared by the retailer;

(iii) single sales of prepackaged ice cream or ice milk novelties prepared by the retailer;

(iv) hand-prepared or dispensed ice cream or ice milk products including cones, sundaes, and snow cones;

(v) soft drinks and other beverages prepared or served by the retailer;

(vi) gum;

(vii) ice;

(viii) all food sold in vending machines;

(ix) party trays prepared by the retailers; and

(x) all meals and single servings of packaged snack food, single cans or bottles of pop, sold in restaurants and bars;

(d) **The granting of the privilege of admission to places of amusement, recreational areas, or athletic events, *except a world championship football game sponsored by the national football league*, and the privilege of having access to and the use of amusement devices, tanning facilities, reducing**

salons, steam baths, turkish baths, massage parlors, health clubs, and spas or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state; the tax imposed on amounts paid for telephone services is the liability of and shall be paid by the person paying for the services. The furnishing for a consideration of access to telephone services by a hotel to its guests is a sale under this clause. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale;

(g) The furnishing for a consideration of cable television services, including charges for basic monthly service, charges for monthly premium service, and charges for any other similar television services;

(h) Notwithstanding subdivision 4, and section 297A.25, subdivision 9, the sales of horses including claiming sales and fees paid for breeding a stallion to a mare. This clause applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the Jockey Club or the United States Trotting Association or the American Quarter Horse Association;

(i) The furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(j) The furnishing for a consideration of services listed in this paragraph:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin-operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) services provided by detective agencies, security services, burglar, fire alarm, and armored car services not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; arborist services; tree, bush, and shrub planting, pruning, bracing, spraying, and surgery; and tree trimming for public utility lines.

The services listed in this paragraph are taxable under section 297A.02 if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a partnership or association for another partnership or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of this section, "affiliated group of corporations" includes those entities that would be classified as a member of an affiliated group under United States Code, title 26, section 1504, and who are eligible to file a consolidated tax return for federal income tax purposes; and

(vii) solid waste collection and disposal services as described in section 297A.45;

(k) A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equipment. A "sale" and a "purchase" does not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program; and

(l) The granting of membership in a club, association, or other organization if:

(1) the club, association, or other organization makes available for the use of its members sports and athletic facilities (without regard to whether a separate charge is assessed for use of the facilities); and

(2) use of the sports and athletic facilities is not made available to the general public on the same basis as it is made available to members.

Granting of membership includes both one-time initiation fees and periodic membership dues. Sports and athletic facilities include golf courses, tennis, racquetball, handball and squash courts, basketball and volleyball facilities, running tracks, exercise equipment, swimming pools, and other similar athletic or sports facilities. The provisions of this paragraph do not apply to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, for educational and social activities for young people primarily age 18 and under.

Sec. 4. Minnesota Statutes 1988, section 297A.01, subdivision 8, is amended to read:

Subd. 8. "Sales price" means the total consideration valued in money, for a retail sale whether paid in money or otherwise, excluding therefrom any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, cost of materials used, labor or service cost, interest, or discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller,

or any other expense whatsoever. A deduction may be made for charges for services that are part of the sale, including charges up to 15 percent in lieu of tips, if the consideration for such charges is separately stated, but no deduction shall be allowed for charges for services that are part of a sale as defined in subdivision 3, clauses (b) to ~~(f)~~ (l). A deduction may also be made for interest, financing, or carrying charges, charges for labor or services used in installing or applying the property sold or transportation charges if the transportation occurs after the retail sale of the property only if the consideration for such charges is separately stated. There shall not be included in "sales price" cash discounts allowed and taken on sales or the amount refunded either in cash or in credit for property returned by purchasers.

Sec. 5. Minnesota Statutes 1988, section 297A.14, subdivision 1, is amended to read:

Subdivision 1. [IMPOSITION.] For the privilege of using, storing or consuming in Minnesota tangible personal property; ~~tickets or admissions to places of amusement and athletic events, electricity, gas, and local exchange telephone service or taxable services~~ purchased for use, storage or consumption in this state, a use tax is imposed on every person in this state at the rate of tax imposed under section 297A.02 on the sales price of sales at retail of the items, unless the tax imposed by section 297A.02 was paid on the sales price.

Sec. 6. Minnesota Statutes 1988, section 297A.25, subdivision 31, is amended to read:

Subd. 31. [SALES BY GOVERNMENT TAXABLE.] This section shall not be construed to exempt the gross receipts from sales of tangible personal property *or taxable services* purchased from the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities or political subdivisions by ultimate consumers, and such purchases are hereby declared to be subject to tax, except as they may be otherwise exempted.

Sec. 7. Minnesota Statutes 1988, section 297A.255, is amended by adding a subdivision to read:

Subd. 5. There is specifically exempted from the provisions of this chapter the purchase or use of aircraft registered in the state of Minnesota by a corporation or partnership when the transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code of 1986, as amended through December 31, 1989.

Sec. 8. Minnesota Statutes 1988, section 297B.035, subdivision 1, is amended to read:

Subdivision 1. Except as provided in this section, motor vehicles purchased for resale in the ordinary course of business or used by any motor vehicle dealer, as defined in section 168.011, subdivision 21, *who is licensed under section 168.27, subdivision 2 or 3*, which bear dealer plates as authorized by section 168.27, subdivision 16, shall be exempt from the provisions of this chapter.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective July 1, 1990.

ARTICLE 5

INCOME AND FRANCHISE TAXES
AND PROPERTY TAX REFUNDS

Section 1. Minnesota Statutes Second 1989 Supplement, section 10A.31, subdivision 5, is amended to read:

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

- (1) 21 percent for the offices of governor and lieutenant governor together;
- (2) 3.6 percent for the office of attorney general;
- (3) 1.8 percent each for the offices of secretary of state, state auditor, and state treasurer;
- (4) In each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator and 46-2/3 percent for the office of state representative;
- (5) In each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative.

In each calendar year the money in each party account shall be allocated as follows:

- (1) 14 percent for the offices of governor and lieutenant governor together;
- (2) 2.4 percent for the office of attorney general;
- (3) 1.2 percent each for the offices of secretary of state, state auditor, and state treasurer;
- (4) In each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator and 46-2/3 percent for the office of state representative;
- (5) In each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative;

(6) ten percent for the state committee of a political party; money allocated to each state committee under this clause must be deposited in a separate account and must be spent for only those items enumerated in section 10A.275; money allocated to a state committee under this clause must be paid to the committee by the state treasurer as notified by the state ethical practices board as it is received in the account on a monthly basis, with payment on the 15th day of the calendar month following the month in which the ~~tax~~ returns were ~~received~~ *processed by the department of revenue*, provided that these distributions would be equal to 90 percent of the amount of money indicated in the department of revenue's weekly unedited reports of income tax returns ~~for that~~ *and property tax refund returns processed in the month, as notified by the department of revenue to the state ethical practices board. The amounts paid to each state committee are subject to final annual biennial adjustment and settlement as indicated according to the at the time of each certification by required of the commissioner of revenue under subdivision 6 subdivisions 7 and 10. If the total amount of total payments received before September 15 by a state committee for the period reflected on a certification by the department of*

revenue is greater than different from the amount certified by the commissioner of revenue on September 15, the total amount of payments distributed between September 1 and December 31 that should have been received during the period according to the certification, each subsequent monthly payment must be reduced by increased or decreased to the fullest extent possible until the amount of the overpayment is recovered or the underpayment is distributed.

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

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

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

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

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

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

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

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

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

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

district in the last general election.

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

Money from a party account not distributed to candidates for state senator and representative in any election year shall be returned to the general fund of the state. Money from a party account not distributed to candidates for other offices in an election year shall be returned to the party account for reallocation to candidates as provided in clauses (1) to (6) in the following year. Money from the general account refused by any candidate shall be distributed to all other qualifying candidates in proportion to their shares as provided in this subdivision.

Sec. 2. Minnesota Statutes Second 1989 Supplement, section 290.17, subdivision 2, is amended to read:

Subd. 2. [INCOME NOT DERIVED FROM CONDUCT OF A TRADE OR BUSINESS.] The income of a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or business must be assigned in accordance with paragraphs (a) to (f):

(a)(1) Subject to paragraphs (a)(2) and (a)(3), income from labor or personal or professional services is assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources is treated as income from sources without this state.

Severance pay shall be considered income from labor or personal or professional services.

(2) In the case of an individual who is a nonresident of Minnesota and who is an athlete or entertainer, income from compensation for labor or personal services performed within this state shall be determined in the following manner:

(i) The amount of income to be assigned to Minnesota for an individual who is a nonresident salaried athletic team employee shall be determined by using a fraction in which the denominator contains the total number of days in which the individual is under a duty to perform for the employer, and the numerator is the total number of those days spent in Minnesota; and

(ii) The amount of income to be assigned to Minnesota for an individual who is a nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's athletic or entertainment performance in Minnesota shall be determined by assigning to this state all income from performances or athletic contests in this state.

(3) For purposes of this section, amounts received by a nonresident from the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer firefighters' relief association, by way of payment as a pension, public employee retirement benefit, or any combination of these, or as a retirement or survivor's benefit made from a plan

qualifying under section 401, 403, 408, or 409, or as defined in section 403(b) or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1987, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(b) Income or gains from tangible property located in this state that is not employed in the business of the recipient of the income or gains must be assigned to this state.

(c) Except upon the sale of a partnership interest or the sale of stock of an S corporation, income or gains from intangible personal property not employed in the business of the recipient of the income or gains must be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

Gain on the sale of stock held in an S corporation is allocable to this state ~~in the ratio of the original cost of tangible property of the S corporation within this state to the original cost of tangible property of the S corporation everywhere~~ an amount equal to the gain on the sale of the stock multiplied by the ratio that was used to compute the amount of S corporation income assignable to Minnesota in the tax year preceding the year of sale.

Gain on the sale of goodwill or income from a covenant not to compete that is connected with a business operating all or partially in Minnesota is allocated to this state to the extent that the income from the business in the year preceding the year of sale was assignable to Minnesota under subdivision 3.

(d) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state.

(e) Income from winnings on Minnesota pari-mutuel betting tickets, the Minnesota state lottery, and lawful gambling as defined in section 349.12, subdivision 2, conducted within the boundaries of the state of Minnesota shall be assigned to this state.

(f) All items of gross income not covered in paragraphs (a) to (e) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

Sec. 3. Minnesota Statutes 1988, section 290.17, subdivision 5, is amended to read:

Subd. 5. [SPECIAL RULES.] Notwithstanding subdivisions 3 and 4, all income from the operation of the following types of businesses must be allocated as follows:

(a) All income from the operation of a farm is assigned to this state if

the farm is located within this state and no such income is assigned to this state if the farm is located without this state.

~~(b) Income from a trade or business consisting principally of the performance of personal or professional services is assigned to this state if, and to the extent that, the services are performed within this state.~~

(e) For athletic teams when the visiting team does not share in the gate receipts, all of the team's income is assigned to the state in which the team's operation is based.

Sec. 4. Minnesota Statutes 1989 Supplement, section 290.39, subdivision 4, is amended to read:

Subd. 4. [VOTER REGISTRATION FORM.] The commissioner shall insert securely in each individual income tax return form or instruction booklet distributed ~~in an even-numbered~~ *for an odd-numbered* year a voter registration form, returnable to the secretary of state, designed according to rules adopted by the secretary of state. This requirement applies to forms and booklets supplied to post offices, banks, and other outlets, as well as to those mailed directly to taxpayers.

Sec. 5. Minnesota Statutes 1988, section 290.39, subdivision 5, is amended to read:

Subd. 5. [PARTNERSHIPS; NONRESIDENT PARTNERS.] (a) The commissioner may allow a partnership with five or more nonresident partners to file a composite return on behalf of nonresident partners who have no other Minnesota source income. This composite return must include the names, addresses, social security numbers, income allocation, and tax liability for all nonresident partners electing to be covered by the composite return.

(b) The computation of each partner's tax liability will be determined by multiplying the income allocated to that partner by the highest rate used to determine the tax liability for individuals under section 290.06, subdivision 2c. Nonbusiness deductions, standard deductions, or personal exemptions are not allowed.

(c) The partnership must submit a request to use this composite return filing method for nonresident partners ~~on or before the due date for filing the individual income tax return. The request may be made a part of the return filed.~~ *The requesting partnership must file a composite return in the form prescribed by the commissioner of revenue. The filing of a composite return is considered a request to use the composite return filing method.*

(d) The electing partner must not have any Minnesota source income other than the income from the partnership and other electing partnerships. If it is determined that the electing partner has other Minnesota source income, the inclusion of the income and tax liability for that partner under this provision will not constitute a return to satisfy the requirements of subdivision 1. The penalty for failure to file a return as provided in section 290.53, subdivision 2, is assessed from the due date for filing a return until a noncomposite return is filed. The tax paid for such an individual as part of the composite return is allowed as a payment of the tax by the individual on the date on which the composite return payment was made. If the electing nonresident partner has no other Minnesota source income,

filing of the composite return constitutes a return for purposes of subdivision 1.

(e) This subdivision does not preclude the requirement that an individual pay estimated tax if the individual's liability would exceed the requirements set forth in section 290.93. However, a composite estimate may be filed in a manner similar to and containing the same information required under paragraph (a).

(f) If an electing partner's share of the partnership's gross income from Minnesota sources is less than the filing requirements for a nonresident under section 290.37, subdivision 1, the tax liability is zero. However, a statement showing the partner's share of gross income must be included as part of the composite return.

(g) The election provided in this subdivision is not available to any partner other than a full-year nonresident individual who has no other Minnesota source income.

(h) A corporation defined in section 290.9725 and its nonresident shareholders may make an election under this subdivision. The provisions covering the partnership apply to the corporation and the provisions applying to the partner apply to each shareholder.

(i) Estates and trusts distributing current income only and the nonresident individual beneficiaries of such estates or trusts may make an election under this subdivision. The provisions covering the partnership apply to the estate or trust. The provisions applying to the partner apply to each beneficiary.

Sec. 6. Minnesota Statutes 1988, section 290.49, subdivision 3, is amended to read:

Subd. 3. [OMISSION IN EXCESS OF 25 PERCENT.] If the taxpayer omits from gross income an amount properly includable therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun at any time within 6-1/2 years after the return was filed.

For purposes of this subdivision, the term "gross income" shall mean gross income as defined in section ~~290.37, subdivision 1, clause (c)~~ 290.01, subdivision 20.

Sec. 7. Minnesota Statutes 1988, section 290.92, subdivision 12, is amended to read:

Subd. 12. [WITHHELD AMOUNT, CREDIT AGAINST TAX.] The amount deducted and withheld as tax under subdivision 2a ~~or~~, 3, 4b, or 4c or section 290.923, subdivision 2, during any calendar year upon the wages, *partnership income*, or "*S*" *corporation income* of any individual or person receiving royalty payments shall be allowed as a credit to the recipient of the income against the taxes imposed by this chapter or by chapter 298, for a taxable year beginning in such calendar year. If more than one taxable year begins in such calendar year, such amount shall be allowed as a credit against the taxes for the last taxable year so beginning.

Sec. 8. Minnesota Statutes 1988, section 290.92, subdivision 23, is amended to read:

Subd. 23. [WITHHOLDING BY EMPLOYER OF DELINQUENT TAXES.] (1) The commissioner may, within five years after the date of

assessment of the tax, give notice to any employer deriving income which has a taxable situs in this state regardless of whether the income is exempt from taxation, that an employee of that employer is delinquent in a certain amount with respect to any state taxes, including penalties, interest and costs. The commissioner can proceed under this subdivision only if the tax is uncontested or if the time for appeal of the tax has expired. The commissioner shall not proceed under this subdivision until the expiration of 30 days after mailing to the taxpayer, at the taxpayer's last known address, a written notice of (a) the amount of taxes, interest, and penalties due from the taxpayer and demand for their payment, and (b) the commissioner's intention to require additional withholding by the taxpayer's employer pursuant to this subdivision. The effect of the notice shall expire 180 days after it has been mailed to the taxpayer provided that the notice may be renewed by mailing a new notice which is in accordance with this subdivision. The renewed notice shall have the effect of reinstating the priority of the original claim. The notice to the taxpayer shall be in substantially the same form as that provided in section 571.41. The notice shall further inform the taxpayer of the wage exemptions contained in section 550.37, subdivision 14. If no statement of exemption is received by the commissioner within 30 days from the mailing of the notice, the commissioner may proceed under this subdivision. The notice to the taxpayer's employer may be served by mail or by delivery by an employee of the department of revenue and shall be in substantially the same form as provided in section 571.495. Upon receipt of notice, the employer shall withhold from compensation due or to become due to the employee, the total amount shown by the notice, subject to the provisions of section 571.55. The employer shall continue to withhold each pay period until the total amount shown by the notice is paid in full. Upon receipt of notice by the employer, the claim of the state of Minnesota shall have priority over any subsequent garnishments or wage assignments. The commissioner may arrange between the employer and the employee for withholding a portion of the total amount due the employee each pay period, until the total amount shown by the notice plus accrued interest has been withheld.

The "compensation due" any employee is defined in accordance with the provisions of section 571.55. The maximum withholding allowed under this subdivision for any one pay period shall be decreased by any amounts payable pursuant to a garnishment action with respect to which the employer was served prior to being served with the notice of delinquency and any amounts covered by any irrevocable and previously effective assignment of wages; the employer shall give notice to the department of the amounts and the facts relating to such assignments within ten days after the service of the notice of delinquency on the form provided by the department of revenue as noted in this subdivision. In crediting amounts withheld against delinquent taxes of an employee, the department shall apply amounts withheld in the following order: penalties, interest, tax, and costs.

(2) If the employee ceases to be employed by the employer before the full amount set forth in a notice of delinquency plus accrued interest has been withheld, the employer shall immediately notify the commissioner in writing of the termination date of the employee and the total amount withheld. No employer may discharge any employee by reason of the fact that the commissioner has proceeded under this subdivision. If an employer discharges an employee in violation of this provision, the employee shall have the same remedy as provided in section 571.61, subdivision 2.

(3) The employer shall, by the date prescribed in subdivision 6, remit to the commissioner, on a form and in the manner prescribed by the commissioner, the amount withheld during the calendar quarter under this subdivision. Should any employer, after notice, willfully fail to withhold in accordance with the notice and this subdivision, or willfully fail to remit any amount withheld as required by this subdivision, the employer shall be liable for the total amount set forth in the notice together with accrued interest which may be collected by any means provided by law relating to taxation. ~~No amount required to be paid by an employer by reason of the employer's failure to remit under this subdivision, may be deducted from the gross income of the employer, under sections 290.09, subdivision 4 or 290.01, subdivisions 20 to 20f.~~ Any amount collected from the employer for failure to withhold or for failure to remit under this subdivision shall be credited to the employee's account in the following manner: penalties, interest, tax, and costs.

(4) Clauses (1), (2) and (3), except provisions imposing a liability on the employer for failure to withhold or remit, shall apply to cases in which the employer is the United States or any instrumentality thereof or this state or any municipality or other subordinate unit thereof.

(5) The commissioner shall refund to the employee excess amounts withheld from the employee under this subdivision. If any excess results from payments by the employer because of willful failure to withhold or remit as prescribed in clause (3) above, the excess attributable to the employer's payment shall be refunded to the employer.

(6) Employers required to withhold delinquent taxes, penalties, interest, and costs under this subdivision shall not be required to compute any additional interest, costs or other charges to be withheld.

(7) The collection remedy provided to the commissioner by this subdivision shall have the same legal effect as if it were a levy made pursuant to section 270.70.

Sec. 9. Minnesota Statutes 1988, section 290.93, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT OF DECLARATION.] (1) Every individual shall, at the time prescribed in subdivision 5, make and file with the commissioner a declaration of estimated tax for the taxable year if

the gross income (for purposes of this subdivision and subdivision 5 as defined in section ~~290.37, subdivision 4, clause (e) 290.01, subdivision 20~~) for the taxable year can reasonably be expected to exceed the gross income amounts set forth in section 290.37, subdivision 1 pertaining to the requirements for making a return.

(2) If the individual is an infant or incompetent person, the declaration shall be made by the individual's guardian.

(3) Notwithstanding the provisions of this section, no declaration is required if the estimated tax (as defined in subdivision 3) is less than \$500.

Sec. 10. Minnesota Statutes 1988, section 290A.03, subdivision 3, is amended to read:

Subd. 3. [INCOME.] (1) "Income" means the sum of the following:

(a) ~~the greater of~~ federal adjusted gross income as defined in the Internal Revenue Code ~~or zero~~; and

(b) the sum of the following amounts to the extent not included in clause (a):

(i) all nontaxable income;

(ii) the amount of a passive activity loss that is not disallowed as a result of section 469, paragraph (i) or (1) of the Internal Revenue Code and the amount of passive activity loss carryover allowed under section 469(b) of the Internal Revenue Code;

(iii) an amount equal to the total of any discharge of qualified farm indebtedness of a solvent individual excluded from gross income under section 108(g) of the Internal Revenue Code;

(iv) cash public assistance and relief;

(v) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, supplemental security income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

(vi) interest received from the federal or a state government or any instrumentality or political subdivision thereof;

(vii) workers' compensation;

(viii) nontaxable strike benefits;

(ix) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;

(x) a lump sum distribution under section 402(e)(3) of the Internal Revenue Code;

(xi) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code; or deferred compensation plan under section 457 of the Internal Revenue Code; and

(xii) nontaxable scholarship or fellowship grants.

In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. Federal adjusted gross income shall not be reduced by the amount of a net operating loss carryback or carryforward or a capital loss carryback or carryforward allowed for the year.

(2) "Income" does not include

(a) amounts excluded pursuant to the Internal Revenue Code, sections 101(a), 102, and 121;

(b) amounts of any pension or annuity which was exclusively funded by the claimant or spouse and which funding payments were not excluded from federal adjusted gross income in the years when the payments were made;

(c) surplus food or other relief in kind supplied by a governmental agency;

(d) relief granted under this chapter; or

(e) child support payments received under a temporary or final decree of dissolution or legal separation.

(3) The sum of the following amounts ~~shall~~ may be subtracted from income:

(a) for the claimant's first dependent, the exemption amount multiplied by 1.4;

(b) for the claimant's second dependent, the exemption amount multiplied by 1.3;

(c) for the claimant's third dependent, the exemption amount multiplied by 1.2;

(d) for the claimant's fourth dependent, the exemption amount multiplied by 1.1;

(e) for the claimant's fifth dependent, the exemption amount; and

(f) if the claimant or claimant's spouse was disabled or attained the age of 65 prior to June 1 of the year for which the taxes were levied or rent paid, the exemption amount.

For purposes of this subdivision, the "exemption amount" means the exemption amount under section 151(d) of the Internal Revenue Code of 1986, as amended through December 31, 1987, for the taxable year for which the income is reported.

Sec. 11. Minnesota Statutes 1988, section 290A.04, subdivision 1, is amended to read:

Subdivision 1. A refund shall be allowed each claimant in the amount that property taxes payable or rent constituting property taxes exceed the percentage of the household income of the claimant specified in subdivision 2 in the year for which the taxes were levied or in the year in which the rent was paid as specified in subdivision 2. If the amount of property taxes payable or rent constituting property taxes is equal to or less than the percentage of the household income of the claimant specified in subdivision 2 in the year for which the taxes were levied or in the year in which the rent was paid, the claimant shall not be eligible for a state refund pursuant to this section. ~~For purposes of claiming this refund, a claimant who owns a homestead part of the year and rents part of the year may add the rent constituting property taxes to the qualifying tax on the homestead.~~

Sec. 12. Minnesota Statutes Second 1989 Supplement, section 290A.04, subdivision 2h, is amended to read:

Subd. 2h. (a) If the gross property taxes payable on a homestead increase more than ten percent over the net property taxes payable in the prior year on the same property that is owned by the same owner in both years, and the amount of that increase is \$40 or more for taxes payable in 1990 and 1991, \$60 or more for taxes payable in 1992, \$80 or more for taxes payable in 1993, and \$100 or more for taxes payable in 1994, a claimant who is a homeowner shall be allowed an additional refund equal to the sum of (1) 75 percent of the first \$250 of the amount of the increase over ten percent for taxes payable in 1990 and 1991, 75 percent of the first \$275 of the amount of the increase over ten percent for taxes payable in 1992, 75 percent of the first \$300 of the amount of the increase over ten percent for taxes

payable in 1993, and 75 percent of the first \$325 of the amount of the increase over ten percent for taxes payable in 1994, and (2) 90 percent of the amount of the increase over ten percent plus \$250 for taxes payable in 1990 and 1991, 90 percent of the amount of the increase over ten percent plus \$275 for taxes payable in 1992, 90 percent of the amount of the increase over ten percent plus \$300 for taxes payable in 1993, and 90 percent of the amount of the increase over ten percent plus \$325 for taxes payable in 1994. This subdivision shall not apply to any increase in the *net gross* property taxes payable attributable to improvements made to the homestead *after the assessment date for the prior year's taxes*.

(b) For purposes of this subdivision, the following terms have the meanings given:

(1) "Net property taxes payable" means property taxes payable after reductions made under sections 273.13, subdivisions 22 and 23; 273.132; 273.135; 273.1391; and 273.42, subdivision 2, and any other state paid property tax credits and after the deduction of tax refund amounts for which the claimant qualifies pursuant to subdivision 2 and this subdivision.

(2) "Gross property taxes" means net property taxes payable determined without regard to the refund allowed under this subdivision.

(c) In addition to the other proofs required by this chapter, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.

On or before December 1, 1990, and December 1 of each of the following three years, the commissioner shall estimate the cost of making the payments provided by this subdivision for taxes payable in the following year. Notwithstanding the open appropriation provision of section 290A.23, if the estimated total refund claims exceed the following amounts for the taxes payable year designated, the commissioner shall decrease the percentages of the excess taxes the state will pay and increase the dollar amount of tax increase which must occur before a taxpayer qualifies for a refund.

Taxes payable in:	Appropriation limit
1991	\$7,000,000
1992	\$6,500,000
1993	\$6,000,000
1994	\$5,500,000

The commissioner shall make the adjustments so that half of the estimated savings come from decreasing the percentages of the excess taxes the state will pay and half of the estimated savings come from increasing the dollar amount of the tax increase which must occur before a taxpayer qualifies for a refund. The determinations of the revised percentages and thresholds by the commissioner are not rules subject to chapter 14.

Sec. 13. Minnesota Statutes Second 1989 Supplement, section 290A.04, subdivision 2i, is amended to read:

Subd. 2i. If the net property taxes payable in 1990 on a seasonal residential and recreational property, not devoted to commercial use, increase more than ten percent over the net property taxes payable in 1989 and if the amount is \$40 or more, one ~~claimant~~ individual who is an owner of the property in both years is allowed a refund equal to 75 percent of the first \$250 of the excess of the increase over ten percent. This subdivision

does not apply to the portion of an increase in taxes payable that are attributable to improvements to the property.

The individual claiming the refund can use only one contiguous seasonal residential and recreational property in computing the refund and is allowed only one refund. For the purposes of this subdivision, a husband and wife are treated as one individual.

In addition to the other proofs required by this chapter, each ~~claimant~~ individual claiming a refund under this subdivision shall file with the application a copy of the property tax statement for property taxes payable in 1989 and 1990 and any other documents required by the commissioner.

Sec. 14. Laws 1989, chapter 28, section 24, is amended to read:

Sec. 24. [FEDERAL CHANGES.]

The changes made by sections 1002, 1004, 1006, 1008, 1009, 1011, 1014, 1018, 3041, 6002, 6026, and ~~6286~~ 6282 of the Technical and Miscellaneous Revenue Act of 1988, Public Law Number 100-647, which affect the computation of Minnesota gross income as defined in Minnesota Statutes, section 290.01, subdivision 20; lump sum distributions as allowed by Minnesota Statutes, section 290.032; accounting provision applied under Minnesota Statutes, section 290.07; contribution deduction allowed by Minnesota Statutes, sections 290.089 and 290.21; depreciation, amortization, and expensing provisions allowed under Minnesota Statutes, section 290.09; the recognition rules for distributions and reorganization rules provided by Minnesota Statutes, sections 290.13 to 290.139; and the grantor trust and reversionary interest rule exceptions and limitations under Minnesota Statutes, sections 290.23 and 290.25, for years beginning before January 1, 1987, shall be in effect at the same time they become effective for federal income tax purposes.

The additional statute of limitations to file amended returns allowing contributions to institutions of higher education and allowing an election to claim losses on deposits in certain insolvent financial institutions under provisions of sections 6001 and 1009 of the Technical and Miscellaneous Revenue Act of 1988, shall apply to Minnesota for the same period as the federal period applies plus an additional six months.

The waiver of the estimated tax penalties provided by section 1019 of the Technical and Miscellaneous Revenue Act of 1988, shall also apply to Minnesota to the extent the underpayment was created or increased by any provisions of the changes due to applying the federal law changes.

Sec. 15. [REPEALER.]

Minnesota Statutes 1988, section 290.23, subdivision 15, is repealed.

Sec. 16. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment. Sections 3, 5, and 15 are effective for taxable years beginning after December 31, 1989. Sections 2 and 7 are effective for taxable years beginning after December 31, 1988. Section 10 is effective for claims based on rent paid in 1989 and subsequent years and claims based on property taxes payable in 1990 and subsequent years. Sections 11 and 12 are effective beginning for property taxes payable in 1990. Section 13 is effective beginning for property taxes paid in 1990.

ARTICLE 6
INSURANCE TAXES

Section 1. Minnesota Statutes Second 1989 Supplement, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. [DOMESTIC AND FOREIGN COMPANIES.] (a) On or before April 15, June 15, and December 15 of each year, every domestic and foreign company, including town and farmers' mutual insurance companies and domestic mutual insurance companies, shall pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year. Except as provided in paragraph (b), installments must be based on a sum equal to two percent of the premiums described in paragraph (c).

(b) For town and farmers' mutual insurance companies and mutual property and casualty insurance companies other than those (i) writing life insurance, or (ii) whose total assets at the end of the preceding calendar year exceed \$1,600,000,000, the installments must be based on an amount equal to the following percentages of the premiums described in paragraph (c):

(1) for premiums paid after December 31, 1988, and before January 1, 1992, one percent; and

(2) for premiums paid after December 31, 1991, one-half of one percent.

(c) Installments under paragraph (a) or (b) are percentages of gross premiums less return premiums on all direct business received by the insurer in this state, or by its agents for it, in cash or otherwise, during such year, excepting premiums written for marine insurance as specified in subdivision 6.

(d) Failure of a company to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this section, *unless the total tax for the current tax year is \$500 or less.*

Sec. 2. Minnesota Statutes 1988, section 60A.198, is amended by adding a subdivision to read:

Subd. 6. [ALLOCATION OF PREMIUMS ACCORDING TO LOCATION OF SUBJECT MATTER.] If the insurance described in subdivision 4 also covers a subject of insurance residing, located, or to be performed outside this state, for the purposes of this section, a proper pro rata portion of the entire premium payable for all of that insurance must be allocated according to the subjects of insurance residing, located, or to be performed in this state.

Sec. 3. Minnesota Statutes 1989 Supplement, section 69.021, subdivision 6, is amended to read:

Subd. 6. [CALCULATION OF APPORTIONMENT OF AID TO COUNTIES.] With respect to firefighters, one-half of the state aid available shall be distributed to the counties in proportion to their population as shown by the last official statewide federal census. The remaining one-half of the state aid available shall be distributed to the counties in proportion to their net tax capacity, excluding mineral values.

In the case of incorporated or municipal fire departments furnishing fire protection to cities, towns or townships in other counties as evidenced by valid fire service contracts filed with the commissioner of commerce and county auditor the distribution to the respective counties shall be adjusted proportionately to take into consideration the crossover fire protection service. Necessary adjustments shall be made to subsequent apportionments.

The state aid available in respect to peace officers shall not exceed the amount of tax collected and shall be distributed to the counties in proportion to the total number of active peace officers, as defined in section 69.011, subdivision 1, clause (g), in each county who are employed either by municipalities maintaining police departments or by the county. Any necessary adjustments shall be made to subsequent apportionments.

Sec. 4. Minnesota Statutes 1988, section 69.771, subdivision 3, is amended to read:

Subd. 3. [REMEDY FOR NONCOMPLIANCE; DETERMINATION.] Any municipality in which there exists a firefighters' relief association as specified in subdivision 1 which does not comply with the applicable provisions of sections 69.771 to 69.776 or the provisions of any applicable special law relating to the funding or financing of the association shall not qualify initially to receive, or be entitled subsequently to retain, fire state aid pursuant to sections 69.011 to 69.051 until the reason for disqualification is remedied, whereupon the municipality or relief association, if otherwise qualified, shall be entitled to again receive fire state aid for the year occurring immediately subsequent to the year in which the disqualification is remedied. The ~~commissioner of commerce~~ state auditor shall determine if a municipality to which a firefighters' relief association is directly associated or a firefighters' relief association fails to comply with the provisions of sections 69.771 to 69.776 or the funding or financing provisions of any applicable special law based upon the information contained in the annual financial report of the firefighters' relief association required pursuant to section 69.051.

Sec. 5. Minnesota Statutes 1988, section 69.772, subdivision 2a, is amended to read:

Subd. 2a. [DETERMINATION OF ACCRUED LIABILITY FOR RECIPIENTS OF INSTALLMENT PAYMENTS.] Each firefighters' relief association which pays a lump sum service pension in installment payments to a retired firefighter pursuant to section 424A.02, subdivision 8, shall determine the accrued liability of the special fund of the firefighters' relief association relative to each retired member receiving a lump sum service pension in installment payments calculated individually as the sum of each future installment payment discounted at an interest rate of five percent, compounded annually, from the date the installment payment is scheduled to be paid to December 31. If the bylaws of the relief association provide for the payment of interest on unpaid installments, the amount of interest, projected to December 31, shall be added to the accrued liability attributable to each retired member. The sum of the accrued liability attributable to each retired member of the relief association receiving a lump sum service pension in installment payments shall be the total additional accrued liability of the special fund of the relief association as of December 31, and shall be added to the accrued liability of the special fund of the relief association calculated pursuant to subdivision 2 for purposes of calculating

the financial requirements of the relief association and the minimum obligation of the municipality pursuant to subdivision 3.

To the extent that the ~~commissioner of commerce~~ *state auditor* deems it to be necessary or practical, the ~~commissioner~~ *state auditor* may specify and issue procedures, forms or mathematical tables for use in performing the calculations required pursuant to this subdivision.

Sec. 6. Minnesota Statutes 1988, section 69.774, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZED INCLUSION IN FIRE STATE AID PROGRAM; COVERED NONPROFIT CORPORATIONS.] This section shall apply to any independent nonprofit firefighting corporation incorporated or organized pursuant to chapter 317 which operates exclusively for firefighting purposes, which is composed of volunteer firefighters, which has a duly established separate subsidiary incorporated firefighters' relief association which provides retirement coverage for or pays a service pension to a retired firefighter or a retirement benefit to a surviving dependent of either an active or a retired firefighter, and which operates subject to the service pension minimum requirements for entitlement to and maximums for a service pension contained in section 424A.02, or a special law modifying those requirements or maximums. Notwithstanding any law to the contrary, a municipality contracting with an independent nonprofit firefighting corporation shall be included in the distribution of fire state aid to the appropriate county auditor by the ~~commissioner of commerce~~ *state auditor* only if the independent nonprofit firefighting corporation complies with the provisions of this section.

Sec. 7. Minnesota Statutes 1988, section 299F.21, subdivision 1, is amended to read:

Subdivision 1. [ESTIMATED INSTALLMENT PAYMENTS.] On or before April 15, June 15, and December 15 of each year, every licensed insurance company, including reciprocals or interinsurance exchanges, doing business in the state, excepting farmers' mutual fire insurance companies and township mutual fire insurance companies, shall pay to the commissioner of revenue installments equal to one-third of, a tax upon its fire premiums or assessments or both, based on a sum equal to one-half of one percent of the estimated fire premiums and assessments, less return premiums and dividends, on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise. In the case of a mutual company or reciprocal exchange the dividends or savings paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be credited to the general fund. A company that fails to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year is subject to the penalty and interest provided in this chapter, *unless the total tax for the current tax year is \$500 or less.*

Sec. 8. [EFFECTIVE DATE.]

Sections 1, 2, and 7 are effective for tax years beginning after December 31, 1990. Sections 3, 4, 5, and 6 are effective the day after final enactment.

ARTICLE 7

TECHNICAL AND ADMINISTRATIVE CHANGES

Section 1. Minnesota Statutes 1988, section 116K.04, subdivision 4, is amended to read:

Subd. 4. The commissioner shall:

(1) Appoint the state demographer, who shall be compensated in accordance with section 43A.18, subdivision 3. The state demographer shall be professionally competent in the field of demography and shall possess demonstrated ability, based upon past performance;

(2) Continuously gather and develop demographic data within the state;

(3) Design and test methods of research and data collection;

(4) Periodically prepare population projections for designated regions and for the state and may periodically prepare projections for each county, or other political or geographic division as necessary to carry out the purposes of this section;

(5) Review, comment, and prepare analysis of population estimates and projections made by state agencies, political subdivisions, other states, federal agencies or nongovernmental persons, institutions or commissions;

(6) Serve as the state liaison with the federal bureau of census, and coordinate the activities of the state planning agency with federal demographic activities to the fullest extent possible, and shall aid the legislature in preparing a census data plan and form for each decennial census;

(7) Compile an annual study of population estimates on the basis of county, regional or other political or geographic divisions as necessary to carry out the purposes of this subdivision and section 116K.05;

(8) On or before January 1 of each year, issue a report to the legislature containing an analysis of the demographic implications of the annual population study and population projections;

(9) Cause to be prepared maps of all counties in the state, all municipalities with a population of 10,000 or more, and any other municipalities as deemed necessary for census purposes, according to scale and detail recommended by the federal bureau of the census, with the maps of cities showing boundaries of precincts; ~~and~~

(10) Prepare an estimate of population and of the number of households for each governmental subdivision for which the metropolitan council does not prepare an annual estimate, and shall communicate the estimates to the governing body of each governmental subdivision by May 1 of each year; ~~and~~

(11) Prepare an estimate of population and number of households for an area annexed by a governmental subdivision subject to levy limits under sections 275.50 to 275.56 if a municipal board order under section 414.01, subdivision 14, exists for the annexation and if the population in the annexed area is equal to either (i) at least 50 people or (ii) at least ten percent of the population of a governmental subdivision or unorganized territory that is losing area by the annexation. The estimate shall be of the population as of the date, within the 12-month period after the annexation occurs, for which a population estimate for the governmental subdivision is made by either the state demographer under clause (10) or by

the metropolitan council.

Sec. 2. Minnesota Statutes 1989 Supplement, section 168.013, subdivision 5, is amended to read:

Subd. 5. [CERTAIN VEHICLES SUBJECT TO PERSONAL PROPERTY TAX.] Motor vehicles not subject to taxation as provided in section 168.012, but subject to taxation as personal property within the state *under section 273.36 or 273.37, subdivision 1, shall be assessed and valued at 33-1/3 percent of the market value thereof; have a tax capacity as provided in section 273.13, subdivision 24,* provided, that if the person against whom any tax has been levied on the ad valorem basis because of any motor vehicle shall, during the calendar year for which such tax is levied, be also taxed under the provisions of this chapter, then and in that event, upon proper showing, the commissioner of revenue shall grant to the person against whom said ad valorem tax was levied, such reduction or abatement of net tax capacity or taxes as was occasioned by the so-called ad valorem tax imposed, and provided further that, if said ad valorem tax upon any motor vehicle has been assessed against a dealer in new and unused motor vehicles, and the tax imposed by this chapter for the required period is thereafter paid by the owner, then and in that event, upon proper showing, the commissioner of revenue, upon the application of said dealer, shall grant to such dealer against whom said ad valorem tax was levied such reduction or abatement of net tax capacity or taxes as was occasioned by the so-called ad valorem tax imposed. If such motor vehicle be registered and taxed under this chapter for a fractional part of the calendar year only, then such ad valorem tax shall be reduced in the percentage which such fractional part of the years bears to a full year.

Sec. 3. Minnesota Statutes 1989 Supplement, section 272.16, is amended to read:

272.16 [TRANSFER OF SPECIFIC PART.]

Subdivision 1. [TRANSFER OF SPECIFIC PART.] When any part less than the whole of any parcel of land, as charged in the tax lists, is conveyed, the county auditor shall transfer the same whenever the seller and purchaser agree, in a writing signed by them, or personally appear before the county auditor and agree, upon the amount of the net tax capacity to be transferred therewith; ~~but~~. If the seller and purchaser do not so agree, the county auditor shall make ~~such~~ a division of the net tax capacity ~~as may appear that appears just to the auditor just~~. If the county auditor is satisfied that the proportion of the net tax capacity so agreed to be transferred is greater than the proportional value of the land to be transferred therewith, and that ~~such~~ the agreement was made by collusion of the parties, and with a view fraudulently to evade payment of taxes assessed on the entire parcel, the auditor may refuse to make ~~such~~ the transfer; ~~and~~. When any such transfer has already been procured by fraudulent agreement, the auditor shall cancel ~~the same~~ it, and the land so transferred shall be charged with taxes in the same manner as though the transfer had not been made.

Subd. 2. [SPECIFIC PART CONVEYED AFTER EXECUTION OF A LENDER'S LIEN.] Notwithstanding the provisions of sections 272.12, 272.121, and 272.162, a lender that acquires, through execution of a lien, any part less than the whole of any parcel of land, as charged in the tax lists, may convey that part upon payment of the proper proportion of taxes due and owing on that part. The county auditor shall determine the proper proportion of taxes to be paid. The lender shall be required to provide the

county auditor with instruments that document the lender's lien and the acquisition of the part.

Sec. 4. Minnesota Statutes 1989 Supplement, section 273.01, is amended to read:

273.01 [LISTING AND ASSESSMENT, TIME.]

All real property subject to taxation shall be listed and at least one-fourth of the parcels listed shall be appraised each year with reference to their value on January 2 preceding the assessment so that each parcel shall be reappraised at maximum intervals of four years. All real property becoming taxable in any year shall be listed with reference to its value on January 2 of that year. Except as provided in *this section and section 274.01, subdivision 1*, all real property assessments shall be completed two weeks prior to the date scheduled for the local board of review or equalization. *No changes in valuation or classification which are intended to correct errors in judgment by the county assessor may be made by the county assessor after the board of review or the county board of equalization has adjourned; however, corrections of errors that are merely clerical in nature or changes that extend homestead treatment to property are permitted after adjournment until the tax extension date for that assessment year.* Any changes made by the assessor after ~~this time~~ adjournment must be fully documented and maintained in a file in the assessor's office and shall be available for review by any person. A copy of any changes made during this period shall be sent to the county board *no later than December 31 of the assessment year*. In the event a valuation and classification is not placed on any real property by the dates scheduled for the local board of review or equalization the valuation and classification determined in the preceding assessment shall be continued in effect and the provisions of section 273.13 shall, in such case, not be applicable, except with respect to real estate which has been constructed since the previous assessment. Real property containing iron ore, the fee to which is owned by the state of Minnesota, shall, if leased by the state after January 2 in any year, be subject to assessment for that year on the value of any iron ore removed under said lease prior to January 2 of the following year. Personal property subject to taxation shall be listed and assessed annually with reference to its value on January 2; and, if acquired on that day, shall be listed by or for the person acquiring it.

Sec. 5. Minnesota Statutes 1989 Supplement, section 273.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Except as provided in subdivisions 6, 8, and 9 or section 273.17, subdivision 1, all property shall be valued at its market value. The market value as determined pursuant to this section shall be stated such that any amount under \$100 is rounded up to \$100 and any amount exceeding \$100 shall be rounded to the nearest \$100. In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall the assessor adopt as a criterion of value the price for which such property would sell at a forced sale, or in the aggregate with all the property in the town or district; but the assessor shall value each article or description of property by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. In assessing any tract or lot of real property, the value of the land, exclusive of structures and improvements, shall be determined, and also the value of all structures and improvements

thereon, and the aggregate value of the property, including all structures and improvements, excluding the value of crops growing upon cultivated land. In valuing real property upon which there is a mine or quarry, it shall be valued at such price as such property, including the mine or quarry, would sell for a fair, voluntary sale, for cash. In valuing real property which is vacant, the fact that such property is platted shall not be taken into account. An individual lot of such platted property shall not be assessed in excess of the ~~assessment~~ *valuation* of the land as if it were unplatted until the lot is improved with a permanent improvement all or a portion of which is located upon the lot, or for a period of three years after final approval of said plat whichever is shorter. When a lot is sold or construction begun, ~~the net tax capacity of that lot or any single contiguous lot fronting on the same street shall be eligible for reassessment~~ *revaluation*. All property, or the use thereof, which is taxable under section 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value.

Sec. 6. Minnesota Statutes Second 1989 Supplement, section 273.124, subdivision 6, is amended to read:

Subd. 6. [LEASEHOLD COOPERATIVES.] When one or more dwellings or one or more buildings which each contain several dwelling units is owned by a nonprofit corporation subject to the provisions of chapter 317 and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1988, or a limited partnership which corporation or partnership operates the property in conjunction with a cooperative association, homestead treatment may be claimed by the cooperative association on behalf of the members of the cooperative for each dwelling unit occupied by a member of the cooperative. The cooperative association must provide the assessor with the social security numbers of those members. To qualify for the treatment provided by this subdivision, the following conditions must be met:

(a) the cooperative association must be organized under chapter 308A and all voting members of the board of directors must be resident tenants of the cooperative and must be elected by the resident tenants of the cooperative;

(b) the cooperative association must have a lease for occupancy of the property for a term of at least 20 years, which permits the cooperative association, while not in default on the lease, to participate materially in the management of the property, including material participation in establishing budgets, setting rent levels, and hiring and supervising a management agent;

(c) to the extent permitted under state or federal law, the cooperative association must have a right under a written agreement with the owner to purchase the property if the owner proposes to sell it; if the cooperative association does not purchase the property it is offered for sale, the owner may not subsequently sell the property to another purchaser at a price lower than the price at which it was offered for sale to the cooperative association unless the cooperative association approves the sale;

(d) the cooperative must meet one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 80 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than

60 percent of area median income, or (3) a minimum of 20 percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" means the income of a member existing at the time the member acquires his or her cooperative membership, and "median income" means the St. Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development;

(e) if a limited partnership owns the property, it must include as the managing general partner a nonprofit organization operating under the provisions of chapter 317 and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1988, and the limited partnership agreement must provide that the managing general partner have sufficient powers so that it materially participates in the management and control of the limited partnership;

(f) prior to becoming a member of a leasehold cooperative described in this subdivision, a person must have received notice that (1) describes leasehold cooperative property in plain language, including but not limited to the effects of classification under this subdivision on rents, property taxes and tax credits or refunds, and operating expenses, and (2) states that copies of the articles of incorporation and bylaws of the cooperative association, the lease between the owner and the cooperative association, a sample sublease between the cooperative association and a tenant, and, if the owner is a partnership, a copy of the limited partnership agreement, can be obtained upon written request at no charge from the owner, and the owner must send or deliver the materials within seven days after receiving any request;

(g) if a dwelling unit of a building was occupied on the 60th day prior to the date on which the unit became leasehold cooperative property described in this subdivision, ~~then (1) the notice described in paragraph (f) must have been sent by first class mail to the occupant of the unit at least 60 days prior to the date on which the unit became leasehold cooperative property; and (2) prior to the mailing of the notice, .~~ *For purposes of the notice under this paragraph, the copies of the documents referred to in paragraph (f) may be in proposed version, provided that any subsequent material alteration of those documents made after the occupant has requested a copy shall be disclosed to any occupant who has requested a copy of the document. Copies of the documents identified in the notice must have been articles of incorporation and certificate of limited partnership shall be filed with the secretary of state after the expiration of the 60-day period unless the change to leasehold cooperative status does not proceed;* and

(h) the county attorney of the county in which the property is located must certify to the assessor that the property meets the requirements of this subdivision.

Homestead treatment must be afforded to units occupied by members of the cooperative association and the units must be assessed as provided in subdivision 3, provided that any unit not so occupied shall be classified and assessed pursuant to the appropriate class. No more than three acres of land may, for assessment purposes, be included with each dwelling unit that qualifies for homestead treatment under this subdivision.

Sec. 7. Minnesota Statutes Second 1989 Supplement, section 273.13, subdivision 25, is amended to read:

Subd. 25. [CLASS 4.] (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property has a class rate of 3.6 percent of market value.

(b) Class 4b includes:

(1) residential real estate containing less than four units, other than seasonal residential, and recreational;

(2) post-secondary student housing not to exceed one acre of land which is owned by a nonprofit corporation organized under chapter 317 and is used exclusively by a sorority or fraternity organization for housing;

(3) manufactured homes not classified under any other provision;

(4) a dwelling, garage, and surrounding one acre of property on a non-homestead farm classified under subdivision 23, paragraph (b).

Class 4b property has a class rate of 3.0 percent of market value.

(c) Class 4c property includes:

(1) a structure that is situated on real property that is used for housing for the elderly or for low and moderate income families as defined by Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant thereto and financed by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency pursuant to the provisions of either of those acts and acts amendatory thereof. This clause applies only to property of a nonprofit or limited dividend entity. Property is classified as class 4c under this clause for 15 years from the date of the completion of the original construction or substantial rehabilitation, or for the original term of the loan;

(2) a structure that is:

(i) situated upon real property that is used for housing lower income families or elderly or handicapped persons, as defined in section 8 of the United States Housing Act of 1937, as amended; and

(ii) owned by an entity which has entered into a housing assistance payments contract under section 8 which provides assistance for 100 percent of the dwelling units in the structure, other than dwelling units intended for management or maintenance personnel. Property is classified as class 4c under this clause for the term of the housing assistance payments contract, including all renewals, or for the term of its permanent financing, whichever is shorter; and

(3) a qualified low-income building that (i) receives a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1988; or (ii) meets the requirements of that section. Classification pursuant to this clause is limited to buildings the construction or rehabilitation of which began after May 1, 1988, and to a term of 15 years.

For all properties described in clauses (1), (2), and (3) and in paragraph

(d), the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents. The land on which these structures are situated has the class rate given in paragraph (b) if the structure contains fewer than four units, and the class rate given in paragraph (a) if the structure contains four or more units.

(4) a parcel of land, not to exceed one acre, and its improvements or a parcel of unimproved land, not to exceed one acre, if it is owned by a neighborhood real estate trust and at least 60 percent of the dwelling units, if any, on all land owned by the trust are leased to or occupied by lower income families or individuals. This clause does not apply to any portion of the land or improvements used for nonresidential purposes. For purposes of this clause, a lower income family is a family with an income that does not exceed 65 percent of the median family income for the area, and a lower income individual is an individual whose income does not exceed 65 percent of the median individual income for the area, as determined by the United States Secretary of Housing and Urban Development. For purposes of this clause, "neighborhood real estate trust" means an entity which is certified by the governing body of the municipality in which it is located to have the following characteristics: (a) it is a nonprofit corporation organized under chapter 317; (b) it has as its principal purpose providing housing for lower income families in a specific geographic community designated in its articles or bylaws; (c) it limits membership with voting rights to residents of the designated community; and (d) it has a board of directors consisting of at least seven directors, 60 percent of whom are members with voting rights and, to the extent feasible, 25 percent of whom are elected by resident members of buildings owned by the trust; and

(5) except as provided in subdivision 22, paragraph (c), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 225 days in the year preceding the year of assessment. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for the use. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 225 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in this clause and clause (6) also includes the remainder of class 1c resorts; and

(6) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1988. For purposes of this clause, "revenue-producing activities" shall include but not be limited

to property or that portion of the property that is used as an on-sale intoxicating liquor or nonintoxicating malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity; and

Class 4c property has a class rate of 2.4 percent of market value.

(d) Class 4d property includes any structure:

(i) situated on real property that is used for housing for the elderly or for low and moderate income families as defined by the farmers home administration;

(ii) located in a municipality of less than 10,000 population; and

(iii) financed by a direct loan or insured loan from the farmers home administration. Property is classified under this clause for 15 years from the date of the completion of the original construction or for the original term of the loan.

The class rates in paragraph (c), clauses (1), (2), and (3) and this clause apply to the properties described in them, only in proportion to occupancy of the structure by elderly or handicapped persons or low and moderate income families as defined in the applicable laws unless construction of the structure had been commenced prior to January 1, 1984; or the project had been approved by the governing body of the municipality in which it is located prior to June 30, 1983; or financing of the project had been approved by a federal or state agency prior to June 30, 1983. Classification under this clause is only available to property of a nonprofit or limited dividend entity.

Class 4d property has a class rate of 1.7 percent of market value for taxes payable in 1990, and two percent of market value for taxes payable thereafter.

(e) Residential rental property that would otherwise be assessed as class 4 property under paragraph (a); paragraph (b), clauses (1) and (2); or paragraph (c), clause (1), (2), (3), or (4); ~~or paragraph (d)~~, is assessed at the class rate applicable to it under Minnesota Statutes 1988, section 273.13, if it is found to be a substandard building under section 273.1316. *Residential rental property that would otherwise be assessed as class 4 property under paragraph (d) is assessed at 2.4 percent of market value if it is found to be a substandard building under section 273.1316.*

Sec. 8. Minnesota Statutes Second 1989 Supplement, section 273.1391, subdivision 2, is amended to read:

Subd. 2. For taxes payable in 1990 and subsequent years, the amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which

is located in a county with a population of less than 100,000 in which taconite is mined or quarried and wherein a school district is located which does meet the qualifications of a tax relief area, and provided that at least 90 percent of the area of the school district which does not meet the qualifications of section 273.134 lies within such county, 57 percent of the tax on qualified property located in the school district that does not meet the qualifications of section 273.134, provided that the amount of said reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to the product of 95 percent of the base year effective tax rate multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate. In no case will the reduction for each homestead resulting from this credit be less than \$10. The reduction provided by this clause shall only be applicable to property located within the boundaries of the county described therein.

(b) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a school district in a county containing a city of the first class and a qualifying municipality, but not in a school district containing a city of the first class or adjacent to a school district containing a city of the first class unless the school district so adjacent contains a qualifying municipality, 57 percent of the tax, but not to exceed the maximums specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to the product of 95 percent of the base year effective tax rate multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate. In no case will the reduction for each homestead resulting from this credit be less than \$10.

(c) The maximum reduction of the tax ~~up to the taconite breakpoint~~ is \$200.10 for taxes payable in 1985. This maximum amount shall increase by \$15 multiplied by the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

For the purposes of this subdivision, "homestead credit equivalency percentage" means one minus the ratio of the net tax capacity percentage to the gross tax capacity percentage applicable to the first \$68,000 of the market value of residential homesteads, and "effective tax rate" means tax divided by the market value of a property, and the "base year effective tax rate" means the payable 1988 tax on a property with an identical market value to that of the property receiving the credit in the current year after application of the credits payable under Minnesota Statutes 1988, section 273.13, subdivisions 22 and 23, and this section, divided by the market value of the property.

Sec. 9. Minnesota Statutes Second 1989 Supplement, section 273.1398, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) In this section, the terms defined in this subdivision have the meanings given them.

(b) "Unique taxing jurisdiction" means the geographic area subject to the same set of tax capacity rates.

(c) "Gross tax capacity" means the product of the gross class rates and estimated market values. "Total gross tax capacity" means the gross tax capacities for all property within the unique taxing jurisdiction. The total gross tax capacity used shall be reduced by the sum of (1) the unique taxing

jurisdiction's gross tax capacity of commercial industrial property as defined in section 473F02, subdivision 3, multiplied by the ratio determined pursuant to section 473F08, subdivision 6, for the municipality, as defined in section 473F02, subdivision 8, in which the unique taxing jurisdiction is located, (2) the gross tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the gross tax capacity of transmission lines deducted from a local government's total gross tax capacity under section 273.425. Gross tax capacity cannot be less than zero.

(d) "Net tax capacity" means the product of the appropriate net class rates for the year in which the aid is payable, except that for class 3 utility real and personal property the class rate applied shall be 5.38 percent, and estimated market values for the assessment two years prior to that in which aid is payable. "Total net tax capacity" means the net tax capacities for all property within the unique taxing jurisdiction. The total net tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's net tax capacity of commercial industrial property as defined in section 473F02, subdivision 3, multiplied by the ratio determined pursuant to section 473F08, subdivision 6, for the municipality, as defined in section 473F02, subdivision 8, in which the unique taxing jurisdiction is located, (2) the net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the net tax capacity of transmission lines deducted from a local government's total net tax capacity under section 273.425. For purposes of determining the net tax capacity of property referred to in clauses (1) and (2), the net tax capacity shall be multiplied by the ratio of the highest class rate for class 3a property for taxes payable in the year in which the aid is payable to the highest class rate for class 3a property in the prior year. Net tax capacity cannot be less than zero.

(e) "Equalized market values" are market values that have been equalized by dividing the assessor's estimated market value for the second year prior to that in which the aid is payable by the assessment sales ratios determined by class in the assessment sales ratio study conducted by the department of revenue pursuant to section 124.2131 in the second year prior to that in which the aid is payable. The equalized market values shall equal the unequalized market values divided by the assessment sales ratio.

(f) "Local tax rate" means the quotient derived by dividing the gross taxes levied within a unique taxing jurisdiction for taxes payable in 1989 by the gross tax capacity of the unique taxing jurisdiction for taxes payable in 1989. For computation of the local tax rate for aid payable in 1991 and subsequent years, gross taxes for taxes payable in 1989 exclude equalized levies as defined in subdivision 2a. For purposes of computation of the local tax rate only, gross taxes shall not be adjusted by inflation or household growth.

(g) For purposes of calculating the homestead and agricultural credit aid authorized pursuant to subdivision 2, the "subtraction factor" is the product of (i) a unique taxing jurisdiction's local tax rate; (ii) its total net tax capacity; and (iii) 0.9767.

(h) For purposes of calculating and allocating homestead and agricultural credit aid authorized pursuant to subdivision 2 and the disparity reduction aid authorized in subdivision 3, "gross taxes levied on all properties" or "gross taxes" means the total gross taxes levied on all properties except

that levied on the captured value of tax increment districts as defined in section 469.177, subdivision 2, and that levied on the portion of commercial industrial properties' assessed value or gross tax capacity, as defined in section 473F02, subdivision 3, subject to the areawide tax as provided in section 473F08, subdivision 6, in a unique taxing jurisdiction before reduction by any credits for taxes payable in 1989. Gross taxes are before any reduction for disparity reduction aid. Gross taxes levied cannot be less than zero.

For homestead and agricultural credit aid payable in 1991 and subsequent years, "gross taxes" or "gross taxes levied on all properties" shall mean gross taxes payable in 1989, excluding taxes defined as "~~equalized levies~~" *actual amounts levied for the purposes listed in subdivision 2a, multiplied by the cost-of-living adjustment factor and the household adjustment factor.*

(i) "Human services aids" means:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1;

(2) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(3) general assistance medical care under section 256D.03, subdivision 6;

(4) general assistance under section 256D.03, subdivision 2;

(5) work readiness under section 256D.03, subdivision 2;

(6) emergency assistance under section 256.871, subdivision 6;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1;

(8) preadmission screening and alternative care grants under section 256B.091;

(9) work readiness services under section 256D.051;

(10) case management services under section 256.736, subdivision 13;

(11) general assistance claims processing, medical transportation and related costs; and

(12) medical assistance, medical transportation and related costs.

(j) "Adjustment factor" means one plus the percentage change in (1) the ratio of estimated market value of residential ~~homesteads~~ *property* to the estimated market value of all taxable property within the city or township containing the unique taxing jurisdiction based on the assessment one year prior to the year in which the aid is payable when compared to the same ratio based on the assessment two years prior to the year in which the aid is payable. If the market value of farm homesteads exceeds the market value of residential homesteads in the city or township containing the unique taxing jurisdiction *for the assessment two years prior to the year in which the aid is payable*, "~~adjusted~~ *adjustment factor*" means one plus the percentage change in the ratio of the estimated market value of farm ~~homesteads~~ *property* to the estimated market value of all taxable property within the city or township containing the unique taxing jurisdiction based on the assessment one year prior to the year in which the aid is payable when compared to the same ratio based on the assessment two years prior to the year in which the aid is payable. The adjustment factor cannot be less than

one. Estimates of market value for the assessment one year prior to the year in which the aid is paid will be made on the basis of the abstract submitted pursuant to section 270.11. Discrepancies between the estimate and actual market values will not result in increased or decreased aid in the year in which the estimates are used to compute aid.

(k) "Cost-of-living adjustment factor" means one plus the percentage, if any, by which:

(1) the consumer price index for the calendar year preceding that in which aid is payable, exceeds

(2) the consumer price index for calendar year 1989.

(l) "Consumer price index for any calendar year" means the average of the consumer price index as of the close of the 12-month period ending on May 31 of such calendar year.

(m) "Consumer price index" means the last consumer price index for all-urban consumers published by the department of labor. For purposes of the preceding sentence, the revision of the consumer price index which is most consistent with the consumer price index for calendar year 1989 shall be used.

(n) "Household adjustment factor" means the number of households for the most recent year preceding that in which the aids are payable divided by the 1988 number of households. The household adjustment factor cannot be less than one.

Sec. 10. Minnesota Statutes Second 1989 Supplement, section 273.1398, subdivision 2, is amended to read:

Subd. 2. [HOMESTEAD AND AGRICULTURAL CREDIT AID.] (a) Initial homestead and agricultural credit aid for each unique taxing jurisdiction equals the total gross taxes levied on all properties, minus the unique taxing jurisdiction's subtraction factor. The commissioner of revenue may, in computing the amount of the homestead and agricultural credit aid paid in 1990, adjust the gross tax capacity, net tax capacity, and gross taxes of a taxing jurisdiction for taxes payable in 1989 to reflect auditor's errors in computing taxes payable for 1989 in unique taxing jurisdictions within independent school district Nos. 720 and 792. Homestead and agricultural credit aid cannot be less than zero.

(b)(1) The homestead and agricultural credit aid is allocated to each local government levying taxes in the unique taxing jurisdiction in the proportion that the local government's gross taxes bears to the total gross taxes levied within the unique taxing jurisdiction.

(2) The 1990 homestead and agricultural credit aid so determined for school districts for purposes of general education levies pursuant to section 124A.23, subdivisions 2 and 2a, and transportation levies pursuant to section 275.125, subdivisions 5 and 5c, shall be multiplied by the ratio of the adjusted gross tax capacity based upon the 1988 adjusted gross tax capacity to the estimated 1987 adjusted gross tax capacity based upon the 1987 adjusted assessed value.

(3) If a local government's total tax capacity rate for all funds for taxes payable in 1989 varies within the area in which it exercises taxing authority, the local government's allocated homestead and agricultural credit aid must be further allocated between the part of its levy in respect to which the

~~tax capacity rate is constant throughout the area in which it exercises taxing authority and the part of its levy in respect to which the tax capacity rate varies throughout the area in which it exercises taxing authority.~~

(c) The calendar year 1990 homestead and agricultural credit aid shall be adjusted by the adjustment factor.

(d) Payments under this subdivision to counties in 1990 and subsequent years shall be reduced by the amount provided in section 477A.012, subdivisions 3, paragraph (d), and 4, paragraph (d).

(e) Payments under this subdivision to cities and towns shall be annually reduced by the amount of the homestead and agricultural credit aid adjustment, if any, determined for 1990 under section 477A.013, subdivision 6.

Sec. 11. Minnesota Statutes Second 1989 Supplement, section 273.1398, subdivision 5, is amended to read:

Subd. 5. [ADDITIONAL HOMESTEAD AND AGRICULTURAL CREDIT GUARANTEE.] Beginning with taxes payable in 1990, each unique taxing jurisdiction may receive additional homestead and agricultural credit guarantee payments.

(1) Each year, the commissioner shall determine the total education aids paid under chapters 124 and 124A, homestead and agricultural credit aid and disparity reduction aid paid under section 273.1398, local government aid to cities, counties, and towns paid under chapter 477A, and ~~income maintenance aid~~ *human services aids, including for aids paid in 1991 and thereafter, the amount paid under subdivision 5b*, paid to counties for each taxing jurisdiction. The commissioner shall apportion each local government's aids to the unique taxing jurisdiction based upon the proportion that the unique taxing jurisdiction's tax capacity bears to the total tax capacity of the local government.

(2) Each year, the commissioner will compute a gross tax capacity rate for each taxing jurisdiction equal to its total levy divided by its gross tax capacity under Minnesota Statutes 1988, section 273.13. For each unique taxing jurisdiction, a total gross tax capacity rate will be determined. This total gross tax capacity rate will be applied against the gross tax capacity of property that would have been eligible for the homestead credit or the agricultural credit for taxes payable in 1989. An estimated credit amount will be determined for all qualifying parcels based upon the credit rate structure in effect for taxes payable in 1989. The resulting credit amounts will be summed for all parcels in the unique taxing jurisdiction.

If the amount determined in clause (2) is greater than the amount determined in clause (1), the difference will be additional homestead and agricultural credit guarantee payments for the unique taxing jurisdiction. The additional credit amount shall proportionately reduce the tax capacity rates of all local governments levying taxes within the unique taxing jurisdiction in the following year. The commissioner shall certify the amounts of additional credits determined under this subdivision to the county auditor at the time provided in subdivision 6.

Sec. 12. Minnesota Statutes Second 1989 Supplement, section 273.1398, subdivision 5a, is amended to read:

Subd. 5a. [AID ADJUSTMENT FOR COUNTY HUMAN SERVICES AID.] (a) There shall be transferred to the human services aid account from the payment to a county under subdivision 2 an amount representing a

county's human services aid increase as calculated in subdivision 5b, paragraphs (a) to (c). The amount calculated for each county shall be deducted ~~from the first payment to the~~ *equally from the July and December payments to the* county under this section in 1991 and subsequent years. ~~If the deduction exceeds the amount of the first payment, the balance shall be subtracted from the second payment.~~ The amount of the payments under subdivision 2 shall not be less than zero as a result of this adjustment.

Sec. 13. Minnesota Statutes Second 1989 Supplement, section 273.1398, subdivision 6, is amended to read:

Subd. 6. [PAYMENT.] The commissioner shall certify the aids provided in subdivisions 2, 2b, 3, and 5 before December 1, 1989, and October 1 thereafter of the year preceding the distribution year to the county auditor of the affected local government and pay them and the credit reimbursements to local governments other than school districts at the times provided in section 477A.015 for payment of local government aid to taxing jurisdictions. Aids and credit reimbursements to school districts must be certified to the commissioner of education and paid under section 273.1392. Except for education districts and secondary cooperatives that receive revenue according to section 124.2721 or 124.575, payment shall not be made to any taxing jurisdiction that has ceased to levy a property tax ~~nor shall homestead and agricultural credit aid be payable on the part of a levy to which homestead and agricultural credit aid was separately allocated under subdivision 2, paragraph (b), clause (2), which is no longer levied.~~

Sec. 14. Minnesota Statutes 1988, section 274.01, subdivision 1, is amended to read:

Subdivision 1. [ORDINARY BOARD; MEETINGS, DEADLINES, GRIEVANCES.] (a) The town board of a town, or the council or other governing body of a city, is the board of review except in cities whose charters provide for a board of equalization. The county assessor shall fix a day and time when the board or the board of equalization shall meet in the assessment districts of the county. On or before February 15 of each year the assessor shall give written notice of the time to the city or town clerk. Notwithstanding the provisions of any charter to the contrary, the meetings must be held between April 1 and May 31 each year. The clerk shall give published and posted notice of the meeting at least ten days before the date of the meeting. The board shall meet at the office of the clerk to review the assessment and classification of property in the town or city. No changes in valuation *or classification which are intended to correct errors in judgment by the county assessor* may be made by the county assessor *after the board of review or the county board of equalization has adjourned; however, corrections of errors that are merely clerical in nature or changes that extend homestead treatment to property are permitted after the board of review or the county board of equalization has adjourned.* ~~This restriction does not apply to corrections of errors that are merely clerical or administrative in nature~~ *adjournment until the tax extension date for that assessment year. The changes must be fully documented and maintained in the assessor's office and must be available for review by any person. A copy of the changes made during this period must be sent to the county board no later than December 31 of the assessment year.*

(b) The board shall determine whether the taxable property in the town or city has been properly placed on the list and properly valued by the assessor. If real or personal property has been omitted, the board shall

place it on the list with its market value, and correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property, is entered on the assessment list at its market value. No assessment of the property of any person may be raised unless the person has been duly notified of the intent of the board to do so. On application of any person feeling aggrieved, the board shall review the assessment or classification, or both, and correct it as appears just.

(c) A local board of review may reduce assessments upon petition of the taxpayer but the total reductions must not reduce the aggregate assessment made by the county assessor by more than one percent. If the total reductions would lower the aggregate assessments made by the county assessor by more than one percent, none of the adjustments may be made. The assessor shall correct any clerical errors or double assessments discovered by the board of review without regard to the one percent limitation.

(d) A majority of the members may act at the meeting, and adjourn from day to day until they finish hearing the cases presented. The assessor shall attend, with the assessment books and papers, and take part in the proceedings, but must not vote. The county assessor, or an assistant delegated by the county assessor shall attend the meetings. The board shall list separately, on a form appended to the assessment book, all omitted property added to the list by the board and all items of property increased or decreased, with the market value of each item of property, added or changed by the board, placed opposite the item. The county assessor shall enter all changes made by the board in the assessment book.

(e) If a person fails to appear in person, by counsel, or by written communication before the board after being duly notified of the board's intent to raise the assessment of the property, or if a person feeling aggrieved by an assessment or classification fails to apply for a review of the assessment or classification, the person may not appear before the county board of equalization for a review of the assessment or classification. This paragraph does not apply if an assessment was made after the board meeting, as provided in section 273.01, or if the person can establish not having received notice of market value at least five days before the local board of review meeting.

(f) The board of review or the board of equalization must complete its work and adjourn within 20 days from the time of convening stated in the notice of the clerk, unless a longer period is approved by the commissioner of revenue. No action taken after that date is valid. All complaints about an assessment or classification made after the meeting of the board must be heard and determined by the county board of equalization. A nonresident may, at any time, before the meeting of the board of review file written objections to an assessment or classification with the county assessor. The objections must be presented to the board of review at its meeting by the county assessor for its consideration.

Sec. 15. Minnesota Statutes Second 1989 Supplement, section 274.14, is amended to read:

274.14 [LENGTH OF SESSION; RECORD.]

The county board of equalization or the special board of equalization appointed by it shall meet during the last two weeks in June that contain ten meeting days, excluding Saturday and Sunday. No action taken by the

county board of review after June 30 is valid, *except for corrections permitted in sections 273.01 and 274.01*. The county auditor shall keep an accurate record of the proceedings and orders of the board. The record must be published like other proceedings of county commissioners. A copy of the published record must be sent to the commissioner of revenue, with the abstract of assessment required by section 274.16.

Sec. 16. Minnesota Statutes Second 1989 Supplement, section 274.175, is amended to read:

274.175 [VALUES FINALIZED.]

The assessments recorded by the county assessor and the county auditor under sections 273.124, subdivision 9; 274.16; 274.17; or other law for real and personal property are final on July 1 of the assessment year, except for property added to the assessment rolls under section 272.02, subdivision 4, or deleted because of tax forfeiture pursuant to chapter 281. No changes in value may be made after July 1 of the assessment year, *except for corrections permitted in sections 273.01 and 274.01*.

Sec. 17. Minnesota Statutes Second 1989 Supplement, section 275.07, subdivision 3, is amended to read:

Subd. 3. The county auditor shall adjust each local government's levy certified under subdivision 1 by the amount of homestead and agricultural credit aid certified by section 273.1398, subdivision 2, reduced by the amount under section 273.1398, subdivision 5a, and equalization aid certified by section 477A.013, subdivision 5. ~~If a local government's homestead and agricultural credit aid was further allocated between portions of its levy pursuant to section 273.1398, subdivision 2, paragraph (b)(2), the levy or fund to which the homestead and agricultural credit aid was allocated is the levy or fund which must be adjusted.~~

Sec. 18. Minnesota Statutes Second 1989 Supplement, section 275.50, subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in 1989 payable in 1990 and subsequent years, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) for taxes levied in 1990, payable in 1991 and subsequent years, pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. The aggregate amounts levied under this clause for the costs of purchase or delivery of social services and income maintenance programs, other than those identified in section 273.1398, subdivision 1, paragraph (i), are subject to a maximum increase over the amount levied for the previous year of 12 percent for counties within the metropolitan area as defined in section 473.121, subdivision 2, or counties outside the metropolitan area but containing a city of the first class, and 15 percent for other counties. For purposes of this clause, "income maintenance programs" include income maintenance programs in section 273.1398, subdivision 1, paragraph (i), to the extent the county provides benefits under those programs over the statutory mandated standards. Effective with taxes levied in 1990, the portion of this special levy for human service programs identified in section 273.1398, subdivision 1, paragraph (i), is eliminated;

(b) pay the costs of principal and interest on bonded indebtedness except

on bonded indebtedness issued under section 471.981, subdivisions 4 to 4c, or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(c) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(d) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(e) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(f) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(g) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(h) pay amounts required by law to be paid to pay the interest on and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215 and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(i) to compensate the state for the cost of a reassessment ordered by the commissioner of revenue pursuant to section 270.16;

(j) pay the debt service on tax increment financing revenue bonds to the extent that revenue to pay the bonds or to maintain reserves for the bonds is insufficient as a result of the provisions of Laws 1988, chapter 719, article 5;

(k) pay the cost of hospital care under section 261.21;

(l) pay the unreimbursed costs incurred in the previous year to satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any tort action, or to pay the costs of settlements

out of court against the governmental subdivision in a tort action when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, provided that an appeal for the unreimbursed costs under this clause was approved by the commissioner of revenue under section 275.51, subdivision 3;

(m) pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes such as earthquake, fire, flood, wind storm, wave action, oil spill, water contamination, air contamination, or drought in accordance with standards formulated by the emergency services division of the state department of public safety, provided that an appeal for the expenses incurred under this clause were approved by the commissioner of revenue under section 275.51, subdivision 3;

(n) pay a portion of the losses in tax receipts to a city due to tax abatements or court actions in the year preceding the current levy year, provided that an appeal for the tax losses was approved by the commissioner of revenue under section 275.51, subdivision 3. This special levy is limited to the amount of the losses times the ratio of the nonspecial levies to total levies for taxes payable in the year the abatements were granted. County governments are not authorized to claim this special levy;

(o) pay the operating cost of regional library services authorized under section 134.34, subject to a maximum increase over the previous year of the greater of (1) 103 percent multiplied by one plus the percentage increase determined for the governmental subdivision under section 275.51, subdivision 3h, clause (b), or (2) six percent. If a governmental subdivision elected to include some or all of its levy for libraries within its adjusted levy limit base in the prior year, but elects to claim the levy as a special levy in the current levy year, the allowable increase is determined by applying the greater percentage determined under clause (1) or (2) to the total amount levied for libraries in the prior levy year. After levy year 1989, the increase must not be determined using a base amount other than the amount that could have been levied as a special levy in the prior year. In no event shall the special levy be less than the minimum levy required under sections 134.33 and 134.34, subdivisions 1 and 2;

(p) pay the amount of the county building fund levy permitted under section 373.40, subdivision 6;

(q) pay the county's share of the costs levied in 1989, 1990, and 1991 for the Minnesota cooperative soil survey under Minnesota Statutes 1988, section 40.07, subdivision 15;

(r) for taxes levied in 1989, payable in 1990 only, pay the cost incurred for the minimum share required by counties levying for the first time under section 134.34 as required under section 134.341. For taxes levied in 1990, and thereafter, counties levying under this provision must levy under clause (o), and their allowable increase must be determined with reference to the amount levied in 1989 under this paragraph;

(s) for taxes levied in 1989, payable in 1990 only, provide an amount equal to 50 percent of the estimated amount of the reduction in aids to a county under sections 273.1398, subdivision 2, paragraph (d), and 477A.012, subdivision 3, for aids payable in 1990;

(t) for taxes levied in 1990 only by a county in the eighth judicial district, provide an amount equal to the amount of the levy, if any, that is required under Laws 1989, chapter 335, article 3, section 54, subdivision 8;

(u) for taxes levied in 1989, payable in 1990 only, pay the costs not reimbursed by the state or federal government:

(i) for the costs of purchase or delivery of social services. The aggregate amounts levied under this item are subject to a maximum increase over the amount levied in the previous year of 12 percent for counties within the metropolitan area as defined in section 473.121, subdivision 2, or counties outside the metropolitan area but containing a city of the first class, and 15 percent for other counties.

(ii) for payments made to or on behalf of recipients of aid under any public assistance program authorized by law. The aggregate amounts levied under this item are subject to a maximum increase over the amount levied in the previous year of 12 percent and must be used only for the public assistance programs; and.

If the amount levied under this paragraph (u) in 1989 is less than the actual expenditures needed for these programs for 1990, the difference between the actual expenditures and the amount levied may be levied in 1990 as a special levy. If the amount levied in 1989 is greater than the actual expenditures needed for these programs for 1990, the difference between the amount levied and the actual expenditures shall be deducted from the 1990 levy limit, payable in 1991; and

(v) pay an amount of up to 25 percent of the money sought for distribution and approved under section 115A.557, subdivision 3, paragraph (b), clause (3).

~~If the amount levied in 1989 is less than the actual expenditures needed for these programs for 1990, the difference between the actual expenditures and the amount levied may be levied in 1990 as a special levy. If the amount levied in 1989 is greater than the actual expenditures needed for these programs for 1990, the difference between the amount levied and the actual expenditures shall be deducted from the 1990 levy limit, payable in 1991.~~

Sec. 19. Minnesota Statutes Second 1989 Supplement, section 275.51, subdivision 3f, is amended to read:

Subd. 3f. [LEVY LIMIT BASE.] (a) The property tax levy limit base for governmental subdivisions for taxes levied in 1988 shall be equal to the total actual levy for taxes payable in 1988 with additions and subtractions as specified in paragraphs (b) and (c).

(b) The amounts to be added to the actual 1988 levy are (1) the amount of local government aid the governmental subdivision was certified to receive in 1988 under sections 477A.011 to 477A.014, (2) its 1988 taconite aids under sections 298.28 and 298.282, and (3) its 1988 wetlands and native prairie reimbursements under Minnesota Statutes 1986, sections 273.115, subdivision 3, and 273.116, subdivision 3.

(c) The amounts to be subtracted from the actual 1988 levy are (1) any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4); and (2) for a governmental subdivision participating in a regional library system receiving grants from the department of education under

section 134.34, the amount levied for taxes payable in 1988 for the operating costs of a public library service.

(d) For taxes levied in 1989 and subsequent years, a governmental subdivision's levy limit base is equal to its adjusted levy limit base for the preceding year, provided that for taxes levied in 1989, the amount of the administrative reimbursement aid received in 1988 shall be added to the base.

(e) For taxes levied by a county in 1989, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to 90 percent of the cost of public defender services for felonies and gross misdemeanors and the costs of law clerks in the county that are assumed by the state during calendar year 1990, less 103 percent of one-half the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990, the levy limit base determined under paragraph (d) *shall first be increased by the product of (1) the amount deducted under this paragraph for taxes levied in 1989 and (2) the adjustments under subdivision 3h, paragraphs (a) and (b) for taxes levied in 1989, and then* shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the cost of law clerks in the county that are assumed by the state during calendar year 1991, less the amount of fees collected by the courts in the county during calendar year 1989, computed at the rate of \$30 for civil and probate filings and \$20 for marriage dissolutions.

(f) For taxes levied in 1989 only, by a county that is located in the eighth judicial district, the levy limit base determined under paragraphs (d) and (e) shall be further reduced by an amount equal to 90 percent of the cost of operation of the trial courts in the county during calendar year 1990 that are assumed by the state and for which an appropriation is provided, less 103 percent of the sum of (1) the remaining one-half of the amount of fees and (2) 100 percent of the amount of fines collected by the courts in the county during calendar year 1988. For taxes levied in 1990 only by those counties, the levy limit base determined under paragraphs (d) and (e) *shall first be increased by the product of (1) the amount deducted under this paragraph for taxes levied in 1989 and (2) the adjustments under subdivision 3h, paragraphs (a) and (b) for taxes levied in 1989, and then* shall be ~~further~~ reduced by an amount equal to the cost of operation of the trial courts in the county during the first six months of calendar year 1991 that are assumed by the state less 50 percent of the amount of fines collected by the courts during calendar year 1989.

(g) By October 15, 1989, the board of public defense shall determine and certify to the commissioner of revenue the pro rata share for each county of the state-financed public defense services described in paragraph (e) during the six-month period beginning July 1, 1990. By October 15, 1989, the supreme court shall determine and certify to the department of revenue for each county the pro rata share for each county of the cost of providing law clerks during the three-month period beginning October 1, 1990, plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during calendar year 1990.

By July 15, 1990, the board of public defense shall determine and certify to the department of revenue the pro rata share for each county of the state-financed public defense services described in paragraph (e) during calendar year 1991. By July 15, 1990, the supreme court shall determine and certify

to the department of revenue for each county the pro rata share for each county of the cost of providing law clerks during calendar year 1991 plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during the first six months of 1991.

(h) For taxes levied in a county in 1991, the levy limit base shall be reduced by an amount equal to the cost in the county of court reporters, judicial officers, and district court referees and the expenses of law clerks and court reporters as authorized in sections 484.545, subdivision 3, and 486.05, subdivisions 1 and 1a, as certified by the supreme court pursuant to section 477A.012, subdivision 4.

(i) If a governmental subdivision received an adjustment to its levy limit base for taxes levied in 1988 under section 275.51, subdivision 3j, its levy limit base for taxes levied in 1989 must be reduced by the lesser of (1) the adjustment under section 275.51, subdivision 3j, or (2) the difference between its (i) levy limit for taxes levied in 1988 and its (ii) total actual levy for taxes levied in 1988 minus any special levies claimed for taxes levied in 1988 under section 275.50, subdivision 5.

Sec. 20. Minnesota Statutes Second 1989 Supplement, section 275.51, subdivision 3h, is amended to read:

Subd. 3h. [ADJUSTED LEVY LIMIT BASE.] For taxes levied in 1989 and thereafter, the adjusted levy limit base is equal to the levy limit base computed pursuant to subdivision 3f, increased by:

(a) three percent for taxes levied in 1989 and subsequent years;

(b) a percentage equal to (1) one-half of the greater of the percentage increases in population or in number of households, if any, for cities and towns and (2) the lesser of the percentage increase in population or the number of households, if any, for counties, using figures derived pursuant to subdivision 6;

(c) the amount of a permanent increase in the levy limit base approved at a general or special election held during the 12-month period ending ~~September 30~~ *four working days after December 20* of the levy year under section 275.58, subdivisions 1 and 2;

(d) for levy year 1989, for a county which incurred costs since October 1978, for the litigation of federal land claims under United States Code, title 18, section 1162; United States Code, title 25, section 331; and United States Code, title 28, section 1360; an amount of up to the actual costs incurred by the county for this purpose. This adjustment shall not exceed \$250,000;

(e) for levy year 1989, an amount of \$1,724,000 for Ramsey county for implementing the local government pay equity act under sections 471.991 to 471.999. Furthermore, in levy years 1990 and 1991, an additional amount of \$862,000 shall be added to Ramsey county's adjusted levy limit base under this clause for each of the two years; and

(f) for levy year 1989, an amount equal to the decrease in a county's 50 percent share of the powerline taxes extended between taxes payable years 1988 and 1989 under section 273.42, subdivision 1. The adjustment shall be determined by the department of revenue.

For taxes levied in 1989, the adjusted levy limit base is reduced by an amount equal to the estimated amount of the reduction in aids to a county

under sections 273.1398, subdivision 2, paragraph (d), and 477A.012, subdivision 3, for aids payable in 1990.

Sec. 21. Minnesota Statutes Second 1989 Supplement, section 275.51, subdivision 6, is amended to read:

Subd. 6. [POPULATION AND HOUSEHOLD ESTIMATES.] For the purpose of determining the amount of tax that a governmental subdivision may levy in accordance with limitation established by this chapter, the population or the number of households of the governmental subdivision shall be that established by the last federal census, by a census taken pursuant to section 275.14, or by an estimate made by the metropolitan council, or by the state demographer made pursuant to section 116K.04, subdivision 4, whichever is the most recent as to the stated date of count or estimate, for the calendar year preceding the current levy year. *If the area included in a governmental subdivision has increased due to annexation in the 12 months prior to the most recent population estimate for the calendar year preceding the current levy year and the adjusted levy limit base is modified under section 275.54, subdivision 3, the percentage increases in population and households determined in subdivision 3h are to be based on the change in population and number of households in the area included in the governmental subdivision before the annexation.*

Sec. 22. Minnesota Statutes 1988, section 275.54, is amended to read:

275.54 [CONSOLIDATION AND ANNEXATION OF GOVERNMENTAL SUBDIVISIONS.]

Subdivision 1. If all or part of the area included within two or more governmental subdivisions is consolidated, merged, or otherwise combined to constitute a single governmental subdivision, and differing limitations upon the amount of tax levy per capita apply to the governmental subdivisions from which the consolidated, merged, or otherwise combined governmental subdivision was formed, the limitation applicable to the surviving entity for purposes of sections 275.50 to 275.56 shall be equal to the highest limitation applicable to any one of the constituent subdivisions prior to the consolidation, merger or other combination.

Subd. 2. If a function or service of one governmental subdivision is transferred to another governmental subdivision, the levy limitations established by Extra Session Laws 1971, chapter 31, shall be adjusted by the commissioner of revenue in such manner so as to fairly and equitably reflect the reduced or increased property tax burdens of such subdivisions resulting from such transfer. The aggregate of the adjusted limitations shall not exceed the aggregate of such limitations prior to adjustment.

Subd. 3. [ADJUSTMENTS AFTER ANNEXATION.] *If the area included within the governmental subdivision is increased due to annexation in the 12 months prior to the most recent population estimate for the calendar year preceding the current levy year and the state demographer prepares a population estimate for the annexed area under section 116K.04, subdivision 4, paragraph (11), the governmental subdivision's adjusted levy limit base under section 275.51, subdivision 3h, must be adjusted in the following manner:*

(a) *A percentage will be calculated equal to the percentage increase in population in the governmental subdivision due to annexation determined by dividing the population of the annexed area by the population of the governmental subdivision excluding the annexed area, using population*

estimates for the calendar year preceding the current levy year.

(b) The governmental subdivision's adjusted levy limit base under section 275.51, subdivision 3h, after giving effect to paragraphs (a) and (b) of subdivision 3h, but before any other paragraphs in section 275.51, subdivision 3h, shall be increased by the percentage calculated in paragraph (a) of this subdivision.

For purposes of section 275.51, subdivision 3f, the term "adjusted levy limit base" includes the adjustment made under this subdivision for the preceding year.

Sec. 23. Minnesota Statutes 1988, section 287.21, subdivision 2, is amended to read:

Subd. 2. The proceeds of the taxes levied and collected under sections 287.21 to 287.36 ~~on or after July 1, 1985,~~ shall be ~~credited~~ apportioned, 97 percent to the ~~county revenue~~ general fund of the state, and three percent to the county revenue fund.

Sec. 24. Minnesota Statutes Second 1989 Supplement, section 287.29, subdivision 1, is amended to read:

Subdivision 1. On or before the tenth day of each month, the county treasurer shall determine and pay to the commissioner of revenue for deposit in the state treasury and credit to the general fund *the state's portion of* the receipts from the sale of documentary stamps during the preceding month. The county treasurer shall provide any related reports requested by the commissioner of revenue.

Sec. 25. Minnesota Statutes 1989 Supplement, section 298.28, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts in which the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405;

or any law imposing a tax on severed mineral values that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a), shall be distributed to any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b), according to the increase in the implicit price deflator. On July 15, 1989, and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). Each district shall receive the product of:

(i) \$150 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of ~~0.04234~~ 1.8 percent times the district's taxable ~~market value~~ *net tax capacity* in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of the amount certified pursuant to section 124A.03, subdivision 2, in the previous year, to the product of ~~0.04234~~ 1.8 percent times the district's taxable ~~market value~~ *net tax capacity* in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of \$150 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 124A.23 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

Sec. 26. Minnesota Statutes 1989 Supplement, section 469.177, subdivision 1a, is amended to read:

Subd. 1a. [ORIGINAL TAX CAPACITY RATE.] At the time of the initial certification of the original net tax capacity for a tax increment financing district, the county auditor shall certify the original tax capacity rate that applies to the district. The original tax capacity rate is the sum of all the

tax capacity rates that apply to a property in the district ~~for the taxes payable in the calendar year in which the initial certification of.~~ *The tax capacity rate to be certified is the rate in effect for the same taxes payable year applicable to the tax capacity values certified as the district's original net tax capacity is requested under subdivision 4.* If the total tax capacity rate applicable to properties in the tax increment financing district varies, the tax capacity rate must be computed by determining the average total tax capacity rate in the district, weighted on the basis of net tax capacity. The resulting tax capacity rate is the original tax capacity rate for the life of the district.

Sec. 27. Minnesota Statutes Second 1989 Supplement, section 473F08, subdivision 8a, is amended to read:

Subd. 8a. [FISCAL DISPARITIES ADJUSTMENT.] In any year in which the highest class rate for class 3a property changes from the rate in the previous year, the following adjustments shall be made to the procedures described in sections 473F06 to 473F08.

(1) An initial contribution tax capacity shall be determined for each municipality based on the previous year's class rates.

(2) Each jurisdiction's distribution tax capacity shall be determined based upon the areawide tax base determined by summing the tax capacities computed under clause (1) for all municipalities and apportioning the resulting sum pursuant to section 473F07, subdivision 5.

(3) Each jurisdiction's distribution levy shall be determined by applying the procedures described in subdivision 3, clause (a), to the distribution tax capacity determined pursuant to clause (2).

(4) Each municipality's final contribution tax capacity shall be determined equal to its initial contribution tax capacity multiplied by the ratio of the new highest class rate for class 3a property to the previous year's highest class rate for class 3a property.

(5) *For the purposes of computing education aids and any other state aids requiring the addition of the fiscal disparities distribution tax capacity to the local tax capacity, each municipality's final distribution tax capacity shall be determined equal to its initial distribution tax capacity multiplied by the ratio of the new highest class rate for class 3a property to the previous year's highest class rate for class 3a property.*

(6) The areawide tax capacity rate shall be determined by dividing the sum of the amounts determined in clause (3) by the sum of the values determined in clause (4).

~~(6)~~ (7) The final contribution tax capacity determined in clause (4) shall also be used to determined the portion of each commercial/industrial property's tax capacity subject to the areawide tax capacity rate pursuant to subdivision 6.

Sec. 28. Minnesota Statutes 1989 Supplement, section 477A.011, subdivision 15, is amended to read:

Subd. 15. [CITY REVENUE.] "City revenue" equals the sum of (i) the city's aid payable under section 477A.013, *except for aid payable under section 477A.013, subdivision 5*, in the year prior to that for which aids are being calculated, and (ii) its levy for taxes payable in the year prior to that for which aids are being calculated.

Sec. 29. Minnesota Statutes 1988, section 477A.011, is amended by adding a subdivision to read:

Subd. 26. [LEVY.] "Levy" means the levy as defined in section 275.07, subdivision 1, including the fiscal disparities distribution levy.

Sec. 30. Minnesota Statutes Second 1989 Supplement, section 477A.012, subdivision 3, is amended to read:

Subd. 3. [AID OFFSET FOR COURT COSTS.] (a) There shall be deducted from the payment to a county under this section an amount representing the cost to the state for assumption of the cost of district court administration and operation of the trial court information system in the county and, in the case of Hennepin and Ramsey counties, of public defense services in juvenile and misdemeanor cases in the county. The amount of the deduction shall be computed as provided in this subdivision.

(b) By October 15, 1989, the board of public defense shall determine and certify to the department of revenue the cost of the state-financed public defense services in juvenile and misdemeanor cases for Hennepin and Ramsey counties during the fiscal year beginning the following July 1. By October 15, 1989, the supreme court shall determine and certify to the department of revenue for each county, except counties located in the eighth judicial district, the pro rata estimated share for each county of district court administration and trial court information system costs during the fiscal year beginning on the following July 1.

(c) One-half of the amount computed under paragraph (b) for each county shall be deducted from each payment to the county under section 477A.015 in 1990 and each subsequent year.

(d) If the amount computed under paragraph (b) plus, if applicable, the amount deducted under paragraph (c), exceeds the amount payable to a county under subdivision 1, the excess shall be deducted from the aid payable to the county under section 273.1398, subdivision 2.

(e) By July 15, 1990, the board of public defense and the supreme court shall determine and certify to the department of revenue the final actual budgeted amounts for the activities described in paragraph (b). If the amount certified under paragraph (b) is greater than the amount certified under this paragraph, the excess shall be ~~deducted from~~ *added to* the aid payable to the county in 1991 and each subsequent year under this section. If the amount certified under paragraph (b) is less than the amount certified under this paragraph, the difference shall be ~~added to~~ *subtracted from* the aid payable to the county in 1991 and each subsequent year under this section.

Sec. 31. Minnesota Statutes Second 1989 Supplement, section 477A.013, subdivision 3, is amended to read:

Subd. 3. [CITY AID DISTRIBUTION.] In 1989, a city whose initial aid is greater than \$0 will receive the following aid increases in addition to an amount equal to the local government aid it received in 1988 under Minnesota Statutes 1987 Supplement, section 477A.013:

(1) for a city whose expenditure/unlimited aid ratio is at least 1.5, two percent of city revenue;

(2) for a city whose expenditure/unlimited aid ratio is at least 1.4 but less than 1.5, 2.5 percent of city revenue;

(3) for a city whose expenditure/unlimited aid ratio is at least 1.3 but

less than 1.4, three percent of city revenue;

(4) for a city whose expenditure/unlimited aid ratio is at least 1.2 but less than 1.3, four percent of city revenue;

(5) for a city whose expenditure/unlimited aid ratio is at least 1.1 but less than 1.2, five percent of city revenue;

(6) for a city whose expenditure/unlimited aid ratio is at least 1.05 but less than 1.1, six percent of city revenue;

(7) for a city whose expenditure/unlimited aid ratio is at least 1.0 but less than 1.05, seven percent of city revenue;

(8) for a city whose expenditure/unlimited aid ratio is at least .95 but less than 1.0, 7.5 percent of city revenue;

(9) for a city whose expenditure/unlimited aid ratio is at least .75 but less than .95, 8.5 percent of city revenue; and

(10) for a city whose expenditure/unlimited aid ratio is less than .75, nine percent of city revenue.

In 1990, a city whose initial aid is greater than \$0 will receive an amount equal to the aid it received under this section in the year prior to that for which aids are being calculated plus an aid increase equal to 50 percent of the rates listed in clauses (1) to (10) multiplied by city revenue.

In 1991 and subsequent years, a city whose initial aid is greater than \$0 will receive an amount equal to the aid it received under this section in the year prior to that for which aids are being calculated plus an aid increase equal to 25 percent of the rates listed in clauses (1) to (10) multiplied by city revenue.

A city's aid increase under this subdivision is limited to the lesser of (1) 20 percent of its levy for taxes payable in the year prior to that for which aids are being calculated ~~after the adjustments provided in section 273.1398, subdivision 2,~~ or (2) its initial aid amount, or (3) 15 percent of the total amount received under this section in the previous year, provided that no city will receive an increase that is less than two percent of its 1989 local government aid for aids payable in 1990.

A city whose initial aid is \$0 will receive in 1990 an amount equal to 102 percent of the local government aid it received in 1989 under Minnesota Statutes 1988, section 477A.013. A city whose initial aid is \$0 will receive in 1991 and subsequent years an amount equal to the aid it received in the previous year under this section. For purposes of this subdivision, the term "local government aid" includes equalization aid for aids payable in 1991 and thereafter.

Sec. 32. Laws 1989, First Special Session chapter 1, article 3, section 35, is amended to read:

Sec. 35. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment and is intended to confirm and clarify the original intent of the legislature in the taxation and equalization of state-assessed public utility property.

Sections 2 ~~and~~, 7, and 23 are effective for taxes payable in 1991 and thereafter.

Sections 3, 5, 8, 11, 12, ~~23~~, 26, and 28 are effective for taxes payable

in 1990 and thereafter.

Section 4 is effective January 1, 1989.

Sections 6, 9, 21, 29 to 32, and 34 are effective the day following final enactment.

Section 10 is effective for taxes levied in 1989, payable in 1990 and thereafter, provided that cooperatives that qualified under Minnesota Statutes, section 273.124, subdivision 6, on January 2, 1989, shall meet the board membership requirements of paragraph (a) by December 1, 1989, and shall meet the requirements of section 501(c)(3) or 501(c)(4) status under the Internal Revenue Code in the first paragraph and in paragraph (e) by January 1, 1990, and that the notice and filing requirements of paragraphs (f) and (g) shall apply only to leasehold cooperatives created later than 60 days after the date of enactment of this act.

Sections 13, 19, and 20 are effective January 1, 1991.

Section 14, paragraph (i), clauses (1) to (12), are effective for aids paid in 1991 and thereafter. The rest of section 14 and sections 15, 17, 18, and 22 are effective for aids paid in 1990 and thereafter, except as otherwise provided in those sections.

Section 16 is effective for aids payable in 1991 and thereafter.

Sections 24 and 25 are effective for mortgage registration and deed taxes collected after November 30, 1990.

Section 27 is effective for taconite produced in 1989, proceeds distributed in 1990, and thereafter.

Section 33 is effective July 1, 1991.

Sec. 33. Laws 1989, First Special Session chapter 1, article 9, section 86, is amended to read:

Sec. 86. [EFFECTIVE DATES.]

Section 5 is effective for school district referenda held after July 15, 1990, for property taxes levied in 1990, payable in 1991, and thereafter.

Sections 1 to 4, 6 to 8, 10 to 12, 17, 19 to 21, 26 to 30, 41 to 46, 48, 50 to 52, 51, and 66 to 77 are effective for taxes levied in 1990, payable in 1991, and thereafter.

The part of section 9 changing the meeting date of the state board of equalization is effective for taxes levied in 1990, payable in 1991, and thereafter. The rest of section 9 and sections 13 to 16, 22 to 25, 78, and 82, 84, and 85 are effective the day following final enactment.

Section 18 is effective for sales after January 1, 1990.

Sections 31 to 38 and 40 are effective for taxes levied in 1990, payable in 1991, and thereafter, except as otherwise provided.

Sections 39, 47, 49, 52, 54 to 64, 79, and 80 are effective for property taxes levied in 1989, payable in 1990, and thereafter.

Section 53 is effective for property taxes levied in 1989, payable in 1990, and thereafter, except that the provision requiring certification of aids by September 1, is effective for taxes levied in 1990, payable in 1991, and thereafter.

Sections 65 and 81 are effective July 1, 1990.

Section 83 is effective only for taxes levied in 1989, payable in 1990.

Sec. 34. [REPEALER.]

Minnesota Statutes 1988, section 272.70, is repealed.

Sec. 35. [EFFECTIVE DATE.]

Sections 1, 4, 6, 14 to 16, and 32 to 34 are effective the day following final enactment.

Sections 2, 5, 8 to 11, 13, 17, 18, 20, and 26 to 28 are effective for taxes levied in 1989 and thereafter, payable in 1990 and thereafter, except as otherwise provided.

Section 12 is effective January 1, 1991.

Sections 7, 19, 21, and 22 are effective for taxes levied in 1990 and thereafter, payable in 1991 and thereafter.

Sections 23 and 24 are effective for deed taxes collected after November 30, 1990.

Section 25 is effective for production year 1989 and thereafter, taxes payable in 1990 and thereafter.

Sections 29 to 31 are effective for aid paid in 1991 and thereafter.

ARTICLE 8

PROPERTY TAX PAYMENTS, INTEREST RATES, AND SETTLEMENTS

Section 1. Minnesota Statutes Second 1989 Supplement, section 276.09, is amended to read:

276.09 [SETTLEMENT BETWEEN AUDITOR AND TREASURER.]

On the later of May 20 of each year or 26 calendar days after the postmark date on the envelopes containing real or personal property tax statements, the county treasurer shall make full settlement with the county auditor of all receipts collected for all purposes, from the date of the last settlement up to and including each day mentioned. The county auditor shall, within 30 days after the settlement, send an abstract of it to the state auditor in the form prescribed by the state auditor. At the settlement the treasurer shall make complete returns of the receipts on the current tax list, showing the amount collected on account of the several funds included in the list.

Settlement of receipts from the later of May 20 or the actual settlement date to December 31 of each year must be made as provided in section 276.111.

For purposes of this section, "receipts" includes all tax payments received by the county treasurer on or before the settlement date.

Sec. 2. Minnesota Statutes Second 1989 Supplement, section 276.10, is amended to read:

276.10 [APPORTIONMENT AND DISTRIBUTION OF FUNDS.]

On the settlement day in May or determined in section 276.09 for each

year, the county auditor and county treasurer shall distribute all undistributed funds in the treasury. The funds must be apportioned as provided by law, and credited to the state, town, city, school district, special district and each county fund. Within 20 days after the distribution is completed, the county auditor shall report to the state auditor in the form prescribed by the state auditor. The county auditor shall issue a warrant for the payment of money in the county treasury to the credit of the state, town, city, school district, or special districts on application of the persons entitled to receive the payment. The county auditor may apply the tax capacity rate from the year before the year of distribution when apportioning and distributing delinquent tax proceeds, if the composition of the previous year's tax capacity rate between taxing districts is not significantly different ~~than~~ from the tax capacity rate that existed for the year of the delinquency.

Sec. 3. Minnesota Statutes Second 1989 Supplement, section 276.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] As soon as practical after the ~~May~~ settlement day determined in section 276.09, the county treasurer shall pay to the state treasurer or the treasurer of a town, city, school district, or special district, on the warrant of the county auditor, all receipts of taxes levied by the taxing district and deliver up all orders and other evidences of indebtedness of the taxing district, taking triplicate receipts for them. The treasurer shall file one of the receipts with the county auditor, and shall return one by mail on the day of its receipt to the clerk of the town, city, school district, or special district to which payment was made. The clerk shall keep the receipt in the clerk's office. Upon written request of the taxing district, to the extent practicable, the county treasurer shall make partial payments of amounts collected periodically in advance of the next settlement and distribution. A statement prepared by the county treasurer must accompany each payment. It must state the years for which taxes included in the payment were collected and, for each year, the amount of the taxes and any penalties on the tax. Upon written request of a taxing district, except school districts, the county treasurer shall pay at least 70 percent of the estimated collection within 30 days after the ~~May~~ settlement date determined in section 276.09. Within seven business days after the due date, or 28 calendar days after the postmark date on the envelopes containing real or personal property tax statements, whichever is latest, the county treasurer shall pay to the treasurer of the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district, unless the school district elects to receive 50 percent of the estimated collections arising from taxes levied by and belonging to the school district after making a proportionate reduction to reflect any loss in collections as the result of any delay in mailing tax statements. In that case, 50 percent of those adjusted, estimated collections shall be paid by the county treasurer to the treasurer of the school district within seven business days of the due date. The remaining 50 percent of the estimated collections must be paid to the treasurer of the school district within the next seven business days of the later of the dates in the preceding sentence, unless the school district elects to receive the remainder of its estimated collections after a proportionate reduction has been made to reflect any loss in collections as the result of any delay in mailing tax statements. In that case, the remaining 50 percent of those adjusted, estimated collections shall be paid by the county treasurer to the treasurer of the school district within 14 days of the due date. The treasurer shall pay

the balance of the amounts collected to the state or to a municipal corporation or other body within 60 days after the ~~May~~ settlement date *determined in section 276.09*. After 45 days interest at an annual rate of eight percent accrues and must be paid to the taxing district. Interest must be paid upon appropriation from the general revenue fund of the county. If not paid, it may be recovered by the taxing district, in a civil action.

Sec. 4. Minnesota Statutes 1988, section 276.111, is amended to read:
276.111 [DISTRIBUTIONS AND FINAL YEAR-END SETTLEMENT.]

Within seven business days after October 15, the county treasurer shall pay to the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district from ~~May 20 the settlement day determined in section 276.09~~ to October 20. The remaining 50 percent of the estimated tax collections must be paid to the school district within the next seven business days. Within ten business days after November 15, the county treasurer shall pay to the school district 100 percent of the estimated collections arising from taxes levied by and belonging to the school districts from October 20 to November 20.

Within ten business days after November 15, the county treasurer shall pay to each taxing district, except any school district, 100 percent of the estimated collections arising from taxes levied by and belonging to each taxing district from ~~May 20 the settlement day determined in section 276.09~~ to November 20.

On or before January 5, the county treasurer shall make full settlement with the county auditor of all receipts collected from ~~May 20 the settlement day determined in section 276.09~~ to December 31. After subtracting any tax distributions that have been made to the taxing districts in October and November, the treasurer shall pay to each of the taxing districts on or before January 25, the balance of the tax amounts collected on behalf of each taxing district. Interest accrues at an annual rate of eight percent and must be paid to the taxing district if this final settlement amount is not paid by January 25. Interest must be paid upon appropriation from the general revenue fund of the county. If not paid, it may be recovered by the taxing district in a civil action.

Sec. 5. Minnesota Statutes Second 1989 Supplement, section 277.01, subdivision 1, is amended to read:

Subdivision 1. *Except as provided in this subdivision, all unpaid personal property taxes shall be deemed delinquent on May 16 next after they become due or 21 days after the postmark date on the envelope containing the property tax statement, whichever is later, and thereupon a penalty of eight percent shall attach and be charged upon all such taxes. In the case of unpaid personal property taxes due and owing under section 272.01, subdivision 2, or section 273.19, the first half shall become delinquent if not paid before May 16 or 21 days after the postmark date on the envelope containing the property tax statement, whichever is later, and thereupon a penalty of eight percent shall attach on the unpaid first half; and the second half shall become delinquent if not paid before October 16, and thereupon a penalty of eight percent shall attach on the unpaid second half. This section shall not apply to Class 2a property.*

A county may provide by resolution that in the case of a property owner that has multiple personal property tax statements with the aggregate taxes exceeding \$50, payments may be made in installments as provided in this

subdivision.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 277.011 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 6. Minnesota Statutes Second 1989 Supplement, section 277.02, is amended to read:

277.02 [DELINQUENT LIST FILED IN COURT.]

By June 15 Within 30 days of the due date under section 277.01, subdivision 1, of each year, the county treasurer shall make a list of all personal property taxes remaining delinquent ~~May 16~~, and by November 15 of each year the county treasurer shall make a list of all personal property taxable under section 272.01, subdivision 2, or section 273.19 remaining delinquent October 16. The county treasurer shall immediately certify to and file ~~the same~~ each list with the court administrator of the district court of the county, ~~and~~. Upon ~~such~~ filing, the list shall be prima facie evidence that all of the provisions of law in relation to the assessment and levy of ~~such~~ taxes have been complied with.

Sec. 7. Minnesota Statutes Second 1989 Supplement, section 277.05, is amended to read:

277.05 [SHERIFF TO FILE LIST OF UNCOLLECTED TAXES.]

If the sheriff is unable, for want of goods and chattels whereon to levy, to collect by a distress, or otherwise, the taxes, or any part thereof, assessed upon the personal property of any persons, the sheriff shall file with the court administrator of the district court, ~~on July 15 following~~, a list of ~~such~~ the taxes, ~~30 days after the date in section 277.02~~. The list shall be filed with an affidavit of the sheriff, or of the deputy sheriff entrusted with the collection thereof, stating that the affiant has made diligent search and inquiry for goods and chattels from which to collect such taxes, and is unable to collect the same. The list of such taxes as they apply to manufactured homes shall be filed on December 1 ~~and the list of such taxes as they apply to property taxable under section 272.01, subdivision 2, or section 273.19 shall be filed on December 15~~. The sheriff shall note on the margin of such list the place to which any delinquent taxpayer may have removed, with the date of removal, if known. At the time of filing the list the sheriff shall also return all the warrants with endorsements thereon showing the doings of the sheriff or deputy in the premises, and the court administrator shall file and preserve the same. ~~On or before September tenth thereafter~~ Within ten days after the list has been filed by the sheriff, the court administrator shall deliver ~~such~~ the list and affidavit to the county treasurer, who shall, by comparison of such list with the tax duplicates in the treasurer's office, ascertain whether or not all personal property taxes reported by the treasurer to the court administrator as delinquent, except those included in such list, have been paid into the treasurer's office, and shall attach to the list a certificate stating whether or not all taxes reported by the treasurer to the court administrator as delinquent and not included in the list have been received, and stating the items of such taxes, if any, as have been received. The court administrator shall deliver

such list and affidavit as they apply to manufactured homes on or before December 10 *and as they apply to property taxable under section 272.01, subdivision 2, or section 273.19 on or before December 24.* The treasurer shall deliver such list and affidavit, with the certificate attached, to the county board at its first session thereafter, which shall cancel such taxes as it is satisfied cannot be collected. A copy of the tax list so revised, and also a separate list of the taxes so canceled, shall be included in the records of the proceedings of the board, and published in full, as a part of the proceedings.

Sec. 8. Minnesota Statutes Second 1989 Supplement, section 277.06, is amended to read:

277.06 [CITATION TO DELINQUENTS; DEFAULT JUDGMENT.]

On September 5, or within ten days after the adjournment of the county board, whichever occurs first, the county auditor shall file a copy of such revised list with the court administrator of the district court. The county auditor shall file a copy of the revised list as it applies to manufactured homes on January 20 *and a copy of the revised list as it applies to property taxable under section 272.01, subdivision 2, or section 273.19 on February 15.* Within ten days after the list has been filed, the court administrator shall issue a citation to each delinquent named in the list, stating the amount of tax and penalty, and requiring such delinquent to appear on a day to be set by the district court in the county, appointed to be held at a time not less than 30 days after the issuance of such citation, and show cause, if any there be, why the delinquent should not pay the tax and penalty. The citation shall be delivered for service to the sheriff of the county where such person may at the time reside or be. If such person, after service of the citation, fails to pay such tax, penalty, and costs to the sheriff before the first day of the term, or on such day to show cause as aforesaid, the court shall direct judgment against the person for the amount of such tax, penalty, and costs. When unable to serve the citation, the sheriff shall return the same to the court administrator, with a return thereto to that effect, and thereupon, or if the court decides that the service of such citation made or attempted to be made, or the issuance thereof by the court administrator, was illegal, the court administrator shall issue another like citation, requiring such delinquent to appear on the first day of the next general term to be held in the county, and show cause as aforesaid, and if the delinquent fails to pay or to show cause, the court shall direct judgment as aforesaid. Whenever the sheriff has been unable to serve any such citation theretofore issued in any year or years, or whenever the court decides that the service of any such citation theretofore made or attempted to be made, or the issuance thereof by the court administrator, was illegal, the court administrator shall issue another like citation requiring such delinquent to appear, as in the case last provided, and with like effect; provided, that all citations other than the first shall be issued only on the request of the county attorney.

Sec. 9. Minnesota Statutes 1988, section 277.15, is amended to read:

277.15 [INTEREST.]

When a judgment has heretofore been entered and docketed, or shall hereafter be entered and docketed, for the recovery of taxes, except in the case of real estate tax judgments provided for in section 279.19, the same shall bear interest until paid at the rate of six percent per annum until January 1, 1981, and at the rate determined under section 549.09 ~~thereafter~~

until January 1, 1991. Thereafter interest will be payable at the rate provided in section 279.03, subdivision 1a.

Sec. 10. Minnesota Statutes 1989 Supplement, section 279.01, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, on May 16, of each year, with respect to property actually occupied and used as a homestead by the owner of the property, or 21 days after the postmark date on the envelope containing the property tax statement, whichever is later, a penalty of three percent shall accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county treasurer, and a penalty of. The penalty shall be at a rate of three percent on homestead property and seven percent on nonhomestead property, except that. This penalty shall not accrue until June 1 of each year, or 21 days after the postmark date on the envelope containing the property tax statements, whichever is later, on commercial use real property used for seasonal residential recreational purposes and classified as class 1c or 4c, and on other commercial use real property classified as class 3a, provided that over 60 percent of the gross income earned by the enterprise on the class 3a property is earned during the months of May, June, July, and August. Any property owner of such class 3a property who pays the first half of the tax due on the property after May 15 and before June 1, or 21 days after the postmark date on the envelope containing the property tax statement, whichever is later, shall attach an affidavit to the payment attesting to compliance with the income provision of this subdivision. Thereafter, for both homestead and nonhomestead property, on the first day of each month, up to and including October 1 following, an additional penalty of one percent for each month shall accrue and be charged on all such unpaid taxes provided that if the due date was extended beyond May 15 as the result of any delay in mailing property tax statements no additional penalty shall accrue if the tax is paid by the extended due date. If the tax is not paid by the extended due date, then all penalties that would have accrued if the due date had been May 15 shall be charged. When the taxes against any tract or lot exceed \$50, one-half thereof may be paid prior to May 16 or 21 days after the postmark date on the envelope containing the property tax statement, whichever is later; and, if so paid, no penalty shall attach; the remaining one-half shall be paid at any time prior to October 16 following, without penalty; but, if not so paid, then a penalty of four percent shall accrue thereon for homestead property and a penalty of four percent on nonhomestead property. Thereafter, for homestead property, on the first day of November and December following, an additional penalty of two percent for each month shall accrue and be charged on all such unpaid taxes. Thereafter, for nonhomestead property, on the first day of November and December following, an additional penalty of four percent for each month shall accrue and be charged on all such unpaid taxes. If one-half of such taxes shall not be paid prior to May 16 or 21 days after the postmark date on the envelope containing the property tax statement, whichever is later, the same may be paid at any time prior to October 16, with accrued penalties to the date of payment added, and thereupon no penalty shall attach to the remaining one-half until October 16 following.

A county may provide by resolution that in the case of a property owner that has multiple tracts or parcels with aggregate taxes exceeding \$50, payments may be made in installments as provided in this subdivision.

The county treasurer may accept payments of more or less than the exact

amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 278.03 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 11. Minnesota Statutes 1988, section 279.03, is amended by adding a subdivision to read:

Subd. 1a. [RATE AFTER DECEMBER 31, 1990.] Interest on delinquent property taxes, penalties, and costs unpaid on or after January 1, 1991, shall be payable at the per annum rate determined in section 270.75, subdivision 5. If the rate so determined is less than ten percent, the rate of interest shall be ten percent. The maximum per annum rate shall be 14 percent if the rate specified under section 270.75, subdivision 5, exceeds 14 percent. The rate shall be subject to change on January 1 of each year.

Sec. 12. Minnesota Statutes 1988, section 279.03, subdivision 2, is amended to read:

Subd. 2. [COMPOSITE JUDGMENT.] Amounts included in composite judgment, as judgments authorized by section 279.37, subdivision 1, and confessed on or after July 1, 1982, are subject to interest at the rate determined pursuant to section 549.09. Amounts confessed under this authority after December 31, 1990, are subject to interest at the rate calculated under subdivision 1a. During each calendar year, interest shall accrue on the unpaid balance of the composite judgment from the time it is confessed until it is paid. The rate of interest is subject to change each year in the same manner that section 549.09 provides or subdivision 1a, whichever is applicable, for rate changes on judgments. Interest on the unpaid contract balance on judgments confessed before July 1, 1982, is payable at the rate applicable to the judgment at the time that it was confessed.

Sec. 13. Minnesota Statutes 1988, section 279.37, subdivision 1a, is amended to read:

Subd. 1a. The delinquent taxes upon a parcel of property which was classified class 4c pursuant to section 273.13, subdivision 9, or for taxes assessed in 1986 and thereafter, classified class 3a, for the previous year's assessment and had a total market value of less than \$100,000 for that same assessment shall be eligible to be composed into a confession of judgment. Property qualifying under this subdivision shall be subject to the same provisions as provided in this section except as herein provided.

(a) The down payment shall include all special assessments due in the current tax year, all delinquent special assessments, and 20 percent of the ad valorem tax, penalties, and interest accrued against the parcel. The balance remaining shall be payable in four equal annual installments; and

(b) The amounts entered in judgment shall bear interest at the rate provided in section ~~270.75, subdivision 5~~ 279.03, subdivision 1a, commencing with the date the judgment is entered. The interest rate is subject to change each year on the unpaid balance in the manner provided in section ~~270.75, subdivision 5~~, except that the interest change will be implemented on January 1 of each year 279.03, subdivision 1a.

Sec. 14. Minnesota Statutes 1988, section 282.01, subdivision 4, is amended to read:

Subd. 4. [CONDUCT OF SALE.] The sale shall be conducted by the county auditor at the county seat of the county in which the parcels lie, provided that, in St. Louis and Koochiching counties, the sale may be conducted in any county facility within the county, and the parcels shall be sold for cash only and at not less than the appraised value, unless the county board of the county shall have adopted a resolution providing for their sale on terms, in which event the resolution shall control with respect thereto. When the sale is made on terms other than for cash only a payment of at least ten percent of the purchase price must be made at the time of purchase, thereupon the balance shall be paid in no more than ten equal annual installments. No standing timber or timber products shall be removed from these lands until an amount equal to the appraised value of all standing timber or timber products on the lands at the time of purchase has been paid by the purchaser; provided, that in case any parcel of land bearing standing timber or timber products is sold at public auction for more than the appraised value, the amount bid in excess of the appraised value shall be allocated between the land and the timber in proportion to the respective appraised values thereof, and no standing timber or timber products shall be removed from the land until the amount of the excess bid allocated to timber or timber products has been paid in addition to the appraised value thereof. The purchaser is entitled to immediate possession, subject to the provisions of any existing valid lease made in behalf of the state.

For sales occurring on or after July 1, 1982, the unpaid balance of the purchase price is subject to interest at the rate determined pursuant to section 549.09. *The unpaid balance of the purchase price for sales occurring after December 31, 1990, is subject to interest at the rate determined in section 279.03, subdivision 1a.* The interest rate is subject to change each year on the unpaid balance in the manner provided for rate changes in section 549.09 ~~for rate changes on judgments or section 279.03, subdivision 1a, whichever is applicable.~~ Interest on the unpaid contract balance on sales occurring before July 1, 1982, is payable at the rate applicable to the sale at the time that the sale occurred.

Sec. 15. Minnesota Statutes 1988, section 282.09, subdivision 1, is amended to read:

Subdivision 1. [MONEYS PLACED IN FUND.] The county auditor and county treasurer shall place all moneys received through the operation of sections 282.01 to 282.13 in a fund to be known as the forfeited tax sale fund and all disbursements and costs shall be charged against that fund, when allowed by the county board. Members of the county board may be paid a per diem pursuant to section 375.055, subdivision 1, and reimbursed for their necessary expenses, and may receive mileage as ~~now or hereafter~~ fixed by law. Compensation of a land commissioner and assistants, if a land commissioner is appointed, shall be in ~~such the amount as shall be~~ determined by the county board. The county auditor shall receive 50 cents for each certificate of sale, each contract for deed and each lease executed by the auditor, and, in counties where no land commissioner is appointed ~~such~~, additional annual compensation, not exceeding \$300, as ~~shall be~~ fixed by the county board. Compensation of any other clerical help that may be needed by the county auditor or land commissioner shall be in ~~such the amount as shall be~~ determined by the county board. All compensation provided for herein shall be in addition to other compensation allowed by law. Fees so charged in addition to the fee imposed in section 282.014

shall be included in the annual settlement by the county auditor as herein-after provided. On or before February 1 in each year, the commissioner of revenue shall certify to the commissioner of finance, by counties, the total number of state deeds issued and reissued during the preceding calendar year for which such fees are charged and the total amount thereof. When disbursements are made from the fund for repairs, refundments, expenses of actions to quiet title, or any other purpose which particularly affects specific parcels of forfeited lands, the amount of such disbursements shall be charged to the account of the taxing districts interested in such parcels. The county auditor shall make an annual settlement of the net proceeds received from sales and rentals by the operation of sections 282.01 to 282.13, ~~at on the regular March~~ settlement day determined in section 276.09, for the preceding calendar year.

Sec. 16. Minnesota Statutes 1988, section 282.261, subdivision 2, is amended to read:

Subd. 2. [INTEREST RATE.] The unpaid balance on any repurchase contract approved by the county board on or after July 1, 1982, is subject to interest at the rate determined pursuant to section 549.09. *Repurchase contracts approved after December 31, 1990, are subject to interest at the rate determined in section 279.03, subdivision 1a.* The interest rate is subject to change each year on the unpaid balance in the manner provided for rate changes in section 549.09 ~~for rate changes on judgments or section 279.03, subdivision 1a, whichever is applicable.~~ Interest on the unpaid contract balance on repurchases approved before July 1, 1982, is payable at the rate applicable to the repurchase contract at the time that it was approved.

Sec. 17. [1990 TAX PAYMENTS.]

The amendment of Minnesota Statutes Second 1989 Supplement, section 277.01, subdivision 1, in section 5 does not require sending of revised tax statements for taxes payable in 1990 by the county auditor, but payments of taxes by the dates provided in that section shall be accepted as timely paid.

Sec. 18. [EFFECTIVE DATE.]

Sections 1 to 8, 10, and 14 are effective for taxes levied in 1989, payable in 1990, and thereafter.

Sections 9, 11 to 13, 15, and 16 are effective January 1, 1991.

Section 17 is effective the day following final enactment.

ARTICLE 9

PROPERTY TAX SYSTEM CONVERSIONS

Section 1. Minnesota Statutes 1989 Supplement, section 38.18, is amended to read:

38.18 [COUNTY FAIRGROUNDS, IMPROVEMENT AIDED.]

Any town, statutory city, or school district in this state, now or hereafter having a ~~net tax capacity~~ market value of all its taxable property, exclusive of money and credits, of more than ~~\$25,000,000~~ \$105,000,000, and having a county fair located within its corporate limits, is hereby authorized to aid in defraying part of the expense of improving any such fairground, by appropriating and paying over to the treasurer of the county owning the

fairground such sum of money, not exceeding \$10,000, for each of the political subdivisions, as the governing body of the town, statutory city, or school district may, by resolution, determine to be for the best interest of the political subdivision, the sums so appropriated to be used solely for the purpose of aiding in the improvement of the fairground in such manner as the county board of the county shall determine to be for the best interest of the county.

Sec. 2. Minnesota Statutes 1989 Supplement, section 50.14, subdivision 4, is amended to read:

Subd. 4. Class three shall be:

(a) The bonds, certificates of indebtedness, or other interest bearing obligations, payable out of a levy of ad valorem taxes, of any county, city, town, or any school district, drainage district, or other district, or of any board of any municipality, or of any public authority, created pursuant to law for public purposes in Minnesota, without regard to any debt limits other than those in section 475.53;

(b) The bonds, certificates of indebtedness or other interest bearing obligations, payable out of a levy of ad valorem taxes, of any county, city, town, or school, drainage or other district, or public authority, created pursuant to law for public purposes in any state of the United States other than Minnesota, provided that the total bonded indebtedness of the county, municipality, district or authority, after deducting the amount of all sinking funds and of all revenue bonds or certificates (including among revenue bonds and certificates those which pledge the full faith and credit of the issuer, if the net revenues applicable to the payment of the bonds or certificates during the three fiscal years immediately preceding the date of purchase exceeded by at least five percent the amount required to pay principal and interest on those bonds or certificates during that period), shall not exceed ten percent of its ~~net tax capacity~~ assessed value; and provided further that if the county, municipality, district or authority is of any state other than Iowa, Wisconsin, North Dakota, or South Dakota, it contains at least 3,500 inhabitants;

(c) The bonds, certificates or other interest bearing obligations, payable out of special revenues, of any county, city, town, or school, drainage, or other district, or public authority, created pursuant to law for public purposes in any state of the United States, provided that:

(aa) If the county, municipality, district or authority is of any state other than Minnesota, it contains at least 3,500 inhabitants;

(bb) The obligations were issued to finance the purpose of construction of or addition to a public enterprise furnishing water, sewer, lighting, power, gas, or road facilities, from which revenue is to be derived;

(cc) The governing body or other legally constituted authority has covenanted or is required by law to establish and maintain rates to yield sufficient revenue for the payment of operating expenses, maintenance expenses, and principal and interest on the revenue obligations and to pledge that revenue irrevocably for those purposes;

(dd) At the date of investment the public enterprise has been in operation for at least three years; and

(ee) During the preceding three fiscal years its annual net earnings, after payment of operating expenses and maintenance expenses, have been on

the average at least 1-1/4 times the average annual interest, principal and sinking fund requirements on the revenue obligations during the period from the end of its most recent fiscal year to the final maturity of the obligations; and

(d) The bonds or other interest bearing obligations, payable from revenues other than ad valorem taxes as contemplated in clause (a), validly issued by any state or insular possession of the United States, or by any agency, instrumentality, municipality, or governmental or public subdivision, district, corporation, commission, board, council, or authority of whatsoever kind, created for public purposes by or pursuant to the laws of any state, provided that the bonds or other interest bearing obligations are at the time of purchase rated among the highest three quality categories, not applicable to bonds or other interest bearing obligations in default as to principal, used by a nationally recognized rating agency for rating the quality of similar bonds or other interest bearing obligations, and are not rated lower by any other such agency.

Sec. 3. Minnesota Statutes 1989 Supplement, section 110.70, is amended to read:

110.70 [APPLICATION.]

Nothing in sections 110.55 to 110.69 shall amend, alter, supersede, or otherwise change the provisions set forth in section 110.13. The provisions of sections 110.55 to 110.69 shall in no manner apply to public waters of an area of more than 10,000 acres, situated wholly or partially within counties now or hereafter having a population of more than 450,000 and a ~~net tax capacity~~ *market value* of more than ~~\$450,000,000~~ *\$1,860,000,000*, including money and credits, and in which is situated a city of the first class within a distance of 20 miles from the body of public water; and, as to such public waters, nothing contained in sections 110.55 to 110.69 shall be construed to authorize the diversion of any water from any stream, river, or lake located in any county adjoining or abutting in part upon the county wherein a major portion of such public waters is located.

Sec. 4. Minnesota Statutes 1989 Supplement, section 118.12, is amended to read:

118.12 [INVESTMENT OF TOWN FUNDS.]

When the town board of any town in this state, by a unanimous resolution, deem it advisable, such town board may invest such amount of funds in such town treasury as will not, in the opinion of such board, be needed by such town during the fiscal year, in any of the bonds of any county, city, town, school district, drainage or other district created pursuant to law for public purposes in Minnesota, Iowa, Wisconsin, and North and South Dakota, or in bonds of the United States of America, or in the bonds of any city, county, town, school district, drainage or other district created pursuant to law for public purposes in the United States, containing at least 3,500 inhabitants, provided that the total bonded indebtedness of any such municipality or district shall not exceed ten percent of its ~~net tax capacity~~ *assessed value, if not located in Minnesota, or 2.5 percent of its taxable market value, if located in Minnesota.*

Sec. 5. Minnesota Statutes 1989 Supplement, section 163.04, subdivision 3, is amended to read:

Subd. 3. [EXPENDITURES ON BRIDGES WITHIN CERTAIN CITIES.] When the council of any statutory city or city of the third or fourth class may determine that it is necessary to build or improve any bridge or bridges, including approaches thereto, and any dam or retaining works connected therewith, upon or forming a part of streets or highways either wholly or partly within its limits, the county board shall appropriate one-half of the money as may be necessary therefor from the county road and bridge fund, not exceeding during any year one-half the amount of taxes paid into the county road and bridge fund during the preceding year, on property within the corporate limits of the city. The appropriation shall be made upon the petition of the council, which petition shall be filed by the council with the county board prior to the fixing by the board of the annual county tax levy. The county board shall determine the plans and specifications, shall let all necessary contracts, shall have charge of construction, and upon its request, warrants in payment thereof shall be issued by the county auditor, from time to time, as the construction work proceeds. Any unpaid balance may be paid or advanced by the city. On petition of the council, the appropriations of the county board, during not to exceed three successive years, may be made to apply on the construction of the same items and to repay any money advanced by the city in the construction thereof. None of the provisions of this section shall be construed to be mandatory as applied to any city whose ~~net tax capacity~~ *market value* exceeds ~~\$500~~ \$2,100 per capita of its population.

Sec. 6. Minnesota Statutes 1989 Supplement, section 163.06, subdivision 6, is amended to read:

Subd. 6. [EXPENDITURE IN CERTAIN COUNTIES.] In any county having not less than 95 nor more than 105 full and fractional townships, and having a ~~net tax capacity~~ *market value* of not less than ~~\$3,000,000~~ \$12,000,000 nor more than ~~\$5,000,000~~ \$21,000,000, exclusive of money and credits, the county board, by resolution, may expend the funds provided in subdivision 4 in any organized or unorganized township or portion thereof in such county.

Sec. 7. Minnesota Statutes 1989 Supplement, section 165.10, subdivision 1, is amended to read:

Subdivision 1. [CERTAIN COUNTIES MAY ISSUE AND SELL.] The county board of any county having no outstanding road and bridge bonds may issue and sell county road bonds in an amount not exceeding ~~one-half~~ ~~of one 0.12089~~ percent of the ~~net tax capacity~~ *market value* of the taxable property within the county exclusive of money and credits, for the purpose of constructing, reconstructing, improving, or maintaining any bridge or bridges on any highway under its jurisdiction, without submitting the matter to a vote of the electors of the county.

Sec. 8. Minnesota Statutes 1989 Supplement, section 365.025, subdivision 4, is amended to read:

Subd. 4. [~~BIG BUYS MAJOR PURCHASES: NOTICE, PETITION, ELECTION.~~] Before buying anything under subdivision 2 that costs more than ~~one 0.24177~~ percent of the ~~net tax capacity~~ *market value* of the town, the town must follow this subdivision.

The town must publish in its official newspaper the board's resolution to pay for the property over time. Then a petition for an election on the contract may be filed with the clerk. The petition must be filed within ten

days after the resolution is published. To require the election the petition must be signed by a number of voters equal to ten percent of the voters at the last regular town election. The contract then must be approved by a majority of those voting on the question. The question may be voted on at a regular or special election.

Sec. 9. Minnesota Statutes 1989 Supplement, section 368.01, subdivision 23, is amended to read:

Subd. 23. [FINANCING PURCHASE OF CERTAIN EQUIPMENT.] The town board of supervisors may issue certificates of indebtedness within existing debt limits for the purpose of purchasing fire or police equipment or ambulance equipment or street construction or maintenance equipment. Such certificates shall be payable in not more than five years and shall be issued on such terms and in such manner as the board may determine. If the amount of the certificates to be issued to finance any such purchase exceeds ~~one 0.24177~~ percent of the ~~net tax capacity~~ market value of the town, excluding money and credits, they shall not be issued for at least ten days after publication in the official newspaper of a town board resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular town election is filed with the clerk, such certificates shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on such certificates as in the case of bonds.

Sec. 10. Minnesota Statutes 1989 Supplement, section 368.44, is amended to read:

368.44 [DISSOLUTION OF CERTAIN TOWNS; GROUNDS.]

When the voters residing within a duly organized town in any county in this state having more than 85 congressional townships of land and having a ~~net tax capacity~~ market value of not less than ~~\$5,000,000~~ \$21,000,000 nor more than ~~\$12,000,000~~ \$50,000,000 have failed to elect any town officials for more than three years continuously, or the town has failed and omitted to exercise any of the powers and functions of a town, as provided by law, which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the auditor of the county, the county board by resolution duly adopted may declare any such town, naming it, duly dissolved and no longer entitled to exercise any of the powers or functions of a town.

Sec. 11. Minnesota Statutes 1989 Supplement, section 368.47, is amended to read:

368.47 [TOWNS MAY BE DISSOLVED.]

When the voters residing within a town in this state have failed to elect any town officials for more than ten years continuously, or the town has failed and omitted for a period of ten years to exercise any of the powers and functions of a town, as provided by law, or when the ~~net tax capacity~~ market value of any town drops to less than ~~\$40,000~~ \$165,000, or when the tax delinquency of any such town, exclusive of taxes that are delinquent or unpaid by reason of taxes being contested in proceedings for the enforcement of taxes, amounts to ~~50~~ 12 percent of its ~~net tax capacity~~ market

value, or where the state or federal government has acquired title to 50 percent of the real estate of such town, which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the county auditor, the county board by resolution may declare any such town, naming it, duly dissolved and no longer entitled to exercise any of the powers or functions of a town. In counties having a population according to the 1930 federal census of not more than 16,000 nor less than 15,000 and having not more than 77 nor less than 75 full or fractional congressional townships, and in counties having a population according to the 1930 federal census of not more than 28,000 nor less than 27,000 and having not more than 91 nor less than 90 full or fractional congressional townships, and in counties having a population according to the 1930 federal census of not more than 210,000 nor less than 200,000 and having not more than 202 nor less than 200 full or fractional congressional townships, before any such dissolution shall become effective the voters of the town shall express their approval or disapproval of such dissolution. The clerk of the town shall, upon a petition signed by a majority of the registered voters of the town, filed with the clerk at least 60 days before any regular or special town election thereof, give notice at the same time and in the same manner of such election that the question of dissolution of such town will be submitted for determination at such election. At such election when so petitioned for the question shall be voted upon by a separate ballot, the terms of which shall be either "for dissolution" or "against dissolution," which ballot shall be deposited in a separate ballot box to be provided and the result of such voting shall be duly canvassed, certified, and returned in the same manner and at the same time as other facts and returns of the election. If a majority of the votes cast at the election shall be for dissolution, such town shall be dissolved; and, if a majority of the votes cast at the election shall be against dissolution, the town shall not be dissolved.

When a town is dissolved under the provisions of sections 368.47 to 368.49 the county shall acquire title to any telephone company or any other business being conducted by such town and such business shall be operated by the board of county commissioners until such time as a sale thereof can be made; provided that the subscribers or patrons of such businesses shall have the first opportunity of purchase. If such dissolved town has any outstanding indebtedness chargeable to such business, the auditor of the county wherein such dissolved town is located shall levy a tax against the property situated in the dissolved town for the purpose of paying the indebtedness as it becomes due.

Sec. 12. Minnesota Statutes 1989 Supplement, section 370.01, is amended to read:

370.01 [CHANGE OF BOUNDARIES; CREATION OF NEW COUNTIES.]

The boundaries of counties may be changed by taking territory from a county and attaching it to an adjoining county, and new counties may be established out of territory of one or more existing counties. A new county shall contain at least 400 square miles, have at least 2,000 inhabitants, and have a ~~net tax capacity~~ *market value* of at least ~~\$4,000,000~~ *\$17,000,000*. An existing county shall not be reduced in area below 400 square miles, have less than 2,000 inhabitants, or have a ~~net tax capacity~~ *market value* of less than ~~\$4,000,000~~ *\$17,000,000*.

In existing counties having an area of more than 3,500 and less than 6,000 square miles, boundaries may be changed and new counties established having a ~~net tax capacity~~ *market value* of at least ~~\$2,500,000~~ \$10,000,000.

No change in the boundaries of any county having an area of more than 2,500 square miles, whether by the creation of a new county, or otherwise, shall detach from the existing county any territory within 12 miles of the county seat.

Sec. 13. Minnesota Statutes Second 1989 Supplement, section 373.40, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given.

(a) "Bonds" means an obligation as defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, buildings, or other improvements within the county for the purpose of a county courthouse, administrative building, health or social service facility, correctional facility, jail, law enforcement center, hospital, morgue, library, park, and roads and bridges. An improvement must have an expected useful life of five years or more to qualify. "Capital improvement" does not include light rail transit or any activity related to it or a recreation or sports facility building (such as, but not limited to, a gymnasium, ice arena, racquet sports facility, swimming pool, exercise room or health spa), unless the building is part of an outdoor park facility and is incidental to the primary purpose of outdoor recreation.

(c) "Commissioner" means the commissioner of trade and economic development.

(d) "Metropolitan county" means a county located in the seven-county metropolitan area as defined in section 473.121 or a county with a population of 90,000 or more.

(e) "Population" means the population established by the most recent of the following (determined as of the date the resolution authorizing the bonds was adopted):

(1) the federal decennial census,

(2) a special census conducted under contract by the United States Bureau of the Census, or

(3) a population estimate made either by the metropolitan council or by the state demographer under section 116K.04, subdivision 4, clause (10).

(f) "Tax capacity" means total taxable ~~tax capacity~~ *market value*, but does not include captured ~~tax capacity~~ *market value*.

Sec. 14. Minnesota Statutes 1989 Supplement, section 385.31, is amended to read:

385.31 [PAYMENT OF COUNTY ORDERS OR WARRANTS.]

When any order or warrant drawn on the treasurer is presented for payment, if there is money in the treasury for that purpose, the county treasurer shall redeem the same, and write across the entire face thereof the word "redeemed," the date of the redemption, and the treasurer's official signature. If there is not sufficient funds in the proper accounts to pay such

orders they shall be numbered and registered in their order of presentation, and proper endorsement thereof shall be made on such orders and they shall be entitled to payment in like order. Such orders shall bear interest at not to exceed the rate of six percent per annum from such date of presentment. The treasurer, as soon as there is sufficient money in the treasury, shall appropriate and set apart a sum sufficient for the payment of the orders so presented and registered, and, if entitled to interest, issue to the original holder a notice that interest will cease in 30 days from the date of such notice; and, if orders thus entitled to priority of payment are not then presented, the next in order of registry may be paid until such orders are presented. No interest shall be paid on any order, except upon a warrant drawn by the county auditor for that purpose, giving the number and the date of the order on account of which the interest warrant is drawn. In any county in this state now or hereafter having a ~~net tax capacity~~ *market value* of all taxable property, exclusive of money and credits, of not less than ~~\$250,000,000~~ *\$1,033,000,000*, the county treasurer, in order to save payment of interest on county warrants drawn upon a fund in which there shall be temporarily insufficient money in the treasury to redeem the same, may borrow temporarily from any other fund in the county treasury in which there is a sufficient balance to care for the needs of such fund and allow a temporary loan or transfer to any other fund, and may pay such warrants out of such funds. Any such money so transferred and used in redeeming such county warrants shall be returned to the fund from which drawn as soon as money shall come in to the credit of such fund on which any such warrant was drawn and paid as aforesaid. Any county operating on a cash basis may use a combined form of warrant or order and check, which, when signed by the chair of the county board and by the auditor, is an order or warrant for the payment of the claim, and, when countersigned by the county treasurer, is a check for the payment of the amount thereof.

Sec. 15. Minnesota Statutes 1989 Supplement, section 386.34, is amended to read:

386.34 [DEPUTIES, SALARIES.]

The county board of each county having a population of less than 75,000, may by written order to be filed in the office of the county auditor allow one deputy county recorder in such county compensation for services as such deputy, to be fixed by the board and specified in said order. In each county containing less than 15 full and fractional congressional townships, and having more than 16,000 and less than 19,000 inhabitants according to the 1940 federal census, and having a ~~net tax capacity~~ *market value* of less than ~~\$7,000,000~~ *\$29,000,000*, exclusive of moneys and credits, the county board may by written order to be filed in the office of the county auditor allow one deputy county recorder in such county compensation for services as such deputy not exceeding \$1,800 per year.

Sec. 16. Minnesota Statutes 1989 Supplement, section 412.081, subdivision 1, is amended to read:

Subdivision 1. [ELECTION, ASSESSMENT DISTRICTS.] Any statutory city hereafter organized shall be constituted an election and assessment district separate from the town in which it lies immediately upon incorporation, except that if the incorporation occurs between March 15 and July 1 the town assessor shall assess the property in the city that year and the city assessor shall not assume duties until the following year. Where the town assessor makes the assessment, the city shall pay such proportion

of the cost of the assessment as its net tax capacity bears to the ~~assessed valuation~~ *net tax capacity* of the town, including the city.

Sec. 17. Minnesota Statutes 1989 Supplement, section 412.221, subdivision 2, is amended to read:

Subd. 2. [CONTRACTS.] The council shall have power to make such contracts as may be deemed necessary or desirable to make effective any power possessed by the council. The city may purchase personal property through a conditional sales contract and real property through a contract for deed under which contracts the seller is confined to the remedy of recovery of the property in case of nonpayment of all or part of the purchase price, which shall be payable over a period of not to exceed five years. When the contract price of property to be purchased by contract for deed or conditional sales contract exceeds ~~one~~ *0.24177* percent of the ~~net tax capacity~~ *market value* of the city, the city may not enter into such a contract for at least ten days after publication in the official newspaper of a council resolution determining to purchase property by such a contract; and, if before the end of that time a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular city election is filed with the clerk, the city may not enter into such a contract until the proposition has been approved by a majority of the votes cast on the question at a regular or special election.

Sec. 18. Minnesota Statutes 1989 Supplement, section 430.102, subdivision 2, is amended to read:

Subd. 2. [COUNCIL APPROVAL; SPECIAL TAX LEVY LIMITATION.] The council shall receive and consider the estimate required in subdivision 1 and the items of cost after notice and hearing before it or its appropriate committee as it considers necessary or expedient, and shall approve the estimate, with necessary amendments. The amounts of each item of cost estimated are then appropriated to operate, maintain, and improve the pedestrian mall during the next fiscal year. The amount of the special tax to be charged under subdivision 1, clause (3), must not, however, exceed ~~50 cents per \$100~~ *0.12089 percent* of ~~net tax capacity~~ *market value* of taxable property in the district. The council shall make any necessary adjustment in costs of operating and maintaining the district to keep the amount of the tax within this limitation.

Sec. 19. Minnesota Statutes 1989 Supplement, section 465.04, is amended to read:

465.04 [ACCEPTANCE OF GIFTS.]

Cities of the second, third, or fourth class, having at any time a ~~net tax capacity~~ *market value* of not more than ~~\$10,000,000~~ *\$41,000,000*, exclusive of money and credits, as officially equalized by the commissioner of revenue, either under home rule charter or under the laws of this state, in addition to all other powers possessed by them, hereby are authorized and empowered to receive and accept gifts and donations for the use and benefit of such cities and the inhabitants thereof upon terms and conditions to be approved by the governing bodies of such cities; and such cities are authorized to comply with and perform such terms and conditions, which may include payment to the donor or donors of interest on the value of the gift at not exceeding five percent per annum payable annually or semiannually, during the remainder of the natural life or lives of such donor or donors.

Sec. 20. Minnesota Statutes 1989 Supplement, section 471.24, is amended

to read:

471.24 [STATUTORY CITIES AND TOWNS MAY JOIN IN MAINTAINING CEMETERIES.]

Where a statutory city or town owns and maintains an established cemetery or burial ground, either within or without the municipal limits, the statutory city or town may, by mutual agreement with contiguous statutory cities and towns, each having a ~~net tax capacity~~ *market value* of not less than ~~\$500,000~~ \$2,000,000, join together in the maintenance of such public cemetery or burial ground for the use of the inhabitants of each of such municipalities; and each such municipality is hereby authorized, by action of its council or governing body, to levy a tax or make an appropriation for the support and maintenance of such cemetery or burial ground; provided, the amount thus levied or appropriated by each municipality shall not exceed a total of \$10,000 in any one year.

Sec. 21. Minnesota Statutes 1989 Supplement, section 471.73, is amended to read:

471.73 [ACCEPTANCE OF PROVISIONS.]

In the case of any city within the class specified in 471.72 having a ~~net tax capacity~~ *market value*, as defined in section 471.72, in excess of ~~\$9,000,000~~ \$37,000,000; and in the case of any statutory city within such class having a ~~net tax capacity~~ *market value*, as defined in section 471.72, of less than ~~\$1,100,000~~ \$5,000,000; and in the case of any statutory city within such class which is governed by Laws 1933, chapter 211, or Laws 1937, chapter 356; and in the case of any statutory city within such class which is governed by Laws 1929, chapter 208, and has a ~~net tax capacity~~ *market value* of less than ~~\$20,000,000~~ \$83,000,000; and in the case of any school district within such class having a ~~net tax capacity~~ *market value*, as defined in section 471.72, of more than ~~\$13,000,000~~ \$54,000,000; and in the case of all towns within said class; sections 471.71 to 471.83 apply only if the governing body of the city or statutory city, the board of the school district, or the town board of the town shall have adopted a resolution determining to issue bonds under the provisions of sections 471.71 to 471.83 or to go upon a cash basis in accordance with the provisions thereof.

Sec. 22. Minnesota Statutes 1989 Supplement, section 475.58, subdivision 2, is amended to read:

Subd. 2. [FUNDING, REFUNDING.] Any city, town or school district whose outstanding gross debt, including all items referred to in section 475.51, subdivision 4, exceed in amount ~~6-2/3~~ 1.62 percent of its ~~net tax capacity~~ *market value* may issue bonds under this subdivision for the purpose of funding or refunding such indebtedness or any part thereof. A list of the items of indebtedness to be funded or refunded shall be made by the recording officer and treasurer and filed in the office of the recording officer. The initial resolution of the governing body shall refer to this subdivision as authority for the issue, state the amount of bonds to be issued and refer to the list of indebtedness to be funded or refunded. This resolution shall be published once each week for two successive weeks in a legal newspaper published in the municipality or if there be no such newspaper, in a legal newspaper published in the county seat. Such bonds may be issued without the submission of the question of their issue to the electors unless within ten days after the second publication of the resolution a petition requesting such election signed by ten or more voters who are

taxpayers of the municipality, shall be filed with the recording officer. In event such petition is filed, no bonds shall be issued hereunder unless authorized by a majority of the electors voting on the question.

Sec. 23. Minnesota Statutes 1989 Supplement, section 475.73, subdivision 1, is amended to read:

Subdivision 1. Obligations sold under the provisions of section 475.60 may be purchased by the state board of investment if the obligations meet the requirements of section 11A.24, subdivision 2, upon the approval of the attorney general as to form and execution of the application therefor, and under rules as the board may specify, and the state board shall have authority to purchase the same to an amount not exceeding 45 3.63 percent of the ~~net tax capacity~~ *market value* of the taxable property of the municipality, according to the last preceding assessment. The obligations shall not run for a shorter period than one year, nor for a longer period than 30 years and shall bear interest at a rate to be fixed by the state board but not less than two percent per annum. Forthwith upon the delivery to the state of Minnesota of any obligations issued by virtue thereof, the commissioner of finance shall certify to the respective auditors of the various counties wherein are situated the municipalities issuing the same, the number, denomination, amount, rate of interest and date of maturity of each obligation.

Sec. 24. Minnesota Statutes 1989 Supplement, section 505.173, subdivision 1, is amended to read:

Subdivision 1. [CERTAIN DEFECTS.] In all cases where the plats, or what purports to be plats, of any portion of the lands contained within any additions to or subdivisions of any town or city, situated in any county having less than 15 full and fractional congressional townships, having less than 15,000 inhabitants according to the 1940 federal census, and having an ~~net tax capacity~~ *assessed value* of more than \$7,500,000 and less than \$8,500,000, exclusive of money and credits which have been executed and filed in an office of any county recorder previous to January 1, 1915, (1) fail to identify or correctly describe the land to be so platted or to show correctly upon their face the tract of land intended or purported to be platted thereby, or (2) are defective by reason of the plat and the description of the land purported to be so platted thereby being inconsistent or incorrect, or (3) there exists a defect in the execution of said plats on the part of the grantors thereof, the governing board or council of the municipality containing land so platted or purported to be so platted may authorize, within two years from April 21, 1951, referring by the record book and page of such plat or plats in the office of the county recorder to the plat or plats to be corrected, the making of one or more plats which shall correctly show on the face thereof and by description of the land intended to be platted, which plat or plats may vary from the original plats in description as to lots and blocks to suit the best purpose and secure the best results. Such plat or plats, in a declaration thereon, shall recite such resolution and shall identify each separate tract of land described therein with such tract of land in the purported plat or plats intended to be corrected thereby, and shall be certified by the proper officers of the municipality as to authorization and by an engineer or surveyor as to correctness, and the signatures of such persons shall be acknowledged in like manner as a deed.

Sec. 25. [EFFECTIVE DATE.]

Section 22 is effective for bonds issued after the date of enactment of

this act. The remainder of this article is effective the day following final enactment of this act.

ARTICLE 10

MISCELLANEOUS

Section 1. Minnesota Statutes 1989 Supplement, section 270.73, subdivision 1, is amended to read:

Subdivision 1. [POSTING, NOTICE.] Pursuant to *the authority to disclose under section 270B.12, subdivision 4*, the commissioner shall, by the 15th of each month, submit to the commissioner of public safety a list of all taxpayers who are required to withhold or collect the tax imposed by section 290.92 or 297A.02 *or a local option tax administered and collected by the commissioner of revenue and who are 30 days or more delinquent in either filing a tax return or paying the tax.*

The commissioner of revenue is under no obligation to list a taxpayer whose business is inactive. At least ten days before notifying the commissioner of public safety, the commissioner of revenue shall notify the taxpayer of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a taxpayer previously listed cures the delinquency by filing all returns and paying all taxes, the commissioner shall notify the commissioner of public safety within two business days that the delinquency was cured.

Sec. 2. Minnesota Statutes 1988, section 270A.03, subdivision 2, is amended to read:

Subd. 2. "Claimant agency" means any state agency, as defined by section 14.02, subdivision 2, the regents of the University of Minnesota, any district court of the state, any county, *any statutory or home rule charter city presenting a claim for a municipal hospital, a hospital district, any public agency responsible for child support enforcement, and any public agency responsible for the collection of court-ordered restitution.*

Sec. 3. Minnesota Statutes 1988, section 270A.03, subdivision 5, is amended to read:

Subd. 5. "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 and restitution. A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.

A debt does not include ~~(1) any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant; or (2).~~

A debt does not include any legal obligation to pay a claimant agency for medical care, including hospitalization if the income of the debtor would have qualified for a low income credit equal to tax liability pursuant to Minnesota Statutes 1984, section 290.06, subdivision 3d, clause (1), at the time when the medical care was rendered; provided that, for purposes of this subdivision, does not exceed the following amount:

(1) for an unmarried debtor, an income of \$6,400 or less;

- (2) for a debtor with one dependent, an income of \$8,200 or less;
- (3) for a debtor with two dependents, an income of \$9,700 or less;
- (4) for a debtor with three dependents, an income of \$11,000 or less;
- (5) for a debtor with four dependents, an income of \$11,600 or less;
- and
- (6) for a debtor with five or more dependents, an income of \$12,100 or less.

The income amounts in ~~that section~~ *this subdivision* shall be adjusted for inflation for debts incurred in calendar years ~~1987~~ 1991 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 290.06, subdivision 2d, for the expansion of the tax rate brackets.

Sec. 4. Minnesota Statutes 1988, section 270A.03, subdivision 7, is amended to read:

Subd. 7. "Refund" means an individual income tax refund, pursuant to chapter 290, or a property tax credit or refund, pursuant to chapter 290A.

For purposes of this chapter, lottery prizes, as set forth in section 349A.08, subdivision 8, shall be treated as refunds.

Sec. 5. Minnesota Statutes 1988, section 270A.04, subdivision 2, is amended to read:

Subd. 2. Any debt owed to a claimant agency shall be submitted by the agency for collection under the procedure established by sections 270A.01 to 270A.12 unless (a) an alternative means of collection is pending and ~~believed to be adequate~~ *the debtor is complying with the terms of alternative means of collection*, (b) the collection attempt would result in a loss of federal funds, or (c) the agency is unable to supply the department with the necessary identifying information required by subdivision 3 or rules promulgated by the commissioner, or (d) the debt is barred by section 541.05.

Sec. 6. Minnesota Statutes 1988, section 270A.08, subdivision 2, is amended to read:

Subd. 2. (a) This written notice shall clearly and with specificity set forth the basis for the claim to the refund including the name of the benefit program involved if the debt arises from a public assistance grant and the dates on which the debt was incurred and, further, shall advise the debtor of the claimant agency's intention to request setoff of the refund against the debt.

(b) The notice will also advise the debtor *that any debt incurred more than six years from the date of the notice to the commissioner under section 270A.07 must not be setoff against a refund and will advise the debtor of the right to contest the validity of the claim at a hearing. The debtor must assert this right by written request to the claimant agency, which request the agency must receive within 45 days of the mailing date of the original notice or of the corrected notice, as required by subdivision 1. If the debtor has not received the notice, the 45 days shall not commence until the debtor has received actual notice. The debtor shall have the burden of showing no notice and shall be entitled to a hearing on the issue of notice as well as on the merits.*

Sec. 7. Minnesota Statutes 1989 Supplement, section 270B.07, is amended by adding a subdivision to read:

Subd. 5. [INQUIRIES RELATED TO APPLICATIONS FOR LIQUOR LICENSES.] The commissioner may disclose and certify to a requesting county or municipality whether or not an applicant for a license to be issued under section 340A.403 or sections 340A.404 to 340A.406 is liable for state or local taxes or assessments that were not paid when they became due. The commissioner shall not disclose or certify that the license applicant is liable for unpaid state or local taxes or assessments if an administrative or court action which questions the amount or validity of the unpaid taxes or assessments has been commenced, or if the appeal period to contest the taxes or assessments has not yet expired.

Sec. 8. Minnesota Statutes Second 1989 Supplement, section 349.212, subdivision 4, is amended to read:

Subd. 4. [PULL-TAB AND TIPBOARD TAX.] (a) There is imposed a tax on the sale of each deal of pull-tabs and tipboards sold by a licensed distributor. The rate of the tax is two percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the licensed distributor is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A ~~if the tax imposed by this subdivision has been paid~~ and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer, to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

- (1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;
- (2) sales to distributors licensed under this chapter;
- (3) sales to distributors licensed under the laws of another state or of a Province of Canada, as long as all statutory and regulatory requirements are met in the other state or province; and
- (4) sales of promotional tickets as defined in section 349.12.

(c) Pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.214, subdivision 2, paragraph (b), are exempt from the tax imposed by this subdivision. A distributor must require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to such an organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

Sec. 9. Minnesota Statutes 1988, section 349.212, is amended by adding a subdivision to read:

Subd. 7. [UNTAXED PULL-TABS AND TIPBOARDS.] In addition to penalties or criminal sanctions imposed by this chapter, any person, organization, or business entity possessing a pull-tab or tipboard upon which the tax imposed by subdivision 4 has not been paid is liable for a tax of six percent of the ideal gross of each pull-tab or tipboard. The tax on a partial deal shall be assessed as if it were a full deal.

The tax shall be assessed by the commissioner. An assessment shall be considered a jeopardy assessment or jeopardy collection as provided in section 270.70. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show its incorrectness or invalidity.

Sec. 10. Minnesota Statutes 1989 Supplement, section 383.06, is amended to read:

383.06 [PAYMENT OF WARRANTS; ACCOUNTS; HOW KEPT; CERTIFICATES OF INDEBTEDNESS TO RETIRE OUTSTANDING WARRANTS.]

The county treasurer shall pay warrants only from the fund from which they are legally payable. Payments under any special contract shall be kept separate under the name of such contract, and under the general title of the fund from which such payment may be legally made. The treasurer need not keep a specific appropriations account separately, but shall keep a general appropriations account.

~~In any county having a net tax capacity of not less than \$150,000,000, exclusive of money and credits.~~ The county board may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for such fund, but the certificates outstanding for any such separate funds shall not at any time exceed 50 percent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which the tax levy was made, and the certificates shall not be sold for less than par and accrued interest ~~and shall not bear a greater rate of interest than six percent per annum.~~ No such certificates shall be issued prior to the beginning of the fiscal year for which the taxes so anticipated were intended, except that when taxes shall have been levied for the purpose of paying a deficit in any such fund carried over from any previous year or years certificates of indebtedness in anticipation of collection of the taxes levied for such deficit may be issued at any time after such levy shall have been finally made and certified to the county auditor. Each certificate shall state upon its face for which fund the proceeds thereof shall be used, the total amount of certificates so issued, and the whole amount embraced in the levy for that particular purpose. They shall be numbered consecutively, be in denominations of \$100 or a multiple thereof, may have interest coupons attached, shall be otherwise of such form and terms, and may be made payable at

such place, as will best aid in their negotiation, and the proceeds of the tax assessed and collected on account of the fund and the full faith and credit of the county shall be irrevocably pledged for the redemption and payment of the certificates so issued. Such certificates shall be payable primarily from the moneys derived from the levy for the years against which such certificates were issued, but shall constitute unlimited general obligations of the county. Moneys derived from the sale of such certificates shall be credited to the fund or funds the taxes for which are so anticipated.

Sec. 11. Minnesota Statutes 1988, section 524.3-301, is amended to read:

524.3-301 [INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS; APPLICATION; CONTENTS.]

An informal probate proceeding is an informal proceeding for the probate of decedent's will with or without an application for informal appointment. An informal appointment proceeding is an informal proceeding for appointment of a personal representative in testate or intestate estates. These proceedings may be combined in a single proceeding. Applications for informal probate or informal appointment shall be directed to the registrar, and verified by the applicant, in accordance with section 524.1-310, to be accurate and complete to the best of applicant's knowledge and belief as to the following information:

(1) Every application for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative, shall contain the following:

(i) a statement of the interest of the applicant;

(ii) the name, *social security number*, birthdate, and date of death of the decedent, and the county and state of the decedent's domicile at the time of death, and the names and addresses of the spouse, children, heirs, and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;

(iii) if the decedent was not domiciled in the state at the time of death, a statement showing venue;

(iv) a statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated;

(v) a statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.

(2) An application for informal probate of a will shall state the following in addition to the statements required by (1):

(i) that the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application;

(ii) that the applicant, to the best of the applicant's knowledge, believes the will to have been validly executed;

(iii) that after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will, and that the applicant believes

that the instrument which is the subject of the application is the decedent's last will;

(iv) that the time limit for informal probate as provided in this article has not expired either because three years or less have passed since the decedent's death, or, if more than three years from death have passed, that circumstances as described by section 524.3-108 authorizing tardy probate have occurred.

(3) An application for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment shall adopt the statements in the application or petition for probate and state the name, address and priority for appointment of the person whose appointment is sought.

(4) An application for informal appointment of an administrator in intestacy shall state in addition to the statements required by (1):

(i) that after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under section 524.1-301, or, a statement why any such instrument of which the applicant may be aware is not being probated;

(ii) the priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 524.3-203.

(5) An application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted, and describe the priority of the applicant.

(6) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in section 524.3-610(c), or whose appointment has been terminated by death or removal, shall adopt the statements in the application or petition which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the applicant.

Sec. 12. [REPEALER.]

Minnesota Statutes 1988, sections 290.612; and 297A.431, are repealed.

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 12 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to taxation; recodifying and providing for the administration of certain taxes; making corrections and changes in the administration, collection, and enforcement of taxes, aids, credits, and refunds; transferring certain powers and duties; granting certain powers to counties; imposing penalties; amending Minnesota Statutes 1988, sections 60A.198, by adding a subdivision; 69.771, subdivision 3; 69.772, subdivision 2a; 69.774, subdivision 1; 116K.04, subdivision 4; 270.65; 270.67,

subdivisions 1 and 2; 270.68, subdivisions 1 and 3; 270.69, subdivisions 2, 3, 7, 8, and by adding a subdivision; 270.70, subdivision 1; 270A.03, subdivisions 2, 5, and 7; 270A.04, subdivision 2; 270A.08, subdivision 2; 274.01, subdivision 1; 275.54; 276.111; 277.15; 279.03, subdivision 2, and by adding a subdivision; 279.37, subdivision 1a; 282.01, subdivision 4; 282.09, subdivision 1; 282.261, subdivision 2; 287.21, subdivision 2; 290.05, subdivision 4; 290.17, subdivision 5; 290.39, subdivision 5; 290.49, subdivision 3; 290.92, subdivisions 6a, 12, 23, and 24; 290.93, subdivision 1; 290A.03, subdivision 3; 290A.04, subdivision 1; 290A.07, subdivision 3; 290A.19; 296.06, subdivision 2; 296.18, subdivisions 2 and 3; 296.25; 297A.01, subdivision 8; 297A.03, subdivision 2; 297A.041; 297A.14, subdivision 1; 297A.18; 297A.211, subdivision 3; 297A.25, subdivision 31; 297A.255, by adding a subdivision; 297B.035, subdivision 1; 299F21, subdivision 1; 349.212, by adding a subdivision; 477A.011, by adding a subdivision; 524.3-1001; 524.3-301; Minnesota Statutes 1989 Supplement, sections 38.18; 50.14, subdivision 4; 69.021, subdivision 6; 110.70; 118.12; 163.04, subdivision 3; 163.06, subdivision 6; 165.10, subdivision 1; 168.013, subdivision 5; 168A.10, subdivision 1; 270.06; 270.73, subdivision 1; 270B.07, by adding a subdivision; 272.16; 273.01; 273.11, subdivision 1; 279.01, subdivision 1; 290.39, subdivision 4; 290.92, subdivision 4c; 290.9201, subdivisions 7 and 8; 290.9705, subdivision 4; 297A.17; 298.28, subdivision 4; 365.025, subdivision 4; 368.01, subdivision 23; 368.44; 368.47; 370.01; 383.06; 385.31; 386.34; 412.081, subdivision 1; 412.221, subdivision 2; 430.102, subdivision 2; 465.04; 469.177, subdivision 1a; 471.24; 471.73; 475.58, subdivision 2; 475.73, subdivision 1; 477A.011, subdivision 15; 505.173, subdivision 1; Minnesota Statutes Second 1989 Supplement, sections 10A.31, subdivision 5; 60A.15, subdivision 1; 273.124, subdivision 6; 273.13, subdivision 25; 273.1391, subdivision 2; 273.1398, subdivisions 1, 2, 5, 5a, and 6; 274.14; 274.175; 275.07, subdivision 3; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, and 6; 276.09; 276.10; 276.11, subdivision 1; 277.01, subdivision 1; 277.02; 277.05; 277.06; 287.29, subdivision 1; 290.17, subdivision 2; 290.92, subdivision 4b; 290A.04, subdivisions 2h and 2i; 297A.01, subdivision 3; 290A.07, subdivision 2a; 349.212, subdivision 4; 373.40, subdivision 1; 473F08, subdivision 8a; 477A.012, subdivision 3; 477A.013, subdivision 3; Laws 1989, chapter 28, section 24; and Laws 1989, First Special Session chapter 1, articles 3, section 35; and 9, section 86; proposing coding for new law in Minnesota Statutes, chapter 270; proposing coding for new law as Minnesota Statutes, chapter 289A; repealing Minnesota Statutes 1988, sections 270.08; 270.10, subdivision 4; 270.651; 272.70; 290.05, subdivision 5; 290.067, subdivision 5; 290.23, subdivision 15; 290.281, subdivision 5; 290.29; 290.37, as amended; 290.39, as amended; 290.391; 290.40; 290.41; 290.42; 290.43; 290.44; 290.45; 290.46; 290.47; 290.49; 290.50, as amended; 290.52; 290.521; 290.522; 290.523, as amended; 290.53, subdivisions 1, 1a, 2, 2a, 3, 3a, 4, 5, 7, 8, 9, 10, and 11; 290.54; 290.56; 290.57; 290.58; 290.59; 290.611, subdivision 5; 290.612; 290.65; 290.92, subdivisions 6, 7, 8, 11, 13, 14, 15, and 18; 290.923, subdivision 7; 290.93; 290.931; 290.932; 290.933; 290.934, as amended; 290.935; 290.936; 290.974; 290A.06; 290A.11, subdivisions 1, 2, 3, and 4; 290A.111; 290A.112, as amended; 290A.12; 291.09; 291.11; 291.131; 291.14; 291.15, subdivisions 1 and 3; 291.215, subdivisions 2 and 3; 291.31, subdivisions 1 and 2; 291.32; 296.027; 296.16, subdivision 3; 296.17, subdivision 13; 296.18, subdivisions 3a and 7; 296.24; 297A.08; 297A.121; 297A.15, subdivision 3; 297A.26, subdivisions 1 and 4; 297A.27; 297A.275; 297A.29; 297A.30; 297A.31; 297A.32; 297A.33, subdivisions 1, 3, 4, and 5; 297A.34;

297A.35; 297A.37; 297A.39, subdivisions 1, 2, 2a, 3, 4, 5, 7, and 8; 297A.40; 297A.41, 297A.42; 297A.431; 297A.44, subdivision 2; Minnesota Statutes 1989 Supplement, sections 290.9201, subdivisions 4, 5, 9, and 10; 290.9705, subdivision 2; 290A.11, subdivision 1a; and 297A.20; Minnesota Statutes Second 1989 Supplement, sections 270.77 and 290.38; Minnesota Rules, parts 8052.0100; 8052.0200; and 8130.7800."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Peter McLaughlin, Paul Anders Ogren, Phil Carruthers, Ann H. Rest, Sidney Pauly

Senate Conferees: (Signed) Lawrence J. Pogemiller, Douglas J. Johnson, Ember D. Reichgott, LeRoy A. Stumpf, William V. Belanger, Jr.

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2480 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2480 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 49 and nays 11, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	McQuaid	Piper
Anderson	Davis	Johnson, D.J.	Mehrkens	Pogemiller
Beckman	Decker	Knaak	Metzen	Ramstad
Belanger	DeCramer	Laidig	Moe, R.D.	Renneke
Berglin	Dicklich	Langseth	Morse	Schmitz
Bernhagen	Diessner	Lantry	Novak	Solon
Bertram	Flynn	Lessard	Pariseau	Storm
Brataas	Frederickson, D.J.	Luther	Pehler	Stumpf
Chmielewski	Frederickson, D.R.	Marty	Peterson, R.W.	Vickerman
Cohen	Hughes	McGowan	Piepho	

Those who voted in the negative were:

Benson	Frederick	Kroening	Merriam	Spear
Berg	Knutson	Larson	Olson	Waldorf
Brandl				

So the bill, as amended by the Conference Committee, 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 Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1999: A bill for an act relating to agriculture; changing certain duties, procedures, and requirements related to organic food; amending Minnesota Statutes 1988, sections 31.92, by adding subdivisions; 31.94; and 31.95.

Senate File No. 1999 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1990

Mr. Pehler moved that the Senate do not concur in the amendments by the House to S.F. No. 1999, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2365:

H.F. No. 2365: A bill for an act relating to the collection and dissemination of data; proposing classifications of data as private and nonpublic; clarifying access to data on decedents; changing classification nomenclature as it relates to medical examiner's data; amending Minnesota Statutes 1988, sections 13.03, subdivision 3; 13.10, subdivision 3; 13.41, subdivision 2; 13.46, subdivision 4; 13.83, subdivisions 4, 5, 7, and 9; Minnesota Statutes 1989 Supplement, sections 13.46, subdivision 2; 13.83, subdivision 8; 13.84, subdivision 5a; 171.06, subdivision 3; 270B.14, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 1988, section 13.641.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Pugh, Carruthers and Marsh have been appointed as such committee on the part of the House.

House File No. 2365 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 11, 1990

Mr. Peterson, R.W. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2365, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2390:

H.F. No. 2390: A bill for an act relating to children; providing improved procedures to protect the safety and welfare of abused and neglected children; improving data practices; requiring the commissioner of health to encourage display of posters informing pregnant women of the dangers of alcohol use; excluding persons with a history of child abuse or criminal sexual behavior from certain protections for criminal offenders; increasing penalties for assault against a child when there is a past pattern of child abuse; increasing the penalties for malicious child punishment resulting in

great bodily harm and assaulting a child protection worker; including mental injuries and threatened injuries as abuse to be reported as maltreatment of minors; amending Minnesota Statutes 1988, sections 147.09; 259.40, subdivisions 1 and 4; 260.011, subdivision 2; 260.155, subdivision 1; 609.2231, by adding a subdivision; 626.556, subdivisions 1, 3, 4, and by adding a subdivision; 626.559, subdivision 2; Minnesota Statutes 1989 Supplement, sections 179A.03, subdivision 7; 245A.04, subdivision 3; 260.015, subdivision 2a; 260.161, subdivision 2; 260.171, subdivision 4; 260.221, subdivision 1; 364.09; 609.223; 609.377; 626.556, subdivisions 2, 10e, and 11; and 626.558, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 120; 144; and 245.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Vellenga, Wagenius, Kelly, Blatz and Janezich have been appointed as such committee on the part of the House.

House File No. 2390 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 11, 1990

Ms. Reichgott moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2390, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2230:

H.F. No. 2230: A bill for an act relating to public purchasing; establishing programs for purchasing from certain small targeted group businesses and businesses located in economically disadvantaged areas; requiring prompt payment to subcontractors; providing penalties; amending Minnesota Statutes 1988, sections 16B.07, by adding a subdivision; 16B.20, subdivisions 1 and 3; 161.321, subdivisions 1, 4, 5, and by adding a subdivision; Minnesota Statutes 1989 Supplement, sections 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 16B.226; 116J.68; 136.27; 136.72; 137.31, subdivision 6; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; and 473.142; Laws 1989, chapter 352, section 25; proposing coding for new law in Minnesota Statutes, chapters 16A; 16B; and 137; repealing Minnesota Statutes 1989 Supplement, sections 16B.189; 137.31, subdivision 3a; and 645.445, subdivision 5.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Jefferson, Winter and Pauly have been appointed as such committee on the part of the House.

House File No. 2230 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 11, 1990

Mrs. Adkins moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2230, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. introduced—

Senate Concurrent Resolution No. 11: A Senate concurrent resolution relating to adjournment for more than three days.

BE IT RESOLVED, by the Senate of the State of Minnesota, the House of Representatives concurring:

1. Upon their adjournments on April 12, 1990, the Senate and House of Representatives may each set its next day of meeting for April 17, 1990.
2. Each house consents to adjournment of the other house for more than three days.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 2173: Messrs. Lessard, Merriam and Frederickson, D.R.

S.F. No. 1983: Messrs. Bertram, Spear and Mrs. McQuaid.

S.F. No. 1854: Messrs. Peterson, R.W.; Merriam and Knaak.

S.F. No. 2156: Messrs. Pehler, Vickerman and Frederickson, D.J.

S.F. No. 1999: Messrs. Pehler, Davis and Mehrkens.

S.F. No. 2108: Messrs. Solon, Spear and Anderson.

S.F. No. 2213: Messrs. DeCramer, Purfeerst and Mrs. McQuaid.

S.F. No. 1874: Messrs. Cohen, Merriam and Knaak.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Mr. Gustafson was excused from the Session of today. Mr. Laidig was excused from the Session of today from 10:00 to 11:30 a.m. and 5:20 to 7:10 p.m. Mr. Frank was excused from the Session of today from 12:45 to 4:15 p.m. and at 9:15 p.m. Mr. Spear was excused from the Session of today from 10:00 a.m. to 12:30 p.m. and 6:00 to 9:00 p.m. Mr. Beckman was excused from the Session of today from 2:00 to 2:15 p.m. Mr. Lessard was excused from the Session of today from 1:20 to 1:30 p.m. and 4:30 to 4:50 p.m. Mr. Dahl was excused from the Session of today from 5:30 to 8:00 p.m. Mr. Purfeerst was excused from the Session of today at 6:00 p.m. Ms. Flynn, Berglin and Reichgott were excused from the Session of today from 6:00 to 9:15 p.m. Mrs. Pariseau was excused from the Session of today from 6:00 to 9:00 p.m. Mr. Freeman was excused from the Session of today from 12:00 noon to 3:15 p.m. and at 7:45 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 11:00 a.m., Thursday, April 12, 1990. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate