THIRTY-FOURTH DAY

St. Paul, Minnesota, Wednesday, April 17, 1991

The Senate met at 12:30 p.m. and was called to order by the President.

CALL OF THE SENATE

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

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

Adkins	DeCramer	Johnson, J.B.	Metzen	Reichgott
Beckman	Dicklich	Johnston	Moe, R.D.	Renneke
Belanger	Finn	Kelly	Mondale	Riveness
Benson, D.D.	Flynn	Kroening	Morse	Sams
Benson, J.E.	Frank	Laidig	Neuville	Samuelson
Berg	Frederickson, D.J.	Langseth	Novak	Solon
Berglin	Frederickson, D.R.	Larson	Olson	Spear
Bernhagen	Gustafson	Lessard	Pappas	Storm
Bertram	Halberg	Luther	Pariseau	Stumpf
Brataas	Hottinger	Marty	Piper	Traub
Cohen	Hughes	McGowan	Pogemiller	Vickerman
Dahl	Johnson, D.E.	Mehrkens	Price	Waldorf
Day	Johnson, D.J.	Merriam	Ranum	

The President declared a quorum present.

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

MEMBERS EXCUSED

Messrs. Davis and Knaak were excused from the Session of today.

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. 252 and 734.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 15, 1991

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. 187: A bill for an act relating to mental health; authorizing competent persons to make advance declarations regarding mental health treatment; requiring certain notices to be given to the designated agency; amending Minnesota Statutes 1990, sections 253B.03; 253B.18, subdivisions 4b and 5; and 253B.19, subdivision 2.

Senate File No. 187 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 15, 1991

Mr. Spear moved that the Senate do not concur in the amendments by the House to S.F. No. 187, 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 House Files, herewith transmitted: H.F. Nos. 21, 274, 299, 726, 456, 471, 594, 611, 696, 772, 1299 and 807.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 15, 1991

FIRST READING OF HOUSE BILLS

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

H.F. No. 21: A bill for an act relating to waste management; requiring air emission permits for new or expanded infectious waste incinerators; requiring environmental impact statements for the incinerators until new rules are adopted; proposing coding for new law in Minnesota Statutes, chapter 116.

Referred to the Committee on Environment and Natural Resources.

H.F. No. 274: A bill for an act relating to commerce; motor vehicle sales and distribution; regulating franchises; proscribing certain acts; providing remedies; amending Minnesota Statutes 1990, sections 80E.04, subdivision 1, and by adding a subdivision; 80E.05; 80E.06, subdivision 2; 80E.12; and 80E.13.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 241, now on General Orders.

H.F. No. 299: A bill for an act relating to state government; describing conditions of certain employee interchange programs; authorizing the continuation of surviving spouse benefits for local police and salaried firefighter relief associations in the event of remarriage; amending Minnesota Statutes

1990, section 15.53, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 352 and 423A.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 377.

H.F. No. 726: A bill for an act relating to real property; providing for cause of action on an interest in real property of a married person when the property was conveyed by the person's spouse before March 1, 1977; amending Minnesota Statutes 1990, section 519.101.

Referred to the Committee on Judiciary.

H.F. No. 456: A bill for an act relating to adoption; clarifying the requirements for consents; amending Minnesota Statutes 1990, section 259.24, subdivision 5.

Referred to the Committee on Judiciary.

H.F. No. 471: A resolution memorializing the International Special Olympics Committee in support of the 1991 International Special Olympics Games.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 436, now on the Consent Calendar.

H.F. No. 594: A bill for an act relating to foreign money claims; enacting the uniform foreign-money claims act; proposing coding for new law in Minnesota Statutes, chapter 548.

Referred to the Committee on Judiciary.

H.F. No. 611: A bill for an act relating to retirement; local police and salaried firefighters relief associations; authorizing the payment of a refund to the designated beneficiary of certain decedents; proposing coding for new law in Minnesota Statutes, chapter 423A.

Referred to the Committee on Governmental Operations.

H.F. No. 696: A bill for an act relating to education; revising membership requirements for joint vocational technical boards; authorizing joint vocational technical boards to appoint additional members; amending Minnesota Statutes 1990, section 136C.61, subdivision 1; and by adding a subdivision.

Referred to the Committee on Education.

H.F. No. 772: A bill for an act relating to agriculture; changing the composition of county extension committees; amending Minnesota Statutes 1990, section 38.36, subdivision 1.

Referred to the Committee on Agriculture and Rural Development.

H.F. No. 1299: A bill for an act relating to agriculture; abolishing refund of checkoff fee paid by paddy wild rice producers; changing the definition of restricted seed potato growing area; amending Minnesota Statutes 1990, sections 17.63; and 21.1196, subdivision 1.

Referred to the Committee on Finance.

H.F. No. 807: A bill for an act relating to commerce; requiring real estate brokers and salespersons to receive instruction in fair housing laws; amending Minnesota Statutes 1990, section 82.22, subdivisions 6 and 13.

Referred to the Committee on Rules and Administration for comparison

with S.F. No. 689, now on General Orders.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 1069, 342, 1248, 462, 480, 546, 3 and the report pertaining to appointments. The motion prevailed.

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

S.F. No. 748: A bill for an act relating to education; allowing Minnesota pupils to enroll in districts located in counties in other states that border Minnesota and non-Minnesota pupils to enroll in Minnesota districts under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 120.

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

Page 2, line 13, delete "*pay tuition*" and insert "*reimburse the nonresident district,*"

Page 2, line 14, delete "*to a nonresident district*"

Page 2, line 20, delete "*January*" and insert "*July*"

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

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

S.F. No. 174: A bill for an act relating to education; revising certain open enrollment deadlines; amending Minnesota Statutes 1990, section 120.062, subdivisions 4, 6, and 8a.

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

Pages 2 and 3, delete section 3

Amend the title as follows:

Page 1, line 4, delete everything after "subdivisions" and insert "4 and 6."

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

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

S.F. No. 836: A bill for an act relating to education; allowing nonstate funds for construction on the St. Cloud State University campus.

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

Page 1, line 15, delete "*donated or*" and after "*leased*" insert "*and then donated*"

Page 1, line 16, after the period, insert "*The term of the lease shall not exceed five years.*"

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

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

S.F. No. 510: A bill for an act relating to agriculture; changing the egg law; imposing a penalty; amending Minnesota Statutes 1990, sections 29.21, by adding subdivisions; 29.22; 29.23; 29.235; 29.26; and 29.27; proposing coding for new law in Minnesota Statutes, chapter 29.

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

Page 5, line 17, after the period, insert "*Equipment in use before the effective date of sections 1 to 16 that does not meet the design and fabrication requirements of sections 1 to 16 may remain in use if it is in good repair, capable of being maintained in a sanitary condition, and is capable of maintaining a temperature of 50 degrees Fahrenheit (10 degrees celsius) or less.*"

Page 5, line 19, delete "*45*" and insert "*50*"

Page 5, line 20, delete "*7*" and insert "*10*"

Page 5, line 25, delete "*40*" and insert "*45*"

Page 5, line 26, delete "*4*" and insert "*7*" and after the period, insert "*After August 1, 1992, eggs offered for retail sale must be held at a temperature not to exceed 40 degrees Fahrenheit (4 degrees celsius). Equipment in use prior to August 1, 1991, is not subject to this requirement.*"

Page 5, line 28, delete "*an egg production house to or*"

Page 5, line 29, delete "*between*"

Page 5, line 31, delete "*45*" and insert "*50*" and delete "*7*" and insert "*10*"

Page 6, delete lines 12 and 13 and insert:

"*Pasteurized eggs must be used in uncooked or undercooked food or food containing unpasteurized eggs must be processed under a method*"

Pages 6 and 7, delete section 14

Page 8, line 23, delete "*Subdivision 1.* [MISDEMEANOR.]"

Page 8, line 33, delete the new language

Page 8, delete lines 34 to 36 and insert "*Each day a violation continues is a separate*"

Page 9, delete lines 2 to 7

Page 9, line 9, delete "*Changes in fees in*" and delete "*are*" and insert "*is*"

Renumber the sections in sequence

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

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 708: A bill for an act relating to retirement; contributions and benefit computation for members of the Richfield police relief association; amending Laws 1965, chapter 458, sections 2 and 4.

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

Delete everything after the enacting clause and insert:

"Section 1. [UNIT VALUE.]

"Unit" means, for the Richfield police relief association, that fractional part of the average monthly salary, including amounts paid as college incentive pay, of a first grade patrol officer for the 12 months of the previous calendar year, as determined by the articles of incorporation of the association, which fractional part shall never be less than 1/90 nor greater than 1/75 of average monthly salary.

Sec. 2. Laws 1965, chapter 458, section 2, is amended to read:

Sec. 2. An amount equal to ~~six~~ *eight* percent of the regular monthly salary of the highest paid ~~patrolman~~ *patrol officer* in the city police department, exclusive of all moneys for special assignments, allowances, or longevity payments, shall be deducted from the monthly salary of each police officer of the city and shall be paid into the ~~policemen's~~ *police* pension fund of the city. *Amounts paid as college incentive pay are included in the calculation of regular monthly salary and subject to deductions.*

Sec. 3. Laws 1965, chapter 458, section 4, is amended to read:

Sec. 4. No member of the police department of the city shall be eligible to receive a service pension until he reaches the age of ~~55~~ *50* years.

Sec. 4. Laws 1965, chapter 458, section 4, is amended by adding a section to read:

Sec. 4a. For members retiring at age 55, the unit used in computing pensions is 1/75 of the average monthly salary, including amounts paid as college incentive pay, of a first grade patrol officer for the 12 months of the previous calendar year. For members retiring at ages between 50 and 55, the unit is the following fractional part of the average monthly salary, including amounts paid as college incentive pay, of a first grade patrol officer for the 12 months of the previous calendar year:

Age	*Fractional part*
50	*1/80*
51	*1/79*
52	*1/78*
53	*1/77*
54	*1/76*

No member of the Richfield police relief association shall be subject to a reduction of accrued benefits for deferring the receipt of a service pension.

Sec. 5. [REPEALER.]

Laws 1957, chapter 455, section 2, subdivision 3, is repealed.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective upon an affirmative vote by the Richfield police relief association to consolidate with the public employees retirement association under Minnesota Statutes, section 353A.04, and on approval of sections 1 to 5 by the Richfield city council and compliance with Minnesota Statutes, section 645.021. Sections 1 and 2 are retroactive to January 1, 1990. Retroactive benefit payments under section 1 are payable in a lump sum as soon as practicable after the effective date, but are not payable to an estate."

Amend the title as follows:

Page 1, delete line 5 and insert "2, 4, and by adding a section; repealing Laws 1957, chapter 455, section 2, subdivision 3."

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

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 775: A bill for an act relating to pensions and retirement; recodifying, correcting, and amending certain laws relating to the Minneapolis police relief association; proposing coding for new law as Minnesota Statutes, chapter 423B.

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

Delete everything after the enacting clause and insert:

"Section 1. Laws 1953, chapter 127, section 1, is amended by adding a subdivision to read:

Subd. 2b. [SURVIVING SPOUSE MEMBER.] *"Surviving spouse member" means the person who was the legally married spouse of the member, residing with the decedent, and who was married while or prior to the time the decedent was on the payroll of the police department, and who, in case the deceased member was a pensioner or deferred pensioner, was legally married to the member at least one year before the decedent's retirement from the police department. The term does not include the surviving spouse who has deserted a member or who has not been dependent upon the member for support, nor does it include the surviving common law spouse of a member.*

Sec. 2. Laws 1965, chapter 493, section 3, as amended by Laws 1983, chapter 88, section 5, is amended to read:

Sec. 3. [INCORPORATION, GOVERNMENT BY BOARD.]

Subdivision 1. [MEMBERS, TERMS, ELECTIONS.] The association shall become incorporated. It shall be governed by a board of nine members. ~~The mayor, chief of police, and city comptroller/treasurer of the city shall be ex officio members of the board.~~ *The Minneapolis city council shall appoint two persons to serve as members. Those members shall be appointed for a term of two years. All city appointments will be effective from January 1 in the odd-numbered years through December 31 in the even-numbered years.* The other members of the board shall be elected by the members of the association. Those elected to the first board shall be elected for terms of

one, two, three, four, five years respectively; thereafter election shall be for a term of five years. Each elective member of the board shall hold office until his successor is elected and has qualified. Any vacancy in the office of an elective member of the board shall be filled by a special election called for that purpose. Any member so elected shall hold office for the balance of the term for which his predecessor was elected. Those members of the board shall continue to serve their present terms as provided by this section and the articles of incorporation and bylaws of the association. In 1983, the retired members shall separately from among themselves elect one member to serve on the board to serve a three-year term. This position shall continue to be filled by a retired member as in the same manner as provided for other elective members of the board; however, the election of this position shall be held every three years. In the years 1987, 1991, 1995, and 1999 when elections are held for board members, those board positions held by active members shall end and those board positions shall be filled by retired members from an election conducted amongst only the retired members, the term of office for those positions will be three years.

Beginning in 1991, the surviving spouse members of the relief association must elect from among themselves one surviving spouse member to serve as a member of the board for a three-year term. With the exception of a three-year term, the provisions of this section applicable to elective members of the board must govern the manner in which this position will be filled.

In the other years when elections are held to fill a board position of an active member only active members will vote. As long as there remains at least one active member on active duty with the Minneapolis police department, there shall be a member of the board of directors from the active ranks in accordance with the election procedures outlined in this section. The affairs of the association shall be regulated by its articles of incorporation and bylaws.

Subd. 2. [CONTINUATION OF BOARD.] *Notwithstanding the provisions of Minnesota Statutes, section 423A.01, subdivision 2, or any other law, the board of trustees and its successors established pursuant to subdivision 1 shall continue to govern the association until there are no more than 100 members of the police pension fund. The fund must thereafter become a trust fund in accordance with Minnesota Statutes, section 423A.01, subdivision 2.*

Sec. 3. Laws 1949, chapter 406, section 6, subdivision 3, as amended by Laws 1953, chapter 127, section 6; Laws 1965, chapter 493, section 3; and Laws 1983, chapter 88, section 11, is amended to read:

Subd. 3. [DISABLED MEMBERS.] Any active member who becomes disabled from performing his duties as a member of the police department of the city by reason of sickness or accident, if off the payroll of the police department, having exhausted all accumulated vacation, overtime, and sick leave credits due him, is entitled to receive from the association during his disability such benefits as the bylaws of the association provide, but such benefits shall not extend beyond a six-months period except when an active member is disabled because of an injury sustained while on duty. Such benefits may extend for an indefinite time during disability. The bylaws may provide that an active member shall have completed a minimum number of years of service in order to be entitled to such benefits. Before any such benefits shall be paid or allowed, notice of the disability and application

for benefits on account thereof shall be made to the secretary of the association within 90 days after such sickness or disability.

The bylaws may provide that such active member's periods of disability up to one year may be included in computing the member's total years of service for pension purposes.

Sec. 4. Laws 1949, chapter 406, section 4, subdivisions 2 and 3, as amended by Laws 1953, chapter 127, section 4; Laws 1965, chapter 534, section 1; Laws 1967, chapter 825, section 1; Laws 1969, chapter 258, section 1; Laws 1973, chapter 272, section 1; Laws 1975, chapter 428, section 1; Laws 1983, chapter 88, section 7; and Laws 1987, chapter 372, article 2, section 6, is amended to read:

Sec. 7. [MINNEAPOLIS, CITY OF; POLICEMEN'S PENSIONS.]

The policemen's pension fund shall be used only for the payment of:

(a) Service, disability or dependency pensions;

(b) Salaries of the secretary of the association in an amount not to exceed 30 percent of the base salary of a top-grade patrolman ~~and~~, of the president of the association in an amount not to exceed ten percent of the base salary of a top-grade patrolman, *and of the other elected members of the board of trustees in an amount not to exceed three units*;

(c) Expenses of officers and employees of the association in connection with the protection of the fund;

(d) All expenses of operating and maintaining the association;

(e) Hospital and medical insurance for pensioners who have completed 20 years or more of service or permanent disabilitants and surviving spouses of deceased active members, disabilitants, or service pensioners who have completed 20 years or more of service of one unit per month, such one unit to be added to the pension otherwise provided for herein; provided that a pensioner or surviving spouse may in writing authorize a deduction from their pension for an insurance plan adopted by the association;

(f) Health and welfare benefits of one unit per month in addition to other benefits for members who retire after July 1, 1980, and have completed 20 years or more of service or members who are permanent disabilitants; and

(g) Other expenses authorized by law.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day after compliance with Minnesota Statutes, section 645.021, by a majority of the Minneapolis city council."

Amend the title as follows:

Page 1, delete lines 2 to 5 and insert "relating to pensions and retirement; adding members to the board of the Minneapolis police relief association; amending Laws 1949, chapter 406, sections 4, subdivisions 2 and 3; and 6, subdivision 3, as amended; Laws 1953, chapter 127, section 1, by adding a subdivision; and Laws 1965, chapter 493, section 3, as amended."

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

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

S.F. No. 837: A bill for an act relating to natural resources; amending certain provisions concerning mineral exploration, exploratory boring, and data acquired in connection therewith; amending Minnesota Statutes 1990, sections 13.793, subdivision 2; 103I.601, subdivision 4; and 103I.605, subdivision 4.

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

Page 2, line 28, delete "*of the lease and,*" and insert a period

Page 2, line 29, after the comma, insert "*the data*"

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

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

S.F. No. 814: A bill for an act relating to public safety; authorizing the commissioner of public safety to develop a pilot program to require an ignition interlock device as a condition of a limited license for a driver whose license has been canceled and denied; requiring the commissioner to certify interlock devices; providing penalties for misuse or tampering and for failure to use the device; proposing coding for new law in Minnesota Statutes, chapter 171.

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

Page 3, delete lines 11 to 13

Page 3, delete section 2

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

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

S.F. No. 1069: A bill for an act relating to human rights; limiting certain defenses; amending Minnesota Statutes 1990, section 363.02, subdivision 5.

Reports the same back with the recommendation that the bill do pass. Mr. Stumpf questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 1034: A bill for an act relating to civil actions; increasing penalties for retaliation by employers under the child abuse and vulnerable adults reporting acts; amending Minnesota Statutes 1990, sections 626.556, subdivision 4a; and 626.557, subdivision 17.

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

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

S.F. No. 899: A bill for an act relating to torts; providing immunity against tort liability for claims arising out of the use of highways that provide access to timber; amending Minnesota Statutes 1990, sections 3.736, subdivision 3; 87.025; and 466.03, by adding a subdivision.

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

Page 3, line 13, delete "*highway*" and insert "*logging road*"

Pages 3 and 4, delete section 2

Page 4, line 5, before "*Any*" insert "[LOGGING ROADS.]"

Page 4, line 6, delete "*highway*" and insert "*logging road*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "87.025;"

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

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

S.F. No. 268: A bill for an act relating to human rights; lengthening the statute of limitations for human rights act violations; amending Minnesota Statutes 1990, sections 363.06, subdivision 3; and 363.116.

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

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

S.F. No. 691: A bill for an act relating to probate; authorizing the court to set aside certain transactions made prior to establishment of a guardianship or conservatorship; amending Minnesota Statutes 1990, section 525.56, by adding a subdivision.

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

Page 1, line 18, after "*void*" insert "*except as against a bona fide transferee for value*"

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

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

S.F. No. 822: A bill for an act relating to the environment; responsible person for removal and remediation of hazardous waste; providing that the state, an agency of the state, or a political subdivision that acquires property through eminent domain or through negotiated purchase following the filing of eminent domain petition, or any person acquiring from the condemning authority, is not liable as a responsible person solely because of the acquisition; clarifying the status of mortgagees and contract for deed vendors as responsible persons; amending Minnesota Statutes 1990, section 115B.03,

by adding subdivisions.

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

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

S.F. No. 873: A bill for an act relating to human services; establishing penalty provisions relating to those found to have wrongfully obtained assistance; limiting the availability of general assistance to those disqualified from the aid to families with dependent children program; expanding fraud prevention investigation programs; providing for a federally mandated penalty for intentionally falsifying a public assistance application; requiring courts to consider that a person will be disqualified from receiving public assistance, when determining the sentence for a person convicted of theft by wrongfully obtaining public assistance; clarifying appeal filing times for medical assistance providers; amending Minnesota Statutes 1990, sections 256.98, by adding a subdivision; 256.983; 256B.064, subdivision 2; 256D.05, by adding a subdivision; 609.52, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 256.

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

Page 4, line 3, after "*for*" insert "*food stamp*"

Page 4, line 4, delete "*chapters 256, 256B, 256D, 256I, and*" and insert "*chapter*"

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

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

S.F. No. 1206: A bill for an act relating to crimes; creating the gross misdemeanor offense of assaulting a public employee who is engaged in mandated duties; amending Minnesota Statutes 1990, section 609.2231, by adding a subdivision.

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

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

S.F. No. 753: A bill for an act relating to traffic safety; permitting evidence of DWI convictions to be admitted as evidence in certain civil proceedings; amending Minnesota Statutes 1990, section 169.94, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 169.121, subdivision 6, is amended to read:

Subd. 6. [PRELIMINARY SCREENING TEST.] When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or

has violated subdivision 1, the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether an arrest should be made and whether to require the tests authorized in section 169.123, but shall not be used in any court action except *(1)* to prove that a test was properly required of a person pursuant to section 169.123, subdivision 2*; or (2) in a civil action arising out of the operation or use of the motor vehicle*. Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169.123.

The driver who refuses to furnish a sample of the driver's breath is subject to the provisions of section 169.123 unless, in compliance with section 169.123, the driver submits to a blood, breath or urine test to determine the presence of alcohol or a controlled substance.

Sec. 2. Minnesota Statutes 1990, section 169.121, is amended by adding a subdivision to read:

Subd. 10a. [CIVIL ACTION; PUNITIVE DAMAGES.] *In a civil action involving a motor vehicle accident, evidence that the accident was caused by a driver (1) with a blood alcohol concentration of .10 or more, or (2) who was under the influence of alcohol or a controlled substance and refused to take a test required under section 169.123, subdivision 2, is sufficient for the trier of fact to consider an award of punitive damages under the standards and procedures of section 549.20. A criminal charge or conviction is not a prerequisite to consideration of punitive damages under this subdivision.*

Sec. 3. Minnesota Statutes 1990, section 169.94, is amended to read:

169.94 [RECORD OF CONVICTION.]

Subdivision 1. [NOT ADMISSIBLE AS EVIDENCE*; EXCEPTION*.] *(a) Except as provided in paragraph (b),* no record of the conviction of any person for any violation of this chapter shall be admissible as evidence in any court in any civil action.

(b) In any civil action arising out of a motor vehicle accident in which there is evidence that the accident was caused by a driver whose driving capacity was impaired, evidence that the driver has been convicted of violating section 169.121 or 169.129 is admissible, subject to any limitations imposed by the applicable Rules of Evidence.

Subd. 2. [NOT TO AFFECT CREDIBILITY AS WITNESS.] *Except as provided in subdivision 1, paragraph (b),* the conviction of a person upon a charge of violating any provision of this chapter or other traffic rule less than a felony shall not affect or impair the credibility of such person as a witness in any civil or criminal proceeding.

Sec. 4. [EFFECTIVE DATE.]

This act is effective August 1, 1991, and applies to convictions entered and civil actions commenced on or after that date."

Delete the title and insert:

"A bill for an act relating to traffic safety; permitting evidence of DWI convictions to be admitted as evidence in certain civil proceedings; amending Minnesota Statutes 1990, sections 169.121, subdivision 6, and by adding

a subdivision; and 169.94."

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

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

S.F. No. 762: A bill for an act relating to health; eliminating restrictions on disclosing birth record of a child born to an unmarried woman; amending Minnesota Statutes 1990, section 144.225, subdivision 1; repealing Minnesota Statutes 1990, section 144.225, subdivisions 2 and 4; and Minnesota Rules, part 4600.1300.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 144.225, subdivision 2, is amended to read:

Subd. 2. [~~INFORMATION~~ *DATA* ABOUT ~~CERTAIN~~ BIRTHS.] ~~Disclosure of information pertaining to~~ *(a) Except as otherwise provided in this subdivision, data pertaining to the birth of a child, including the original certificate of birth and the certified copy, are public data. At the time of* the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born ~~or information from which it can be ascertained, shall be made only to the guardian of the person, the person to whom the record pertains when the person is 18 years of age or older, a parent of the person born to a mother who was not married to the child's father when the child was conceived nor when the child was born as provided by section 144.218, subdivision 1, or upon order of a court of competent jurisdiction~~, *the mother may designate on the birth registration form whether data pertaining to the birth will be confidential data as defined in section 13.02, subdivision 3. Notwithstanding the designation of the data as confidential, it may be disclosed to a parent or guardian of the child, to the child when the child is 18 years of age or older, or pursuant to a court order. If the data are not designated as confidential, the data are public.*

(b) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision 5; 144.1761; 144.218, subdivision 1; and 259.49. The birth and death records of the commissioner of health shall be open to inspection by the commissioner of human services and it shall not be necessary for the commissioner of human services to obtain an order of the court in order to inspect records or to secure certified copies of them.

Sec. 2. Minnesota Statutes 1990, section 144.225, subdivision 4, is amended to read:

Subd. 4. [ACCESS TO RECORDS FOR RESEARCH PURPOSES.] The state registrar may permit persons performing medical research access to the information restricted in subdivision 2 if those persons agree in writing not to disclose private *or confidential* data on individuals."

Amend the title as follows:

Page 1, line 2, delete "eliminating" and insert "modifying"

Page 1, line 4, after the semicolon, insert "allowing the woman to designate whether data will be confidential;"

Page 1, delete lines 5 to 7 and insert "section 144.225, subdivisions 2 and 4."

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

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

S.F. No. 1244: A bill for an act relating to commerce; real estate brokers; clarifying exceptions to licensing requirements; amending Minnesota Statutes 1990, section 82.18.

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

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

S.F. No. 1198: A bill for an act relating to insurance; accident and health; requiring coverage for mental or nervous disorders treatment provided by licensed mental health professionals; amending Minnesota Statutes 1990, section 62A.152, subdivisions 2 and 3.

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

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

S.F. No. 875: A bill for an act relating to commerce; requiring an abstract holder to provide a written notice under certain circumstances; amending Minnesota Statutes 1990, section 386.375, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 386.375, subdivision 6, is amended to read:

Subd. 6. [OFFER TO TRANSFER.] Any person holding an abstract of title pertaining to real estate located in Minnesota shall, before ~~March 1, 1988~~ *August 1, 1991*, make a reasonable effort to contact the mortgagor or fee owner of the property and make a written offer to transfer the abstract of title to the mortgagor or fee owner. A person holding an abstract of title has made a reasonable effort to contact the mortgagor or fee owner if the person has sent an offer by United States mail, postage prepaid, to the last address of the mortgagor or fee owner shown in the person's records. *A person violating this subdivision is subject to a penalty of up to $100 for each violation.*"

Delete the title and insert:

"A bill for an act relating to commerce; requiring an abstract holder to offer to transfer an abstract of title to the mortgagor or fee owner; amending Minnesota Statutes 1990, section 386.375, subdivision 6."

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

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

S.F. No. 1315: A bill for an act relating to commerce; real estate appraisers; amending Minnesota Statutes 1990, sections 82B.02, subdivisions 8 and 12; 82B.05, subdivision 1; 82B.11; 82B.13, subdivision 1, and by adding subdivisions; 82B.14; 82B.15, subdivision 3; 82B.17; 82B.18; and 82B.19, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 82B; repealing Minnesota Statutes 1990, sections 82B.05, subdivision 2; 82B.13, subdivision 2; and 82B.225.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 82B.02, subdivision 8, is amended to read:

Subd. 8. [~~LICENSED~~ REAL ESTATE APPRAISER.] "~~Licensed~~ Real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid license issued ~~for licensed appraisal level I or II~~ under this chapter~~, including an appraiser employed by a state agency~~.

Sec. 2. Minnesota Statutes 1990, section 82B.02, subdivision 12, is amended to read:

Subd. 12. [STANDARDS OF PROFESSIONAL PRACTICE.] "Standards of professional practice" means the uniform standards of professional appraisal practice ~~adopted by~~ *of* the Appraisers Standards Board of the Appraisal Foundation *in effect* as of January 1, ~~1989~~ *1991*, or other version of these standards the commissioner may by order designate.

Sec. 3. Minnesota Statutes 1990, section 82B.05, subdivision 1, is amended to read:

Subdivision 1. [~~CREATION~~ *MEMBERS.*] The real estate appraiser advisory board consists of 15 members appointed by the commissioner of commerce. Three of the members must be public members, four must be consumers of appraisal services, and eight must be licensed real estate appraisers of whom not less than two members shall be ~~level II. Mere membership in an organization does not make a person the organization's representative on the board~~ *state real property appraisers, federal residential real property appraisers, or certified federal residential real property appraisers and not less than two members shall be certified federal general real property appraisers.*

Sec. 4. Minnesota Statutes 1990, section 82B.11, is amended to read:

82B.11 [CLASSES OF LICENSE.]

Subdivision 1. [GENERALLY.] There are ~~two~~ *five* classes of license for licensed real estate appraisers.

Subd. 2. [~~LEVEL I~~ *STATE REAL PROPERTY APPRAISER.*] ~~The licensed level I residential~~ *When a net income capitalization analysis is not required by the uniform standards of professional appraisal practice, a state* real ~~estate~~ *property* appraiser ~~is a person meeting the requirements for licensing relating to the appraisal of~~ *may appraise* residential real property or agricultural ~~acreage when a net income capitalization analysis is not required by the uniform standards of professional appraisal practice~~ *property*.

Subd. 3. [~~LEVEL II~~ *FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.*] ~~The licensed level II real estate appraiser is a person meeting the requirements for licensing relating to the appraisal of all types of real property~~ *A federal residential real property appraiser may appraise non-complex one to four residential units having a transaction value less than $1,000,000 and complex one to four residential units having a transaction value less than $250,000.*

Subd. 4. [CERTIFIED FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.] *A certified federal residential real property appraiser may appraise one to four residential units without regard to transaction value or complexity.*

Subd. 5. [CERTIFIED FEDERAL GENERAL REAL PROPERTY APPRAISER.] *A certified federal general real property appraiser may appraise all types of real property.*

Subd. 6. [TEMPORARY PRACTICE.] *The commissioner shall issue a license for temporary practice as a real estate appraiser under subdivision 3, 4, or 5 to a person certified or licensed by another state if:*

(1) the property to be appraised is part of a federally-related transaction and the person is licensed to appraise property limited to the same transaction value or complexity provided in subdivision 3, 4, or 5;

(2) the appraiser's business is of a temporary nature; and

(3) the appraiser registers with the commissioner to obtain a temporary license prior to conducting appraisals within the state.

Sec. 5. Minnesota Statutes 1990, section 82B.13, subdivision 1, is amended to read:

Subdivision 1. [~~LEVEL I CLASSIFICATION~~ *STATE REAL PROPERTY APPRAISER OR FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.*] As a prerequisite to taking the examination for licensing as a ~~licensed level I~~ *state* real ~~estate~~ *property appraiser or federal residential real property* appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 75 classroom hours of courses. The courses must consist of 60 hours of general real estate appraisal principles and 15 hours related to standards of professional *appraisal* practice and the provisions of this chapter.

Sec. 6. Minnesota Statutes 1990, section 82B.13, is amended by adding a subdivision to read:

Subd. 4. [CERTIFIED FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.] *As a prerequisite to taking the examination for licensing as a certified federal residential real an property appraiser, applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 165 classroom hours of courses, including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter, with particular emphasis on the appraisal of one to four unit residential properties.*

Sec. 7. Minnesota Statutes 1990, section 82B.13, is amended by adding a subdivision to read:

Subd. 5. [CERTIFIED FEDERAL GENERAL REAL PROPERTY APPRAISER.] *As a prerequisite to taking the examination for licensing as a certified federal general real property appraiser, an applicant must present*

evidence satisfactory to the commissioner that the person has successfully completed at least 165 classroom hours of courses, including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter, with particular emphasis on the appraisal of nonresidential properties.

Sec. 8. Minnesota Statutes 1990, section 82B.14, is amended to read:

82B.14 [EXPERIENCE REQUIREMENT.]

(a) ~~An original~~ *A* license ~~as a level II licensed real estate appraiser~~ *under section 82B.11, subdivision 3, 4, or 5,* may not be issued to a person who does not have the equivalent of two years of experience in real property appraisal supported by adequate written reports or file memoranda. This experience, or the equivalent of this experience, must be acquired within a period of five years immediately preceding the filing of the application for licensing.

(b) Each applicant for license ~~as a level II licensed real estate appraiser~~ *under section 82B.11, subdivision 3, 4, or 5,* shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

Sec. 9. Minnesota Statutes 1990, section 82B.15, subdivision 3, is amended to read:

Subd. 3. [PROCEDURE.] Service of process under this section may be made ~~by filing a copy of the process with the commissioner or a representative, but is not effective unless:~~ *under the provisions of section 45.028.*

~~(1) the plaintiff, who may be the commissioner in an action or proceeding started by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the address as shown by the records at the office of the commissioner in the case of service made on the commissioner as attorney by appointment under subdivision 1, and at the defendant's or respondent's last known address in the case of service on the commissioner as attorney by appointment under subdivision 2; and~~

~~(2) the plaintiff's affidavit of compliance with this subdivision is filed in the action or proceeding on or before the return day of the process, if any, or within any additional time the court or administrative law judge allows.~~

Sec. 10. Minnesota Statutes 1990, section 82B.17, is amended to read:

82B.17 [LICENSE DESIGNATION.]

When a licensed real estate appraiser uses the designation real estate appraiser or ~~licensed real estate appraiser~~ *similar terms* in an appraisal report or in a contract or other instrument used by the license holder in conducting real property appraisal activities or in advertisements, the appraiser shall place the ~~person's~~ *appraiser's* license number adjacent to or immediately below the designation used and indicate the class of license held.

Sec. 11. Minnesota Statutes 1990, section 82B.18, is amended to read:

82B.18 [USE OF TERM.]

The term "~~licensed~~ real estate appraiser" may only be used to refer to individuals who hold ~~the~~ *a* license *under this chapter*. The term may not

be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group; or in a manner that might cause it to be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the license.

No license may be issued under this chapter to a corporation, partnership, firm, or group. This does not prevent a licensed real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice.

Sec. 12. Minnesota Statutes 1990, section 82B.19, subdivision 3, is amended to read:

Subd. 3. [REINSTATEMENTS.] ~~On or after September 1, 1991,~~ A license as a real estate appraiser that has been revoked as a result of disciplinary action by the commissioner may not be reinstated unless the applicant presents evidence of completion of the continuing education required by this chapter. This requirement may not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for licensed real estate appraiser as a condition to reinstatement of a license.

Sec. 13. [82B.221] [TRANSITION PERIOD PROVISIONS.]

(a) The commissioner may issue a license as provided under section 82B.11, subdivision 3, 4, or 5, to a person who satisfies the requirements of sections 82B.10, 82B.12, and 82B.13, but has not satisfied the requirement of section 82B.14, provided the person provides evidence satisfactory to the commissioner that they have acquired the equivalent of two years of experience in real property appraisal by September 1, 1993.

(b) The commissioner may issue a license as provided under section 82B.11, subdivision 3, 4, or 5, to a person who has satisfied the requirements of sections 82B.10, 82B.12, and 82B.14, but who has not satisfied the requirements of section 82B.13, provided the person provides evidence satisfactory to the commissioner of completion of the appropriate licensing prerequisite education by September 1, 1993.

(c) Failure to meet the requirements of paragraph (a) or (b) of this section shall be grounds for revocation of a real estate appraiser's license.

Sec. 14. [82B.23] [FEDERAL CERTIFICATION.]

Subdivision 1. [REQUIREMENT.] *The commissioner shall certify and transmit to the appraisal subcommittee established pursuant to the Federal Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law Number 100-73, the names of those licensees who have satisfied the requirements for certification established by the appraisal subcommittee and to collect and transmit any required fees.*

Subd. 2. [PUBLICATION OF FEDERAL CERTIFICATION CRITERIA.] *The commissioner shall file the federal certification criteria with the revisor of statutes for publication in Minnesota Rules. The revisor has the same editorial power over these criteria as the revisor has for rules adopted pursuant to chapter 14.*

Sec. 15. [EXISTING LICENSES.]

Licenses issued pursuant to Minnesota Statutes, chapter 82B, before the effective date of this act remain valid and in effect until September 1, 1991.

A licensee who satisfies the examination or education requirements of Minnesota Statutes, section 82B.225, no later than August 31, 1991, is eligible for licensure under Minnesota Statutes, section 82B.11, subdivision 2.

Sec. 16. [FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER TRANSITIONAL PREEXAMINATION EDUCATION REQUIREMENT.]

Prior to January 1, 1994, as a prerequisite to taking the examination for licensing as a certified federal residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 105 classroom hours of courses, including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter, with particular emphasis on the appraisal of one to four unit residential properties.

Sec. 17. [REPEALER.]

Minnesota Statutes 1990, sections 82B.05, subdivision 2; 82B.13, subdivision 2; and 82B.225, are repealed.

Sec. 18. [EFFECTIVE DATE.]

This act is effective the day after final enactment."

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

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 1224: A bill for an act relating to retirement; state unclassified employees retirement program; permitting plan participants who move to unclassified positions not covered by the plan to elect to participate in the plan; amending Minnesota Statutes 1990, section 352D.02, by adding a subdivision.

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

Page 1, line 15, after "*full-time*" insert "*unclassified*"

Page 1, line 23, after "*contributions*" insert "*with six percent interest*"

Page 2, line 12, after "*contributions*" insert "*with six percent interest*"

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

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

S.F. No. 294: A bill for an act relating to housing; authorizing community land trusts; providing for homestead property tax status; designating sources of funding; authorizing state housing expenditures through community land trusts; appropriating money; amending Minnesota Statutes 1990, sections 273.124, by adding a subdivision; 462A.03, by adding a subdivision; 462A.057, subdivisions 2, 8, and 9; 462A.21, by adding a subdivision; and 469.205, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 462A.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

NEIGHBORHOOD LAND TRUSTS

Section 1. [462A.30] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to sections 1 to 7.*

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

Subd. 3. [NEIGHBORHOOD LAND TRUST.] *"Neighborhood land trust" means a nonprofit corporation organized under chapter 317A that complies with section 2 and that qualifies for tax exempt status under United States Code, title 26, section 501(c)(3), and meets all other criteria for a neighborhood land trust set by the agency.*

Subd. 4. [FIRST OPTION TO PURCHASE.] *"First option to purchase" means a right of a neighborhood land trust or the agency to purchase all or any portion of the improvements and leasehold interest of a lessee, sublessee, or other resident of property subject to a ground lease, prior to the rights of any other party and at a limited equity price.*

Subd. 5. [GROUND LEASE.] *"Ground lease" means a lease of real property in which the lease does not include buildings or other improvements.*

Subd. 6. [LEASEHOLD INTEREST.] *"Leasehold interest" means the real property interest of a lessee in a ground lease in which the neighborhood land trust is the lessor.*

Subd. 7. [LIMITED EQUITY FORMULA.] *"Limited equity formula" means a method, to be determined by rule adopted by the agency, for calculation of the limited equity price, designed to maintain the affordability of the housing and the public subsidy.*

Subd. 8. [LIMITED EQUITY PRICE.] *"Limited equity price" means a price for the sale of any building or other improvement located on land owned by a neighborhood land trust determined by means of the limited equity formula.*

Subd. 9. [PERSONS AND FAMILIES OF LOW AND MODERATE INCOME.] *"Persons and families of low and moderate income" has the meaning specified in section 462A.03, subdivision 10.*

Sec. 2. [462A.31] [NEIGHBORHOOD LAND TRUSTS.]

Subdivision 1. [PURPOSES.] *A neighborhood land trust must have as one of its purposes the holding of land and the leasing of land for the purpose of preserving the affordability of housing on that land for persons and families of low and moderate income.*

Subd. 2. [POWERS.] *A neighborhood land trust may have any or all of the powers permitted to a nonprofit corporation under chapter 317A, except that a neighborhood land trust must have the power to buy and sell land, to mortgage and otherwise encumber land, and to negotiate and enter into ground leases with an initial term of up to 99 years.*

Subd. 3. [BYLAWS.] *The bylaws of a neighborhood land trust must provide that:*

(1) members of the general public who support the neighborhood land trust's purposes may become members of the trust;

(2) no more than 30 percent of the members may reside outside of the geographical area in which the neighborhood land trust operates, as specified in the bylaws;

(3) the membership has the power to elect a specified percentage of not less than 51 percent of the members of the governing board of the neighborhood land trust;

(4) lessees, residents of housing located on land owned by the neighborhood land trust, or representatives of either must constitute no less than 25 percent nor more than 40 percent of the membership of the governing board;

(5) remaining members of the governing board, if any, may be appointed by the neighborhood land trust board, to the extent specified in the bylaws; and

(6) the neighborhood land trust has the power to operate only within a geographical area specified in the bylaws.

Sec. 3. [462A.32] [LEASES.]

Subdivision 1. [LESSEES.] *A neighborhood land trust shall hold title to and lease land to persons and families of low and moderate income or to other persons or corporations for purposes consistent with the goals of the neighborhood land trust.*

Subd. 2. [RENT.] *A neighborhood land trust may charge rent to the lessee, in an amount to be determined by a method specified in the lease. The rent may include, but need not be limited to, land acquisition costs, real estate taxes, special assessments, an administrative charge, and a land use fee. The rent charged must take into account any homestead real estate tax status granted to the property.*

Subd. 3. [RESTRICTIONS.] *A ground lease in which a neighborhood land trust is the lessor must contain provisions designed to preserve the affordability of housing on the land. Each ground lease must reserve to the neighborhood land trust the first option to purchase any building or improvement on the land, or any condominium or cooperative unit located in a building on the land, at a limited equity price specified in the ground lease. Each ground lease must grant to the Minnesota housing finance agency the right to exercise that first option to purchase if the neighborhood land trust does not, for any reason, exercise the first option. Each ground lease must exempt sales to persons and families of low and moderate income from the provisions granting the first option to purchase to the neighborhood land trust and to the Minnesota housing finance agency. Sales to persons and families of low and moderate income are not exempt from the limited equity price. A ground lease may also contain appropriate restrictions on:*

(1) subletting or assigning the ground lease;

(2) construction and renovation of buildings and other improvements; and

(3) sale of buildings and improvements.

Subd. 4. [MORTGAGES.] *(a) A ground lease with a neighborhood land trust must prohibit the lessee from mortgaging the lessee's interest in the lease or in buildings or other improvements without the consent of the*

neighborhood land trust. A ground lease may obligate a neighborhood land trust as lessor and fee title holder to consent to, join in, or subordinate its interest to, a mortgage entered into by a lessee as mortgagor for the purpose of obtaining financing for construction or renovation of housing on the land. A lease provision so obligating a neighborhood land trust must specify that the mortgage must provide to the neighborhood land trust the right to receive from the mortgagee prompt notice of default in the mortgage and the right to cure the default or to purchase the mortgagee's interest in the mortgage. The limited equity price and provisions in subdivision 3 do not apply if the lessee or the neighborhood land trust fail to cure the default or purchase the mortgagee's interest in the mortgage.

(b) A ground lease with a neighborhood land trust must provide that the neighborhood land trust will not, during the term of the lease, mortgage, or otherwise encumber its interest in the property or permit any liens on its interest in the property to exist. This prohibition does not apply to mortgages that require the mortgagee to subordinate the lien of its mortgage to a mortgage entered into by a lessee as mortgagor for the purpose of obtaining financing for construction or renovation of housing on the land.

Subd. 5. [RIGHTS OF HEIRS.] *A ground lease with a neighborhood land trust must provide that the heirs of the lessee may assume the lease, if the heirs agree to occupy the lease property as their homestead. For purposes of this subdivision, "the heirs" means the heirs at law of a lessee who dies intestate or the devises of a lessee who dies testate.*

Sec. 4. [462A.33] [NOTICE OF LEASE.]

A ground lease with a neighborhood land trust must be in recordable form and may, but need not be, recorded in the office of the county recorder or filed in the office of the county registrar of titles. If the lease is not recorded or filed, the lessee shall record or file a notice of lease, on a form to be prepared and made available by the agency. The notice of lease must state the names and addresses of the lessor and lessee, the beginning date and initial term of the lease, and a legal description of the property. The notice of lease must state that the lease is entered into pursuant to this chapter, must be signed by the lessor and lessee, and must be in recordable form.

Sec. 5. [462A.35] [DISSOLUTION.]

If a neighborhood land trust is dissolved, the procedure is governed by chapter 317A, except as otherwise provided in this section. If a receiver is to be appointed, the agency has priority to be appointed or to designate the appointee. The agency need not exercise its priority.

Sec. 6. [462A.36] [MORTGAGE SECURING LOANS TO TRUST.]

A neighborhood land trust may grant a mortgage on real estate to secure repayment of loans obtained from the state, any of its agencies or subdivisions, or any other entity, for the purpose of purchase, construction, or renovation of that real estate. Any such mortgage must comply with section 462A.32, subdivision 4, paragraph (b).

Sec. 7. [462A.37] [CITY OR HRA MAY ACT AS LAND TRUST.]

Any home rule charter or statutory city, except cities of the first class, or any housing and redevelopment authority as defined by chapter 469 may exercise all of the powers granted in this chapter to neighborhood land trusts, subject to the city's or housing and redevelopment authority's ongoing

compliance with all of the requirements of this chapter, except to the extent that compliance with this chapter clearly conflicts with other law governing cities or housing and redevelopment authorities.

ARTICLE 2

FUNDING FOR NEIGHBORHOOD LAND TRUSTS

Section 1. Minnesota Statutes 1990, section 116J.984, subdivision 1, is amended to read:

Subdivision 1. [COMMUNITY AND NEIGHBORHOOD DEVELOPMENT GRANTS.] The commissioner may award matching grants to eligible organizations. Grants to any one eligible organization may not exceed $25,000 in any fiscal year and a grant may not be used for any purpose that replaces an existing community program identified by the commissioner. Each grant must be matched with at least two dollars of nonstate money or in-kind contributions to each dollar of grant money. The grants may be used for community or neighborhood public safety and human service activities, street and public property lighting, recycling efforts, repair or removal of dilapidated buildings, community or neighborhood beautification and cleanup, historic preservation of buildings, small scale park and open space development, increasing or preserving the availability of housing primarily serving low- or moderate-income persons, *organizing or funding neighborhood land trusts*, and other projects, programs, or activities that the commissioner determines will improve or revitalize the community or neighborhood.

Sec. 2. Minnesota Statutes 1990, section 116J.984, subdivision 5, is amended to read:

Subd. 5. [APPLICATIONS; PRIORITY.] The commissioner may establish criteria to establish the priority of the applications received for grants awarded under subdivision 1. The criteria may include:

(1) the degree of community support measured by the amount of participation in the project or activities by volunteers;

(2) the extent that the eligible organizations have participated with or solicited input from other organizations that provide community and regional assistance;

(3) the amount of nonstate matching funds identified as available for the project or activities; ~~and~~

(4) *the degree to which the project will assure the long-term affordability of neighborhood housing by use of a neighborhood land trust; and*

(5) any other criteria the commissioner determines necessary to carry out the purposes of this section.

Sec. 3. Minnesota Statutes, section 273.124, is amended by adding a subdivision to read:

Subd. 3b. [NEIGHBORHOOD LAND TRUSTS.] *When one or more buildings which contain one or more dwelling units are on land owned by a neighborhood land trust organized under article 1, the neighborhood land trust qualifies for homestead treatment, as class 1a under chapter 273.13, subdivision 22. Homestead treatment may be claimed for each dwelling, or for each dwelling unit in buildings containing several dwelling units, that is used or intended to be used as a primary homestead by its occupants.*

Sec. 4. Minnesota Statutes 1990, section 462A.02, is amended by adding a subdivision to read:

Subd. 11. It is further declared that it is in the best interests of the citizens of the state of Minnesota that public moneys used for the purposes of this chapter be used in a manner that best assures the long-term affordability of housing to low- and moderate-income citizens. To achieve that public purpose, the agency shall consider, in the making of grants and loans and other uses of agency resources, the degree to which such grants, loans, and other uses will assure the long-term affordability of the housing, by use of the neighborhood land trust model or other techniques.

Sec. 5. Minnesota Statutes 1990, section 462A.03, is amended by adding a subdivision to read:

Subd. 22. [NEIGHBORHOOD LAND TRUST.] *"Neighborhood land trust" has the meaning specified in article 1, section 1.*

Sec. 6. Minnesota Statutes 1990, section 462A.201, subdivision 2, is amended to read:

Subd. 2. [LOW-INCOME HOUSING.] The agency may, in consultation with the advisory committee, use money from the housing trust fund account to provide loans or grants for projects for the development, construction, acquisition, preservation, and rehabilitation of low-income rental and limited equity cooperative housing units and homes for ownership. *Projects funded under this subdivision may involve property owned by a neighborhood land trust.* No more than 20 percent of available funds may be used for home ownership projects. At least 75 percent of the rental and cooperative units, and 100 percent of the homes for ownership, must be rented to or cooperatively owned, or owned by persons and families whose income does not exceed 30 percent of the median family income for the metropolitan area as defined in section 473.121, subdivision 2. *Neighborhood land trusts are eligible for both home ownership project funds and rental project funds.* In making the grants, the agency shall determine the terms and conditions of repayment and the appropriate security, if any, should repayment be required. To promote the geographic distribution of grants and loans, the agency may designate a portion of the grant or loan awards to be set aside for projects located in specified congressional districts or other geographical regions specified by the agency. The agency may adopt emergency and permanent rules for awarding grants and loans under this subdivision. The emergency rules are effective for 180 days or until the permanent rules are adopted, whichever occurs first.

Sec. 7. [462A.204] [NEIGHBORHOOD LAND TRUST ACCOUNT.]

Subdivision 1. [CREATION.] *(a) The neighborhood land trust account is created as a separate account in the housing development fund.*

(b) The neighborhood land trust account consists of:

(1) money appropriated or transferred from other state funds;

(2) all interest, dividends, and pecuniary gains from investment of money of the neighborhood land trust account;

(3) all proceeds from the sale of land purchased with money from the neighborhood land trust account; and

(4) money made available to the agency for the purposes of the account from other sources, including the transfer of unencumbered balances from

other accounts in the housing development fund.

Subd. 2. [APPLICATION OF ACCOUNT.] *The agency shall make loans and grants to finance the organization of neighborhood land trusts, the purchase of land or interests in land by neighborhood land trusts, and the development of affordable housing in accordance with article 1.*

Subd. 3. [AGENCY POWERS; DUTIES.] *The agency shall:*

(1) establish criteria to select which organizations eligible under article 1, that apply for loans and grants under this section, receive funding;

(2) establish priorities for funding land trusts that best demonstrate the ability to provide housing for people most in need;

(3) establish requirements for matching funds for loans and grants under this section;

(4) determine the circumstances, terms, and conditions under which all or any portion of a loan made under this section will be repaid; and

(5) establish appropriate security for loan repayment.

Subd. 4. [ELIGIBLE ORGANIZATIONS; CAPACITY.] *An organization eligible under article 1 must demonstrate in its application to the agency that it is able to establish and operate a neighborhood land trust by having the capacity to do the following:*

(1) to organize and continue a relationship with the land trust board as required by article 1;

(2) to select and acquire property for a neighborhood land trust and contract with businesses or organizations for the rehabilitation or development of the neighborhood land trust property;

(3) to acquire any required matching funds;

(4) to link residents of neighborhood land trusts with community self-sufficiency resources; and

(5) to provide property maintenance classes and other residential assistance.

Subd. 5. [TRANSFERS.] *Notwithstanding section 462A.20, subdivision 3, the agency may not transfer unencumbered balances from the neighborhood land trust account to any other account in the housing development fund.*

Sec. 8. [462A.38] [NEIGHBORHOOD LAND TRUST REPORTS.]

Each neighborhood land trust that receives a grant or loan from the agency must submit an annual report to the agency by December 1 of each year. The report must describe the use of grant or loan funds received.

By January 15, 1992, and each year thereafter, the agency must prepare and submit an annual report to the legislature and the governor summarizing the reports of the neighborhood land trusts.

Sec. 9. Minnesota Statutes 1990, section 469.205, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE USES OF TARGETED NEIGHBORHOOD MONEY.] The city may spend targeted neighborhood money for any purpose authorized by subdivision 1 or 2, except that: *(1)* an amount equal to at

least 50 percent of the state payment under section 469.204 made to the city must be used for housing activities; *and (2) an additional amount equal to at least ten percent of the state payment under section 469.204 may be used to organize neighborhood land trusts within the targeted neighborhood and to fund the purchase of property by neighborhood land trusts within the targeted neighborhood.* Use of target neighborhood money must be authorized in a revitalization program.

Sec. 10. [APPROPRIATION.]

$3,000,000 is appropriated from the general fund to the commissioner of the Minnesota housing finance agency for the neighborhood land trust account to be available until expended."

Amend the title as follows:

Page 1, line 7, after "sections" insert "116J.984, subdivisions 1 and 5;" and after "subdivision;" insert "462A.02, by adding a subdivision;"

Page 1, line 8, delete everything after the semicolon and insert "462A.201, subdivision 2;"

Page 1, line 9, delete everything before "and"

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

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

S.F. No. 37: A bill for an act relating to insurance; regulating credit for reinsurance; establishing standards and the commissioner's authority for companies considered to be in hazardous financial condition; regulating managing general agents; creating and regulating the life and health guaranty association; prescribing its powers and duties; amending Minnesota Statutes 1990, section 60B.25; proposing coding for new law in Minnesota Statutes, chapter 61B; proposing coding for new law as Minnesota Statutes, chapters 60G, 60H, and 60I; repealing Minnesota Statutes 1990, sections 61B.01; 61B.02; 61B.03; 61B.04; 61B.05; 61B.06; 61B.07; 61B.08; 61B.09; 61B.10; 61B.11; 61B.12; 61B.13; 61B.14; 61B.15; and 61B.16.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

REINSURANCE

Section 1. Minnesota Statutes 1990, section 60A.02, subdivision 6, is amended to read:

Subd. 6. [FOREIGN.] "Foreign," when used without limitations, shall designate those companies incorporated *or organized* in any other state or country.

Sec. 2. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 19. [ALIEN.] *"Alien" means an insurer domiciled outside of the United States, but conducting business within the United States.*

Sec. 3. Minnesota Statutes 1990, section 60A.02, is amended by adding

a subdivision to read:

Subd. 20. [ASSUME.] *"Assume" means to accept all or part of a ceding company's insurance or reinsurance on a risk or exposure.*

Sec. 4. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 21. [CEDE.] *"Cede" means to pass on to another insurer all or part of the insurance written by an insurer for the purpose of reducing the possible liability of the insurer.*

Sec. 5. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 22. [CESSION.] *"Cession" means the unit of insurance passed to a reinsurer by an insurer which issued a policy to the insured.*

Sec. 6. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 23. [FACULTATIVE REINSURANCE.] *"Facultative reinsurance" means the reinsurance of part or all of the insurance provided by a single policy, with separate negotiation for each cession.*

Sec. 7. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 24. [REINSURER.] *"Reinsurer" means an insurer which assumes the liability of another insurer through reinsurance.*

Sec. 8. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 25. [RETROCESSION.] *"Retrocession" means a transaction in which a reinsurer cedes to another reinsurer all or part of the reinsurance that the reinsurer had previously assumed.*

Sec. 9. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 26. [UNITED STATES BRANCH.] *"United States branch" means the business unit through which business is transacted within the United States by an alien insurer.*

Sec. 10. Minnesota Statutes 1990, section 60A.09, subdivision 5, is amended to read:

Subd. 5. [REINSURANCE.] (1) [DEFINITIONS.] For the purposes of this subdivision, the word "insurer" shall be deemed to include the word "reinsurer," and the words "issue policies of insurance" shall be deemed to include the words "make contracts of reinsurance."

(2) ~~[CONDITIONS AND REQUIREMENTS.] Every insurer authorized to issue policies in this state may reinsure in any other insurer any part or all of any risk or risks assumed by it; but such reinsurance, unless effected (1) with an insurer authorized to issue policies in this state, or (2) with an insurer similarly authorized in another state, territory, or district of the United States, and showing the same standards of solvency and meeting the same statutory and departmental rules which would be required of or prescribed for such insurer were it at the time of such reinsurance authorized in this state to issue policies covering risks of the same kind or kinds as those reinsured, shall not reduce the reserve or other liability to be charged to the ceding insurer;~~

~~provided, that nothing in this subdivision shall be construed to permit to a ceding insurer any reduction of reserve or liability through reinsurance effected with an unauthorized insurer. In case such reinsurance effected with an insurer so authorized or so recognized for reinsurance in this state, the ceding insurer shall thereafter be charged on the gross premium basis with an unearned premium liability representing the proportion of such obligation retained by it, and the insurer to which the business is ceded shall be charged with an unearned premium liability representing the proportion of such obligation ceded to it, calculated in the same way. The two parties to the transaction shall together carry the same reserve as the ceding insurer would have carried had it retained the risk.~~

~~(3)~~ [REINSURANCE OF MORE THAN 75 PERCENT OF INSURANCE LIABILITIES.] Any contract of reinsurance whereby an insurer cedes more than 75 percent of the total of its outstanding insurance liabilities shall, if such insurer is incorporated by or, if an insurer of a foreign country, has its principal office in this state, be subject to the approval, in writing, by the commissioner.

~~(4)~~ *(3)* ACTUAL UNEARNED PREMIUM RESERVE TO BE CARRIED AS LIABILITY.] Nothing in this subdivision shall be deemed to permit the ceding insurer to receive, through the cession of the whole of any risk or risks, any advantage in respect to its unearned premium reserve that would reduce the same below the actual amount thereof.

~~(5)~~ *(4)* (AIRCRAFT RISKS.] An insurer authorized to transact the business specified in section 60A.06, subdivision 1, clauses (4) and (5)(a), may through reinsurance assume any risk arising from, related to, or incident to the manufacture, ownership, or operation of aircraft and may retrocede any portion thereof; provided, however, that no insurer may undertake any such reinsurance business without the prior approval of the commissioner and such reinsurance business shall be subject to any regulations which may be promulgated by the commissioner. Any such reinsurance business may be provided through pooling arrangements with other insurers for purposes of spreading the insurance risk.

Sec. 11. [60A.091] [QUALIFIED UNITED STATES FINANCIAL INSTITUTION.]

For purposes of sections 12 and 13, "qualified United States financial institution" means an institution that:

(1) is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state;

(2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(3) is guaranteed by the Federal Deposit Insurance Corporation, or the National Credit Union Administration.

Sec. 12. [60A.092] [REINSURANCE CREDIT ALLOWED A DOMESTIC CEDING INSURER.]

Subdivision 1. [CREDIT ALLOWED.] *Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurance is ceded to an assuming insurer which meets the requirements specified under this section.*

Subd. 2. [LICENSED ASSUMING INSURER.] *Reinsurance is ceded to an assuming insurer if the assuming insurer is licensed to transact insurance or reinsurance in this state.*

Subd. 3. [ACCREDITED ASSUMING INSURER.] *(a) Reinsurance is ceded to an assuming insurer if the assuming insurer is accredited as a reinsurer in this state. An accredited reinsurer is one which:*

(1) files with the commissioner evidence of its submission to this state's jurisdiction;

(2) submits to this state's authority to examine its books and records;

(3) is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(4) files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(5)(i) maintains a surplus as regards policyholders in an amount not less than $20,000,000 and whose accreditation has not been denied by the commissioner within 90 days of its submission, or maintains a surplus as regards policyholders in an amount less than $20,000,000 and whose accreditation has been approved by the commissioner; or

(ii) maintains a surplus as regards policyholders in an amount not less than $50,000,000 for long-tail casualty reinsurers. For purposes of this section, "long-tail casualty reinsurance" means insurance for medical or legal malpractice, pollution liability, directors and officers liability, and products liability. The commissioner may determine that an assuming insurer that maintains a surplus as regards policyholders in an amount not less than $20,000,000 is accredited as a reinsurer if there is no detriment to policyholders and the interest of the public, and to not allow accrediting would be a hardship or detriment to the reinsurer. The commissioner shall report to the legislature on any determination to allow accrediting to a long-term casualty reinsurer maintaining a surplus in an amount less than $50,000,000.

(b) No credit shall be allowed or continue to be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the commissioner after receipt of a cease and desist order pursuant to section 45.027, subdivision 5.

Subd. 4. [SIMILAR STATE STANDARDS.] *Reinsurance is ceded to an assuming insurer if the assuming insurer is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this chapter and the assuming insurer or United States branch of an alien assuming insurer (1) maintains a surplus as regards policyholders in an amount not less than $20,000,000 or maintains a surplus as regards policyholders in an amount not less than $50,000,000 for long-tail casualty reinsurers as provided under subdivision 3, paragraph (a), clause (5), and (2) submits to the authority of this state to examine its books and records.*

Clause (1) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company

system.

Subd. 5. [TRUST FUND MAINTAINED.] *The reinsurance is ceded to an assuming insurer if the assuming insurer maintains a trust fund in a qualified United States financial institution for the payment of the valid claims, as determined by the commissioner for the purpose of determining the sufficiency of the trust fund, of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund.*

Subd. 6. [SINGLE ASSUMING INSURER; TRUST FUND REQUIREMENTS.] *In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20,000,000 or maintain a surplus as regards policyholders in an amount not less than $50,000,000 for long-tail casualty reinsurers as provided under subdivision 3, paragraph (a), clause (5).*

Subd. 7. [INDIVIDUAL UNINCORPORATED UNDERWRITERS GROUP; TRUST FUND REQUIREMENTS.] *In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States. The group shall maintain a trusteed surplus of which $100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall make available to the commissioner an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter.*

Subd. 8. [INCORPORATED INSURERS GROUP; TRUST FUND REQUIREMENTS.] *A group of incorporated insurers under common administration must:*

(1) comply with the filing requirements specified in subdivision 7;

(2) be under the supervision of the Department of Trade and Industry of the United Kingdom;

(3) submit to this state's authority to examine its books and records;

(4) bear the expense of the examination;

(5) maintain an aggregate policyholders' surplus of $10,000,000,000;

(6) maintain the trust in an amount equal to the group's several liabilities attributable to business written in the United States; and

(7) maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

Each member of the group shall make available to the commissioner an annual certification by the member's domiciliary regulator and its independent accountant of the member's solvency.

Subd. 9. [TRUST FUND GENERAL REQUIREMENTS.] *(a) The trust must be established in a form approved by the commissioner of commerce. The trust instrument shall provide that contested claims shall be valid and*

enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(b) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

Subd. 10. [OTHER JURISDICTIONS.] *The reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision 2, 3, 4, or 5, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.*

Subd. 11. [REINSURANCE AGREEMENT REQUIREMENTS.] *(a) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit authorized under subdivisions 4 and 5 shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:*

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of any appellate court in the event of an appeal; and

(2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

(b) Paragraph (a) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if an obligation to do so is created in the agreement.

Sec. 13. [60A.093] [REDUCTION FROM LIABILITY FOR REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER.]

Subdivision 1. [REDUCTION ALLOWED.] *A reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 12 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, as security for the payment of obligations under the reinsurance contract with the assuming insurer. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution. The funds held as security may be in any form of security acceptable to the commissioner or in the form of:*

(1) cash;

(2) securities listed by the securities valuation office of the National Association of Insurance Commissioners and qualifying as admitted assets and, with the exception of United States treasury notes, readily marketable over a national exchange or NASDAQ with maturity dates within one year; or

(3) clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. The financial institution must meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions as determined by either the commissioner or the securities valuation office of the National Association of Insurance Commissioners, and the financial institution's letters of credit must be acceptable to the commissioner.

Subd. 2. [LETTERS OF CREDIT CONTINUED ACCEPTANCE.] *Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation must, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security unless the issuing or confirming institution fails the following standards:*

(1) fails to maintain a minimum ratio of three percent tier I capital to total risk adjusted assets, leverage ratio, as required by the Federal Reserve System as disclosed by the bank in any call report required by state or federal regulatory authority and available to the ceding insurer; or

(2) has its long-term deposit rating or long-term debt rating lowered to a rating below Aa2 as found in the current monthly publication of Moody's credit opinions or its equivalent.

The letter of credit of an institution failing these standards continues to be acceptable for no more than 30 days.

Sec. 14. [60A.094] [RULES.]

The commissioner may adopt rules implementing the provisions of sections 11 to 13.

Sec. 15. [60A.095] [REINSURANCE AGREEMENTS AFFECTED.]

Sections 11 to 13 apply to all cessions after the effective date of this act under reinsurance agreements that have had an inception, anniversary, or renewal date not less than six months after the effective date of this article.

Sec. 16. [REPEALER.]

Minnesota Statutes 1990, section 60A.09, subdivision 4, is repealed.

ARTICLE 2

ADMINISTRATIVE SUPERVISION MODEL ACT

Section 1. [60G.01] [DEFINITIONS.]

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

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

Subd. 3. [CONSENT.] *"Consent" means agreement to administrative supervision by the insurer.*

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

Subd. 5. [INSURER.] *"Insurer" means and includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuities as limited to:*

(1) any insurer who is doing an insurer business, or has transacted insurance in this state, and against whom claims arising from that transaction may exist now or in the future;

(2) any fraternal benefit society which is subject to chapter 64B;

(3) nonprofit health service plan corporations subject to chapter 62C; and

(4) cooperative life and casualty companies subject to sections 61A.39 to 61A.52.

Sec. 2. [60G.02] [NOTICE TO COMPLY WITH WRITTEN REQUIREMENTS OF COMMISSIONER; NONCOMPLIANCE; ADMINISTRATIVE SUPERVISION.]

Subdivision 1. [ADMINISTRATIVE SUPERVISION.] *An insurer may be subject to administrative supervision by the commissioner if upon examination or at any other time it appears in the commissioner's discretion that:*

(1) the insurer's condition renders the continuance of its business hazardous to the public or to its insureds;

(2) the insurer has refused to permit examination of its books, papers, accounts, records, or affairs by the commissioner, the commissioner's deputies, employees, or duly commissioned examiners;

(3) a domestic insurer has unlawfully removed from this state books, papers, accounts, or records necessary for an examination of the insurer;

(4) the insurer has failed to promptly comply with the applicable financial reporting statutes or rules and departmental requests relating thereto;

(5) the insurer has neglected or refused to observe an order of the commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock, or surplus;

(6) the insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the commissioner;

(7) the insurer, by contract or otherwise, has unlawfully or has in violation of an order of the commissioner or has without first having obtained written approval of the commissioner if approval is required by law:

(i) totally reinsured its entire outstanding business, or

(ii) merged or consolidated substantially its entire property or business with another insurer;

(8) the insurer engaged in any transaction in which it is not authorized to engage under the laws of this state;

(9) the insurer refused to comply with a lawful order of the commissioner;

(10) the insurer has failed to comply with the applicable provisions of the laws of this state;

(11) the business of the insurer is being conducted fraudulently; or

(12) the insurer gives its consent.

Subd. 2. [NOTIFICATION.] *If the commissioner determines that at least one of the conditions specified in subdivision 1 exists and places the insurer under supervision, the commissioner may:*

(1) notify the insurer of the commissioner's determination;

(2) furnish to the insurer a written list of the requirements to abate this determination; and

(3) notify the insurer that it is under the supervision of the commissioner and that the commissioner is applying and enforcing the provisions of this chapter. If placed under administrative supervision, an insurer may request review as provided under chapter 14.

Subd. 3. [REQUIREMENT COMPLIANCE.] *If placed under administrative supervision, the insurer shall have 60 days, or another period of time as designated by the commissioner, to comply with the requirements of the commissioner as provided under this chapter. If it is determined after notice and hearing that the insurer has not complied with the requirements of the commissioner at the end of the supervision period, the commissioner may extend the period. If the insurer complies with the requirements of the commissioner, the commissioner shall release the insurer from supervision.*

Sec. 3. [60G.03] [CONFIDENTIALITY OF CERTAIN PROCEEDINGS AND RECORDS.]

Subdivision 1. [CONFIDENTIALITY.] *Notwithstanding any other provision of law and except as provided in this section, proceedings, hearings, notices, correspondence, reports, records, and other information in the possession of the commissioner or the department relating to the supervision of any insurer are confidential.*

Subd. 2. [ACCESS.] *The personnel of the department shall have access to these proceedings, hearings, notices, correspondence, reports, records, or information as permitted by the commissioner.*

Subd. 3. [OPEN HEARINGS; DISCLOSURE.] *The commissioner may open the proceedings or hearings or disclose the notices, correspondence, reports, records, or information to a department, agency, or instrumentality of this or another state or the United States if the commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this or another state or the United States.*

Subd. 4. [PUBLIC DISCLOSURE.] *The commissioner may open the proceedings or hearings or make public the notices, correspondence, reports, records, or other information if the commissioner determines that it is in the best interest of the public or in the best interest of the insurer, its insureds, creditors, or the general public.*

Subd. 5. [EXEMPTION.] *This section does not apply to hearings, notices, correspondence, reports, records, or other information obtained upon the appointment of a receiver for the insurer by a court of competent jurisdiction.*

Sec. 4. [60G.04] [PROHIBITED ACTS DURING PERIOD OF SUPERVISION.]

During the period of supervision, the commissioner shall serve as the administrative supervisor. The commissioner may require that the insurer shall not do any of the following things during the period of supervision without the prior approval of the commissioner:

(1) dispose of, convey, or encumber its assets or its business in force;

(2) withdraw funds from its bank accounts;

(3) lend its funds;

(4) invest its funds;

(5) transfer its property;

(6) incur debt, obligation, or liability;

(7) merge or consolidate with another company;

(8) approve new premiums or renew policies;

(9) enter into a new reinsurance contract or treaty;

(10) terminate, surrender, forfeit, convert, or lapse an insurance policy, certificate, or contract, except for nonpayment of premiums due;

(11) release, pay, or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on an insurance policy, certificate, or contract;

(12) make a material change in management; or

(13) increase salaries and benefits of officers or directors or make preferential payment of bonuses, dividends, or other payments determined preferential by the commissioner.

Sec. 5. [60G.05] [REVIEW AND STAY OF ACTION.]

During the period of supervision, the insurer may contest an action taken or proposed to be taken by the commissioner as provided under chapter 14. The insurer must show that the action being complained of is detrimental to the condition of the insurer.

Sec. 6. [60G.06] [ADMINISTRATIVE ELECTION OF PROCEEDINGS.]

Nothing contained in this chapter precludes the commissioner from initiating judicial proceedings to place an insurer in rehabilitation or liquidation proceedings under the laws of this state, regardless of whether the commissioner has previously initiated administrative supervision proceedings under this chapter against the insurer.

Sec. 7. [60G.07] [RULES.]

The commissioner may adopt rules necessary for the implementation of this chapter.

Sec. 8. [60G.08] [IMMUNITY.]

There shall be no liability on the part of, and no cause of action may be brought against the commissioner or the department or its employees or agents for any action taken by them in the performance of their powers and duties under this chapter.

ARTICLE 3

STANDARDS AND COMMISSIONER'S AUTHORITY FOR COMPANIES CONSIDERED TO BE IN HAZARDOUS FINANCIAL CONDITION

Section 1. [60G.20] [STANDARDS.]

Subdivision 1. [HAZARDOUS CONSIDERATION.] *The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer, whether domestic, foreign, or alien, transacting an insurance business in this state may be considered hazardous to the policyholders, creditors or the general public. The commissioner may consider:*

(1) an adverse finding reported in financial condition and market conduct examination reports;

(2) the National Association of Insurance Commissioners insurance regulatory information system and its related reports;

(3) the ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income which may lead to an impairment of capital and surplus;

(4) whether the insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature;

(5) the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(6) whether the insurer's operating loss in the last 12-month period or any shorter period of time, including, but not limited to, net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

(7) whether any affiliate, subsidiary, or reinsurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations;

(8) contingent liabilities, pledges, or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

(9) whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

(10) the age and collectability of receivables;

(11) whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness, and reputation necessary to serve the insurer in the position;

(12) whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading

information concerning an inquiry;

(13) whether management of an insurer either has filed a false or misleading sworn financial statement, or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

(14) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; or

(15) whether the company has experienced or will experience in the foreseeable future cash flow or liquidity problems.

Subd. 2. [COMMISSIONER'S AUTHORITY.] *For the purposes of making a determination of an insurer's financial condition under subdivision 1, the commissioner may:*

(1) disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments to asset values attributable to investments in or transactions with the corporation's parents, subsidiaries, or affiliates;

(3) refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(4) increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

Sec. 2. [60G.21] [COMMISSIONER'S ORDER.]

Subdivision 1. [AUTHORIZATION.] *If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to:*

(1) reduce the total amount of present and potential liability for policy benefits by reinsurance;

(2) reduce, suspend, or limit the volume of business being accepted or renewed;

(3) reduce general insurance and commission expenses by methods specified by the commissioner;

(4) increase the insurer's capital and surplus;

(5) suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

(6) file reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;

(7) limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner considers necessary;

(8) document the adequacy of premium rates in relation to the risks insured; or

(9) file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or in the format adopted by the commissioner.

Subd. 2. [REVIEW.] *An insurer subject to an order under subdivision 1 may request a hearing as provided under chapter 14 to review that order. All hearings conducted under this section are closed and private.*

Sec. 3. [60G.22] [JUDICIAL REVIEW.]

Any order or decision of the commissioner is subject to review as provided under chapter 14 at the request of a party whose interests are substantially affected by the order or decision.

ARTICLE 4

MANAGING GENERAL AGENTS ACT

Section 1. [60H.01] [SHORT TITLE.]

This chapter may be cited as the managing general agents act.

Sec. 2. [60H.02] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] *The terms defined in this section apply to this chapter.*

Subd. 2. [ACTUARY.] *"Actuary" means a person who is a member in good standing of the American Academy of Actuaries.*

Subd. 3. [INSURER.] *"Insurer" means a person, firm, association, or corporation duly licensed in this state as an insurance company.*

Subd. 4. [MANAGING GENERAL AGENT.] *(a) "Managing general agent" means a person, firm, association or corporation who: (1) negotiates and binds ceding reinsurance contracts on behalf of an insurer, or (2) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acts as an agent for the insurer whether known as a managing general agent, manager, or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year, together with one or more of the following: (i) adjusts or pays claims in excess of an amount determined by the commissioner, or (ii) negotiates reinsurance on behalf of the insurer.*

(b) Notwithstanding paragraph (a), the following persons shall not be considered as managing general agents for the purposes of this chapter:

(1) an employee of the insurer;

(2) a United States manager of the United States branch of an alien insurer;

(3) an underwriting manager who, pursuant to contract, manages all or part of the insurance operation of the insurer, is under common control with the insurer, subject to the Insurance Holding Company Act, chapter 60D, and whose compensation is not based on the volume of premiums written;

or

(4) an attorney in fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange under powers of attorney.

Subd. 5. [UNDERWRITE.] *"Underwrite" means the authority to accept or reject risk on behalf of the insurer.*

Sec. 3. [60H.03] [LICENSURE.]

Subdivision 1. [RISKS LOCATED IN STATE.] *A managing general agent representing an insurer licensed in this state with respect to risks located in this state must be licensed in this state.*

Subd. 2. [RISKS LOCATED OUTSIDE OF STATE.] *A managing general agent representing an insurer domiciled in this state with respect to risks located outside this state must be licensed in this state as a managing general agent. The license may be a nonresident license.*

Subd. 3. [REQUIREMENTS.] *The commissioner may require a bond in an amount acceptable for the protection of the insurer. The commissioner may require the managing general agent to maintain an errors and omissions policy.*

Sec. 4. [60H.04] [REQUIRED CONTRACT PROVISIONS.]

No person, firm, association, or corporation acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties. The contract must specify the responsibilities of each party and, where both parties share responsibility for a particular function, must specify the division of the responsibilities. The contract must include the following minimum provisions:

(a) The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination.

(b) The managing general agent must give accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(c) All funds collected for the account of an insurer must be held by the managing general agent in the name of the insurer in a fiduciary capacity in a bank which is a member of the Federal Reserve System. This account must be used for all payments on behalf of the insurer. The managing general agent may retain no more than three months' estimated claims payments and allocated loss adjustment expenses. A managing general agent shall deposit only trust funds in a trust account and shall not commingle personal funds or other funds in a trust account, except that a managing general agent may deposit and maintain a sum in a trust account from personal funds, which sum shall be specifically identified and used to pay service charges or satisfy the minimum balance requirements relating to the trust account.

(d) Separate records of business written by the managing general agent must be maintained. The insurer shall have access to and the right to copy all accounts and records related to its business in a form usable by the insurer, and the commissioner shall have access to all books, bank accounts, and records of the managing general agent in a form usable to the commissioner. The records shall be retained on a basis acceptable to the

commissioner.

(e) The contract may not be assigned in whole or part by the managing general agent.

(f) Appropriate underwriting guidelines, including:

(1) the maximum annual premium volume;

(2) the basis of the rates to be charged;

(3) the types of risks which may be written;

(4) maximum limits of liability;

(5) applicable exclusions;

(6) territorial limitations;

(7) policy cancellation provisions; and

(8) the maximum policy period.

The insurer shall have the right to cancel or nonrenew any policy of insurance subject to the applicable laws and regulations concerning the cancellation and nonrenewal of insurance policies.

(g) If the contract permits the managing general agent to settle claims on behalf of the insurer:

(1) All claims must be reported to the insurer in a timely manner.

(2) A copy of the claim file must be sent to the insurer at its request or as soon as it becomes known that the claim:

(i) has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the insurer, whichever is less;

(ii) involves a coverage dispute;

(iii) may exceed the managing general agent's claim settlement authority;

(iv) is open for more than six months; or

(v) is closed by payment of an amount set by the commissioner or an amount set by the insurer, whichever is less.

(3) All claim files are the joint property of the insurer and managing general agent. However, upon an order of liquidation of the insurer the files become the sole property of the insurer or its estate. The managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(h) Where electronic claims files are in existence, the contract must address the timely transmission of the data.

(i) If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits will not be paid to

the managing general agent until one year after they are earned for property insurance business and five years after they are earned on casualty business and not until the profits have been verified as provided under section 5.

(j) The managing general agent shall not:

(1) bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverage and amounts or percentages that may be reinsured, and commission schedules;

(2) commit the insurer to participate in insurance or reinsurance syndicates;

(3) appoint an agent without assuring that the agent is lawfully licensed to transact the type of insurance for which that person is appointed;

(4) without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent of the insurer's policyholder's surplus as of December 31 of the last completed calendar year;

(5) collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer, without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded to the insurer;

(6) permit its subagent to serve on the insurer's board of directors;

(7) jointly employ an individual who is employed with the insurer; or

(8) appoint a submanaging general agent.

(k) The contract term may not be for an unreasonable period of time, but in no circumstance may the term exceed five years.

(l) The insurer may not authorize the managing general agent to establish the amount of the loss reserves.

Sec. 5. [60H.05] [DUTIES OF INSURERS.]

Subdivision 1. [INDEPENDENT FINANCIAL EXAMINATION.] *The insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each managing general agent with which it has done business.*

Subd. 2. [ACTUARY OPINION.] *If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This is in addition to any other required loss reserve certification.*

Subd. 3. [ON-SITE REVIEW.] *The insurer shall periodically, at least semiannually, conduct an on-site review of the underwriting and claims processing operation of the managing general agent and maintain on its records the results of that review.*

Subd. 4. [OFFICER OF INSURER.] *Except as authorized under section 4, paragraph (j), clause (1), binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer not affiliated with the managing general agent.*

Subd. 5. [WRITTEN NOTIFICATION.] *Within 30 days of entering into or termination of a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the commissioner. Notices of appointment of a managing general agent must include a statement of duties which the managing general agent is expected to perform on behalf of the insurer, the lines of insurance for which the managing general agent is to be authorized to act, and any other information the commissioner may request.*

Subd. 6. [REVIEW OF BOOKS AND RECORDS.] *An insurer shall review its books and records each quarter to determine if a licensed agent has become a managing general agent as defined in section 2, subdivision 4. If the insurer determines that an agent has become a managing general agent, the insurer shall promptly notify the agent and the commissioner of the determination and the insurer and agent must fully comply with this chapter within 30 days.*

Subd. 7. [PROHIBITED APPOINTMENTS.] *An insurer shall not appoint to its board of directors an officer, director, employee, subagent, or controlling shareholder of its managing general agents. This section does not apply to relationships governed by the Insurance Holding Company Act, chapter 60D, or, if applicable, the Producer Controlled Insurer Act.*

Sec. 6. [60H.06] [EXAMINATION AUTHORITY.]

A managing general agent may be examined as if it were the insurer.

Sec. 7. [60H.07] [ACTS OF MANAGING GENERAL AGENT.]

The acts of the managing general agent are considered to be the acts of the insurer on whose behalf it is acting.

Sec. 8. [60H.08] [PENALTIES AND LIABILITIES.]

Subdivision 1. [COMMISSIONER'S AUTHORITY.] *If the commissioner finds pursuant to the procedural requirements of section 45.027 that a person has violated a provision of this chapter, the commissioner may take any action authorized under that section.*

Subd. 2. [ADDITIONAL PENALTY.] *In addition to authority granted by section 45.027 for each separate violation, the commissioner may impose a penalty of up to $10,000 for each day the violation continues and order the managing general agent to reimburse the insurer, rehabilitator, or liquidator of the insurer for any losses incurred by the insurer caused by a violation of this chapter committed by the managing general agent.*

Subd. 3. [JUDICIAL REVIEW.] *The decision, determination, or order of the commissioner under subdivision 1 is subject to judicial review as provided under chapter 14.*

Subd. 4. [IMPOSITION OF OTHER PENALTIES.] *Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for by law.*

Subd. 5. [POLICYHOLDER RIGHTS.] *Nothing contained in this chapter is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and auditors.*

Sec. 9. [60H.09] [RULES.]

The commissioner of commerce may adopt rules for the implementation and administration of this chapter.

Sec. 10. [REPEALER.]

Minnesota Statutes 1990, section 60A.076, is repealed.

Sec. 11. [EFFECTIVE DATE.]

This article is effective August 1, 1991. No insurer may continue to utilize the services of a managing general agent on and after that date unless the utilization is in compliance with this chapter.

ARTICLE 5

LIFE AND HEALTH GUARANTY ASSOCIATION

Section 1. Minnesota Statutes 1990, section 60B.25, is amended to read:

60B.25 [POWERS OF LIQUIDATOR.]

The liquidator shall report to the court monthly, or at other intervals specified by the court, on the progress of the liquidation in whatever detail the court orders. The liquidator shall coordinate *activities with those of each guaranty association* having an interest in the liquidation and shall submit a report detailing how coordination will be achieved to the court for its approval within 30 days following appointment, or within the time which the court, in its discretion, may establish. Subject to the court's control, the liquidator may:

(1) Appoint a special deputy to act under sections 60B.01 to 60B.61 and determine the deputy's compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Appoint or engage employees and agents, actuaries, accountants, appraisers, consultants, and other personnel deemed necessary to assist in the liquidation without regard to chapter 14.

(3) Fix the compensation of persons under clause (2), subject to the control of the court.

(4) Defray all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the liquidator may advance the costs so incurred out of the appropriation made to the department of commerce. Any amounts so paid shall be deemed expense of administration and shall be repaid for the credit of the department of commerce out of the first available money of the insurer.

(5) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath and compel any person to subscribe to testimony after it has been correctly reduced to writing, and in connection therewith require the production of any books, papers, records, or other documents which the liquidator deems relevant to the inquiry.

(6) Collect all debts and money due and claims belonging to the insurer, wherever located, and for this purpose institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts; do such other acts as are necessary or expedient to collect, conserve, or protect its assets or property, including sell, compound, compromise, or assign for purposes of collection, upon such terms and conditions as the liquidator deems best, any bad or doubtful debts; and pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the insurer in a manner prescribed by the court.

(8) Use assets of the estate to transfer coverage obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 60B.44.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable, except that no transaction involving property the market value of which exceeds $10,000 shall be concluded without express permission of the court. The liquidator may also execute, acknowledge, and deliver any deeds, assignments, releases, and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation. In cases where real property sold by the liquidator is located other than in the county where the liquidation is pending, the liquidator shall cause to be filed with the county recorder for the county in which the property is located a certified copy of the order of appointment.

(10) Borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation.

(11) Enter into such contracts as are necessary to carry out the order to liquidate, and affirm or disallow any contracts to which the insurer is a party.

(12) Continue to prosecute and institute in the name of the insurer or in the liquidator's own name any suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under section 60B.23, the liquidator may apply to any court in this state or elsewhere for leave to be substituted for the insurer as plaintiff.

(13) Prosecute any action which may exist in behalf of the creditors, members, policyholders, or shareholders of the insurer against any officer of the insurer, or any other person.

(14) Remove any records and property of the insurer to the offices of the commissioner or to such other place as is convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state such sums as are required for meeting current administration expenses and dividend distributions.

(16) Deposit with the state board of investment for investment pursuant to section 11A.24, all sums not currently needed, unless the court orders otherwise.

(17) File any necessary documents for record in the office of any county recorder or record office in this state or elsewhere where property of the insurer is located.

(18) Assert all defenses available to the insurer as against third persons, including statutes of limitations, statutes of frauds, and the defense of usury. A waiver of any defense by the insurer after a petition for liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid

any transfer or lien that may be given by law and that is not included within sections 60B.30 and 60B.32.

(20) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states.

(22) Exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with sections 60B.01 to 60B.61.

(23) The enumeration in this section of the powers and authority of the liquidator is not a limitation, nor does it exclude the right to do such other acts not herein specifically enumerated or otherwise provided for as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation.

(24) The power of the liquidator of a health maintenance organization includes the power to transfer coverage obligations to a solvent and voluntary health maintenance organization, insurer, or nonprofit health service plan, and to assign provider contracts of the insolvent health maintenance organization to an assuming health maintenance organization, insurer, or nonprofit health service plan permitted to enter into such agreements. The liquidator is not required to meet the notice requirements of section 62D.121. Transferees of coverage obligations or provider contracts shall have no liability to creditors or obligees of the health maintenance organization except those liabilities expressly assumed.

Sec. 2. [61B.18] [CITATION.]

Sections 61B.18 to 61B.32 may be cited as the Minnesota life and health insurance guaranty association act.

Sec. 3. [61B.19] [PURPOSE; SCOPE; LIMITATION OF COVERAGE; LIMITATION OF BENEFITS; CONSTRUCTION.]

Subdivision 1. [PURPOSE.] *(a) The purpose of sections 61B.18 to 61B.32 is to protect, subject to certain limitations, the persons specified in subdivision 2 against failure in the performance of contractual obligations, under life insurance policies, health insurance policies, annuity contracts, and supplemental contracts specified in subdivision 2, because of the impairment or insolvency of the member insurer that issued the policies or contracts where the impairment or insolvency occurs on or after the effective date of sections 61B.18 to 61B.32.*

(b) To provide this protection, an association of insurers has been created and exists to pay benefits and to continue coverages, as limited in sections 61B.18 to 61B.32. Members of the association are subject to assessment to provide funds to carry out the purpose of sections 61B.18 to 61B.32.

Subd. 2. [SCOPE.] *(a) Sections 61B.18 to 61B.32 provide coverage for the policies and contracts specified in paragraph (b) to:*

(1) persons who are owners of or certificate holders under these policies or contracts, or, in the case of unallocated annuity contracts, to the persons who are the contract holders, and who

(i) are residents; or

(ii) are not residents, but only under all of the following conditions: the insurers that issued the policies or contracts are domiciled in the state of Minnesota; those insurers never held a license or certificate of authority in the states in which those persons reside; those states have associations similar to the association created by sections 61B.18 to 61B.32; and those persons are not eligible for coverage by those associations; and

(2) persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts), are the beneficiaries, assignees, or payees of the persons covered under clause (1).

(b) Sections 61B.18 to 61B.32 provide coverage to the persons specified in paragraph (a) for direct, nongroup life, health, annuity, and supplemental policies or contracts, for subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by sections 61B.18 to 61B.32. Except as expressly excluded under subdivision 3, annuity contracts and certificates under group annuity contracts include guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement agreements, lottery contracts, and any immediate or deferred annuity contracts.

Subd. 3. [LIMITATION OF COVERAGE.] *Sections 61B.18 to 61B.32 do not provide coverage for:*

(1) a portion of a policy or contract under which the investment risk is borne by the policy or contract holder;

(2) a policy or contract of reinsurance, unless assumption certificates have been issued;

(3) a policy or contract issued by an assessment benefit association operating under section 61A.39, or a fraternal benefit society operating under chapter 64B;

(4) a health insurance policy issued by a person other than a person authorized to write life insurance in this state or other than a person whose corporate charter would permit the writing of life insurance but who is authorized to write only health insurance in this state;

(5) for policies or contracts issued five or less years before the insolvency, (a) for the two-year period prior to insolvency, for other than participating or indeterminate premium policies or contracts, the portion of a policy's or contract's value equal to the cash value attributable to rates of interest which exceed the minimum rate of interest guaranteed by the insurer for the life of the policy or contract when it was issued;

(b) on and after the date on which the association becomes obligated with respect to such policy or contract, the portion of a policy's or contract's value attributable to rates of interest which exceed the minimum rate of interest guaranteed by the insurer for the life of the policy or contract when it was issued;

(6) an annuity contract issued in connection with and for the purpose of funding a structured settlement of a liability claim, owned by the liability insurer, and on which the liability insurer remains liable under the contract;

(7) a portion of an unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural

persons benefit plan or a governmental lottery;

(8) a plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members but only to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

(i) a Multiple Employer Welfare Arrangement as defined in the Employee Retirement Income Security Act of 1974, United States Code, title 29, section 1002(40)(A), as amended through December 31, 1990;

(ii) a minimum premium group insurance plan;

(iii) a stop-loss group insurance plan; or

(iv) an administrative services only contract.

Nothing in this clause excludes coverage for stop-loss or run-off insurance policies if otherwise covered under sections 61B.18 to 61B.32;

(9) an unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation; and

(10) a portion of a policy or contract to the extent that it provides dividends or experience rating credits, or provides that a fee or allowance be paid to a person, including the policy or contract holder, in connection with the service to, or administration of, the policy or contract.

Subd. 4. **[LIMITATION OF BENEFITS.]** *The benefits for which the association may become liable shall in no event exceed the lesser of:*

(1) the contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2) subject to the limitation in clause (4), with respect to any one life, regardless of the number of policies or contracts:

(i) $300,000 in life insurance death benefits, but not more than $100,000 in net cash surrender and net cash withdrawal values for life insurance;

(ii) $300,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) $300,000 for annuity benefits, but no more than $100,000 in net cash surrender and net cash withdrawal values; or

(3) subject to the limitation in clause (4), with respect to each individual participating in a retirement plan established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1990, covered by an unallocated annuity contract, or the beneficiaries of each such individual if deceased, in the aggregate, $300,000 in present value annuity benefits, including net cash surrender and net cash withdrawal values; or

(4) in no event shall the association be liable to expend more than $300,000 in the aggregate with respect to any one life under clause (2), items (i), (ii), and (iii), and any one individual under clause (3); or

(5) with respect to a contract holder covered by an unallocated annuity contract, $5,000,000 in benefits, not including any amounts covered in clause (3), irrespective of the number of those contracts held by that contract

holder.

Subd. 5. [LIMITED LIABILITY.] *The liability of the association is strictly limited by the express terms of the covered policies and contracts and by the provisions of sections 61B.18 to 61B.32 and is not affected by the contents of any brochures, illustrations, advertisements, or oral statements by agents, brokers, or others used or made in connection with their sale. This limitation on liability does not prevent an insured from proving liability that is greater than the express terms of the covered policy or contract. The insured must bring an action to claim the greater liability within one year of entry of an order of rehabilitation, conservation, or liquidation. The association is not liable for any extra-contractual, exemplary, or punitive damages. The association is not liable for attorney fees or interest other than as provided for by the terms of the policies or contracts, subject to the other limits of sections 61B.18 to 61B.32.*

Subd. 6. [CONSTRUCTION.] *Sections 61B.18 to 61B.32 shall be liberally construed to effect the purpose of sections 61B.18 to 61B.32. Subdivision 1 is an aid and guide to interpretation.*

Sec. 4. [61B.20] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] *The definitions in this section apply to sections 2 to 16.*

Subd. 2. [ACCOUNT.] *"Account" means either of the two accounts created under section 61B.21, subdivision 1.*

Subd. 3. [ANNUITY CONTRACTS.] *"Annuity contracts" means contracts regulated under chapter 61A.*

Subd. 4. [ASSOCIATION.] *"Association" means the Minnesota life and health insurance guaranty association.*

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

Subd. 6. [CONTRACTUAL OBLIGATION.] *"Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or portion of the policy or contract or certificate, for which coverage is provided under section 61B.19, subdivision 2.*

Subd. 7. [COVERED POLICY.] *"Covered policy" means a policy or contract to which sections 61B.18 to 61B.32 apply, as provided in section 61B.19, subdivision 2.*

Subd. 8. [DIRECT LIFE INSURANCE.] *"Direct life insurance" means life insurance generally regulated under chapter 61A and credit life insurance regulated under chapter 62B.*

Subd. 9. [HEALTH INSURANCE.] *"Health insurance" means accident and health insurance regulated under chapter 62A, credit accident and health insurance regulated under chapter 62B, and subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C.*

Subd. 10. [IMPAIRED INSURER.] *"Impaired insurer" means a member insurer that is not an insolvent insurer, and:*

(1) is placed under an order of rehabilitation or conservation by a court of competent jurisdiction; or

(2) is considered by the commissioner to be potentially unable to fulfill its contractual obligations.

Subd. 11. [INSOLVENT INSURER.] *"Insolvent insurer" means a member insurer that is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.*

Subd. 12. [MEMBER INSURER.] *"Member insurer" means an insurer licensed or holding a certificate of authority to transact in this state any kind of insurance for which coverage is provided under section 61B.19, subdivision 2, and includes an insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn. The term does not include:*

(1) a nonprofit hospital or medical service organization, other than a nonprofit health service plan corporation that operates under chapter 62C;

(2) a health maintenance organization;

(3) a fraternal benefit society;

(4) a mandatory state pooling plan;

(5) a mutual assessment company or an entity that operates on an assessment basis;

(6) an insurance exchange; or

(7) an entity similar to those listed in clauses (1) to (6).

Subd. 13. [PERSON.] *"Person" means an individual, corporation, partnership, association, or voluntary organization.*

Subd. 14. [PREMIUMS.] *"Premiums" means amounts received on covered policies or contracts less premiums, considerations, and deposits returned, and less dividends and experience credits on those covered policies or contracts. The term does not include amounts received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under section 61B.19, subdivision 3, except that assessable premium shall not be reduced on account of section 61B.19, subdivision 3, clause (5), relating to interest limitations, and section 61B.19, subdivision 4, clauses (2), (3), (4), and (5), relating to limitations with respect to any one life, any one individual, any one participant, and any one contract holder. The term does not include premiums in excess of $5,000,000 on an unallocated annuity contract not issued under a governmental retirement plan established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1990.*

Subd. 15. [RESIDENT.] *"Resident" means a person who resides in Minnesota at the time a member insurer is determined to be an impaired or insolvent insurer and to whom a contractual obligation is owed. A person may be a resident of only one state, which in the case of a person other than a natural person is its principal place of business.*

Subd. 16. [SUPPLEMENTAL CONTRACT.] *"Supplemental contract" means an agreement entered into for the distribution of policy or contract proceeds.*

Subd. 17. [UNALLOCATED ANNUITY CONTRACT.] *"Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of annuity benefits guaranteed to an individual by an insurer under the contract*

or certificate.

Sec. 5. [61B.21] [MINNESOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION.]

Subdivision 1. [FUNCTIONS.] *The Minnesota life and health insurance guaranty association shall perform its functions under the plan of operation established and approved under section 61B.25, and shall exercise its powers through a board of directors. The association is not a state agency for purposes of chapters 14, 16A, 16B, or 43A. For purposes of administration and assessment, the association shall establish and maintain two accounts:*

(1) the life insurance and annuity account which includes the following subaccounts:

(i) life insurance account;

(ii) annuity account, which shall include a governmental retirement plan established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1990; and

(iii) unallocated annuity account; and

(2) the health insurance account.

Subd. 2. [SUPERVISION BY COMMISSIONER OF COMMERCE.] *The association is under the immediate supervision of the commissioner and is subject to the applicable provisions of the insurance laws of this state.*

Sec. 6. [61B.22] [BOARD OF DIRECTORS.]

Subdivision 1. [MEMBERS.] *The board of directors of the association consists of nine members serving terms as established in the plan of operation under section 61B.25. Members of the board must be elected by member insurers, subject to the approval of the commissioner, for the terms of office specified in their nominations. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to approval of the commissioner. In approving selections or in appointing members to the board, the commissioner shall consider whether all member insurers are fairly represented.*

Subd. 2. [EXPENSES.] *Members of the board may be reimbursed from the assets of the association for reasonable and necessary expenses incurred by them as members of the board, but shall not otherwise be compensated by the association for their services.*

Subd. 3. [COMMITTEES AND MEETINGS.] *Except as otherwise required under the plan of operation:*

(a) The board of directors may, by unanimous affirmative action of the entire board, designate three or more directors as an executive committee, which, to the extent determined by unanimous affirmative action of the entire board, has and shall exercise the authority of the board in the management of the business of the association. This executive committee shall act only in the interval between meetings of the board, and is subject at all times to the control and direction of the board.

(b) The board of directors may, by unanimous affirmative action of the entire board, create additional committees, which have and shall exercise the specific authority and responsibility as determined by the unanimous affirmative action of the entire board.

(c) Any action that may be taken at a meeting of the board of directors or of a lawfully constituted executive committee may be taken without a meeting if authorized by a writing or writings signed by all the directors or by all of the members of the committee, as the case may be. This action is effective on the date on which the last signature is placed on the writing or writings, or on an earlier effective date established in the writing or writings.

(d) Members of the board of directors or of a lawfully constituted executive committee may participate in a meeting of the board or committee by means of conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting as provided in this clause constitutes presence in person at the meeting.

Subd. 4. [OPEN MEETINGS.] *Board meetings are subject to section 471.705, except when private or nonpublic data as described in this subdivision is discussed. Discussions of lawsuits and member insurer assessments and business records of an impaired or insolvent insurer are classified as private data with regard to data on individuals under section 13.02, subdivision 12, or as nonpublic data with regard to data not on individuals under section 13.02, subdivision 9, whichever is applicable.*

Sec. 7. [61B.23] [POWERS AND DUTIES OF THE ASSOCIATION.]

Subdivision 1. [IMPAIRED DOMESTIC INSURER.] *If a member insurer is an impaired domestic insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner, and that are, except in cases of court ordered conservation or rehabilitation, also approved by the impaired insurer:*

(1) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer;

(2) provide money, pledges, notes, guarantees, or other means as are proper to exercise the power granted in clause (1) and assure prompt payment of the contractual obligations of the impaired insurer pending action under clause (1); or

(3) loan money to the impaired insurer.

Subd. 2. [IMPAIRED INSURER NOT PAYING CLAIMS.] *If the commissioner determines that a member insurer, whether domestic, foreign, or alien, is an impaired insurer and is not paying claims in a timely manner, the commissioner, after suspending the right of the impaired insurer to write new business in this state, shall direct the association to make or cause to be made prompt payment of all contractual obligations that are or become due and owing by the impaired insurer. The association shall endeavor to obtain access to those records of the impaired insurer as are needed for the association to discharge its obligations and, if requested by the association, the commissioner will assist the association in obtaining access to those records. If the association is not given access to the necessary records, the association shall be relieved of its responsibility to make benefit payments and hardship or emergency withdrawals until such time as it is given access to those records.*

In addition, the association may, in its discretion, either take any of the

actions specified in subdivision 1, subject to the conditions in that subdivision, or provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for: health benefit claims, periodic annuity benefit payments, death benefits, supplemental benefits, and cash withdrawals for resident policy or contract owners who petition therefor under claims of emergency or hardship in accordance with standards proposed by the association and approved by the commissioner. No insurer may be reinstated until all payments of or on account of the impaired insurer's contractual obligations by the guaranty association, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty association or a plan of repayment by the impaired insurer shall have been approved by the commissioner.

Subd. 3. [INSOLVENT INSURER.] *If a member insurer is an insolvent insurer then, subject to any conditions imposed by the association and approved by the commissioner, the association shall make or cause to be made prompt payment of the contractual obligations of the impaired insurer which are or become due and owing. In addition, the association shall, in its discretion:*

(1) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the policies or contracts of the insolvent insurer so as to assure prompt payment of the obligations of the insolvent insurer as they become due and owing;

(2) promptly assure payment of the contractual obligations of the insolvent insurer as they become due and owing;

(3) promptly provide money, pledges, guarantees, or other means as are reasonably necessary to discharge its duties; or

(4) with respect only to life and health insurance policies, provide benefits and coverages in accordance with subdivision 4.

Subd. 4. [PAYMENTS; ALTERNATIVE POLICIES.] *When proceeding under this section, the association shall, with respect to only life and health insurance policies:*

(a) Assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies of the impaired or insolvent insurer, for claims incurred:

(1) with respect to group policies, not later than the earlier of the next renewal date under those policies or contracts or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to those policies; or

(2) with respect to individual policies, not later than the earlier of the next renewal date, if any, under those policies or one year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to those policies.

(b) Make diligent efforts to provide all known insureds or group policyholders with respect to group policies 30 days' notice of the termination of the benefits provided.

(c) With respect to individual policies, make available to each known insured, or owner if other than the insured, and with respect to an individual formerly insured under a group policy who is not eligible for replacement

group coverage, make available substitute coverage on an individual basis in accordance with subdivision 4a, if the insureds had a right under law or the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

Subd. 4a. [ALTERNATIVE OR REISSUED POLICY REQUIREMENTS.] *(a) In providing the substitute coverage required under subdivision 4, paragraph (c), the association may offer either to reissue the terminated coverage or to issue an alternative policy. Alternative or reissued policies must be offered without requiring evidence of insurability, and must not provide for any waiting period or exclusion that would not have applied under the terminated policy. The association may reinsure any alternative or reissued policy.*

(b)(1) Alternative policies adopted by the association are subject to the approval of the commissioner. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

(2) Alternative policies must provide benefits that are not unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium must reflect the amount of insurance to be provided and the age and class of risk of each insured, but must not reflect any changes in the health of the insured after the original policy was last underwritten.

(3) Any alternative policy issued by the association must provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(c) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium must be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the commissioner or by a court of competent jurisdiction.

(d) The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy ceases on the date the coverage or policy is replaced by another similar policy by the policyholder, the insured, or the association and the preexisting condition limitations have been satisfied.

Subd. 5. [PAYMENT; CREDITING OF INTEREST.] *When proceeding under this section with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with section 61B.19, subdivision 3, clause (5).*

Subd. 6. [OBLIGATIONS TERMINATED.] *Nonpayment of all unpaid premiums within 31 days after the date required under the terms of a guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage terminates the association's obligations under the policy, contract, or coverage under sections 61B.18 to 61B.32 with respect to the policy, contract, or coverage, except with respect to claims incurred or net cash surrender value that may be due in accordance with sections 61B.18 to 61B.32. The obligations of the association terminate 31 days after the*

association sends a written cancellation notice by first class mail to the insured's last known address.

Subd. 7. [POSTLIQUIDATION PREMIUMS.] *Premiums due for coverage after entry of any order of liquidation of an insolvent insurer belong to and are payable at the direction of the association, and the association is liable for unearned premiums due policy or contract owners arising after the entry of the order.*

Subd. 8. [COVERAGE BY ANOTHER STATE.] *The association has no liability under this section for a covered policy of a foreign or alien insurer whose domiciliary jurisdiction or state of entry provides protection, by statutes or rule, for residents of this state, which protection is substantially similar to that provided by sections 61B.18 to 61B.32, for residents of other states. Recovery provided for under sections 61B.18 to 61B.32 is reduced by the amount of recovery under the coverage provided by another state or jurisdiction.*

Subd. 9. [LIENS.] *(a) In carrying out its duties under subdivision 2 or 3, the association may request that there be imposed policy liens, contract liens, moratoriums on payments, or other similar means. The liens, moratoriums, or similar means may be imposed if the commissioner:*

(1) finds that the amounts that can be assessed under sections 61B.18 to 61B.32 are less than the amounts necessary to assure full and prompt performance of the impaired insurer's contractual obligations, or that economic or financial conditions as they affect member insurers are sufficiently adverse to cause the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest; and

(2) approves the specific policy liens, contract liens, moratoriums, or similar means to be used.

(b) Before being obligated under subdivision 2 or 3, the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans. The temporary moratoriums and liens may be imposed if approved by the commissioner.

Subd. 10. [FAILURE TO ACT.] *If the association fails to act within a reasonable period of time as provided in subdivision 2, 3, or 4, the commissioner has the powers and duties of the association with respect to impaired or insolvent insurers.*

Subd. 11. [ASSISTANCE TO COMMISSIONER.] *The association may give assistance and advice to the commissioner, upon request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of an impaired or insolvent insurer.*

Subd. 12. [STANDING IN COURT.] *The association has standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under sections 61B.18 to 61B.32. This standing extends to all matters germane to the powers and duties of the association, including proposals for reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association may appear or intervene before a court in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over a third party against whom the association may have rights*

through subrogation of the insurer's policyholders.

Subd. 13. [ASSIGNMENTS; SUBROGATION RIGHTS.] *(a) A person receiving benefits under sections 61B.18 to 61B.32 shall be considered to have assigned the rights under, and any causes of action relating to, the covered policy or contract to the association to the extent of the benefits received because of sections 61B.18 to 61B.32, whether the benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative coverages. The association may require an assignment to it of those rights and causes of action by a payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of rights or benefits conferred by sections 61B.18 to 61B.32 upon that person.*

(b) The subrogation rights of the association under this subdivision have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under sections 61B.18 to 61B.32.

(c) In addition to paragraphs (a) and (b), the association has all common law rights of subrogation and other equitable or legal remedies that would have been available to the impaired or insolvent insurer or holder of a policy or contract with respect to that policy or contract.

Subd. 14. [PERMISSIVE POWERS.] *The association may:*

(1) enter into contracts as are necessary or proper to carry out the provisions and purposes of sections 61B.18 to 61B.32;

(2) sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under section 61B.26 and to settle claims or potential claims against it;

(3) borrow money to effect the purposes of sections 61B.18 to 61B.32, and any notes or other evidence of indebtedness of the association not in default are legal investments for domestic insurers and may be carried as admitted assets;

(4) employ or retain persons as are necessary to handle the financial transactions of the association, and to perform other functions as the association considers necessary or proper under sections 61B.18 to 61B.32;

(5) enter into arbitration or take legal action as may be necessary to avoid payment of improper claims;

(6) exercise, for the purposes of sections 61B.18 to 61B.32 and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under sections 61B.18 to 61B.32;

(7) join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association; and

(8) negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association.

Sec. 8. [61B.24] [ASSESSMENTS.]

Subdivision 1. [PURPOSE.] *For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of*

directors shall assess the member insurers, separately for each account or subaccount, at the times and for the amounts as the board finds necessary. Assessments are due not less than 30 days after prior written notice to the member insurers and accrue interest on and after the due date at the then applicable rate determined under section 549.09, subdivision 1, paragraph (c).

Subd. 2. [CLASSES OF ASSESSMENTS.] *There are two classes of assessments, as follows:*

(a) Class A assessments may be made for the purpose of meeting administrative and legal costs and other expenses and examinations conducted under the authority of section 61B.27. Class A assessments may be made whether or not related to a particular impaired or insolvent insurer.

(b) Class B assessments may be made to the extent necessary to carry out the powers and duties of the association under section 61B.23 with regard to an impaired or an insolvent insurer.

Subd. 3. [FORMULA FOR DETERMINATION.] *(a) The amount of a class A assessment shall be determined by the board and may be made on a pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. A non-pro rata assessment shall not exceed $250 per member insurer in any one calendar year.*

(b) The amount of any class B assessment must be allocated for assessment purposes among the accounts or subaccounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard considered by the board in its sole discretion as being fair and reasonable under the circumstances.

(c) Class B assessments against member insurers for each subaccount or account must be in the proportion that the average annual premiums received on business in this state by each assessed member insurer on policies or contracts covered by each subaccount or account for the three most recent calendar years for which information is available preceding the calendar year in which the insurer became impaired or insolvent, as the case may be, bears to the average annual premiums received on business in this state by all assessed member insurers on policies or contracts covered by that subaccount or account for those same calendar years.

(d) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer must not be made until necessary to implement the purposes of sections 61B.18 to 61B.32. Classification of assessments under subdivision 2 and computation of assessments under this subdivision must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

Subd. 4. [ABATEMENT OR DEFERMENT.] *The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments as provided in this section.*

Subd. 5. [MAXIMUM ASSESSMENT.] *(a) The total of all assessments*

upon a member insurer for the life and annuity account and for each subaccount of the life and annuity account shall not in any one calendar year exceed two percent of that member insurer's average annual premiums on policies or contracts covered by that account or subaccount. In addition, if the board of directors determines that a one percent assessment for any subaccount of the life and annuity account in any one calendar year will not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to subdivision 3, the board of directors shall make a one percent assessment for the affected subaccount or subaccounts and assess the remaining necessary amount against all three subaccounts on a pro rata basis; provided that if the maximum annual two percent assessment limit would be exceeded in a subaccount by the assessment, then the other subaccounts will be assessed for the balance of any remaining necessary amount up to the maximum annual two percent limit in those other subaccounts.

(b) The total of all assessments upon a member insurer for the health account shall not in any one calendar year exceed two percent of that member insurer's average annual premiums on policies or contracts covered by that account.

(c) If the maximum assessment for an account, together with the other assets of the association in that account, does not provide in any one calendar year in that account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds must be assessed as soon as permitted by sections 61B.18 to 61B.32.

(d) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

Subd. 6. [REFUND.] *The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account or subaccount, the amount by which the assets of the account or subaccount exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account or subaccount, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any account or subaccount to provide funds for the continuing expenses of the association and for future losses.*

Subd. 7. [PREMIUM RATES AND DIVIDENDS.] *A member insurer may, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of sections 61B.18 to 61B.32, consider the amount reasonably necessary to meet its assessment obligations under sections 61B.18 to 61B.32.*

Subd. 8. [CERTIFICATE OF CONTRIBUTION.] *The association shall issue to each insurer paying an assessment under sections 61B.18 to 61B.32, other than a class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates must be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form and for the amount, if any, and period of time as the commissioner may approve.*

Subd. 9. [SURVIVAL OF OBLIGATION.] *An insurer's membership obligations under this chapter shall survive any merger, consolidation, restructuring, incorporation, or reincorporation and shall become the obligations of the survivor organization.*

Sec. 9. [61B.25] [PLAN OF OPERATION.]

Subdivision 1. [ADOPTION AND AMENDMENT.] *The purpose of the plan of operation is to assure the fair, reasonable, and equitable administration of the association under sections 61B.18 to 61B.32. Amendments to the plan of operation must be submitted to the commissioner and become effective upon the commissioner's written approval or 30 days after submission if the commissioner has not disapproved. If the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt reasonable rules necessary or advisable to implement sections 61B.18 to 61B.32. The rules shall continue in force until modified by the commissioner or superseded by amendments submitted by the association and approved by the commissioner.*

Subd. 2. [COMPLIANCE.] *All member insurers shall comply with the plan of operation.*

Subd. 3. [CONTENTS.] *The plan of operation must, in addition to requirements specified in sections 61B.18 to 61B.32:*

(1) establish procedures for handling the assets of the association;

(2) establish the amount and method of reimbursing members of the board of directors under section 61B.22;

(3) establish regular places and times for meetings including telephone conference calls of the board of directors or of the executive committee;

(4) establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(5) establish procedures for selecting the board of directors;

(6) establish any additional procedures for assessments under section 61B.24; and

(7) contain additional provisions necessary or proper for the execution of the powers and duties of the association.

Subd. 4. [DELEGATION OF POWERS AND DUTIES.] *The plan of operation may provide that any or all powers and duties of the association, except those under sections 61B.23, subdivision 14, clause (3), and 61B.24, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. The corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subdivision shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by sections 61B.18 to 61B.32.*

Sec. 10. [61B.26] [DUTIES AND POWERS OF THE COMMISSIONER.]

(a) In addition to other duties and powers in sections 61B.18 to 61B.32,

the commissioner may:

(1) notify the board of directors of the existence of an impaired or insolvent insurer within three days after a determination of impairment or insolvency is made or the commissioner receives notice of impairment or insolvency;

(2) upon request of the board of directors, provide the association with a statement of the premiums in this and any other appropriate states for each member insurer;

(3) when an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time; notice to the impaired insurer shall constitute notice to its shareholders, if any; the failure of the insurer to promptly comply with the commissioner's demand shall not excuse the association from the performance of its powers and duties under sections 61B.18 to 61B.32; and

(4) in a liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator.

(b) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. A forfeiture shall not exceed five percent of the unpaid assessment per month, but no forfeiture shall be less than $100 per month.

(c) An action of the board of directors or the association may be appealed to the commissioner if the appeal is taken within 30 days of the occurrence of the action being appealed. If a member company is appealing an assessment, the amount assessed must be paid to the association and be available to meet association obligations during the pendency of an appeal. If the appeal on the assessment is upheld, the amount paid in error or excess must be returned to the member company. Any final action or order of the commissioner is subject to judicial review in a court of competent jurisdiction, in the manner provided by chapter 14.

(d) The liquidator, rehabilitator, or conservator of an impaired insurer may notify all interested persons of the effect of sections 61B.18 to 61B.32.

(e) For the purposes of sections 61B.18 to 61B.32, the commissioner may delegate any of the powers conferred by law.

Sec. 11. [61B.27] [PREVENTION OF INSOLVENCIES.]

(a) To aid in the detection and prevention of insurer insolvencies or impairments the commissioner shall notify the commissioners of insurance of all the other states, territories of the United States, and the District of Columbia when the commissioner takes one of the following actions against a member insurer:

(i) revocation of license; or

(ii) suspension of license.

The notice must be mailed to all commissioners within 30 days following the action.

(b) If the commissioner deems it appropriate, the commissioner may:

(1) report to the board of directors when the commissioner has taken one of the actions specified in paragraph (a) or has received a report from another commissioner indicating that an action specified in paragraph (a) has been taken in another state. The report to the board of directors must contain all significant details of the action taken or the report received from another commissioner.

(2) report to the board of directors when the commissioner has reasonable cause to believe from an examination, whether completed or in process, of a member company that the company may be an impaired or insolvent insurer.

(3) furnish to the board of directors the National Association of Insurance Commissioners Insurance Regulatory Information System ratios and listings of companies not included in the ratios developed by the National Association of Insurance Commissioners, and the board may use the information in carrying out its duties and responsibilities under this section. The report and the information contained in it must be kept confidential by the board of directors until it has been made public by the commissioner or other lawful authority.

(c) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the commissioner's duties and responsibilities regarding the financial condition of member insurers and of companies seeking admission to transact insurance business in this state.

(d) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon matters germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of a company seeking to do an insurance business in this state. Those reports and recommendations shall not be considered public documents.

(e) The board of directors, upon majority vote, shall notify the commissioner of information indicating that a member insurer may be an impaired or insolvent insurer.

(f) The board of directors may, upon majority vote, request that the commissioner order an examination of a member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within 30 days of the receipt of the request, if the commissioner believes that adequate evidence has been presented to justify an examination, the commissioner shall begin the examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by those persons designated by the commissioner. The cost of the examination must be paid by the association and the examination report must be treated as are other examination reports. In no event shall an examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with paragraph (a).

The commissioner shall notify the board of directors when the examination is completed. The request for an examination must be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.

(g) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer

insolvencies.

(h) The board of directors may, at the conclusion of an insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the commissioner containing the information it may have in its possession bearing on the history and causes of the insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes of insolvency of a particular insurer, and may adopt by reference any report prepared by those other associations.

Sec. 12. [61B.28] [MISCELLANEOUS PROVISIONS.]

Subdivision 1. [RECORDS.] *Records must be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under section 61B.23. Records of negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subdivision limits the duty of the association to report its activities under section 61B.27.*

Subd. 2. [REPORTS.] *(a) A report, recommendation, or notification by the association, its board of directors, or officers to the commissioner concerning a member insurer, together with statements or documents furnished to the commissioner with, or subsequent to, a report, recommendation, or notification, is confidential and a privileged communication. Reports, recommendations, notifications, statements, and documents furnished to the commissioner are not admissible in whole or in part for any purpose in an action or proceeding against:*

(1) the association or its member insurers, officers, employees, or representatives submitting or providing the report, recommendation, notification, statement, or document; or

(2) a person, firm, or entity who in good faith furnishes to the association the information or document upon which the association has relied in making its report, recommendation, or notification to the commissioner.

(b) Notwithstanding the provisions of section 13.71, the commissioner may release to the association's board of directors any or all nonpublic data collected and maintained by the commissioner on a member insurer or a potential member insurer. Information furnished to the board of directors is private.

Subd. 3. [ASSOCIATION AS CREDITOR.] *For the purpose of carrying out its obligations under sections 61B.18 to 61B.32, the association is considered to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies, reduced by amounts to which the association is entitled as subrogee under section 61B.23, subdivision 13. Assets of the impaired or insolvent insurer attributable to covered policies must be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by sections 61B.18 to 61B.32. Assets attributable to covered policies, as used in this subdivision, are that proportion of the assets which the reserves that should have been established for those policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.*

Subd. 4. [PROHIBITED SALES PRACTICE.] *No person, including an insurer, agent, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, an advertisement, announcement, or statement, written or oral, which uses the existence of the Minnesota Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by sections 61B.18 to 61B.32, providing the notice required by subdivision 5 is not a violation of this subdivision. This subdivision does not apply to the Life and Health Insurance Guaranty Association or an entity that does not sell or solicit insurance. A person violating this section is guilty of a misdemeanor.*

Subd. 5. [NOTICE CONCERNING LIMITATIONS AND EXCLUSIONS.] *On and after January 1, 1992, no person, including an insurer, agent, or affiliate of an insurer or agent, shall offer for sale in this state a covered life insurance, annuity, or health insurance policy or contract without delivering at the time of application for that policy or contract a notice in the form the commissioner from time to time may approve for use in this state relating to coverage provided by the Minnesota Life and Health Insurance Guaranty Association. If the commissioner fails to act, the following notice must be used until the commissioner approves another form of notice:*

"NOTICE CONCERNING LIMITATIONS AND

EXCLUSIONS UNDER THE MINNESOTA LIFE AND

HEALTH INSURANCE GUARANTY

ASSOCIATION LAW

Residents of Minnesota who purchase life insurance, annuities, or health insurance from life insurance companies authorized to do business in Minnesota are protected, SUBJECT TO LIMITS AND EXCLUSIONS, in the event the insurer becomes financially impaired or insolvent. This protection is provided by the Minnesota Life and Health Insurance Guaranty Association.

INVESTMENT PORTIONS OF INSURANCE CONTRACTS MAY NOT BE FULLY PROTECTED. Interest earnings will be covered by the guaranty association only up to a minimum rate of interest.

The maximum amount the guaranty association will pay for all policies issued on one life by the same insurer is limited to $300,000. Subject to this $300,000 limit, the guaranty association will pay up to $100,000 in life insurance cash surrender values, $100,000 in present values of annuities, $300,000 in health insurance benefits, and $300,000 in life insurance death benefits. Coverage by the guaranty association is subject to other substantial limitations and exclusions, and requires continued residency in Minnesota. For example, the cash value and/or death benefit of your policy could be reduced to the minimums guaranteed by the insurer when the policy was issued. THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN INSURANCE COMPANY OR POLICY, YOU ARE ADVISED NOT TO RELY ON COVERAGE BY THE GUARANTY ASSOCIATION."

Subd. 6. [EFFECT OF NOTICE.] *The distribution, delivery, or contents or interpretation of the notice described in subdivision 5 shall not mean that either the policy or contract, or the owner or holder thereof, would be covered in the event of the impairment or insolvency of a member insurer if coverage is not otherwise provided by sections 61B.18 to 61B.32. Failure to receive the notice does not give the policyholder, contract holder, certificate holder, insured, owner, beneficiaries, assignees, or payees any greater rights than those provided by sections 61B.18 to 61B.32.*

Subd. 7. [DISTRIBUTION TO STOCKHOLDERS.] *No distribution to stockholders of an impaired domiciliary insurer shall be made until the total amount of assessments levied by the association with respect to the insurer have been fully recovered by the association.*

Sec. 13. [61B.29] [EXAMINATION OF THE ASSOCIATION; ANNUAL REPORT.]

The association is subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner, before May 1 each year, a financial report in a form approved by the commissioner and a report of its activities during the association's preceding fiscal year.

Sec. 14. [61B.30] [TAX EXEMPTIONS.]

Subdivision 1. [STATE FEES AND TAXES.] *The association is exempt from payment of all fees and all taxes levied by this state or its subdivisions, except taxes levied on real property.*

Subd. 2. [FEDERAL AND FOREIGN STATE TAXES.] *The association may seek exemption from payment of all fees and taxes levied by the federal or any other state government or its subdivisions.*

Sec. 15. [61B.31] [INDEMNIFICATION.]

The association has authority to indemnify certain persons against certain expenses and liabilities as provided in section 300.083 including the power to purchase and maintain insurance on behalf of these persons as provided by section 300.083, subdivision 7. In applying section 300.083 for this purpose, the term "member insurers" shall be substituted for the terms "shareholders" and "stockholders" and the term "association" shall be substituted for the term "corporation."

Sec. 16. [61B.32] [STAY OF PROCEEDINGS; REOPENING DEFAULT JUDGMENTS.]

All proceedings in which the insolvent insurer is a party in a court in this state must be stayed 60 days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on matters germane to its powers or duties. As to judgment under a decision, order, verdict, or finding based on default, the association may apply to have the judgment set aside by the same court that made the judgment and may defend against the suit on the merits.

Sec. 17. [CONTINUATION OF ASSOCIATION.]

Subdivision 1. [ASSOCIATION.] *The nonprofit legal entity known as the Minnesota life and health insurance guaranty association established under Minnesota Statutes 1990, section 61B.04, subdivision 1, shall continue to exist under sections 2 to 16. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state.*

Subd. 2. [BOARD OF DIRECTORS.] *Those persons who, as of the effective date of sections 2 to 16, are serving on the board of directors of the association pursuant to Minnesota Statutes 1990, section 61B.05, continue to serve on the board established by this section for their remaining terms of office. As those terms expire, members of the board shall be elected by member insurers, subject to the approval of the commissioner of commerce, for the terms of office specified in their nominations.*

Subd. 3. [PLAN OF OPERATION.] *The association's existing plan of operation established under Minnesota Statutes 1990, section 61B.08, shall continue in existence under sections 2 to 16, subject to amendments and modifications, until a new plan of operation is submitted to and approved by the commissioner of commerce. If the association fails to submit a plan of operation within 120 days following the effective date of sections 2 to 16, the commissioner shall, after notice and hearing, adopt reasonable rules necessary or advisable to implement sections 2 to 16. The rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.*

Sec. 18. [REPEALER.]

Minnesota Statutes 1990, sections 61B.01; 61B.02; 61B.03; 61B.04; 61B.05; 61B.06; 61B.07; 61B.08; 61B.09; 61B.10; 61B.11; 61B.12; 61B.13; 61B.14; 61B.15; and 61B.16, are repealed.

Sec. 19. [EFFECTIVE DATE.]

This article is effective the day following final enactment and applies to an impairment or insolvency occurring on or after that date.

ARTICLE 6

MIGA AMENDMENTS

Section 1. Minnesota Statutes 1990, section 60B.37, subdivision 2, is amended to read:

Subd. 2. [EXCUSED LATE FILINGS.] For a good cause shown, the liquidator shall recommend and the court shall permit a claimant making a late filing to share in dividends, whether past or future, as if the claimant were not late, to the extent that any such payment will not prejudice the orderly administration of the liquidation. Good cause includes but is not limited to the following:

(a) That existence of a claim was not known to the claimant and that the claimant filed within 30 days after learning of it;

(b) That a claim for unearned premiums or for cash surrender values or other investment values in life insurance or annuities which was not required to be filed was omitted from the liquidator's recommendations to the court under section 60B.45, and that it was filed within 30 days after the claimant learned of the omission;

(c) That a transfer to a creditor was avoided under sections 60B.30 to 60B.32 or was voluntarily surrendered under section 60B.33, and that the filing satisfies the conditions of section 60B.33;

(d) That valuation under section 60B.43 of security held by a secured creditor shows a deficiency, which is filed within 30 days after the valuation; ~~and~~

(e) That a claim was contingent and became absolute, and was filed within

30 days after it became absolute.; *and*

(f) That the claim is for workers' compensation benefits and the time limitations and other requirements of chapter 176 have been met.

Sec. 2. Minnesota Statutes 1990, section 60C.02, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] This chapter applies to all kinds of direct insurance, except life, title, accident and sickness written by life insurance companies, credit, mortgage guaranty, *financial guaranty or other forms of insurance offering protection against investment risks*, and ocean marine.

Sec. 3. Minnesota Statutes 1990, section 60C.03, subdivision 6, is amended to read:

Subd. 6. "Member insurer" means any person, including reciprocals or interinsurance exchanges operating under chapter 71A, township mutual fire insurance companies operating under sections 67A.01 to 67A.26, and farmers mutual fire insurance companies operating under sections 67A.27 to 67A.39, who (a) writes any kind of insurance not excepted from the scope of Laws 1971, chapter 145 by section 60C.02, and (b) is licensed to transact insurance business in this state, except any nonprofit service plan incorporated or operating under sections 62C.01 to 62C.23 and any health plan incorporated under chapter 317A, *and includes an insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn.*

Sec. 4. Minnesota Statutes 1990, section 60C.03, is amended by adding a subdivision to read:

Subd. 10. "Financial guaranty insurance" includes any insurance under which loss is payable upon proof of occurrence of any of the following events to the damage of an insured claimant or obligee:

(1) failure of any obligor or obligors on any debt instrument or other monetary obligation, including common or preferred stock, to pay when due the principal, interest, dividend, or purchase price of such instrument or obligation, whether such failure is the result of a financial default or insolvency and whether or not such obligation is incurred directly or as guarantor by, or on behalf of, another obligor which has also defaulted;

(2) changes in the level of interest rates whether short-term or long-term, or in the difference between interest rates existing in various markets;

(3) changes in the rate of exchange or currency, or from the inconvertibility of one currency into another for any reason; and

(4) changes in the value of specific assets or commodities, or price levels in general.

Sec. 5. Minnesota Statutes 1990, section 60C.04, is amended to read:

60C.04 [CREATION.]

All insurers subject to the provisions of Laws 1971, chapter 145 shall form an organization to be known as the Minnesota insurance guaranty association. All insurers defined as member insurers in section 60C.03, subdivision 6, are and shall remain members of the association as a condition of their authority to transact insurance business or to execute surety bonds in this state. *An insurer's membership obligations under this chapter shall*

survive any merger, consolidation, restructuring, incorporation, or reincorporation. The association shall perform its functions under a plan of operation established and approved under section 60C.07 and shall exercise its powers through a board of directors established under section 60C.08. For purposes of administration and assessment the association shall be divided into five separate accounts: (1) the automobile insurance account, (2) the township mutuals account, (3) the fidelity and surety bond account, (4) the account for all other insurance to which ~~Laws 1971,~~ *this* chapter ~~145~~ applies, and (5) the workers' compensation insurance account.

Sec. 6. Minnesota Statutes 1990, section 60C.06, subdivision 1, is amended to read:

Subdivision 1. [DETERMINATION OF AMOUNT.] The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bear to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance in the account. No member insurer may be assessed in any year on any account in an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. ~~All member insurers licensed to transact insurance business in this state on the date an insurer is placed in liquidation may be assessed as provided by section 60C.06 for necessary payments from the account.~~

Sec. 7. Minnesota Statutes 1990, section 60C.09, subdivision 1, is amended to read:

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

(a)(1) Arises out of and is within the coverage of an insurance policy issued by a member insurer if the insurer becomes an insolvent insurer after April 30, 1979; or

(2) Would be within the coverage of an extended reporting endorsement to a claims-made insurance policy if insolvency had not prevented the member insurer from fulfilling its obligation to issue the endorsement, if:

(i) the claims-made policy contained a provision affording the insured the right to purchase a reporting endorsement;

(ii) coverage will be no greater than if a reporting endorsement had been issued;

(iii) the insured has not purchased other insurance which applies to the claim; and

(iv) the insured's deductible under the policy is increased by an amount equal to the premium for the reporting endorsement, as provided in the insured's claims-made policy, or if not so provided, then as established by a rate service organization.

(b) Arises out of a class of business which is not excepted from the scope of this chapter by section 60C.02; and

(c) Is made by:

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

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

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

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

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

For purposes of paragraph (c), item (ii), unit owners of condominiums, townhouses, or cooperatives are considered as having an insurable interest.

A covered claim also includes any unpaid claim which arises or exists within 30 days after the time of entry of an order of liquidation with a finding of insolvency by a court of competent jurisdiction unless prior thereto the insured replaces the policy or causes its cancellation or the policy expires on its expiration date. A covered claim does not include claims filed with the guaranty fund after the final date set by the court for the filing of claims except for *workers' compensation claims that have met the time limitations and other requirements of chapter 176* and excused late filings permitted under section 60B.37.

Sec. 8. Minnesota Statutes 1990, section 60C.13, subdivision 1, is amended to read:

Subdivision 1. Any person having a claim ~~against an insurer under any provision in an insurance policy other than a policy of an insurer in liquidation which is also a covered claim, is required to exhaust first any rights~~ *under another policy, which claim arises out of the same facts which give rise to the covered claim, shall be first required to exhaust the person's right* under the other policy. Any amount payable on a covered claim under ~~Laws 1971,~~ *this* chapter ~~145~~ shall be reduced by the amount of any recovery under such insurance policy. *For purposes of this section, another insurance policy means a policy or coverage issued by any insurance company, whether a member insurer or not, which policy or coverage insures against any of the types of direct insurance or coverage, excluding workers' compensation, which is within the scope of this chapter.*

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day following final enactment. Section 8 applies to all unsettled existing and future claims made after that date arising out of any past or future member insolvencies.

ARTICLE 7

STANDARD VALUATION LAW

Section 1. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 2a. [ACTUARIAL OPINION OF RESERVES; GENERAL.] *(a) Unless exempted by the commissioner, every life insurance company doing*

business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner may by rule define the specifics of this opinion and add any other items considered to be necessary to its scope. The opinion must be included in the company's annual statement.

(b) The requirement to annually submit the opinion of a qualified actuary applies to service plan corporations licensed under chapter 62C, to legal service plans licensed under chapter 62G, and to all fraternal beneficiary associations except those associations paying only sick benefits not exceeding $250 in any one year, or paying funeral benefits of not more than $350, or aiding those dependent on a member not more than $350, nor any subordinate lodge or council which is, or whose members are, assessed for benefits which are payable by a grand body.

(c) The opinion applies to all business in force, including individual and group health insurance plans, and must be based on standards adopted by the Actuarial Standards Board. The opinion must be acceptable to the commissioner in both form and substance.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements specified in the regulations.

(f) The board of directors of every insurer subject to this section shall appoint a qualified actuary to sign its actuarial opinion. The appointment of the qualified actuary shall be approved by the commissioner. The qualified actuary so appointed may be an employee of the insurer. Notice of the appointment, including a copy of the board of directors' resolution, and the date of appointment shall be filed with the commissioner. The notice may be filed before or at the time the actuarial opinion is submitted. The notice shall state the qualifications of the actuary. If the board appoints a new actuary to sign actuarial opinions during the year, the commissioner shall be notified of the new appointment and the reason for change.

(g) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(h) A memorandum, in form and substance acceptable to the commissioner based on standards adopted by the Actuarial Standards Board and on additional standards as the commissioner may by rule prescribe, must be prepared to support each actuarial opinion.

(i) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by the commissioner, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards based on standards adopted by the Actuarial Standards Board and on additional

standards as the commissioner may by rule prescribe or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the required supporting memorandum.

(j) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, must be kept confidential by the commissioner and must not be made public and is not subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules promulgated under this section. The memorandum or other material may otherwise be released by the commissioner (1) with the written consent of the company or (2) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

Sec. 2. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 2b. [ACTUARIAL ANALYSIS.] *(a) Every life insurance company, except as exempted by or pursuant to regulation, shall also annually include in the opinion required under subdivision 2a, paragraph (a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items, including page 3, line 10, of the annual statement, held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.*

(b) The commissioner may provide by regulation for a transition period for establishing any higher reserves which the qualified actuary may consider necessary in order to give the opinion required under section 1.

Sec. 3. Minnesota Statutes 1990, section 61A.25, subdivision 5, is amended to read:

Subd. 5. [MINIMUM AGGREGATE RESERVES.] A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of Laws 1947, chapter 182, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subdivisions 4, 4a, 7, and 8, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required under section 1.

Sec. 4. Minnesota Statutes 1990, section 61A.25, subdivision 6, is amended to read:

Subd. 6. [CALCULATION OF RESERVES.] (1) Reserves for all policies and contracts issued prior to the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided. *For purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to give the opinion required under section 1 shall not be considered the adoption of a higher standard of valuation.*

Sec. 5. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 9. [MINIMUM STANDARDS FOR HEALTH, DISABILITY, ACCIDENT, AND SICKNESS PLANS.] *The commissioner may adopt a rule containing the minimum standards applicable to the valuation of health, disability, accident, and sickness plans.*

Sec. 6. [REPORT.]

The commissioner of commerce shall review the standards for the appointment of qualified actuaries under sections 1 and 2 and submit a report to the legislature relating to the effectiveness of the standards by January 1, 1993.

Sec. 7. [COMPLEMENT.]

The complement of the department of commerce is increased by one position in the classified service for the purpose of reviewing actuarial opinions and analysis submitted under sections 1 and 2.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 5 are effective for reports submitted for 1992 as required under section 60A.13.

ARTICLE 8

INVESTMENTS FOR DOMESTIC INSURERS

Section 1. Minnesota Statutes 1990, section 60A.11, subdivision 10, is amended to read:

Subd. 10. [DEFINITIONS.] The following terms have the meaning assigned in this subdivision for purposes of this section and section 60A.111:

(a) *"Adequate evidence" means a written confirmation, advice, or other verification issued by a depository, issuer, or custodian bank which shows that the investment is held for the company;*

(b) "Adequate security" means a letter of credit qualifying under subdivision 11, paragraph (f), cash, or the pledge of an investment authorized by any subdivision of this section;

(c) "Admitted assets," for purposes of computing percentage limitations on particular types of investments, means the assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment;

~~(b)~~ *(d)* "Clearing corporation" means The Depository Trust Company or any other clearing agency registered with the ~~federal~~ securities and exchange commission pursuant to the ~~Federal~~ Securities Exchange Act of 1934, section 17A, Euro-clear Clearance System Limited and CEDEL S.A., and, with the approval of the commissioner, any other clearing corporation as defined in section 336.8-102;

~~(c)~~ *(e)* "Control" has the meaning assigned to that term in, and must be determined in accordance with, section 60D.01, subdivision 4;

~~(d)~~ *(f)* "Custodian bank" means a bank or trust company or a branch of a bank or trust company that is acting as custodian and is supervised and examined by state or federal authority having supervision over the bank or trust company or with respect to a company's foreign investments only by the regulatory authority having supervision over banks or trust companies in the jurisdiction in which the bank, trust company, or branch is located, and *any banking institutions qualifying as an "Eligible Foreign Custodian" under the Code of Federal Regulations, section 270.17f-5, adopted under section 17(f) of the Investment Company Act of 1940, and* specifically ~~includes~~ *including* Euro-clear Clearance System Limited and CEDEL S.A., acting as custodians;

(g) "Evergreen clause" means a provision that automatically renews a letter of credit for a time certain if the issuer of the letter of credit fails to affirmatively signify its intention to nonrenew upon expiration;

(h) "Government obligations" means direct obligations for the payment of money, or obligations for the payment of money to the extent guaranteed as to the payment of principal and interest by any governmental issuer where the obligations are payable from ad valorem taxes or guaranteed by the full faith, credit, and taxing power of the issuer and are not secured solely by special assessments for local improvements;

(i) "Noninvestment grade obligations" means obligations which, at the time of acquisition, were rated below Baa/BBB or the equivalent by a securities rating agency or which, at the time of acquisition, were in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners;

~~(e)~~ *(j)* "Issuer" means the corporation, business trust, governmental unit, partnership, association, individual, or other entity which issues or on behalf of which is issued any form of obligation;

(k) "Licensed real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid license under chapter 82B or a substantially similar licensing requirement in another jurisdiction;

~~(f)~~ *(l)* "Member bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System;

~~(g)~~ *(m)* "National securities exchange" means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada;

(n) "NASDAQ" means the reporting system for securities meeting the definition of National Market System security as provided under Part I to Schedule D of the National Association of Securities Dealers Incorporated bylaws;

~~(h)~~ *(o)* "Obligations" include bonds, notes, debentures, transportation equipment certificates, repurchase agreements, bank certificates of deposit, time deposits, bankers' acceptances, and other obligations for the payment of money not in default as to payments of principal and interest on the date of investment, whether constituting general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment. Leases are considered obligations if the lease is assigned for the benefit of the company and is nonterminable by the lessee or lessees thereunder upon foreclosure of any lien upon the leased property, and rental payments are sufficient to amortize the investment over the primary lease term;

~~(i)~~ *(p)* "Qualified assets" means the sum of (1) all investments qualified in accordance with this section other than investments in affiliates and subsidiaries, (2) investments in obligations of affiliates as defined in section 60D.01, subdivision 2 secured by real or personal property sufficient to qualify the investment under subdivision 19 or 23, (3) qualified investments in subsidiaries, as defined in section 60D.01, subdivision 9, on a consolidated basis with the insurance company without allowance for goodwill or other intangible value, and (4) cash on hand and on deposit, agent's balances or uncollected premiums not due more than 90 days, assets held pursuant to section 60A.12, subdivision 2, investment income due and accrued, funds due or on deposit or recoverable on loss payments under contracts of reinsurance entered into pursuant to section 60A.09, premium bills and notes receivable, federal income taxes recoverable, and equities and deposits in pools and associations;

~~(j)~~ *(q)* "Qualified net earnings" means that the net earnings of the issuer after elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period;

~~(k)~~ *(r)* "Required liabilities" means the sum of (1) total liabilities as required to be reported in the company's most recent annual report to the commissioner of commerce of this state, (2) for companies operating under the stock plan, the minimum paid-up capital and surplus required to be maintained pursuant to section 60A.07, subdivision 5a, (3) for companies operating under the mutual or reciprocal plan, the minimum amount of surplus required to be maintained pursuant to section 60A.07, subdivision 5b, and (4) the amount, if any, by which the company's loss and loss adjustment expense reserves exceed 350 percent of its surplus as it pertains to policyholders as of the same date. The commissioner may waive the requirement in clause (4) unless the company's written premiums exceed 300 percent of its surplus as it pertains to policyholders as of the same date.

In addition to the required amounts pursuant to clauses (1) to (4), the commissioner may require that the amount of any apparent reserve deficiency that may be revealed by one to five year loss and loss adjustment expense development analysis for the five years reported in the company's most recent annual statement to the commissioner be added to required liabilities; ~~and~~

(s) "Revenue obligations" means obligations for the payment of money by a governmental issuer where the obligations are payable from revenues, earnings, or special assessments on properties benefited by local improvements of the issuer which are specifically pledged therefor;

(t) "Security" has the meaning given in section 5 of the Security Act of 1933 and specifically includes, but is not limited to, stocks, stock equivalents, warrants, rights, options, obligations, American Depository Receipts (ADR's), repurchase agreements, and reverse repurchase agreements; and

~~(t)~~ *(u)* "Unrestricted surplus" means the amount by which qualified assets exceed 110 percent of required liabilities.

Sec. 2. Minnesota Statutes 1990, section 60A.11, subdivision 11, is amended to read:

Subd. 11. [INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND PROHIBITIONS.] A company's investments shall be held in its own name or the name of its nominee, except that:

(a) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(1) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others;

(2) Where the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee by a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit; ~~and~~

(3) Where a clearing corporation is to act as depository, the investment may be merged or held in bulk in the clearing corporation's or its nominee name with other investments deposited with the clearing corporation by any other person, if a written agreement provides that adequate evidence of the deposit is to be obtained and retained by the company or a custodian bank; *and*

(4) The company shall monitor current publicly available financial information and other pertinent data with respect to the custodian banks.

(b) A company may loan ~~stocks or obligations~~ *securities* held by it under this chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or a member bank. The loan must be evidenced by a written agreement which provides:

(1) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality thereof, and that the collateral will be adjusted each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral;

(2) That the loan may be terminated by the company at any time, and that the borrower will return the loaned ~~stocks or obligations~~ *securities* or their equivalent within five business days after termination;

(3) That the company has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement and that the borrower remains liable for any losses and expenses incurred by the company due to default that are not covered by the collateral~~;~~.

(c) A company may participate through a member bank in the Federal Reserve book-entry system, and the records of the member bank shall at all times show that the investments are held for the company or for specific accounts of the company~~; or~~.

(d) An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment shall be issued in the name of the company or the name of the custodian bank or the nominee of either and if the certificate or confirmation must, if held by a custodian bank, be kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the company making the investment.

(e) Except as provided in paragraph (c), where an investment is not evidenced by a certificate, ~~except as provided in paragraph (c),~~ adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, a custodian bank, or clearing corporation. ~~Adequate evidence, for purposes of this subdivision, shall mean a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the company.~~ Transfers of ownership of investments held as described in paragraphs (a), clause (3), (c) and (d) may be evidenced by bookkeeping entry on the books of the issuer of the investment or its transfer or recording agent or the clearing corporation without physical delivery of certificates, if any, evidencing the company's investment.

(f) A letter of credit may be accepted as a guaranty of other investments, as collateral to secure loans, or in lieu of cash to secure loans of securities, if it is issued by a member bank or any of the 100 largest banks in the world ranked by deposits in dollars or converted into dollar equivalents, as compiled annually by the American Bankers Association or listed in the annual publication of Moody's Bank & Finance Manual and meets the following requirements:

(1) has a long-term deposit rating or a long-term debt rating of at least Aa2 as found in the current monthly publication of Moody's Credit Opinions or its equivalent; and

(2) qualifies under the guidelines of the National Association of Insurance Commissioners as a clean, irrevocable letter of credit containing an evergreen clause or having a maturity date subsequent to the maturity date of the underlying investment or loan. The company shall monitor current publicly available financial information and other pertinent data with respect to the banks issuing the letters of credit.

Sec. 3. Minnesota Statutes 1990, section 60A.11, is amended by adding a subdivision to read:

Subd. 11a. [ADDITIONAL LIMITATIONS.] *Under the standards and procedures in article 3, the commissioner may impose additional limitations on the types and percentages of investments as the commissioner determines necessary to protect and ensure the safety of the general public.*

Sec. 4. Minnesota Statutes 1990, section 60A.11, subdivision 12, is amended to read:

Subd. 12. [INVESTMENTS.] *(a) The board of directors or trustees of each company or of its ultimate parent or intermediate holding company shall, for each fiscal year, adopt a written plan or policy for the investment of the company's assets during that year which must be made a part of the company or of its ultimate parent or intermediate holding company's corporate records.*

(b) A company's investments must be so diversified that the securities of a single issuer, other than the United States of America or any agency or instrumentality of the United States of America backed by the full faith and credit of the issuer, shall comprise no more than five percent of the company's admitted assets, except where otherwise specified under this chapter. In the case of insurance companies which are subsidiaries of a company, this diversification test must be applied to the assets of the insurance company subsidiary in determining the company's compliance.

(c) The investments authorized under ~~the following~~ subdivisions ~~of this section~~ *12 to 26* shall constitute admitted assets for a company.

Sec. 5. Minnesota Statutes 1990, section 60A.11, subdivision 13, is amended to read:

Subd. 13. [UNITED STATES GOVERNMENT OBLIGATIONS.] *(a)* Obligations issued or guaranteed by the United States *of America* or ~~an~~ *any* agency or instrumentality of the United States *of America backed by the full faith and credit of the issuer*, including rights to purchase *or sell* these obligations if those rights are traded upon a contract market designated and regulated by a federal agency.

(b) Obligations issued or guaranteed by an agency or instrumentality of the United States of America other than those backed by the full faith and credit thereof, including rights to purchase or sell these obligations if those rights are traded upon a contract market designated and regulated by a federal agency. The securities of a single issuer under this paragraph shall comprise no more than 20 percent of the company's admitted assets.

Sec. 6. Minnesota Statutes 1990, section 60A.11, subdivision 14, is amended to read:

Subd. 14. [CERTAIN BANK OBLIGATIONS.] (a) Certificates of deposits, time deposits, and bankers' acceptances issued by and other obligations guaranteed by*: (i)* any bank organized under the laws of the United States or any state, *commonwealth, or territory* thereof, *including the District of Columbia,* or of the Dominion of Canada or any province thereof *or (ii) any of the 100 largest banks, not a subsidiary or a holding company thereof, in the world ranked by deposits in dollars or converted into dollar equivalents, as compiled annually by the American Bankers Association or listed in the annual publication of Moody's Bank & Finance Manual, which also has a long-term deposit rating or a long-term debt rating of at least Aa2 as found in the current monthly publication of Moody's Credit Opinions or its equivalent.* A company may not invest more than five percent of its

admitted assets in the obligations of any one bank and may not hold at any time more than ten percent of the outstanding obligations of any one bank. ~~A letter of credit issued by a member bank which qualifies under the guidelines of the National Association of Insurance Commissioners as a clean, irrevocable letter of credit which contains an "evergreen clause," may be accepted as a guaranty of other investments and in lieu of cash to secure loans of securities.~~

(b) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the African Development Bank, the Export-Import Bank, the World Bank or any United States government sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. A company may not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and may not invest more than a total of 15 percent of its total admitted assets in the obligations of all these banks and organizations.

Sec. 7. Minnesota Statutes 1990, section 60A.11, subdivision 15, is amended to read:

Subd. 15. [STATE OBLIGATIONS.] *(a) Government* obligations issued or guaranteed by any state, *commonwealth, or territory* of the United States *of America* or by any political subdivision thereof, *including the District of Columbia*, or by any instrumentality of any state, *commonwealth, territory*, or political subdivision *thereof. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.*

(b) Revenue obligations issued by any state, commonwealth, or territory of the United States of America or by any political subdivision thereof, including the District of Columbia, or by any instrumentality of any state, commonwealth, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), is applicable to revenue obligations under this paragraph.

Sec. 8. Minnesota Statutes 1990, section 60A.11, subdivision 16, is amended to read:

Subd. 16. [CANADIAN GOVERNMENT OBLIGATIONS.] *(a)* Obligations issued or guaranteed by the Dominion of Canada or by any agency or ~~province thereof, or by any political subdivision of any province or by an instrumentality of any province or political subdivision thereof~~ *instrumentality of the Dominion of Canada backed by the full faith and credit of the issuer. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.*

(b) Obligations issued or guaranteed by an agency or instrumentality of the Dominion of Canada other than those backed by the full faith and credit of the issuer. The securities of a single issuer under this paragraph shall comprise no more than 20 percent of the company's admitted assets.

(c) Government obligations issued or guaranteed by a province or territory of the Dominion of Canada or by a political subdivision thereof, or by an instrumentality of a province, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.

(d) Revenue obligations issued by a province or territory of the Dominion

of Canada or by a political subdivision thereof, or by an instrumentality of a province, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), is applicable to revenue obligations under this paragraph.

Sec. 9. Minnesota Statutes 1990, section 60A.11, subdivision 17, is amended to read:

Subd. 17. [CORPORATE AND BUSINESS TRUST OBLIGATIONS.] Obligations issued, assumed or guaranteed by a corporation or business trust organized under the laws of the United States *of America* or any state, *commonwealth, or territory* of the United States, *including the District of Columbia,* or the laws of *the Dominion of* Canada or any province *or territory* of *the Dominion of* Canada, or obligations traded on a national securities exchange on the following conditions:

(a) A company may invest in any obligations traded on a national securities exchange;

(b) A company may also invest in any obligations which are secured by adequate security located in the United States or Canada;

(c) A company may also invest in previously outstanding or newly issued obligations not qualifying for investment under paragraph (a) or (b) if the corporation or business trust has qualified net earnings. If the obligations are not newly issued, neither principal nor interest payments on the obligations shall have been in arrears (1) for an aggregate of 90 days during the three-year period preceding the date of investment, or (2) where the obligations have been outstanding for less than 90 days, during the period the obligations have been outstanding;

(d) *A company may invest no more than 15 percent of its total admitted assets in noninvestment grade obligations;*

(e) A company may invest in federal farm loan bonds and may invest up to 20 percent of its total admitted assets in the obligations of farm mortgage debenture companies; and

~~(e)~~ *(f)* A company may not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust; provided, however, that a company may invest in the obligations of a corporation without regard to this paragraph *or the subdivision 12, paragraph (b), diversification requirement* if: (1) the company is wholly owned by the issuer and affiliates of the issuer of the obligations; (2) the company insures solely the issuer of the obligations and its affiliates; (3) the issuer has a net worth, determined on a consolidated basis, which equals or exceeds $100,000,000; and (4) the issuer and its affiliates forego any and all claims they may have against the Minnesota insurance guaranty association pursuant to chapter 60C in the event of the insolvency of the company. This does not affect the rights of any unaffiliated third party claimant under section 60C.09, subdivision 1.

Sec. 10. Minnesota Statutes 1990, section 60A.11, subdivision 18, is amended to read:

Subd. 18. [STOCKS *AND LIMITED PARTNERSHIPS.*] *(a)* Stocks issued or guaranteed by any corporation incorporated under the laws of the United States *of America* or any state, *commonwealth, or territory* of the United States, *including the District of Columbia,* or the laws of *the Dominion of*

Canada or any province *or territory* of Canada, or stocks or stock equivalents, *including American Depository Receipts or unit investment trusts,* listed or regularly traded on a national securities exchange on the following conditions:

(1) A company may not invest more than a total of 25 percent of its total admitted assets in stocks, stock equivalents, and convertible issues. Not more than ten percent of a company's total admitted assets may be invested in stocks, stock equivalents, and convertible issues not traded or listed on a national securities exchange or designated or approved for designation upon notice of issuance on the NASDAQ/National Market System. This limitation does not apply to investments under clause (4);

~~(a)~~ *(2)* A company may *not* invest in *more than two percent of its total admitted assets in* preferred stocks *of any corporation which are* traded on a national securities exchange and may also invest in other preferred stocks if the issuer has qualified net earnings and if current or cumulative dividends are not then in arrears;

~~(b)~~ *(3)* A company may *not* invest in *more than two percent of its total admitted assets in* common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of any corporation or business trust~~, provided:~~ *which are traded on a national securities exchange or designated or approved for designation upon notice of issuance on the NASDAQ/National Market System, and may also invest in other common stocks, stock equivalents, and convertible issues subject to the limitations specified in clause (1);*

~~(1) The common stock, common stock equivalent or convertible issue is publicly traded on a national securities exchange, or the corporation or business trust has qualified net earnings;~~

~~(2) A company may invest up to two percent of its admitted assets in common stock, common stock equivalents or convertible issues which do not meet the requirements of clause (1);~~

~~(3) At no time may~~ *(4)* A company *may organize or* acquire ~~or~~ *and* hold voting control of a corporation or business trust through its ownership of common stock, common stock equivalents, or other securities, ~~except that a company may organize and hold, or acquire and hold more than 50 percent of the common stock of~~ *provided the corporation or business trust is:* (a) a corporation providing investment advisory, banking, management or sale services to an investment company or to an insurance company, (b) a data processing or computer service company, (c) a mortgage loan corporation engaged in the business of making, originating, purchasing or otherwise acquiring or investing in, and servicing or selling or otherwise disposing of loans secured by mortgages on real property, (d) a corporation if its business is owning and managing or leasing personal property, (e) a corporation providing securities underwriting services or acting as a securities broker or dealer, (f) a real property holding, developing, managing, brokerage or leasing corporation, (g) any domestic or foreign insurance company, (h) any alien insurance company, if the organization or acquisition and the holding of the company is subject to the prior approval of the commissioner of commerce, which approval must be given upon good cause shown and is deemed to have been given if the commissioner does not disapprove of the organization or acquisition within 30 days after notification by the company, (i) an investment subsidiary to acquire and hold investments which the company could acquire and hold directly, if the investments of

the subsidiary are considered direct investments for purposes of this chapter and are subject to the same percentage limitations, requirements and restrictions as are contained herein, or (j) any corporation whose business has been approved by the commissioner as complementary or supplementary to the business of the company. ~~The percentage of common stock may be less than 50 percent if the prior approval of the commissioner is obtained.~~ A company may invest up to an aggregate of ten percent of its *total* admitted assets under subclauses (a) to (e) of this clause ~~(3)~~. *The diversification requirement of subdivision 12, paragraph (b), does not apply to this clause*;

~~(4) A company may invest in the common stock of any corporation owning investments in foreign companies used for purposes of legal deposit, when the insurance company transacts business therein direct or as reinsurance;~~

~~(c)~~ *(5)* A company may invest in warrants and rights granted by an issuer to purchase ~~stock~~ *securities* of the issuer if ~~the stock~~ *that security* of the issuer, at the time of the acquisition of the warrant or right to purchase, would qualify as an investment under paragraph (a), *clause (2)* or ~~(b)~~ *(3)*, whichever is applicable~~. A company shall not invest more than two percent of its assets under this paragraph. Any stock actually acquired through the exercise of a warrant or right to purchase may be included in paragraph (a) or (b), whichever is applicable, only if the stock~~, *provided that security* meets the standards prescribed in the clause at the time of acquisition of the ~~stock~~ *securities*; and

~~(d)~~ *(6)(i)* A company may invest in the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the ~~Federal~~ Investment Company Act of 1940 as from time to time amended, provided that the aggregate of all these investments other than in securities of money market mutual funds or mutual funds investing primarily in United States government securities, determined at cost, shall not exceed five percent of its *total* admitted assets; investments may be made under this clause without regard to the percentage limitations applicable to investments in voting securities.

~~(e)~~ *(ii)* A company may invest in any proportion of the shares or investment units of an investment company or investment trust, whether or not registered under the ~~Federal~~ Investment Company Act of 1940, which is managed by an insurance company, member bank, trust company regulated by state or federal authority or an investment manager or adviser registered under the ~~Federal~~ Investment Advisers Act of 1940 or qualified to manage the investments of an investment company registered under the ~~Federal~~ Investment Company Act of 1940, provided that the investments of the investment company or investment trust are qualified investments made under this section and that the articles of incorporation, bylaws, trust agreement, investment management agreement, or some other governing instrument limits its investments to investments qualified under this section.

(b) A company may invest in or otherwise acquire and hold a limited partnership interest in any limited partnership formed under the laws of any state, commonwealth, or territory of the United States or under the laws of the United States of America. No limited partnership interest shall be acquired if the investment, valued at cost, exceeds two percent of the admitted assets of the company or if the investment, plus the book value on the date of the investment of all limited partnership interests then held by the company and held under the authority of this subdivision, exceeds ten percent of the

company's admitted assets. Limited partnership interests traded on a national securities exchange must be classified as stock equivalents and are not subject to the percentage limitations contained in this paragraph.

Sec. 11. Minnesota Statutes 1990, section 60A.11, subdivision 19, is amended to read:

Subd. 19. [MORTGAGES ON REAL ESTATE.] *Up to 25 percent of a company's total admitted assets may be invested in* loans or obligations secured by a mortgage or a trust deed on real estate located in any state, *commonwealth, or territory* of the United States, *including the District of Columbia,* or in any province *or territory* of the Dominion of Canada, on the following conditions:

(a) A leasehold estate constitutes real estate under this section if its unexpired term on the date of investment is at least five years longer than the term of the obligation secured by it. The obligation must be repayable within the leasehold term in annual or more frequent installments, except that obligations for commercial purposes may begin up to five years after the date of the obligations. The mortgage must entitle the company upon default to be subrogated to all rights of the lessor under the leasehold;

(b) The real estate to which the mortgage applies must be (1) improved with permanent buildings, or (2) used for agriculture or pasture, or (3) income-producing, including but not limited to parking lots and leases, royalty or other mineral interests in properties producing oil, gas or other minerals and interests in properties for the harvesting of forest products, or (4) subject to a definite plan for the commencement of development within five years;

(c) The real estate to which the mortgage applies must be otherwise unencumbered when the mortgage loan is funded except as provided in paragraph (d) and except for encumbrances which do not unreasonably interfere with the intended use of the real estate as security;

(d) The real estate to which the mortgage applies may be subject to a prior mortgage or trust deed if (1) the amount of the obligation is equal to the sum of the company's loan and the other outstanding indebtedness and (2) the company has control over the payments under the prior mortgage or trust deed;

(e) The amount of the obligation may not exceed 80 percent of the real estate. If the amount of the obligation exceeds 66-2/3 percent of the market value of the real estate, principal payments must commence within five years after the date of the mortgage loan and principal and interest on the loan shall be fully amortized by regular installments payable during the term of the loan without irregular or balloon payments, unless the schedule of irregular or balloon payments is more favorable to the insurer than regular installments of equal amount would be. The market value shall be established by the written certification of a *licensed* real estate appraiser qualified to appraise the particular type of real estate involved. *The appraisal must be required at the time the loan is made*;

(f) The maximum term of any obligation shall be 40 years, except as provided in paragraph (g) and except for obligations secured by a mortgage or trust deed which are or are to be insured by a private mortgage insurance company approved by the commissioner;

(g) The *25 percent of total admitted asset limitation in the preamble of*

this subdivision and the maximum amount and term limitations in paragraphs (e) and (f) shall not apply to obligations secured by mortgage or trust deed which are insured or guaranteed by the United States *of America* or any agency or instrumentality of the United States;

(h) A company may invest in *collateralized mortgage obligations*, mortgage participation certificates and pools issued or administered by a bank or banks and secured by first mortgages or trust deeds on improved real estate located in the United States provided the private placement memorandum, prospectus or other offering circular, or a written agreement with the issuer of the *collateralized mortgage obligations*, certificate or other pool interest provides that each loan meets the requirements of this subdivision;

(i) Notwithstanding the restrictions in paragraph (e), if a company disposes of real estate acquired by it under subdivision 20, it may take back a purchase money mortgage from its ~~vendee~~ *purchaser* in an amount up to 90 percent of the ~~purchase price~~ *appraised value*; and

(j) The vendor's equity in a contract for deed shall be treated as a mortgage for purposes of this subdivision.

Sec. 12. Minnesota Statutes 1990, section 60A.11, subdivision 20, is amended to read:

Subd. 20. [REAL ESTATE.] (a) Except as provided in paragraphs (b) to (d), a company may only acquire, hold, and convey real estate which:

(1) has been mortgaged to it in good faith by way of security for loans previously contracted, or for money due;

(2) has been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) has been purchased at sales on judgments, decrees or mortgages obtained or made for the debts; and

(4) is subject to a contract for deed under which the company holds the vendor's interest to secure the payments the vendee is required to make thereunder.

All the real estate specified in clauses (1) to (3) must be sold and disposed of within five years after the company has acquired title to it, or within five years after it has ceased to be necessary for the accommodation of the company's business, and the company must not hold this property for a longer period unless the company elects to hold the real estate under another section, or unless it procures a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to the time the commissioner directs in the certificate. *The market value of real estate must be established by the written certification of a licensed real estate appraiser. The appraisal is required at the time the company elects to hold the real estate under this subdivision.*

(b) A company may acquire and hold real estate for the convenient accommodation of its business.

(c) A company may acquire real estate or any interest in real estate, including oil and gas and other mineral interests, as an investment for the production of income, and may hold, improve or otherwise develop, subdivide, lease, sell and convey real estate so acquired directly or as a joint

venture or through a limited or general partnership in which the company is a partner.

(d) A company may also hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section, and (2) if the company expects the real estate so acquired to qualify under paragraph (b) or (c) above within five years after acquisition.

(e) A company may, after securing the approval of the commissioner, acquire and hold real estate for the purpose of providing necessary living quarters for its employees. The company must dispose of the real estate within five years after it has ceased to be necessary for that purpose unless the commissioner agrees to extend the holding period upon application by the company.

(f) A company may not invest more than 25 percent of its total admitted assets in real estate. The cost of any parcel of real estate held for both the accommodation of business and for the production of income must be allocated between the two uses annually. *No more than ten percent of a company's total admitted assets may be invested in real estate held under paragraph (b). No more than 15 percent of a company's total admitted assets may be invested in real estate held under paragraph (c).* No more than three percent of its total admitted assets may be invested in real estate held under paragraph (e). *Upon application by a company, the commissioner of commerce may increase any of these limits up to an additional five percent.*

Sec. 13. Minnesota Statutes 1990, section 60A.11, subdivision 21, is amended to read:

Subd. 21. [FOREIGN INVESTMENTS.] Obligations of and investments in foreign countries, on the following conditions:

(a) a company may acquire and hold any foreign investments which are required as a condition of doing business in the foreign country or necessary for the convenient accommodation of its foreign business. An investment is considered necessary for the convenient accommodation of the insurance company's foreign business only if it is demonstrably and directly related in size and purpose to the company's foreign insurance operations; and

(b) a company may ~~also~~ *not* invest ~~not~~ more than ~~a total of two~~ *five* percent of its *total* admitted assets in any combination of:

(1) the obligations of foreign governments, corporations, or business trusts;

(2) obligations of federal, provincial, or other political subdivisions backed by the full faith and credit of the foreign governmental unit;

(3) or in the stocks or stock equivalents or obligations of foreign corporations or business trusts not qualifying for investment under subdivision 12, if the obligations, stocks or stock equivalents are listed or regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar regular securities exchange not disapproved by the commissioner within 30 days following notice from the company of its intention to invest in these securities.

Sec. 14. Minnesota Statutes 1990, section 60A.11, subdivision 22, is amended to read:

Subd. 22. [PERSONAL PROPERTY UNDER LEASE.] Personal property

for intended lease or rental in the United States or Canada. A company may not invest more than five percent of its *total* admitted assets under this subdivision.

Sec. 15. Minnesota Statutes 1990, section 60A.11, subdivision 23, is amended to read:

Subd. 23. [COLLATERAL LOANS.] Obligations ~~adequately secured by a qualifying letter of credit issued by a member bank or by cash or by the pledge of any investment authorized by any of the preceding subdivisions~~ *having adequate security* if:

(a) The collateral is legally assigned or delivered to the company;

(b) The company has the right to declare the obligation immediately due and payable if the security thereafter depreciates to the point where the investment would not qualify under paragraph (c); provided, that additional qualifying security may be pledged to allow the investment to remain qualified *at its face value*;

(c) The collateral must at the time of delivery or assignment have a market value of at least, in the case of cash, *or a letter of credit meeting the requirements of subdivision 11, paragraph (f),* equal to and, in all other cases, 1-1/4 times the amount of the unpaid balance of the obligations.

A collateral loan made by a company to its parent corporation or an affiliated party must be secured by collateral: (i) with a market value equal to the amount of the unpaid balance of the obligations, and (ii) which is issued or guaranteed by the United States of America or an agency or an instrumentality thereof, or any state or territory thereof, and is secured by the full faith and credit of the United States of America or any state or territory thereof. A company may not invest more than five percent of its total admitted assets under this subdivision.

Sec. 16. Minnesota Statutes 1990, section 60A.11, is amended by adding a subdivision to read:

Subd. 24a. [DATA PROCESSING SYSTEMS.] *Electronic computer or data processing machines or systems purchased for use in connection with the business of the company, provided that the machines or system must have an original cost of not less than $100,000 nor more than three percent of the admitted assets of the company and the cost must be amortized in full over a period not to exceed ten full calendar years.*

Sec. 17. Minnesota Statutes 1990, section 60A.11, subdivision 26, is amended to read:

Subd. 26. [RULES.] (a) The commissioner may adopt appropriate rules to carry out the purpose and provisions of this section.

(b) A company may make qualified investments in any ~~additional securities or property of any kind~~ *other type of investment or exceeding any limitations of quality, quantity, or percentage of admitted assets contained in this section* with the written order of the commissioner. This approval is at the discretion of the commissioner, *provided that the additional investments allowed by the commissioner's written order may not exceed five percent of the company's admitted assets.*

(c) Nothing authorized in this subdivision negates or reduces the investment authority granted in subdivisions 1 to 25.

Sec. 18. [REPEALER.]

Minnesota Statutes 1990, section 60A.12, subdivision 2, is repealed.

Sec. 19. [EFFECTIVE DATE.]

Section 9, paragraph (d), is effective as follows: effective January 1, 1992, noninvestment grade obligations are limited to 20 percent of admitted assets; effective January 1, 1993, noninvestment grade obligations are limited to 17.5 percent of admitted assets; effective January 1, 1994, and thereafter, noninvestment grade obligations are limited to 15 percent of admitted assets.

ARTICLE 9

LIFE INSURANCE COMPANY INVESTMENTS

Section 1. Minnesota Statutes 1990, section 61A.28, subdivision 1, is amended to read:

Subdivision 1. [~~FUNDS TO BE INVESTED~~ *INVESTMENT GUIDELINES AND PROCEDURES.*] *The board of directors of each domestic life insurance company shall establish written investment guidelines and procedures for the investment of the assets of the company. The investment guidelines and procedures must provide detailed company practices relating to internal controls regarding the delegation of investment authority within the company. The investment guidelines and procedures must also specify the policies regarding asset type diversification, diversification within asset types, concentration risks, interest rate risks, and liquidity. The board of directors, or a committee of the board, shall annually review the investment guidelines and procedures to evaluate the continued appropriateness of the procedures as well as to determine the company's conformance with the investment guidelines and procedures. A company's failure to meet the requirements of this paragraph shall not negate the company's ability to enforce its legal or equitable rights with respect to its investments.*

No investment or loan, except policy loans, shall be made by a domestic life insurance company unless authorized or approved by the board of directors or by a committee of directors, officers, or employees of the company designated by the board and charged with the duty of supervising the investment or loan. Accurate records of all authorizations and approvals must be maintained.

The capital, surplus and other funds of every domestic life insurance company, whether incorporated by special act or under the general law (in addition to investments in real estate as otherwise permitted by law) may be invested only in one or more of the following kinds of securities or property. *An investment may not be made under this section if the required interest obligation is in default.*

Sec. 2. Minnesota Statutes 1990, section 61A.28, subdivision 2, is amended to read:

Subd. 2. [GOVERNMENT OBLIGATIONS.] Bonds or other obligations of, or bonds or other obligations insured or guaranteed by~~,~~*:* (a) the United States or any state thereof; (b) the Dominion of Canada or any province thereof; (c) any county, city, town, statutory city formerly a village, organized school district, municipality, or other civil or political subdivision of this state, or of any state of the United States or of any province of the Dominion of Canada; (d) any agency or instrumentality of the foregoing,

including but not limited to, debentures issued by the federal housing administrator, obligations of ~~national mortgage associations~~ *the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association*; and (e) obligations payable in United States dollars issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the Export-Import Bank, or any other United States government sponsored organization of which the United States is a member~~; provided, that~~. The life insurance company may not invest ~~more than five percent of its total admitted assets~~ in the obligations of ~~any one of~~ these banks or organizations ~~and may not invest more than 15 percent of its total admitted assets in the obligations of all banks or organizations described in paragraph (e).~~

~~As used in this subdivision with respect to the United States or any agency or instrumentality of the United States, "bonds or other obligations" shall include purchases or sales of rights or options to purchase the obligations if those rights or options are traded upon a contract market designated and regulated by a federal agency.~~ *if the investment causes the company's aggregate investments in the obligations of any one of these banks or organizations to exceed five percent of its admitted assets or if the investment causes the company's aggregate investments in the obligations of all banks or organizations described in clause (e) to exceed 15 percent of its admitted assets.*

Sec. 3. Minnesota Statutes 1990, section 61A.28, subdivision 3, is amended to read:

Subd. 3. [LOANS OR OBLIGATIONS SECURED BY MORTGAGE.] Loans or obligations (hereinafter loans) secured by a first mortgage, or deed of trust (hereinafter mortgage), on improved real estate in the United States, if the amount of the loan secured thereby is not in excess of 66-2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is to be used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed (a) 80 percent of the market value of the real estate at the time of the loan; (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1, or, if (1) the real estate is used for commercial purposes, and (2) the loan is additionally secured by an assignment of lease or leases, and (3) the lessee or lessees under the lease or leases, or a guarantor or guarantors of the lessee's obligations, is a corporation whose obligations would qualify as an investment under subdivision ~~6(f)~~ *6, paragraph (e)*, and (4) the rents payable during the primary term of the lease or leases are sufficient to amortize at least 60 percent of the loan. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer as may be approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event may the loan exceed the market value of the property. No improvement may be included in estimating the market value of the real estate unless it is insured against fire by policies payable to the security holder or a trustee for its benefit. This requirement may be

met by a program of self-insurance established and maintained by a corporation whose debt obligations would qualify for purchase under subdivision 6, paragraph (g), clause (4). Also loans secured by mortgage, upon leasehold estates in improved real property where at the date of investment the lease has an unexpired term of at least five years longer than the term of the loan secured thereby, and where the leasehold estate is unencumbered except by the lien reserved in the lease for the payment of rentals and the observance of the other covenants, terms and conditions of the lease and where the mortgagee, upon default, is entitled to be subrogated to, or to exercise, all the rights and to perform all the covenants of the lessee, provided that no loan on the leasehold estate may exceed (a) 66-2/3 percent of the market value thereof at the time of the loan, or (b) 80 percent of the market value thereof at the time of the loan if the loan is to be fully amortized by installment payments of principal which begin within five years from the date of the loan if the leasehold estate is to be used for commercial purposes, interest is payable at least annually over the period of the loan which may not exceed 40 years and the market value of the leasehold estate is shown by the sworn certificate of a competent appraiser, or (c) 90 percent of the market value of the leasehold estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1. In calculating the ratio of the amount of the loan to the value of the leasehold estate, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event may the loan exceed the market value of the leasehold estate. Also loans secured by mortgage, which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee. Also loans secured by mortgage, on improved real estate in the Dominion of Canada if the amount of the loan is not in excess of 66-2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed (a) 80 percent of the market value of the real estate at the time of the loan, or (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the Dominion of Canada or any agency or instrumentality thereof has insured or guaranteed or made a commitment to insure or guarantee; provided in no event may the loan exceed the market value of the property. Also loans secured by mortgage, on real estate in the United States which may be unimproved provided there exists a definite plan for commencement of development for commercial purposes within not more than five years where the amount of the loan does not exceed 80 percent of the market value of the unimproved real estate at the time of the loan and the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years. Also loans secured by second mortgage on improved or unimproved real estate used, or to be used, for commercial purposes; provided, that if unimproved real

estate there exists a definite plan for commencement of development within not more than five years, in the United States or the Dominion of Canada under the following conditions: (a) the amount of the loan secured by the second mortgage is equal to the sum of the amount disbursed by the company and the then outstanding indebtedness under the first mortgage loan; and (b) the company has control over the payments under the first mortgage indebtedness; and (c) the total amount of the loan does not exceed 66-2/3 percent of the market value of the real estate at the date of the loan or, when the note or bond is to be fully amortized by installment payments of principal, beginning not more than five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed 80 percent of the market value of the real estate at the date of the loan.

A company may not invest in a mortgage loan authorized under this subdivision, if the investment causes the company's aggregate investments in mortgages secured by a single property to exceed one percent of its admitted assets.

For purposes of this subdivision, improved real estate includes real estate improved with permanent buildings, used for agriculture or pasture, or income producing real estate, including but not limited to, parking lots and leases, royalty or other mineral interests in properties producing oil, gas, or other minerals and interests in properties for the harvesting of forest products.

A loan or obligation otherwise permitted under this subdivision must be permitted notwithstanding the fact that it provides for a payment of the principal balance prior to the end of the period of amortization of the loan.

The vendor's equity in a contract for deed qualifies as a loan secured by mortgage for the purposes of this subdivision.

~~A mortgage participation certificate evidencing an interest in a loan secured by mortgage or pools of the same qualifies under this subdivision, if the loan secured by mortgage, and in the case of pools of the same that each loan, would otherwise qualify under this subdivision.~~

Sec. 4. Minnesota Statutes 1990, section 61A.28, subdivision 6, is amended to read:

Subd. 6. [STOCKS, OBLIGATIONS, AND OTHER INVESTMENTS.] ~~Stocks, warrants or options to purchase stocks, bonds, notes, evidences of indebtedness, or other investments as set forth in this subdivision, provided that no investment may be made which will increase the aggregate investment in all common stocks under paragraphs (a) and (b) beyond 20 percent of admitted assets as of the end of the preceding calendar year. In applying the standards prescribed in paragraphs (b), (c), and (d), (f) and (g) to the stocks, bonds, notes, evidences of indebtedness, or other obligations of a corporation which in the qualifying period preceding purchase of the stocks, bonds, notes, evidences of indebtedness, or other obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations must be consolidated. In applying any percentage limitations of this subdivision the value of the stock, or warrant or option to purchase stock, must be based on cost. For purposes of this subdivision, National Securities Exchange means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada.~~

(a) ~~Stocks of banks, insurance companies, and municipal corporations organized under the laws of the United States or any state thereof, but not more than 15 percent of the admitted assets of any domestic life insurance company may be invested in stocks of other insurance corporations and banks.~~

~~(b)~~ Common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of ~~any corporation or~~ *a* business ~~trust not designated in paragraph (a) of this subdivision,~~ *entity* organized under the laws of the United States or any state thereof, or ~~of~~ the Dominion of Canada or any province thereof, ~~or those traded on a National Securities Exchange,~~ if the net earnings of the ~~corporation~~ *business entity* after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period.

~~(c)~~ *(b)* Preferred stock of, or common or preferred stock guaranteed as to dividends by~~, any corporation not designated in paragraph (a),~~ *a business entity* organized under the laws of the United States or any state thereof, or ~~of~~ the Dominion of Canada or any province thereof, ~~or those traded on a National Securities Exchange,~~ under the following conditions: (1) No investment may be made under this paragraph in a stock upon which any dividend, current or cumulative, is in arrears; ~~and~~ (2) the ~~aggregate investment~~ *company may not invest* in stocks under this paragraph and in common stocks under ~~paragraphs~~ *paragraph* (a) ~~and (b) may not~~ *if the investment causes the company's aggregate investments in the common or preferred stocks to* exceed 25 percent of the ~~life insurance~~ company's *total* admitted assets, provided that no more than 20 percent of the company's admitted assets may be invested in common stocks under ~~paragraphs~~ *paragraph* (a) ~~and (b)~~; and (3) ~~if the net earnings of the corporation after the elimination of extraordinary nonrecurring items of income and expenses and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period~~ *the company may not invest in any preferred stock or common stock guaranteed as to dividends, which is rated in the four lowest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment causes the company's aggregate investment in the lower rated preferred or common stock guaranteed as to dividends to exceed five percent of its total admitted assets.*

~~(d)~~ *(c)* Warrants, options, and rights to purchase stock if the stock, at the time of the acquisition of the warrant, option, or right to purchase, would qualify as an investment under paragraph (a)~~,~~ *or* (b)~~, or (c)~~, whichever is applicable. A ~~domestic life insurance~~ company shall not invest ~~more than two percent of its assets under this paragraph. Any stock actually acquired through the exercise of~~ *in* a warrant ~~or~~, option, or ~~rights~~ *right* to purchase ~~may be included in paragraph (a), (b), or (c), whichever is applicable, only if the stock then meets the standards prescribed in the paragraph at the time of~~ *stock if, upon purchase and immediate exercise thereof, the* acquisition of the stock *violates any of the concentration limitations contained in paragraphs (a) and (b).*

~~(e)~~ *(d) In addition to amounts that may be invested under subdivision 8 and without regard to the percentage limitation applicable to stocks, warrants, options, and rights to purchase,* the securities of any face amount

certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the ~~federal~~ Investment Company Act of 1940 as from time to time amended~~, provided that the aggregate of the investments, determined at cost, by the life insurance company may not exceed five percent of its admitted assets, and the investments may be made without regard to the percentage limitations applicable to stocks, and warrants or options or rights to purchase stock~~. In addition, the company may transfer assets into one or more of its separate accounts for the purpose of establishing, or supporting its contractual obligations under, the accounts in accordance with the provisions of sections 61A.13 to 61A.21. *A company may not invest in a security authorized under this paragraph if the investment causes the company's aggregate investments in the securities to exceed five percent of its total admitted assets, except that for a health service plan corporation operating under chapter 62C, and for a health maintenance organization operating under chapter 62D, the company's aggregate investments may not exceed 20 percent of its total admitted assets. When establishing money market mutual funds, nonprofit health service plans regulated under chapter 62C, and health maintenance organizations regulated under chapter 62D, shall establish a trustee custodial account for the transfer of cash into the money market mutual fund.*

~~(f)~~ *(e) Investment grade obligations that are:*

(1) bonds, *obligations*, notes, debentures, repurchase agreements, or other evidences of indebtedness ~~(1) secured by letters of credit issued by a national bank, state bank or trust company which is a member of the federal reserve system or by a bank organized under the laws of the Dominion of Canada or (2) traded on a national securities exchange or (3) issued, assumed, or guaranteed by a corporation or business trust, other than a corporation designated in subdivision~~ 4 *of a business entity*, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof~~, if the net earnings of the corporation after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period. No investment may be made under this paragraph upon which any interest obligation is in default.~~*; and*

(2) rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or are rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(f) Noninvestment grade obligations: A company may acquire noninvestment grade obligations as defined in subclause (i) (hereinafter noninvestment grade obligations) which meet the earnings test set forth in subclause (ii). A company may not acquire a noninvestment grade obligation if the acquisition will cause the company to exceed the limitations set forth in subclause (iii).

(i) A noninvestment grade obligation is an obligation of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, that is not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or is not rated in one of the two highest categories established by the securities valuation office of the National Association of

Insurance Commissioners.

(ii) Noninvestment grade obligations authorized by this subdivision may be acquired by a company if the business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has had net earnings after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence of less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period; provided, however, that if a business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has undergone an acquisition, recapitalization, or reorganization within the immediately preceding 12 months, or will use the proceeds of the obligation for an acquisition, recapitalization, or reorganization, then such business entity shall also have, on a pro forma basis, for the next succeeding 12 months, net earnings averaging 1-1/4 times its average annual fixed charges applicable to such period after elimination of extraordinary nonrecurring items of income and expense and before taxes and fixed charges; no investment may be made under this section upon which any interest obligation is in default.

(iii) Limitation on aggregate interest in noninvestment grade obligations. A company may not invest in a noninvestment grade obligation if the investment will cause the company's aggregate investments in noninvestment grade obligations to exceed the applicable percentage of admitted assets set forth in the following table:

Effective Date	*Percentage of Admitted Assets*
January 1, 1992	*20*
January 1, 1993	*17.5*
January 1, 1994	*15*

Nothing in this paragraph limits the ability of a company to invest in noninvestment grade obligations as provided under subdivision 12.

(g) Obligations for the payment of money under the following conditions: (1) The obligation must be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property, real or personal; ~~and~~ (2) the lease or leases must be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; ~~and~~ (3) the rents payable under the lease or leases must be sufficient to amortize at least 90 percent of the obligation during the primary term of the lease; and (4) the lessee or lessees under the lease or leases, or a governmental entity or ~~corporation which~~ *business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada, or any province thereof, that* has assumed or guaranteed any lessee's performance thereunder, must be a governmental entity or ~~corporation~~ *business entity* whose obligations would qualify as an investment under subdivision 2 or paragraph *(e) or* (f). *A company may acquire leases assumed or guaranteed by a noninvestment grade lessee unless the value of the lease, when added to the other noninvestment grade obligations owned by the company, exceeds 15 percent of the company's admitted assets.*

(h) A company may sell exchange-traded call options against stocks or other securities owned by the company and may purchase exchange-traded

call options in a closing transaction against a call option previously written by the company. In addition to the authority granted by paragraph ~~(d)~~ *(c)*, to the extent and on the terms and conditions the commissioner determines to be consistent with the purposes of this chapter, a company may purchase or sell other exchange-traded call options, and may sell or purchase exchange-traded put options.

(i) A company may not invest in a security or other obligation authorized under this subdivision if the investment, valued at cost at the date of purchase, causes the company's aggregate investment in any one business entity to exceed two percent of the company's admitted assets.

(j) For nonprofit health service plan corporations regulated under chapter 62C, and for health maintenance organizations regulated under chapter 62D, a company may invest in commercial paper rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, or rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment, valued at cost at the date of purchase, does not cause the company's aggregate investment in any one business entity to exceed ten percent of the company's admitted assets.

Sec. 5. Minnesota Statutes 1990, section 61A.28, subdivision 8, is amended to read:

Subd. 8. [~~PROMISSORY NOTES SECURED BY WAREHOUSE RECEIPTS~~ *ASSET BACKED ARRANGEMENTS.*] ~~Promissory notes maturing within six months, secured by the pledge of registered terminal warehouse receipts issued against grain deposited in terminal warehouses, as defined in section 233.01. At the time of investing in these notes, the market value of the grain shall exceed the indebtedness secured thereby, and the note or pledge agreement shall provide that the holder may call for additional like security or sell the grain without notice upon depreciation of the security; the insurance company may accept, in lieu of the deposit with it of the warehouse receipts, a trustee certificate issued by any national or state bank at a terminal point, certifying that the warehouse receipts have been deposited with it and are held as security for the notes; and the amount invested in the securities mentioned in this subdivision shall not, at any time, exceed 25 percent of the unassigned surplus and capital of the company.~~ *Investments in asset backed arrangements that meet the definitions and credit criteria provided in this subdivision. For purposes of this subdivision, "asset backed arrangement" means a loan participation or loan to or equity investment in a business entity that has as its primary business activity the acquisition and holding of financial assets for the benefit of its debt and equity holders.*

In order to qualify for investment under this subdivision:

(a) the investment in the asset backed arrangement must be secured by or represent an undivided interest in a single financial asset or a pool of financial assets; and

(b) either (1) at least 90 percent of the dollar value of the financial assets held under the asset backed arrangement qualifies for direct investment under this section; (2) the investment in the asset backed arrangement is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; or (3) the investment in the asset backed arrangement is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance

Commissioners.

Examples of asset-backed arrangements authorized by this subdivision include, but are not limited to: general and limited partnership interests; participations under unit investment trusts such as collateralized mortgage obligations and collateralized bond obligations; shares in, or obligations of, corporations formed for holding investment assets, and contractual participation interests in a loan or group of loans.

A company may not invest in an asset backed arrangement if the investment causes the company's aggregate investment in the financial assets held under the asset backed arrangement to exceed any of the concentration limits contained in this section.

Sec. 6. Minnesota Statutes 1990, section 61A.28, is amended by adding a subdivision to read:

Subd. 9a. [HEDGING.] *A domestic life insurance company may enter into financial transactions solely for the purpose of managing the interest rate risk associated with the company's assets and liabilities and not for speculative or other purposes. For purposes of this subdivision, "financial transactions" include, but are not limited to, futures, options to buy or sell fixed income securities, repurchase and reverse repurchase agreements, and interest rate swaps, caps, and floors. This authority is in addition to any other authority of the insurer.*

Sec. 7. Minnesota Statutes 1990, section 61A.28, subdivision 11, is amended to read:

Subd. 11. [POLICY LOANS.] Loans on the security of insurance policies issued by itself to an amount not exceeding the loan value thereof; and loans on the pledge of any of the securities eligible for investment under the provisions of subdivisions 2 to 10, *with the exception of noninvestment grade obligations as defined in subdivision 6, paragraph (f)*, but not exceeding 95 percent of the value of securities enumerated in subdivisions 2, 3, and 4 and 80 percent of the value of stocks and other securities; in case of securities enumerated in subdivisions 3, 5, and 10 "value" means principal amount unpaid thereon and in case of other securities market value thereof; in case of securities enumerated in subdivisions 3 and 10 the pledge agreement shall require principal payments by the pledgor at least equal to and concurrent with principal payments on the pledged security; in loans authorized by this subdivision, except as otherwise provided by law in regard to policy loans, the company shall reserve the right at any time to declare the indebtedness due and payable when in excess of such proportions of value or, in case of pledge of securities other than those enumerated in subdivisions 3 and 10, upon depreciation of security.

Sec. 8. Minnesota Statutes 1990, section 61A.28, subdivision 12, is amended to read:

Subd. 12. [ADDITIONAL INVESTMENTS.] Investments of any kind, without regard to the categories, conditions, standards, or other limitations set forth in the foregoing subdivisions and section 61A.31, subdivision 3, except that the prohibitions in clause (d) of subdivision 3 remains applicable, may be made by a domestic life insurance company in an amount not to exceed the lesser of the following:

(1) Five percent of the company's total admitted assets as of the end of the preceding calendar year, or

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds $675,000. ~~Provided, however, that~~ A company's total investment under this section in the common stock of any corporation, other than the stock of the types of corporations specified in subdivision 6(a), may not exceed ten percent of the common stock of the corporation. ~~Provided, further, that~~ No investment may be made under the authority of this clause or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

If, subsequent to being made under the provisions of this subdivision, an investment is determined to have become qualified or eligible under any of the other provisions of this chapter, the company may consider the investment as being held under the other provision and the investment need no longer be considered as having been made under the provisions of this subdivision.

In addition to the investments authorized by this subdivision, a domestic life insurance company may make qualified investments in any additional securities or property of the type authorized by subdivision 6, paragraph *(e)*, (f), *or (g)*, with the written order of the commissioner. This approval is at the discretion of the commissioner, *provided that the additional investments allowed by the commissioner's written order may not exceed five percent of the company's admitted assets*. This authorization does not negate or reduce the investment authority granted in subdivision 6, paragraph *(e)*, (f), *or (g)*, or this subdivision.

Sec. 9. Minnesota Statutes 1990, section 61A.28, is amended by adding a subdivision to read:

Subd. 13. [ADDITIONAL LIMITATIONS.] *Under the standards and procedures in article 3, the commissioner may impose additional limitations on the types and percentages of investments as the commissioner determines necessary to protect and ensure the safety of the general public.*

Sec. 10. Minnesota Statutes 1990, section 61A.281, is amended by adding a subdivision to read:

Subd. 5. [CORPORATIONS ORGANIZED TO HOLD INVESTMENTS.] *A domestic life insurance company may organize one or more corporations domiciled in the United States and hold the capital stock of them, provided that it shall continuously own all of the capital stock and that the corporations so organized shall limit their activities to acquiring and holding investments, other than under subdivisions 1 to 4, that a domestic life insurance company may acquire and hold. The investments of these corporations are subject to the same restrictions and requirements as apply to domestic life insurance companies, including the applicable percentage limitations for investments in individual properties and entities and limitations on the aggregate amount to be invested in any investment category. For the purposes of calculating the amount of an investment held by the life insurance company, investments in the same property, entity, or investment category that are owned by the company and all corporations qualifying under this subdivision must be aggregated.*

Sec. 11. Minnesota Statutes 1990, section 61A.29, is amended to read:

61A.29 [~~INVESTMENTS; AUTHORIZATION;~~ FOREIGN INVESTMENTS.]

Subdivision 1. [AUTHORIZATION.] ~~No investment or loan, except policy~~

~~loans, shall be made by any domestic life insurance company unless the same shall have been authorized or be approved by the board of directors or by a committee of directors, officers or employees of the company designated by the board charged with the duty of supervising the investment or loan, and in either case accurate records of all authorizations and approvals shall be maintained.~~ *In addition to the Canadian investments permitted by this chapter, a domestic life insurance company may make foreign investments authorized by subdivision 2, subject to the limitations contained in subdivision 3. Investments authorized by this section are restricted to countries where the obligations of the sovereign government are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. All investments must be made as provided under foreign investment guidelines established and maintained by the company under section 61A.28.*

Subd. 2. [~~FOREIGN~~ *AUTHORIZED* INVESTMENTS.] ~~Any domestic life insurance company may invest in obligations of and investments in foreign countries, other than the Dominion of Canada, on the following conditions:~~

~~(a) A company may acquire and hold any foreign investments which are required as a condition of doing business in the foreign country or necessary for the convenient accommodation of its foreign business. An investment shall be considered necessary for the convenient accommodation of foreign business only if it is demonstrably and directly related in size and purpose to such company's foreign insurance operations; and~~

~~(b) A company may also invest not more than a total of two percent of its admitted assets in any combination of:~~

~~(1) the obligations of foreign governments, corporations, or business trusts;~~

~~(2) obligations of federal, provincial, or other political subdivisions backed by the full faith and credit of the foreign governmental unit;~~

~~(3) or in the stocks or stock equivalents or obligations of foreign corporations or business trusts not qualifying for investment under section 61A.28, subdivision 6, if the obligations, stocks, or stock equivalents are regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar regular securities exchange not disapproved by the commissioner within 30 days following notice from the company of its intention to invest in these securities.~~ *A company may invest in (i) foreign assets denominated in United States dollars; (ii) foreign assets denominated in foreign currency; and (iii) United States assets denominated in foreign currency. The investments may be made in any combination of the following:*

(a) Obligations of sovereign governments and political subdivisions thereof and obligations issued or fully guaranteed by a supranational bank or organization, other than those described in section 61A.28, subdivision 2, paragraph (e), provided that the obligations are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. For purposes of this section, "supranational bank" means a bank owned by a number of sovereign nations and engaging in international borrowing and lending.

(b) Obligations of a foreign business entity, provided that the obligation (i) is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization in the United States or by a similarly recognized statistical rating organization, as approved by the commissioner, in the country where the investment is made; or (ii) is

rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(c) Stock or stock equivalents issued by a foreign entity if the stock or stock equivalents are regularly traded on the Frankfurt, London, Paris, or Tokyo stock exchange or any similar securities exchange as may be approved from time to time by the commissioner and subject to oversight by the government of the country in which the exchange is located.

(d) Financial transactions for the sole purpose of managing the foreign currency risk of investments made under this subdivision, provided that the financial transactions are entered into under a detailed plan maintained by the company. For purposes of this paragraph, "financial transactions" include, but are not limited to, the purchase or sale of currency swaps, forward agreements, and currency futures.

Subd. 3. [INVESTMENT LIMITATIONS.] *Investments authorized by subdivision 2 are subject to the following limitations:*

(a) A company shall not make an investment under this section if the investment causes the company's aggregate investments authorized under this section to exceed ten percent of its total admitted assets.

(b) Investments made under subdivision 2 must be aggregated with United States investments in determining compliance with percentage concentration limitations, if any, contained in this chapter.

(c) A company shall not invest in the obligations of one issuer under subdivision 2 in an amount greater than authorized for investments of the same class under this chapter. A company shall not invest more than two percent of its total admitted assets in the direct or guaranteed obligations of a sovereign government or political subdivision thereof, or of a supranational bank.

Sec. 12. Minnesota Statutes 1990, section 61A.31, is amended to read:

61A.31 [REAL ESTATE HOLDINGS.]

Subdivision 1. [PURPOSES.] Except as provided in subdivisions 2, 3, and 4, every domestic life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

(1) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due;

(2) Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts;

(4) Such as shall have been subject to a contract for deed under which the company held the vendor's interest to secure the payment by the vendee.

~~All the real property specified in clauses (1), (2), (3), and (4), which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after the company shall have acquired title to the same, or within five years after the same shall have ceased to be necessary for the accommodation of its business, and it shall not hold this property for a longer period unless it shall hold real property pursuant to subdivision 3, or shall procure a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof,~~

~~in which event the time for the sale may be extended to such time as the commissioner shall direct in the certificate.~~

Subd. 2. [BUILDING PROJECTS.] In order to promote and supplement public and private efforts to provide an adequate supply of decent, safe, and sanitary dwelling accommodations for persons of low and moderate income; to relieve unemployment; to alleviate the shortage of rental residences; and to assist in relieving the emergency in the housing situation in this country through investment of funds, any life insurance company may purchase or lease from any owner or owners (including states and political subdivisions thereof), real property in any state in which such company is licensed to transact the business of life insurance; and on any real property so acquired or on real property so located and acquired otherwise in the conduct of its business, such company may erect apartment, or other dwelling houses, not including hotels, but including accommodations for retail stores, shops, offices, and other community services reasonably incident to such projects; or, to provide such housing or accommodations, may construct, reconstruct, improve, or remove any buildings or other improvements thereon. Such company may thereafter own, improve, maintain, manage, collect or receive income from, sell, lease, or convey any such real property and the improvements thereon. ~~The aggregate investment by any such domestic life insurance company in all such projects, including the cost of all real property so purchased or leased and the cost of all improvements to be made upon such real property and upon real property otherwise acquired, shall not, at the date of purchase or other acquisition of such real property, exceed ten percent of the total admitted assets of such company on the last day of the previous calendar year.~~ *A company may not invest in the building projects if the investment causes the company's aggregate investments under this subdivision to exceed ten percent of its total admitted assets.*

Subd. 3. [ACQUISITION OF PROPERTY.] Any domestic life insurance company may:

(a) acquire real property or any interest in real property, including oil and gas and other mineral interests, in the United States or any state thereof, or in the Dominion of Canada or any province thereof, as an investment for the production of income, and hold, improve or otherwise develop, and lease, sell, and convey the same either directly or as a joint venturer or through a limited or general partnership in which the company is a partner~~, subject to the following conditions and limitations: (1) The cost to the company of each parcel of real property acquired pursuant to this paragraph, including the estimated cost to the company of the improvement or development thereof, when added to the book value of all other real property then held by it pursuant to this clause, may not exceed 15 percent of its admitted assets as of the end of the preceding calendar year, and (2) the cost to the company of each parcel of real property acquired pursuant to this paragraph, including the estimated costs to the company of the improvement or development thereof, may not exceed two percent of its admitted assets as of the end of the preceding calendar year;~~. *A company may not invest in any real property asset other than property held for the convenience and accommodation of its business if the investment causes: (1) the company's aggregate investments in the real property assets to exceed ten percent of its admitted assets; or (2) the company's investment in any single parcel of real property to exceed one-half of one percent of its admitted assets;*

(b) acquire personal property in the United States or any state thereof, or in the Dominion of Canada or any province thereof, under lease or leases

or commitment for lease or leases if: (1) either the fair value of the property exceeds the company's investment in it or the lessee, or at least one of the lessees, or a guarantor, or at least one of the guarantors, of the lease is a corporation with a net worth of $1,000,000 or more; and (2) the lease provides for rent sufficient to amortize the investment with interest over the primary term of the lease or the useful life of the property, whichever is less; ~~and (3) in no event does the total investment in personal property under this paragraph exceed three percent of the domestic life insurance company's admitted assets~~. *A company may not invest in the personal property if the investment causes the company's aggregate investments in the personal property to exceed three percent of its admitted assets;*

(c) acquire and hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section and (2) if the company expects the real estate so acquired to qualify and be held by the company under paragraph (a) within five years after acquisition; and

(d) not acquire real property under paragraphs (a) to (c) if the property is to be used primarily for agricultural, horticultural, ranch, mining, or church purposes.

All real property acquired or held under this subdivision must be carried at a value equal to the lesser of (1) cost plus the cost of capitalized improvements, less normal depreciation, or (2) market value.

Subd. 4. [CONVENIENCE AND ACCOMMODATION OF BUSINESS.] ~~The real estate acquired or held by any domestic life insurance company for the convenience and accommodation of its business shall not exceed in value 25 percent of its cash and invested assets, not including real estate acquired or held for the convenience and accommodation of its business. Any domestic life insurance company, after having secured approval of the commissioner of commerce therefor, may also acquire and hold real estate for the sole purpose of providing necessary homes and living quarters for its employees. Such real estate shall never exceed three percent of the company's cash assets as shown by its annual statement last filed with the commissioner of commerce. All real property which shall not be necessary for its accommodation in the convenient transaction of its business, or the housing of its employees, shall be sold and disposed of within five years after the same shall have ceased to be necessary for the accommodation of its business, or the housing of its employees, and it shall not hold this property for a longer period unless, (a) it shall procure a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof, in which event the time for sale may be extended to such time as the commissioner shall direct in the certificate, or (b) such real property qualifies as an investment under the terms of subdivision 3 in which event the company may, at its option consider such real property as held under the provisions of said subdivision, subject to the conditions, standards, or other limitations of said subdivision as though it had been originally acquired thereunder.~~ *A company may acquire and hold real estate for the convenience and accommodation of its business. Without the prior approval of the department of commerce, a company may not invest in real estate authorized under this subdivision if the investment causes the company's aggregate investments under this subdivision to exceed five percent of its total admitted assets, except that a health service plan corporation operating under chapter 62C, and a health maintenance organization operating under chapter 62D, may not invest in real estate authorized under this subdivision if the investment causes the company's aggregate*

investments under this subdivision to exceed 25 percent of its total admitted assets.

Sec. 13. [REPEALER.]

Minnesota Statutes 1990, section 61A.28, subdivisions 4 and 5, are repealed.

ARTICLE 10

ADMINISTRATION

Section 1. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 27. [ADMITTED ASSETS.] *"Admitted assets" means the assets as shown by the company's annual statement on December 31 valued according to valuation regulations prescribed by the National Association of Insurance Commissioners and procedures adopted by the National Association of Insurance Commissioners' financial condition Ex 4 subcommittee if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.*

Sec. 2. Minnesota Statutes 1990, section 60A.03, subdivision 5, is amended to read:

Subd. 5. [EXAMINATION FEES AND EXPENSES.] When any visitation, examination, or appraisal is made by order of the commissioner, the company being examined, visited, or appraised, including fraternals, township mutuals, reciprocal exchanges, nonprofit service plan corporations, health maintenance organizations, vendors of risk management services licensed under section 60A.23, or self-insurance plans or pools established under section 176.181 or 471.982, shall pay to the department of commerce the necessary expenses of the persons engaged in the examination, visit, or appraisal plus the per diem salary fees of the employees of the department of commerce who are conducting or participating in the examination, visitation, or appraisal. *Each insurer shall also pay for the necessary expenses of desk audits of these statements and records performed by the department other than at the company's premises.* The per diem salary fees may be based upon the approved examination fee schedules of the National Association of Insurance Commissioners or otherwise determined by the commissioner. All of these fees and expenses must be paid into the department of commerce revolving fund.

Sec. 3. Minnesota Statutes 1990, section 60A.031, is amended to read:

60A.031 [EXAMINATIONS.]

Subdivision 1. [POWER TO EXAMINE.] (1) [INSURERS AND OTHER LICENSEES.] At any time and for any reason related to the enforcement of the insurance laws, *or to ensure that companies are being operated in a safe and sound manner and to protect the public interest*, the commissioner may examine the affairs and conditions of any foreign or domestic insurance *or reinsurance* company, including reciprocals and fraternals, licensee or applicant for a license under the insurance laws, or any other person or organization of persons doing or in the process of organizing to do any insurance business in this state, and of any licensed advisory organization serving any of the foregoing in this state.

(2) [WHO MAY BE EXAMINED.] The commissioner in making any examination of an insurance company as authorized by this section may, if

in the commissioner's discretion, there is cause to believe the commissioner is unable to obtain relevant information from such insurance company *or that the examination or investigation is, in the discretion of the commissioner, necessary or material to the examination of the company*, examine any person, association, or corporation:

(a) transacting, having transacted, or being organized to transact the business of insurance in this state;

(b) engaged in or proposing to be engaged in the organization, promotion, or solicitation of shares or capital contributions to or aiding in the formation of a domestic insurance company;

(c) holding shares of capital stock of an insurance company for the purpose of controlling the management thereof as voting trustee or otherwise;

(d) having a contract, written or oral, pertaining to the management or control of an insurance company as general agent, managing agent, attorney-in-fact, or otherwise;

(e) which has substantial control directly or indirectly over an insurance company whether by ownership of its stock or otherwise, or owning stock in any domestic insurance company, which stock constitutes a substantial proportion of either the stock of the domestic insurance company or of the assets of the owner thereof;

(f) which is a subsidiary or affiliate of an insurance company;

(g) which is a licensed agent or solicitor or has made application for the licenses;

(h) engaged in the business of adjusting losses or financing premiums.

Nothing contained in this clause (2) shall authorize the commissioner to examine any person, association, or corporation which is subject to regular examination by another division of the commerce department of this state. The commissioner shall notify the other division when an examination is deemed advisable.

Subd. 2a. [PURPOSE, SCOPE, AND NOTICE OF EXAMINATION.] An examination may, but need not, cover comprehensively all aspects of the examinee's affairs, practices, and conditions. The commissioner shall determine the nature and scope of each examination and in doing so shall take into account all available relevant factors concerning the financial and business affairs, practices and conditions of the examinee. For examinations undertaken pursuant to this section, the commissioner shall issue an order stating the scope of the examination and designating the person responsible for conducting the examination. A copy of the order shall be provided to the examinee.

In conducting the examination, the examiner shall observe the guidelines and procedures in the examiner's handbook adopted by the National Association of Insurance Commissioners. The commissioner may also employ other guidelines or procedures that the commissioner may consider appropriate.

Subd. 3. [ACCESS TO EXAMINEE.] *(a)* The commissioner, or the designated person, shall have *timely, convenient, and* free access ~~during normal business~~ *at all reasonable* hours to all books, records, securities, *accounts*, documents, and any or all *computer or other records and* papers

relating to the property, assets, business, and affairs of any company, applicant, association, or person which may be examined pursuant to this act for the purpose of ascertaining, appraising, and evaluating the assets, conditions, affairs, operations, ability to fulfill obligations, and compliance with all the provisions of law of the company or person insofar as any of the above pertain to the business of insurance of a person, organization, or corporation transacting, having transacted, or being organized to transact business in this state. Every company or person being examined, its officers, directors, and agents, shall provide to the commissioner or the designated person *timely*, convenient, and free access at all reasonable hours at its office to all its books, records, *accounts, papers*, securities, documents, any or all ~~papers~~ *computer or other records* relating to the property, assets, business, and affairs of the company or person. The officers, directors, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so.

The refusal of a company, by its officers, directors, employees, or agents, to submit to examination or to comply with a reasonable request of the examiners is grounds for suspension or refusal of, or nonrenewal of, a license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. The proceedings for suspension, revocation, or refusal of a license or authority must be conducted as provided in section 45.027.

(b) The commissioner or any examiners may issue subpoenas, administer oaths, and examine under oath any person as to any matter pertinent to the examination. If a person fails or refuses to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court.

(c) When making an examination under this section, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the cost of which must be paid by the company that is the subject of the examination.

(d) This section does not limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to an examination are prima facie evidence in a legal or regulatory action.

(e) Nothing contained in this section shall be construed to limit the commissioner's authority to use as evidence a final or preliminary examination report, examiner or company workpapers or other documents, or other information discovered or developed during the course of an examination in the furtherance of a legal or administrative action which the commissioner may, in the commissioner's sole discretion, consider appropriate.

Subd. 4. [EXAMINATION REPORT; FOREIGN AND DOMESTIC COMPANIES.] *(a)* The commissioner shall make a full and true report of every examination conducted pursuant to this chapter, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the

testimony of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of the company, applicant, organization, or person subject to this chapter and (2) a summary of important points noted in the report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in the examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in the name of the state against the company, applicant, organization, or person upon the facts stated therein.

(b) No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which provides the company examined with a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to matters contained in the examination report.

(c) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with the written submissions or rebuttals and the relevant portions of the examiner's workpapers and enter an order:

(1) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation;

(2) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling the report as required under paragraph (b); or

(3) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d)(1) All orders entered under paragraph (c), clause (1), must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. The order is a final administrative decision and may be appealed as provided under chapter 14. The order must be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) A hearing conducted under paragraph (c), clause (3), by the commissioner or authorized representative, must be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order as required under paragraph (c),

clause (1).

(3) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing must proceed expeditiously. Discovery by the company is limited to the examiner's workpapers which tend to substantiate assertions in a written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of witnesses or the production of documents considered relevant to the investigation whether under the control of the department, the company, or other persons. The documents produced must be included in the record. Testimony taken by the commissioner or the commissioner's representative must be under oath and preserved for the record.

This section does not require the department to disclose information or records which would indicate or show the existence or content of an investigation or activity of a criminal justice agency.

(4) The hearing must proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination may be conducted only by the commissioner or the commissioner's representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

(e)(1) Upon the adoption of the examination report under paragraph (c), clause (1), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days except as otherwise provided in paragraph (b). Thereafter, the commissioner may open the report for public inspection if a court of competent jurisdiction has not stayed its publication.

(2) Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the reports, to the commerce department or the insurance department of another state or country, or to law enforcement officials of this or another state or agency of the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this subdivision.

(3) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate proceedings or actions as provided by law.

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this subdivision must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in paragraph (e). Access may also be granted to the National Association of Insurance Commissioners. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

Subd. 5. [ORDER; FOREIGN AND DOMESTIC COMPANIES.] Within a reasonable time of receipt of an examination report the commissioner may

issue an order to the examinee directing compliance within a time specified in the order or by law with one or more of the following:

(a) to restore within the time and extent prescribed by law or the commissioner's order any deficiency, whenever its capital, reserves or surplus have become impaired,

(b) to cease and desist from transaction of any business or from any business practice which if transacted or continued might result in the examinee's condition or further transaction of business being hazardous to its policyholders, its creditors, or the public,

(c) to cease and desist from any other violation of its charter or any law of the state.

Subd. 6. [PENALTY.] Notwithstanding section 72A.05, any person who violates or aids and abets any violation of a written order issued pursuant to this section may be fined not more than $10,000 *for each day the violation continues* for each violation of the order in an action commenced in Ramsey county by the attorney general on behalf of the state of Minnesota and the money so recovered shall be paid into the general fund.

Subd. 7. [ALTERNATIVES TO EXAMINATIONS.] ~~(1) [AUDITS OR ACTUARIAL EVALUATIONS.]~~ In lieu of ~~all or part of an examination under this chapter, or in addition to it, the commissioner may require an independent audit by certified public accountants approved by the commissioner or an actuarial evaluation by actuaries approved by the commissioner of any persons subject to the examination requirement of subdivision 1.~~

~~(2) [REPORTS.] In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit made by certified public accountants approved by the commissioner or actuarial evaluation by actuaries approved by the commissioner or the report of an examination made by the insurance department of another state, of the examination made by another government agency in this state, the federal government or another state.~~ *an examination under this section of a foreign or an alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port of entry state until January 1, 1994. After January 1, 1994, the reports may only be accepted if:*

(1) the insurance department is accredited under the National Association of Insurance Commissioners Financial Regulation Standards and Accreditation Program at the time of the examination; or

(2) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by an accredited state insurance department and who, after a review of the examination workpapers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

Subd. 7a. [CONFLICT OF INTEREST.] *The department shall establish reasonable procedures so that no examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in a person subject to examination under this chapter. This section shall not be construed to automatically preclude an examiner from being:*

(1) a policyholder or claimant under an insurance policy;

(2) a grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business;

(3) an investment owner in shares of regulated diversified investment companies; or

(4) a settlor or beneficiary of a "blind trust" into which any otherwise impermissible holdings have been placed.

Notwithstanding the requirements of this section, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though the persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

Subd. 8. [POWER TO MAKE RULES.] The commissioner may promulgate any rules which may be necessary to the administration of subdivisions 1 to ~~7~~ *9*.

Subd. 9. [IMMUNITY FROM LIABILITY.] *(a) No cause of action shall arise nor shall liability be imposed against the commissioner, the commissioner's authorized representatives, or an examiner appointed by the commissioner for statements made or conduct performed in good faith while carrying out the provisions of this section.*

(b) No cause of action shall arise, nor shall liability be imposed against a person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this section, if the act of communication or delivery is performed in good faith and without fraudulent intent or the intent to deceive.

(c) This section does not abrogate or modify a common law or statutory privilege or immunity enjoyed by a person identified in paragraph (a).

(d) A person identified in paragraph (a) may be awarded attorney fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or other relevant tort arising out of activities in carrying out the provisions of this section, and the party bringing the action was not substantially justified in doing so. For purposes of this section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

Sec. 4. [60A.0311] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] *The definitions in this section apply to sections 4 to 10.*

Subd. 2. [COMMERCIAL MORTGAGE LOAN.] *"Commercial mortgage loan" means a loan by an insurer secured by a mortgage on commercial real estate property. "Commercial mortgage loan" does not include loans secured by residential real estate property containing four or less dwelling units or agricultural real estate property.*

Subd. 3. [DELINQUENT MORTGAGE LOAN.] *"Delinquent mortgage loan" means a loan 90 days delinquent on a required payment of principal or interest.*

Subd. 4. [DISTRESSED MORTGAGE LOAN.] *"Distressed mortgage*

loan" means a loan which is not otherwise described herein, that the management of the insurer, in the exercise of its prudent investment judgment, determines that circumstances exist with respect to the loan which create a reasonable probability that the loan may become a delinquent or foreclosed property.

Subd. 5. [INDEPENDENT APPRAISER.] *"Independent appraiser" means a person who develops and communicates real estate appraisals and holds a current, valid license issued under chapter 82B, or a similar law enacted by another state.*

Subd. 6. [INTERNAL APPRAISAL.] *"Internal appraisal" means an appraisal made by an internal appraiser and based upon an evaluation of:*

(1) the property based upon a physical inspection of the premises;

(2) the current and expected stabilized cash flow generated by the property;

(3) the current and expected stabilized market rents in the geographic market where the property is located; and

(4) the current and stabilized occupancy rates for the geographic market where the property is located.

Subd. 7. [INTERNAL APPRAISER.] *"Internal appraiser" means an individual:*

(1) employed by an insurer or investment advisor to an insurer;

(2) who has training and experience qualifying the individual to appraise the value of commercial real estate property;

(3) whose direct or indirect compensation is not dependent upon the outcome of the appraisals performed under sections 4 to 10; and

(4) who has direct reporting access to the chief investment officer of the insurer.

Subd. 8. [INSURER.] *"Insurer" means a domestic insurance company.*

Subd. 9. [MORTGAGE LOAN IN FORECLOSURE.] *"Mortgage loan in foreclosure" means a loan in the process of foreclosure or where the mortgagor has declared bankruptcy and is not making regular monthly payments.*

Subd. 10. [PERFORMING MORTGAGE LOAN.] *"Performing mortgage loan" means a mortgage loan current in payment or not in distress.*

Subd. 11. [REAL ESTATE OWNED.] *"Real estate owned" means real property owned and acquired by an insurer through or in lieu of foreclosure.*

Subd. 12. [RESTRUCTURED MORTGAGE LOAN.] *"Restructured mortgage loan" means a loan where:*

(1) material delinquent payments or accrued interest are capitalized and added to the balance of an outstanding loan; or

(2) the insurer has abated or reduced interest payments below market rates existing at the date of restructuring.

Sec. 5. [60A.0312] [REQUIRED WRITTEN PROCEDURES.]

An insurer shall establish written procedures, approved by the company's board of directors, for the valuation of commercial mortgage loans and real

estate owned. The procedures must be made available to the commissioner upon request. The commissioner shall review the insurer's compliance with the procedures in any examination of the insurer under section 60A.031.

Sec. 6. [60A.0313] [VALUATION PROCEDURE.]

Subdivision 1. [REQUIREMENT.] *An insurer shall value its commercial mortgage loans and real estate acquired through foreclosure of commercial mortgage loans as provided in this section for the purpose of establishing reserves or carrying values of the investments for statutory accounting purposes.*

Subd. 2. [PERFORMING MORTGAGE LOAN.] *A performing mortgage loan must be carried at its amortized acquisition cost.*

Subd. 3. [DISTRESSED MORTGAGE LOAN.] *(a) The insurer shall make an evaluation of the appropriate carrying value of its commercial mortgage loans which it classifies as distressed mortgage loans. The carrying value may be based upon one or more of the following procedures:*

(1) an internal appraisal;

(2) an appraisal made by an independent appraiser; or

(3) the value of guarantees or other credit enhancements related to the loan.

(b) The insurer may determine the carrying value of its distressed mortgage loans through either an evaluation of each specific distressed mortgage loan or by a sampling methodology. An insurer using a sampling methodology shall identify a sampling of its distressed mortgage loans that represent a cross section of all of its distressed mortgage loans. The insurer shall make an evaluation of the appropriate carrying value for each sample loan. The carrying value of all of the insurer's distressed mortgage loans must be the same percentage of their amortized acquisition cost as the sample loans. The carrying value may be based upon an internal appraisal or an appraisal conducted by an independent appraiser.

(c) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its distressed mortgage loans.

Subd. 4. [DELINQUENT MORTGAGE LOAN.] *(a) The insurer shall make an evaluation of the appropriate carrying value of each delinquent mortgage loan. The carrying value must be based upon one or more of the following procedures:*

(1) an internal appraisal;

(2) an appraisal by an independent appraiser; or

(3) the value of guarantees or other credit enhancements related to the loan.

(b) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its delinquent mortgage loans.

Subd. 5. [RESTRUCTURED MORTGAGE LOAN.] *(a) The insurer shall make an evaluation of the appropriate carrying value of each restructured mortgage loan. The carrying value must be based upon one or more of the following procedures:*

(1) an internal appraisal;

(2) an appraisal by an independent appraiser; or

(3) the value of guarantees or other credit enhancements related to the loan.

(b) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its restructured mortgage loans.

Subd. 6. [MORTGAGE LOAN IN FORECLOSURE.] *(a) The insurer shall make an evaluation of the appropriate carrying value of each mortgage loan in foreclosure. The carrying value must be based upon an appraisal made by an independent appraiser.*

(b) The insurer shall take a charge against its surplus for the difference between the carrying value and the amortized acquisition cost of its mortgage loans in the process of foreclosure.

Subd. 7. [REAL ESTATE OWNED.] *(a) The insurer shall make an evaluation of the appropriate carrying value of real estate owned. The carrying value must be based upon an appraisal made by an independent appraiser.*

(b) The insurer shall take a charge against its surplus for the difference between the carrying value and the amortized acquisition cost of real estate owned.

Sec. 7. [60A.0314] [INDEPENDENT AUDIT.]

The audit report of the independent certified public accountant which prepares the audit of an insurer's annual statement as required under section 60A.13, subdivision 3a, must contain findings by the auditor that:

(1) the insurer has adopted valuation procedures meeting the minimum standards required in section 5;

(2) the procedures adopted by the board of directors have been uniformly applied by the insurer in conformance with this section; and

(3) the management of the insurer has an adequate system of internal controls.

Sec. 8. [60A.0315] [APPRAISAL BY INDEPENDENT APPRAISER.]

Subdivision 1. [MORTGAGE LOANS IN THE PROCESS OF FORECLOSURE.] *An insurer may rely upon an appraisal by an independent appraiser to determine the carrying value of mortgage loans in the process of foreclosure only if the date of the appraisal is within six months of the date the foreclosure procedure is begun. If no appraisal exists, the insurer shall acquire an appraisal within six months after the foreclosure proceeding has begun.*

Subd. 2. [REAL ESTATE OWNED.] *An insurer may rely upon an appraisal by an independent appraiser to determine the carrying value of real estate owned only if the date of the appraisal is within six months of the date when title to the property was acquired. If no appraisal exists, the insurer shall acquire an appraisal within six months after title to the property is acquired.*

Subd. 3. [CHARGE TAKEN.] *An insurer shall take a charge against the surplus for mortgage loans in the process of foreclosure and real estate owned in the first calendar year in which it holds a current appraisal made*

by an independent appraiser as provided in this section.

Sec. 9. [60A.0316] [BOARD REPORT.]

The management of the insurer shall make periodic reports, at least annually, to its board of directors, or an appropriate committee of the board, as to the application of the insurer's valuation procedures adopted under sections 4 to 8.

Sec. 10. [60A.0317] [RESERVE ACCOUNT.]

In computing reserves required to be held by an insurer under the provisions of section 6, subdivisions 3, 4, and 5, the commissioner may allow an insurer to take credit for any reserves held by the insurer attributable to the assets as an "asset valuation reserve" pursuant to the accounting and reserving requirements of the National Association of Insurance Commissioners. Any charges against surplus required to be taken under section 6, subdivisions 4, 6, and 7, may be taken against the asset valuation reserve to the extent the asset valuation reserve is sufficient. The insurer shall take a charge against its surplus for required write-downs to the extent the asset valuation reserve is not sufficient.

Sec. 11. Minnesota Statutes 1990, section 60A.07, is amended by adding a subdivision to read:

Subd. 5f. [CAPITAL AND SURPLUS REQUIREMENTS.] *(a) Capital and surplus requirements apply to all types of insurance transacted by the insurer, whether or not only a portion of the types of insurance are transacted in this state. The commissioner may for the protection of the public require an insurer to maintain funds in excess of the amounts required under this section, due to the amount, kind, or combination of types of insurance transacted by the insurer. Failure of an insurer to maintain funds as ordered by the commissioner is grounds for suspension or revocation of the insurer's certificate of authority.*

(b) After June 30, 1991, an insurer may not renew and continue its certificate of authority unless the insurer possesses at least the basic capital and surplus, and additional surplus required by the commissioner under this section.

Sec. 12. Minnesota Statutes 1990, section 60A.10, subdivision 2a, is amended to read:

Subd. 2a. [SPECIAL DEPOSITS.] The commissioner may require a special deposit of an individual foreign insurer for the protection of its Minnesota policyholders or claimants. ~~The special deposit may be required, to a maximum amount of $500,000.~~ In the event of the filing of a delinquency petition against the insurer in Minnesota, the deposit is subject to chapters 60B, 60C, ~~and~~ 61A, *and 61B*.

Sec. 13. Minnesota Statutes 1990, section 60A.11, subdivision 9, is amended to read:

Subd. 9. [GENERAL CONSIDERATIONS.] The following considerations apply in the interpretation of this section:

(a) This section applies to the investments of insurance companies other than life insurance companies;

(b) The purpose of this section is to protect and further the interests of policyholders, claimants, creditors and the public by providing standards

for the development and administration of programs for the investment of the assets of domestic companies. These standards and the investment programs developed by companies must take into account the safety of company's principal, investment yield and growth, stability in the value of the investment, the liquidity necessary to meet the company's expected business needs, and investment diversification;

(c) All financial terms relating to insurance companies have the meanings assigned to them under statutory accounting methods. All financial terms relating to noninsurance companies have the meanings assigned to them under generally accepted accounting principles;

(d) Investments must be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. *Other invested assets must be valued according to the procedures promulgated by the National Association of Insurance Commissioners' financial condition Ex 4 subcommittee, if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances*;

(e) A company may elect to hold an investment which qualifies under more than one subdivision, under the subdivision of its choice. Nothing herein prevents a company from electing to hold an investment under a subdivision different from the one in which it previously held the investment; and

(f) An investment which qualifies under any provision of the law governing investments of insurance companies when acquired will continue to be a qualified investment for as long as it is held by the insurance company.

Sec. 14. Minnesota Statutes 1990, section 60A.13, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL STATEMENTS REQUIRED.] Every insurance company, including fraternal beneficiary associations, and reciprocal exchanges, doing business in this state, shall transmit to the commissioner, annually, on or before March first, ~~in the form prescribed by the commissioner, a verified statement of its entire business and condition during the preceding calendar year~~ *the appropriate verified National Association of Insurance Commissioners' annual statement blank, prepared in accordance with the association's instructions handbook and following those accounting procedures and practices prescribed by the association's accounting practices and procedures manual, unless the commissioner requires or finds another method of valuation reasonable under the circumstances*. In addition, the commissioner may require the filing of any other information determined to be reasonably necessary for the continual enforcement of these laws. The statement may be limited to the insurer's business and condition in the United States unless the commissioner finds that the business conducted outside the United States may detrimentally affect the interests of policyholders in this state. The statements shall also contain a verified schedule showing all details required by law for assessment and taxation. The statement or schedules shall be in the form and shall contain all matters the commissioner may prescribe, and it may be varied as to different types of insurers so as to elicit a true exhibit of the condition of each insurer.

Sec. 15. Minnesota Statutes 1990, section 61A.283, is amended to read:

61A.283 [ADMITTED ASSETS.]

For the purpose of applying any investment limitation based on the amount of a domestic life insurance company's admitted assets, the term "admitted assets" ~~shall mean such assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment~~ *has the meaning given in section 1*, with an adjustment in ~~such~~ *the* admitted asset figure to exclude amounts which on ~~such~~ *the* December 31 *immediately preceding the date the company acquires an investment* are allocated to separate accounts~~; and the value of stocks and warrants and options to purchase stocks owned by the company on such December 31 shall be based on cost. For other purposes the term "admitted assets" shall mean such assets as shown by the company's annual statement on such December 31, valued in accordance with the valuation regulations prescribed by the National Association of Insurance Commissioners~~.

Sec. 16. Minnesota Statutes 1990, section 72A.061, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL STATEMENTS.] Any insurance company licensed to do business in this state, including fraternals, reciprocals and township mutuals, which neglects to file its annual statement in the form prescribed and within the time specified by law shall be subject to a penalty of ~~$25~~ *$100* for each day in default. If, at the end of ~~90~~ *45* days, the default has not been corrected, the company shall be given ten days in which to show cause to the commissioner why its license should not be suspended. If the company has not made the requisite showing within the ten-day period, the license and authority of the company may, at the discretion of the commissioner, be suspended during the time the company is in default.

Any insurance company, including fraternals, reciprocals, and township mutuals, willfully making a false annual or other required statement shall pay a penalty to the state not to exceed $5,000. Either or both of the monetary penalties imposed by this subdivision may be recovered in a civil action brought by and in the name of the state.

Sec. 17. Minnesota Statutes 1990, section 62D.044, is amended to read:

62D.044 [ADMITTED ASSETS.]

"Admitted assets" includes the following:

(1) petty cash and other cash funds in the organization's principal or official branch office that are under the organization's control;

(2) immediately withdrawable funds on deposit in demand accounts, in a bank or trust company organized and regularly examined under the laws of the United States or any state, and insured by an agency of the United States government, or like funds actually in the principal or official branch office at statement date, and, in transit to a bank or trust company with authentic deposit credit given before the close of business on the fifth bank working day following the statement date;

(3) the amount fairly estimated as recoverable on cash deposited in a closed bank or trust company, if the assets qualified under this section before the suspension of the bank or trust company;

(4) bills and accounts receivable that are collateralized by securities in which the organization is authorized to invest;

(5) premiums due from groups or individuals that are not more than 90

days past due;

(6) amounts due under reinsurance arrangements from insurance companies authorized to do business in this state;

(7) tax refunds due from the United States or this state;

(8) *principal and* interest accrued on mortgage loans not exceeding in aggregate one year's total due and accrued *principal and* interest on an individual loan;

(9) the rents due to the organization on real and personal property, directly or beneficially owned, not exceeding the amount of one year's total due and accrued rent on each individual property;

(10) *principal and* interest or rents accrued on conditional sales agreements, security interests, chattel mortgages, and real or personal property under lease to other corporations that do not exceed the amount of one year's total due and accrued interest or rent on an individual investment;

(11) the fixed required *principal and* interest due and accrued on bonds and other evidences of indebtedness that are not in default;

(12) dividends receivable on shares of stock, provided that the market price for valuation purposes does not include the value of the dividend;

(13) the interest on dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations;

(14) *principal and* interest accrued on secured loans that do not exceed the amount of one year's interest on any loan;

(15) interest accrued on tax anticipation warrants;

(16) the amortized value of electronic computer or data processing machines or systems purchased for use in the business of the organization, including software purchased and developed specifically for the organization's use;

(17) the cost of furniture, equipment, and medical equipment, less accumulated depreciation thereon, and medical and pharmaceutical supplies that are used to deliver health care and are under the organization's control, provided the assets do not exceed 30 percent of admitted assets;

(18) amounts currently due from an affiliate that has liquid assets with which to pay the balance and maintain its accounts on a current basis. Any amount outstanding more than three months is not current;

(19) amounts on deposit under section 62D.041;

(20) accounts receivable from participating health care providers that are not more than 60 days past due; and

(21) investments allowed by section 62D.045, except for investments in securities and properties described under section 61A.284.

Sec. 18. Minnesota Statutes 1990, section 62D.045, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTIONS.] Funds of a health maintenance organization shall be invested only in securities and property designated by law for investment by domestic life insurance companies, except that money may be used to purchase real estate, including leasehold estates and leasehold

improvements, for the convenient accommodation of the organization's business operations, including the home office, branch offices, medical facilities, and field office operations, on the following conditions:

(1) a parcel of real estate acquired under this subdivision may include excess space for rent to others if it is reasonably anticipated that the excess will be required by the organization for expansion or if the excess is reasonably required in order to have one or more buildings that will function as an economic unit;

(2) the real estate may be subject to a mortgage; and

(3) the purchase price of the asset, including capitalized permanent improvements, less depreciation spread evenly over the life of the property or less depreciation computed on any basis permitted under the Internal Revenue Code and its regulations, or the organization's equity, plus all encumbrances on the real estate owned by a company under this subdivision, whichever is greater, does not exceed 20 percent of its admitted assets, except if permitted by the commissioner upon a finding that the percentage of the health maintenance organization's admitted assets is insufficient to provide convenient accommodation for the organization's business. However, a health maintenance organization that ~~directly provides medical services~~ *owns property used in the delivery of medical services for its enrollees* may invest an additional 20 percent of its admitted assets in real estate, not requiring the permission of the commissioner.

Sec. 19. [REPORT.]

Subdivision 1. [REPORT.] *The commissioner of commerce shall submit a report on the overall effectiveness of the requirements imposed under this act to the legislature by January 1, 1994. The report must include:*

(1) the effectiveness and reliability of risk-adjusted capital formulas applied as broadly as possible to all insurers, including a recommendation whether the formula should be adopted by the state as a formal tool for measuring surplus adequacy;

(2) the accuracy and effectiveness of the internal appraisal procedure authorized for valuing real estate and mortgages, including recommendations on any necessary internal appraisal procedure modifications;

(3) the sufficiency of the department's insurance audit complement.

Subd. 2. [INTERSTATE COMPACT AGREEMENT STUDY.] *The commissioner of commerce shall conduct a study to determine the feasibility of entering interstate compact agreements for the purpose of enhancing the regulation of insurers. The study must address the costs and benefits of state regulation and the financial and operational impact on domestic insurers. The commissioner shall submit a report on the results of the study to the legislature by January 1, 1993.*

Sec. 20. [REPORT ON GUARANTY ASSOCIATIONS.]

The commissioner of commerce shall submit a report on the life and health guaranty association and the Minnesota insurance guaranty association to the legislature by January 1, 1992. The report must include:

(1) the feasibility of prefunding each association;

(2) the capacity of each association to promptly pay benefits and continue coverages for large insolvencies; and

(3) the feasibility of using risk as a basis for establishing the amount to be assessed each member of each association.

ARTICLE 11

LIFE REINSURANCE AGREEMENTS

Section 1. [60A.096] [ACCOUNTING REQUIREMENTS.]

(a) No life insurer subject to this chapter shall, for reinsurance ceded, reduce a liability or establish an asset in a financial statement filed with the department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1) the primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a risk charge and the agreement does not provide for significant participation by the reinsurer in one or more of the following risks: mortality, morbidity, investment, or surrender benefit;

(2) the reserve credit taken by the ceding insurer is not in compliance with the insurance law or rules, including actuarial interpretations or standards adopted by the department;

(3) the reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding company supporting the policy obligations transferred under the reinsurance agreement;

(4) the ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered a reimbursement to the reinsurer for negative experience;

(5) the ceding insurer may be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums shall not be considered to be a deprivation of surplus;

(6) the ceding insurer shall, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(7) no cash payment is due from the reinsurer, throughout the lifetime of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only in a reinsurance account, and no funds in the account are available for the payment of benefits; or

(8) the reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

(b) Notwithstanding paragraph (a), a life insurer subject to this chapter may, with the prior approval of the commissioner of commerce, take reserve credit as the commissioner considers consistent with the insurance law or rules adopted under it, including actuarial interpretations or standards adopted by the department.

Sec. 2. [60A.097] [EXISTING AGREEMENTS.]

Notwithstanding section 1, life insurers subject to this chapter may continue to reduce liabilities or establish assets in financial statements filed with the department for reinsurance ceded under an insurance agreement if:

(1) the reinsurance agreements were executed and in force before the effective date of section 1;

(2) no new business is ceded under the reinsurance agreements after the effective date of section 1;

(3) the reduction of the liability or the asset established for the reinsurance ceded is reduced to zero by December 31, 1992, or a later date approved by the commissioner of commerce as a result of an application made by the ceding insurer prior to December 31 of the year in which section 1 becomes effective;

(4) the reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the insurance law or rules adopted under it, including actuarial interpretations or standards adopted by the department; and

(5) the department is notified, within 90 days after the effective date of section 1, of the existence of the reinsurance agreements and all corresponding credits taken in the ceding insurer's 1990 annual statement.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective January 1, 1992."

Delete the title and insert:

"A bill for an act relating to insurance solvency and safe investments; limiting insurer investments; specifying procedures for the valuation of commercial mortgage loans and real estate owned by insurers; modifying insurer examination provisions; adopting model legislation proposed by the National Association of Insurance Commissioners; amending Minnesota Statutes 1990, sections 60A.02, subdivision 6, and by adding subdivisions; 60A.03, subdivision 5; 60A.031; 60A.07, by adding a subdivision; 60A.09, subdivision 5; 60A.10, subdivision 2a; 60A.11, subdivisions 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and by adding subdivisions; 60A.13, subdivision 1; 60B.25; 60B.37, subdivision 2; 60C.02, subdivision 1; 60C.03, subdivision 6, and by adding a subdivision; 60C.04; 60C.06, subdivision 1; 60C.09, subdivision 1; 60C.13, subdivision 1; 61A.25, subdivisions 5, 6, and by adding subdivisions; 61A.28, subdivisions 1, 2, 3, 6, 8, 11, 12, and by adding subdivisions; 61A.281, by adding a subdivision; 61A.283; 61A.29; 61A.31; 62D.044; 62D.045, subdivision 1; 72A.061, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 60A and 61B; proposing coding for new law as Minnesota Statutes, chapters 60G and 60H; repealing Minnesota Statutes 1990, sections 60A.076; 60A.09, subdivision 4; 60A.12, subdivision 2; 61A.28, subdivisions 4 and 5; 61B.01; 61B.02; 61B.03; 61B.04; 61B.05; 61B.06; 61B.07; 61B.08; 61B.09; 61B.10; 61B.11; 61B.12; 61B.13; 61B.14; 61B.15; and 61B.16."

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

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

S.F. No. 108: A bill for an act relating to the environment; providing that the petroleum tank release compensation board require proof of payment by a responsible person before reimbursement; amending Minnesota Statutes 1990, section 115C.09, subdivisions 1, 3, and 3a.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115C.09, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENT.] (a) The board shall reimburse a responsible person who is eligible under subdivision 2 from the account for 90 percent of the portion of the total reimbursable costs or $1,000,000, whichever is less. Not more than $1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement, and not more than $2,000,000 may be reimbursed for costs associated with a single tank facility.

(b) A reimbursement may not be made from the account under this subdivision until the board has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

(c) *A contractor may request an assignment from the board before performing any services.*

(d) Money in the account is appropriated to the board to make reimbursements under this section. A reimbursement to a state agency must be credited to the appropriation account or accounts from which the reimbursed costs were paid.

Sec. 2. Minnesota Statutes 1990, section 115C.09, is amended by adding a subdivision to read:

Subd. 3d. [INTEREST; ASSIGNMENT.] *(a) In addition to reimbursement amounts paid under subdivision 3, 3a, or 3b, the board shall also pay interest costs that do not exceed the adjusted prime rate charged by banks, as defined in section 270.75, subdivision 5, plus two percent, if financing has been obtained.*

(b) A responsible person may assign the right to receive reimbursement to each lender who advanced funds to pay the costs of the corrective action, or to each contractor who provided corrective action services. An assignment must be made by filing with the board a document, in a form prescribed by the board, indicating the identity of the responsible person, the identity of the assignee, the dollar amount of the assignment, and the location of the corrective action. An assignment signed by the responsible person is valid unless terminated by filing a termination with the board, in a form prescribed by the board, which must include the written concurrence of the assignee. The board shall maintain an index of assignments filed under this paragraph. The board shall pay the reimbursement to the responsible person and to one or more assignees by a multiparty check. The board has no liability to a responsible person for a payment under an assignment meeting the requirements of this paragraph."

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "providing for the payment of reasonable interest costs; providing for joint repayment to persons and to financing parties;"

Page 1, line 6, delete everything after the first comma and insert "subdivision 3, and by adding a subdivision."

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

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

S.F. No. 1184: A bill for an act relating to the environment; conforming permit fee requirements to the federal Clean Air Act; amending Minnesota Statutes 1990, section 116.07, subdivision 4d.

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

Page 2, lines 2 and 3, delete "*Minnesota Statutes,*"

Page 2, line 11, delete "*issued*"

Page 2, line 21, delete "*fees under*" and insert "*the air quality account in the environmental fund for*"

Page 2, lines 24 and 26, delete the comma and insert a semicolon

Page 2, line 27, delete the second comma and insert a semicolon

Page 2, line 30, delete "*shall*" and insert "*must*"

Page 2, line 31, delete "*from*" and insert "*under*"

Page 2, line 33, after "*(d)*" insert "*As necessary to cover the reasonable costs described in paragraph (b),*"

Page 3, line 1, delete "*such year*" and insert "*the year the fee is collected*"

Page 3, line 3, delete the comma and insert "*:*

(1)"

Page 3, line 7, delete ", *and*" and insert "*; and*

(2)"

Page 3, line 8, delete "*which*" and insert "*that*"

Page 3, line 9, delete the period and insert "*must be used.*

(e)"

Page 3, lines 10 and 11, delete "*shall*" and insert "*must*"

Page 3, after line 12, insert:

"Sec. 2. [APPROPRIATION.]

$ . . . . . in fiscal year 1992 and $ . . . . . in fiscal year 1993 is appropriated from the air quality account in the environmental fund to the commissioner of the pollution control agency for the agency's air quality program."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "appropriating money;"

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

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

S.F. No. 931: A bill for an act relating to waste management; requiring counties to prepare and amend solid waste management plans; requiring counties and solid waste facilities to develop and implement problem materials management plans; prohibiting issuance and renewal of certain permit if plans are not developed and implemented; amending Minnesota Statutes 1990, sections 115A.03, subdivision 24a; 115A.45; 115A.46, subdivisions 1 and 2; 115A.956; 115A.96, subdivision 6; and 116.07, subdivisions 4j and 4k.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115A.03, subdivision 24a, is amended to read:

Subd. 24a. [PROBLEM MATERIAL.] "Problem material" means a material that, when it is processed or disposed of with mixed municipal solid waste, contributes to one *or more* of the following results:

(1) the release of a hazardous substance, or pollutant or contaminant, as defined in section 115B.02, subdivisions 8, 13, and 15;

(2) pollution of water as defined in section 115.01, subdivision 5;

(3) air pollution as defined in section 116.06, subdivision 3; or

(4) a significant threat to the safe or efficient operation of a solid waste ~~processing~~ facility.

Sec. 2. Minnesota Statutes 1990, section 115A.46, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] *Each county shall prepare a solid waste management plan.* Plans shall address the state policies and purposes expressed in section 115A.02. Plans for the location, establishment, operation, maintenance, and postclosure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. Plans shall address the resolution of conflicting, duplicative, or overlapping local management efforts. Plans shall address the establishment of joint powers management programs or waste management districts where appropriate. Plans shall address other matters as the rules of the office may require consistent with the purposes of sections 115A.42 to 115A.46. Political subdivisions preparing plans under ~~sections 115A.42 to 115A.46~~ *this section* shall consult with persons presently providing solid waste collection, processing, and disposal services. Plans ~~shall~~ *must* be ~~approved by~~ *submitted to* the ~~office~~ *director*, or the metropolitan council pursuant to section 473.803, *for approval*. After initial approval, each plan ~~shall~~ *must* be updated *and submitted for reapproval* every five years ~~and revised~~. *The plan must be amended* as necessary ~~for further approval~~ *so that it is not inconsistent*

with state law.

Sec. 3. Minnesota Statutes 1990, section 115A.46, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] (a) The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems.

(b) The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. In assessing the need for additional capacity for resource recovery or land disposal, the plans shall take into account the characteristics of waste stream components and shall give priority to waste reduction, separation, and recycling.

(c) The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste.

(d) The plans shall address at least waste reduction, separation, recycling, and other resource recovery options, and shall include specific and quantifiable objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste and for the implementation of feasible and prudent reduction, separation, recycling, and other resource recovery options. These objectives shall be consistent with statewide objectives as identified in statute. The plans shall describe methods for identifying the portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and use in agricultural practices. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement, reduction, separation, recycling, and other resource recovery objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall describe proposed mechanisms for complying with the recycling requirements of section 115A.551. *The plans must include the problem materials management plan as required under section 115A.956, subdivision 3*, and the household hazardous waste management ~~requirements of~~ *plan as required under* section 115A.96, subdivision 6.

(e) The plans shall include a comparison of the costs of the activities to be undertaken, including capital and operating costs, and the effects of the activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established.

(f) The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

(g) The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or

expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable.

(h) The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

Sec. 4. Minnesota Statutes 1990, section 115A.956, is amended to read:

115A.956 [SOLID WASTE DISPOSAL PROBLEM MATERIALS.]

Subdivision 1. [PROBLEM MATERIAL PROCESSING AND DISPOSAL PLAN.] The office shall develop a plan that designates problem materials and available capacity for processing and disposal of problem materials including household hazardous waste that should not be in mixed municipal solid waste. *In developing the plan, the office shall consider relevant regional characteristics and the impact of problem materials on specific processing and disposal technologies.*

Subd. 2. [PROBLEM MATERIAL SEPARATION AND COLLECTION PLAN.] After the office certifies that sufficient processing and disposal capacity is available, *but no later than November 15, 1992,* the office shall develop a plan for separating problem materials from mixed municipal solid waste, collecting the problem materials, and transporting the problem materials to a processing or disposal facility and may by rule prohibit the ~~disposal~~ *placement* of the designated problem materials in mixed municipal solid waste.

Subd. 3. [PROBLEM MATERIALS MANAGEMENT PLANS.] *(a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid waste master plan required in section 473.803, a plan for management of problem materials addressed in the plan developed under subdivision 2. The plan must include at least:*

(1) a broad based public education component;

(2) a strategy for reduction of problem materials; and

(3) a strategy for separation of problem materials from mixed municipal solid waste and collection, storage, and proper management of the problem materials.

(b) Each county shall amend its solid waste management plan required in section 115A.46 or its solid waste master plan required in section 473.803, to comply with this subdivision, and shall submit the plan amendment to the office or the metropolitan council for approval by November 15, 1993.

(c) Each county shall implement its problem materials management plan, as approved by the office or the metropolitan council, within six months after approval.

Sec. 5. Minnesota Statutes 1990, section 115A.96, subdivision 6, is amended to read:

Subd. 6. [HOUSEHOLD HAZARDOUS WASTE MANAGEMENT PLANS.] (a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid waste master plan required in

section 473.803, a household hazardous waste management plan. The plan must at least:

(1) include a broad based public education component;

(2) include a strategy for reduction of household hazardous waste; and

(3) ~~address~~ *include a strategy for* separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and ~~disposal~~ *proper management* of that waste.

(b) Each county required to submit its plan to the office under section 115A.46 shall amend its plan to comply with this subdivision within one year after October 4, 1989.

(c) Each county in the state shall implement its household hazardous waste management plan by June 30, 1992.

Sec. 6. Minnesota Statutes 1990, section 116.07, subdivision 4j, is amended to read:

Subd. 4j. [PERMITS; SOLID WASTE FACILITIES.] (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section 115A.03 unless each county *using or* projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803 *and amended as required by sections 115A.956, subdivision 3, and 115A.96, subdivision 6*. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the metropolitan council for counties in the metropolitan area and by the agency for counties outside the metropolitan area. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

Sec. 7. Minnesota Statutes 1990, section 116.07, subdivision 4k, is amended to read:

Subd. 4k. [HOUSEHOLD HAZARDOUS WASTE *AND OTHER PROBLEM MATERIALS* MANAGEMENT.] (a) The agency shall adopt rules to require the owner or operator of a solid waste disposal facility or resource recovery facility to submit *to the agency and to each county using or projected to use the facility* a management plan for the separation of household hazardous waste *and other problem materials* from solid waste prior to disposal or processing and for the proper ~~disposal~~ *management* of the waste. *The rules must require that the plan be developed in coordination with each county using, or projected to use, the facility.* The plan must *not be inconsistent with the plans developed under section 115A.956, subdivisions 2 and 3, and must* include:

(1) *identification of materials that are problem materials, as defined in section 115A.03, subdivision 24a, for the facility;*

(2) participation in public education activities on *management of* household hazardous waste ~~management~~ *and other problem materials* in the facility's service area;

~~(2)~~ *(3)* a strategy for reduction of household hazardous waste *and other problem materials* entering the facility; and

~~(3)~~ *(4)* a plan for the storage and ~~disposal~~ *proper management* of separated household hazardous waste *and other problem materials.*

(b) ~~After June~~ *By September* 30, 1992, *the owner or operator of a facility shall implement the elements of the plan required in paragraph (a) relating to household hazardous waste management. After that date,* the agency may not grant or renew a permit for a facility ~~that has not submitted a household hazardous waste management plan.~~ *until the agency has:*

(1) reviewed the elements of the facility's plan relating to household hazardous waste management;

(2) directed the applicant or permittee to make changes to these elements as necessary to comply with the plan requirements under paragraph (a); and

(3) included a requirement to implement the elements as a condition of the issued or renewed permit.

(c) By May 15, 1994, the owner or operator of a facility shall implement the elements of the plan required in paragraph (a) relating to problem materials management. After that date, the agency may not grant or renew a permit for a facility until the agency has:

(1) reviewed the elements of the facility's plan relating to problem materials management;

(2) directed the applicant or permittee to make changes to these elements as necessary to comply with the plan requirements under paragraph (a); and

(3) included a requirement to implement the elements as a condition of the issued or renewed permit.

Sec. 8. Minnesota Statutes 1990, section 473.149, subdivision 1, is amended to read:

Subdivision 1. [POLICY PLAN; GENERAL REQUIREMENTS.] The metropolitan council shall prepare and by resolution adopt as part of its development guide a long range policy plan for solid waste management in the metropolitan area. When adopted, the plan shall be followed in the metropolitan area. The plan shall address the state policies and purposes expressed in section 115A.02. The plan shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use. The plan shall include goals and policies for solid waste management, including recycling consistent with section 115A.551, and household hazardous waste *and other problem materials* management consistent with ~~section~~ *sections 115A.956, subdivision 3, and* 115A.96, subdivision 6, in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1. The plan shall include criteria and standards for solid waste facilities and

solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plan shall include additional criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In developing the plan the council shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal environmental protection agency.

Sec. 9. Minnesota Statutes 1990, section 473.803, subdivision 1, is amended to read:

Subdivision 1. [COUNTY MASTER PLANS; GENERAL REQUIREMENTS.] Each metropolitan county, following adoption or revision of the council's solid waste policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to the council for its approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the council's policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; proposed mechanisms for complying with the recycling requirements of section 115A.551, and the household hazardous waste *and other problem materials* management requirements of ~~section~~ *sections 115A.956, subdivision 3, and* 115A.96, subdivision 6; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The

master plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the master plan shall contain criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan."

Delete the title and insert:

"A bill for an act relating to waste management; requiring counties to prepare and amend solid waste management plans; requiring counties and solid waste facilities to develop and implement problem materials management plans; prohibiting issuance and renewal of certain permit if plans are not developed and implemented; amending Minnesota Statutes 1990, sections 115A.03, subdivision 24a; 115A.46, subdivisions 1 and 2; 115A.956; 115A.96, subdivision 6; 116.07, subdivisions 4j and 4k; 473.149, subdivision 1; and 473.803, subdivision 1."

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

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

S.F. No. 204: A bill for an act relating to consumer protection; regulating consumer credit information procedures; providing for the regulation of credit service organizations; providing penalties; proposing coding for new law in Minnesota Statutes, chapters 325G and 332.

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

Pages 1 to 5, delete sections 1 to 7

Page 5, line 19, delete "*8 to 15*" and insert "*1 to 9*"

Page 7, lines 2 and 4, delete "*8 to 15*" and insert "*1 to 9*"

Page 7, line 5, delete "*8 to 15*" in both places and insert "*1 to 9*"

Page 7, line 28, delete "*11*" and insert "*4*"

Page 8, line 22, delete "*run to*" and insert "*benefit*" and delete "*for the benefit of*" and insert "*of Minnesota and*"

Page 9, line 3, delete everything after "*buyer*" and insert a semicolon

Page 9, delete lines 4 and 5

Page 9, after line 27, insert:

"Sec. 6. [332.57] [DISCLOSURE STATEMENT.]

Subdivision 1. [REQUIREMENT.] *Before the execution of a contract or agreement between the buyer and a credit services organization or before the receipt by the credit services organization of any money or other valuable consideration, whichever occurs first, the credit services organization shall provide the buyer with a statement in writing containing all of the information required by subdivision 2. The credit services organization shall maintain on file for a period of two years an exact copy of the statement, personally*

signed by the buyer, acknowledging receipt of a copy of the statement.

Subd. 2. [CONTENTS.] *The disclosure statement required under subdivision 1 must be printed in bold face and in at least ten point type and must include the following statement:*

"CONSUMER CREDIT FILE RIGHTS UNDER MINNESOTA AND FEDERAL LAW

You have a right to obtain a copy of your credit report from a credit bureau. You may be charged a reasonable fee. There is no fee, however, if you have been turned down for credit, employment, insurance, or a rental dwelling because of information in your credit report within the preceding 30 days. The credit bureau must provide someone to help you interpret the information in your credit file.

You have a right to dispute inaccurate information by contacting the credit bureau directly. However, neither you nor any "credit repair" company or credit services organization has the right to have accurate, current, and verifiable information removed from your credit bureau report. Under the federal Fair Credit Reporting Act, the credit bureau must remove accurate, negative information from your report only if it is over seven years old. Bankruptcy can be reported for ten years.

You have a right to sue a credit repair company that violates Minnesota's credit services organization act. This law prohibits deceptive practices by credit repair companies and gives you a right to cancel your contract for any reason within five working days from the date you signed it.

Credit bureaus are required to follow reasonable procedures to ensure that creditors report information accurately. However, mistakes may occur.

You may, on your own, notify a credit bureau in writing that you dispute the accuracy of information in your credit file. The credit bureau must then reinvestigate and modify or remove inaccurate information. The credit bureau may not charge any fee for this service. Any pertinent information and copies of any documents you have concerning an error should be given to the credit bureau.

If reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the credit bureau to keep in your file, explaining why you think the record is inaccurate. The credit bureau must include your statement about disputed information with any reports it issues about you.""

Page 9, line 28, delete "332.57" and insert "332.58"

Page 9, delete line 35 and insert "*as follows: "If you, the buyer, have been denied credit within the last 30 days, you may obtain a free copy of the consumer credit report from the consumer reporting agency. You also have the right to dispute inaccurate information in a report. You may cancel this contract at any*"

Page 10, line 11, delete "*and*"

Page 10, line 14, delete the period and insert "*; and*

(5) with respect to the previous calendar year or the time period the credit services organization has been in business, whichever is shorter, the percentage of the credit services organization's customers for whom the credit services organization has fully and completely performed the services the

credit services organization agreed to perform for the buyer."

Page 11, line 2, delete "332.58" and insert "332.59"

Page 11, delete lines 3 to 6 and insert:

"*Any person who violates sections 1 to 7 is guilty of a misdemeanor. The commissioner of commerce may bring a civil action or proceeding against a person who violates any provision of sections 1 to 7. A violation of sections 1 to 7 is a violation of section 325F.69, subdivision 1, and the provisions of section 8.31 apply. Sections 1 to 7 do not limit or restrict the right of any person to pursue any appropriate remedy for a violation of sections 1 to 7.*"

Page 11, line 7, delete "332.59" and insert "332.60"

Page 11, line 9, delete "*8 to 13*" and insert "*1 to 7*"

Page 11, line 15, delete "*8 to 15*" and insert "*1 to 9*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 2 and 3, delete "regulating consumer credit information procedures;"

Page 1, line 6, delete "chapters 325G and" and insert "chapter"

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

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

S.F. No. 946: A bill for an act relating to elections; changing the prohibition on school events on election day; amending Minnesota Statutes 1990, section 204C.03, subdivision 3.

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

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

S.F. No. 1178: A bill for an act relating to elections; allowing school meetings on certain election days; amending Minnesota Statutes 1990, section 204C.03, subdivision 3.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 204C.03, subdivision 3, is amended to read:

Subd. 3. [PUBLIC ELEMENTARY AND SECONDARY SCHOOLS.] Except for regularly scheduled classes, ~~no~~ *a* public elementary or secondary school ~~shall~~ *may not* schedule a school sponsored event between 6:00 p.m. and 8:00 p.m. on the day that an election is held in any political subdivision *in which the school is* located ~~in that school district~~."

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

adopted.

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

S.F. No. 508: A bill for an act relating to elections; changing requirement of absentee ballot applications for deer hunters; clarifying uses to be made of lists of registered voters; requiring commissioner of health to report deaths to secretary of state; authorizing facsimile applications for absentee ballots; requiring notarized affidavits of candidacy; changing time for issuance of certificates of election; changing certain deadlines and language of a disclaimer; changing procedures for hospital district elections; amending Minnesota Statutes 1990, sections 97A.485, subdivision 1a; 201.091, subdivisions 1 and 4; 201.13, subdivision 1; 203B.04, subdivision 1; 204B.09, subdivision 1; 204C.40, subdivision 2; 205.16, subdivision 4; 205A.07, subdivision 3; 211B.04; and 447.32, subdivisions 2, 3, and 4.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 97A.485, subdivision 1a, is amended to read:

Subd. 1a. [DEER LICENSE; ABSENTEE BALLOT APPLICATION.] The commissioner *and agents* shall ~~include with every license~~ *have available for each person purchasing a license* to take deer with firearms or by archery, sold or issued during a general election year, an application for *an* absentee ~~ballots and a voter registration card~~ *ballot*. The commissioner shall obtain absentee ballot application forms from the secretary of state *and distribute them to the commissioner's agents*.

Sec. 2. Minnesota Statutes 1990, section 200.02, is amended by adding a subdivision to read:

Subd. 21. [LOCAL ELECTION OFFICIAL.] *"Local election official" means the city clerk or principal officer charged with duties relating to elections in a statutory or home rule charter city.*

Sec. 3. Minnesota Statutes 1990, section 201.091, subdivision 1, is amended to read:

Subdivision 1. [MASTER LIST.] Each county auditor shall prepare and maintain a current list of registered voters in each precinct in the county which is known as the master list. The master list must be created by entering each completed voter registration card received by the county auditor into the statewide registration system. It must show the name, residence address, and date of birth of each voter registered in the precinct. The information contained in the master list may only be made available to ~~election~~ *public* officials for purposes related to election administration, ~~to the state court administrator for~~ jury selection, and *in response* to ~~public officials authorized to carry out~~ *a* law enforcement ~~duties~~ *inquiry concerning a violation of or failure to comply with any criminal statute or state or local tax statute*.

Sec. 4. Minnesota Statutes 1990, section 201.091, subdivision 4, is amended to read:

Subd. 4. [PUBLIC INFORMATION LISTS.] The county auditor shall

make available for inspection a public information list which must contain the name, address, and voting history of each registered voter in the county. The telephone number must be included on the list if provided by the voter. The public information list may also include information on voting districts. The county auditor may adopt reasonable rules governing access to the list. No individual inspecting the public information list shall tamper with or alter it in any manner. No individual who inspects the public information list or who acquires a list of registered voters prepared from the public information list may use any information contained in the list for purposes unrelated to elections, political activities, or law enforcement. The secretary of state may provide copies of the public information lists and other information from the statewide registration system for uses related to elections, political activities, or *in response to a* law enforcement *inquiry from a public official concerning a failure to comply with any criminal statute or any state or local tax statute.*

Before inspecting the public information list or obtaining a list of voters or other information from the list, the individual shall provide identification to the public official having custody of the public information list and shall state in writing that any information obtained from the list will not be used for purposes unrelated to elections, political activities, or law enforcement. Requests to examine or obtain information from the public information lists or the statewide registration system must be made and processed in the manner provided in the rules of the secretary of state.

Upon receipt of a written request and a copy of the court order, the secretary of state may withhold from the public information list the name of any registered voter placed under court-ordered protection.

Sec. 5. Minnesota Statutes 1990, section 201.13, subdivision 1, is amended to read:

Subdivision 1. [~~LOCAL REGISTRAR OF VITAL STATISTICS~~ *COMMISSIONER OF HEALTH*, REPORTS OF DECEASED RESIDENTS.] The ~~local registrar of vital statistics in each county or municipality~~ *commissioner of health* shall report monthly to the ~~county auditor~~ *secretary of state* the name ~~and~~, address, *date of birth, and county of residence* of each individual 18 years of age or older who has died while maintaining residence in ~~that county or municipality~~ *Minnesota* since the last previous report. *The secretary of state shall determine if any of the persons listed in the report are registered to vote and shall prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants to "deceased" in the statewide registration system.* Upon receipt of the ~~report~~ *list*, the county auditor shall remove from the files the ~~original and duplicate~~ registration cards of the voters reported to be deceased and make the appropriate changes in the ~~data base of the central~~ *statewide* registration system.

Sec. 6. Minnesota Statutes 1990, section 203B.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION PROCEDURES.] Except as otherwise allowed by subdivision 2, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

(a) the county auditor of the county where the applicant maintains residence; or

(b) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be accepted if it is signed and dated by the applicant, contains the applicant's residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. *An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device, at the discretion of the auditor or clerk.*

Sec. 7. Minnesota Statutes 1990, section 204B.09, subdivision 1, is amended to read:

Subdivision 1. [CANDIDATES IN STATE AND COUNTY GENERAL ELECTIONS.] Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state and federal offices filled at the state general election shall be filed not more than 70 days nor less than 56 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period. *Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer.* Candidates for presidential electors may file petitions on or before the state primary day. Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13. No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing. Affidavits and petitions for offices to be voted on in only one county shall be filed with the county auditor of that county. Affidavits and petitions for offices to be voted on in more than one county shall be filed with the secretary of state.

Sec. 8. Minnesota Statutes 1990, section 204B.16, subdivision 6, is amended to read:

Subd. 6. [PUBLIC FACILITIES.] Every statutory city, home rule charter city, county, town, school district, and other public agency, including the University of Minnesota and other public colleges and universities, shall make their facilities, including parking, available for the holding of city, county, *school district,* state, and federal elections, *subject to the approval of the local election official.* A charge for the use of the facilities may be imposed in an amount that does not exceed the lowest amount charged to any public or private group.

Sec. 9. Minnesota Statutes 1990, section 204B.16, is amended by adding a subdivision to read:

Subd. 7. [APPROPRIATE FACILITIES.] *The facilities provided in accordance with subdivision 6 shall be sufficient in size to accommodate all election activities and the requirements of subdivision 5. The space must be separated from other activities within the building. The local election official may approve space in two connecting rooms for registration and balloting activities. Except in the event of an emergency making the approved space unusable, the public facility may not move the election from the space approved by the local election official without prior approval. In addition to the requirements of subdivision 5, the public facility must make remaining parking spaces not in use for regularly scheduled activities available for voters.*

Sec. 10. Minnesota Statutes 1990, section 204B.32, is amended to read:

204B.32 [ELECTION EXPENSES; PAYMENT.]

Subdivision 1. [PAYMENT.] *(a)* The secretary of state shall pay the compensation for presidential electors, the cost of printing the pink paper ballots, and all necessary expenses incurred by the secretary of state in connection with elections.

(b) The counties shall pay the compensation prescribed in section 204B.31, clauses (b) and (c), the cost of printing the canary ballots, the white ballots, the pink ballots when machines are used, the state partisan primary ballots, and the state and county nonpartisan primary ballots, all necessary expenses incurred by county auditors in connection with elections, and the expenses of special county elections.

(c) Subject to subdivision 2, the municipalities shall pay the compensation prescribed for election judges and sergeants at arms, the cost of printing the municipal ballots, providing ballot boxes, providing and equipping polling places and all necessary expenses of the municipal clerks in connection with elections, except special county elections.

(d) The school districts shall pay the compensation prescribed for election judges and sergeants-at-arms, the cost of printing the school district ballots, providing ballot boxes, providing and equipping polling places and all necessary expenses of the school district clerks in connection with school district elections not held in conjunction with state elections. When school district elections are held in conjunction with state elections, the school district shall pay the costs of printing the school district ballots, providing ballot boxes and all necessary expenses of the school district clerk.

All disbursements under this section shall be presented, audited, and paid as in the case of other public expenses.

Subd. 2. [ALLOCATION OF COSTS.] *Cities may allocate the costs of conducting elections to other election jurisdictions for payment of their proportionate share of such expenses for elections held at the same time as the regular city primary and general election. Allocated costs include expenses for election equipment and supplies; polling locations; personnel (including election judge compensation and the portion of salaries of election administrative and technical employees attributable to the preparation and conduct of the election); transportation related to the conduct of the election; required election notices and newspaper publication of election information; communications devices; and postage (including mailings to election judges and for absentee voter applications and ballots).*

Sec. 11. Minnesota Statutes 1990, section 204B.35, is amended by adding a subdivision to read:

Subd. 5. [COMBINED LOCAL ELECTIONS.] *Cities shall determine the voting method in combined local elections when other election jurisdictions located wholly or partially within the city schedule elections on the same date as the regular city primary or general election.*

Sec. 12. Minnesota Statutes 1990, section 204C.19, subdivision 2, is amended to read:

Subd. 2. [BALLOTS; ORDER OF COUNTING.] Except as otherwise provided in this subdivision, the ballot boxes shall be opened, the votes counted, and the total declared one box at a time in the following order: the white box, the pink box, the canary box, the light green box, the blue box, the buff box, the goldenrod box, *the gray box,* and then the other kinds of ballots voted at the election. If enough election judges are available

to provide counting teams of four or more election judges for each box, more than one box may be opened and counted at the same time. The election judges on each counting team shall be evenly divided between the major political parties. The numbers entered on the summary sheet shall not be considered final until the ballots in all the boxes have been counted and corrections have been made if ballots have been deposited in the wrong boxes.

Sec. 13. Minnesota Statutes 1990, section 204C.40, subdivision 2, is amended to read:

Subd. 2. [TIME OF ISSUANCE; CERTAIN OFFICES.] No certificate of election shall be issued until ~~12 days~~ *the period for contesting the election provided in section 209.021 has passed* after the canvassing board has declared the result of the election. In case of a contest, an election certificate shall not be issued until a court of proper jurisdiction has finally determined the contest. This subdivision shall not apply to candidates elected to the office of state senator or representative.

Sec. 14. Minnesota Statutes 1990, section 205.07, subdivision 1, is amended to read:

Subdivision 1. [DATE.] The municipal general election in each statutory city shall be held on the first Tuesday after the first Monday in November in every even-numbered year~~; except that~~. *Notwithstanding any provision of law to the contrary and subject to the provisions of this section,* the governing body of a statutory city may, by ordinance passed at a regular meeting held before September 1 of any year, elect to hold the election on the first Tuesday after the first Monday in November in each odd-numbered year. A city which was a village on January 1, 1974 and before that date provided for a system of biennial elections in the odd-numbered year shall continue to hold its elections in that year until changed in accordance with this section. When a city changes its elections from one year to another, and does not provide for the expiration of terms by ordinance, the term of an incumbent expiring at a time when no municipal election is held in the months immediately prior to expiration is extended until the date for taking office following the next scheduled municipal election. If the change results in having three council members to be elected at a succeeding election, the two individuals receiving the highest vote shall serve for terms of four years and the individual receiving the third highest number of votes shall serve for a term of two years. To provide an orderly transition to the odd or even year election plan, the governing body of the city may adopt supplementary ordinances regulating initial elections and officers to be chosen at the elections and shortening or lengthening the terms of incumbents and those elected at the initial election so as to conform as soon as possible to the regular schedule provided in section 412.02, subdivision 1. Whenever the time of the municipal election is changed, the city clerk immediately shall notify in writing the county auditor and secretary of state of the change of date. Thereafter the municipal general election shall be held on the first Tuesday after the first Monday in November in each odd-numbered or even-numbered year until the ordinance is revoked and notification of the change is made.

Sec. 15. Minnesota Statutes 1990, section 205.07, is amended by adding a subdivision to read:

Subd. 3. [EFFECT OF ORDINANCE; REFERENDUM.] *An ordinance adopting the odd-numbered year municipal election day is effective 240*

days after passage and publication or at a later date fixed in the ordinance. Within 180 days after passage and publication of the ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition shall be signed by eligible voters equal in number to ten percent of the total number of votes cast in the city at the last municipal general election. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by a majority of the voters voting on the question at a general or special election held at least 60 days after submission of the petition. If the petition is filed, the governing body may reconsider its action in adopting the ordinance.

Sec. 16. Minnesota Statutes 1990, section 205.16, subdivision 4, is amended to read:

Subd. 4. [NOTICE TO AUDITOR.] At least ~~30~~ *45* days prior to every municipal election, the municipal clerk shall provide a written notice to the county auditor, including the date of the election and the offices and questions to be voted on at the election.

Sec. 17. Minnesota Statutes 1990, section 205A.07, subdivision 3, is amended to read:

Subd. 3. [NOTICE TO AUDITOR.] At least ~~30~~ *45* days prior to every school district election, the school district clerk shall provide a written notice to the county auditor of each county in which the school district is located. The notice must include the date of the election and the offices and questions to be voted on at the election. *For a bond election, a notice, including a proposed question, may be provided to the county auditor prior to receipt of a review and comment from the commissioner of education and prior to actual initiation of the election.*

Sec. 18. Minnesota Statutes 1990, section 211B.04, is amended to read:

211B.04 [CAMPAIGN LITERATURE MUST INCLUDE DISCLAIMER.]

(a) A person who participates in the preparation or dissemination of campaign material other than as provided in section 211B.05, subdivision 1, that does not prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor.

(b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the . . . . . committee, ... (address)" *for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the . . . . . committee, ... (address), in support of . . . . . (insert name of candidate or ballot question)" for material prepared and paid for by a person or committee other than a principal campaign committee.*"

(c) In the case of broadcast media, the required form of disclaimer is: "Paid for by the . . . . . committee."

(d) Campaign material that is not circulated on behalf of a particular candidate or ballot question must also include in the disclaimer either that it is "in opposition to . . . . . (insert name of candidate or ballot question . . . . .)"; or that "this publication is not circulated on behalf of any candidate or ballot question."

(e) This section does not apply to objects stating only the candidate's name and the office sought, fundraising tickets, or personal letters that are clearly being sent by the candidate.

(f) This section does not modify or repeal section 211B.06.

Sec. 19. Minnesota Statutes 1990, section 447.32, subdivision 2, is amended to read:

Subd. 2. [ELECTIONS.] *Except as provided in this chapter, the Minnesota election law applies to hospital district elections, as far as practicable.* Regular elections must be held in each hospital district at the same time, in the same election precincts, and at the same polling places as general elections of state and county officers. ~~Alternatively, the hospital board may by resolution fix a date for an election, not later than December 7 just before the expiration of board members' terms.~~ It may establish the whole district as a single election precinct or establish two or more different election precincts and polling places for the elections. If there is more than one precinct, the boundaries of the election precincts and the locations of the polling places must be defined in the notice of election, either in full or by reference to a description or map on file in the office of the clerk.

Special elections may be called by the hospital board ~~at any time~~ to vote on any matter required by law to be submitted to the voters. *A special election may not be conducted either during the 30 days before and the 30 days after the state primary or state general election, or during the 20 days before and the 20 days after the regularly scheduled election of any municipality wholly or partially within the hospital district.* Special elections must be held within the election precinct or precincts and at the polling place or places designated by the board. In the case of the first election of officers of a new district, precincts and polling places must be set by the governing body of the most populous city or town included in the district.

Advisory ballots may be submitted by the hospital board on any question it wishes, concerning the affairs of the district, but only at a regular election or at a special election required for another purpose.

Sec. 20. Minnesota Statutes 1990, section 447.32, subdivision 3, is amended to read:

Subd. 3. [ELECTION NOTICES.] *At least two weeks before the first day to file affidavits of candidacy, the clerk of the district shall publish a notice stating the first and last day on which affidavits of candidacy may be filed, the places for filing the affidavits and the closing time of the last day for filing. The clerk shall post a similar notice in at least one conspicuous place in each city and town in the district at least ten days before the first day to file affidavits of candidacy.*

The notice of each election must be posted in at least one public and conspicuous place within each city and town included in the district *at least ten days before the election.* It must be published in the official newspaper of the district or, if a paper has not been designated, in a legal newspaper having general circulation within the district, at least ~~one week~~ *two weeks* before the election. Failure to give notice does not invalidate the election of an officer of the district. A voter may contest a hospital district election in accordance with chapter 209. Chapter 209 applies to hospital district elections.

Sec. 21. Minnesota Statutes 1990, section 447.32, subdivision 4, is amended to read:

Subd. 4. [CANDIDATES; BALLOTS; CERTIFYING ELECTION.] A person who wants to be a candidate for the hospital board shall file an ~~application to be placed on the ballot as a candidate~~ *affidavit of candidacy* for *the* election either as member at large or as a member representing the city or town where the candidate resides. The ~~application~~ *affidavit of candidacy* must be filed with the city or town clerk not more than ~~60 or less than 45 days~~ *ten weeks nor less than eight weeks* before the election. ~~Applications~~ *The city or town clerk* must ~~be forwarded immediately~~ *forward the affidavits of candidacy* to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town *immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 12:00 p.m. on the day after the last day to file affidavits of candidacy.*

Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must contain the names of the proposed candidates for each office, the length of the term of each office, and an additional blank space for the insertion of another name by the voter. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers or on a different ballot. The hospital board may also authorize the use of voting machines subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. They may be paid by the district at a rate set by the board. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office as provided in subdivision 1 if the person elected fails to qualify within 30 days, but qualification is effective if made before the board acts to fill the vacancy.

Sec. 22. [EFFECTIVE DATE.]

Sections 14 and 15 are effective the day following final enactment and apply to any ordinance passed within the 180 days before that date."

Delete the title and insert:

"A bill for an act relating to elections; changing requirement of absentee ballot applications for deer hunters; clarifying uses to be made of lists of registered voters; requiring commissioner of health to report deaths to secretary of state; authorizing facsimile applications for absentee ballots; requiring notarized affidavits of candidacy; changing time for issuance of certificates of election; changing certain deadlines and language of a disclaimer; changing procedures for hospital district elections; amending Minnesota Statutes 1990, sections 97A.485, subdivision 1a; 200.02, by adding a subdivision; 201.091, subdivisions 1 and 4; 201.13, subdivision 1; 203B.04, subdivision 1; 204B.09, subdivision 1; 204B.16, subdivision 6, and by adding a subdivision; 204B.32; 204B.35, by adding a subdivision; 204C.19, subdivision 2; 204C.40, subdivision 2; 205.07, subdivision 1, and by adding a subdivision; 205.16, subdivision 4; 205A.07, subdivision

3; 211B.04; and 447.32, subdivisions 2, 3, and 4."

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

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

S.F. No. 514: A bill for an act relating to security guards; requiring the registration of the employees of private detectives and protective agents, and proprietary guards; precluding local regulation of private detectives and protective agents; providing penalties; amending Minnesota Statutes 1990, sections 326.32, subdivision 14, and by adding subdivisions; 326.3341; and 326.3381, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 326.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 326.32, subdivision 13, is amended to read:

Subd. 13. (a) "Security guard" means a person who wears or carries any insignia that identifies the person to the public as security, who is paid a fee, wage, or salary to do one or more of the following:

(1) prevent or detect intrusion, unauthorized entry or activity, vandalism, or trespass on private property;

(2) prevent or detect theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;

(3) control, regulate, or direct the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;

(4) protect individuals from bodily harm; or

(5) enforce policies and rules of the security guard's employer related to crime reduction to the extent that the enforcement falls within the scope of the security guard's duties.

(b) The term "security guard" does not include:

(1) an auditor, accountant, or accounting clerk performing audits or accounting functions;

(2) an employee of a firm licensed under section 326.3381 whose duties are primarily administrative or clerical in nature;

(3) a person employed by a proprietary company to conduct plain-clothes surveillance or investigation;

(4) a person temporarily employed under statute or ordinance by political subdivisions to provide protective services at social functions;

(5) an employee of an air or rail carrier;

(6) a customer service representative or sales clerk employed in a retail establishment; ~~or~~

(7) a person employed to perform primarily maintenance or custodial functions;

(8) a person employed as an usher or ticket taker; or

(9) a person performing security services for a nuclear facility or defense contractor for which federal law requires a facility security clearance.

Sec. 2. Minnesota Statutes 1990, section 326.32, subdivision 14, is amended to read:

Subd. 14. [ARMED EMPLOYEE.] "Armed employee" means ~~an employee of~~ *a security guard or* a private detective or protective agent *license holder or employee* who at any time in the performance of the employee's duties wears, carries, possesses, or has access to a firearm.

Sec. 3. [326.3312] [LOCAL REGULATION PRECLUDED.]

No political subdivision of the state may enact or enforce an ordinance regulating, licensing, or taxing license holders or employees of license holders governed by sections 326.32 to 326.339.

Sec. 4. Minnesota Statutes 1990, section 326.3341, is amended to read:

326.3341 [EXEMPTIONS.]

~~Sections 326.32 to 326.339~~ *The licensing requirements of section 326.3381* do not apply to:

(1) an employee while providing security or conducting an investigation of a pending or potential claim against the employee's employer;

(2) a peace officer or employee of the United States, this state or one of its political subdivisions, while engaged in the discharge of official duties for the government employer, *or a confidential informant working under a law enforcement agency*;

(3) persons engaged exclusively in obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons ~~or as to the personal habits~~, and *the* financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

(4) an attorney-at-law while performing the duties of an attorney-at-law or an investigator ~~employed exclusively by an attorney or~~ *who is an employee of* a law firm ~~engaged in investigating legal matters~~;

(5) a collection agency or finance company licensed to do business under the laws of this state or an employee of one of those companies while acting within the scope of employment when making an investigation incidental to the business of the agency, including an investigation as to location of a debtor, of the debtor's assets or property, provided the client has a financial interest in or a lien upon the assets or property of the debtor;

(6) an insurance adjuster employed exclusively by an insurance company, or licensed as an adjuster with the state of Minnesota and engaged in the business of adjusting insurance claims; or

(7) persons engaged in responding to alarm signals including, but not limited to, fire alarms, industrial process failure alarms and burglary alarms, for purposes of maintaining, repairing or resetting the alarm, or for opening the premises for law enforcement personnel or responding agents.

Sec. 5. [326.3342] [REGISTRATION OF EMPLOYEES WITH ACCESS TO WEAPONS.]

Subdivision 1. [REGISTRATION PROCESS.] *(a) When a license holder*

hires a person to perform armed security services as a private detective or security guard, or a proprietary employer hires a person to perform armed security services as a security guard, the employer shall submit to the bureau of criminal apprehension a full set of fingerprints of each employee and the written consent of the employee to enable the bureau to determine whether that person has a criminal record. The person is a conditional employee in the position requiring registration until the employer receives a report from the bureau that, based on a check of the criminal records maintained by the bureau, the prospective employee has not been convicted in Minnesota of a felony or any offense listed in section 326.3381, subdivision 3, other than a misdemeanor or gross misdemeanor assault. During the period of conditional employment, the person may not serve in an armed security services position as a private detective, protective agent, or security guard, but may be trained by the employer.

(b) When the employee ceases to be a conditional employee, the employer shall apply to the board for registration of the employee as required by this section.

(c) When the bureau receives employee fingerprints under this section, the bureau shall immediately request the Federal Bureau of Investigation to conduct a check of each conditional employee's criminal record, and the bureau of criminal apprehension shall immediately forward the results to the employer when they are received.

(d) If the bureau report or Federal Bureau of Investigation report indicates that the employee was convicted of a disqualifying offense, the employer shall immediately remove the employee from job duties involving the performance of armed security services.

(e) For purposes of this section, "armed security services" means the duties of a person acting as an armed employee or performing the duties of a position in which the person uses or has regular access to any type of weapon, including a bludgeon, nightstick, baton, chemical weapon, or electronic incapacitation device.

Subd. 2. [REGISTRATION QUALIFICATIONS.] *A license holder or an employer of a security guard shall apply to the board for registration of a new employee who performs armed security services. To qualify for registration under this section, a person must:*

(1) be at least 18 years old or, if employed as an armed employee, at least 21 years old;

(2) be a citizen of the United States or a legally registered alien; and

(3) not have been convicted in any jurisdiction of a violent offense that would be a felony under the laws of this state, or, during the previous ten years, of a nonviolent offense that would be a felony under the laws of this state, or, during the previous five years, of an offense that would be a gross misdemeanor listed in section 326.3381, subdivision 3, under the laws of this state.

Subd. 3. [APPLICATION; CONTENTS.] *(a) An applicant for registration under this section shall provide to the applicant's employer, for forwarding to the board and on a form furnished by the board, the following information with respect to the applicant:*

(1) full name, full current address, and residence telephone number;

(2) date and place of birth;

(3) proof of United States citizenship or work authorization;

(4) full addresses of all residences in the last three years;

(5) names and addresses of all employers during the last five years;

(6) a list of any past or pending criminal charges, arrests, and convictions in any jurisdiction, including the dates, locations, and specific nature of the offenses and a description of any sentence;

(7) if an applicant was in military service, the type of discharge;

(8) a general physical description; and

(9) a list of any name or names, other than the name used on the application, used by the applicant or by which the applicant was known, along with an explanation of where and when the name or names were used and the reason for the use.

(b) In addition, the applicant shall furnish to the applicant's employer for forwarding to the board:

(1) one classifiable set of fingerprints;

(2) one color photograph, taken within the last three months, that shows the hair style, facial hair, and eyeglasses worn by the applicant at the time of application, and an additional color photograph, in a size and format prescribed by the employer, for use on the employer's identification card;

(3) a sworn statement whether the applicant has been denied registration for comparable employment in this state or in any other jurisdiction, or has had a registration suspended or revoked, and, if so, an explanation of the date and place of the action and the reason for it; and

(4) a sworn statement that the applicant will notify the board in writing within 14 days of any material change in any of the information furnished on the application form.

(c) An applicant who submits false information of a material nature under paragraph (a) or (b) or subdivision 4 will not be permitted to reapply for registration for a period of two years from the date of the application containing the false information.

Subd. 4. [TRAINING REQUIREMENTS.] *In addition to the information and materials required by subdivision 3, an applicant for registration shall furnish to the employer, for forwarding to the board, evidence of having successfully completed the training required under section 326.3361 in a program approved by the board.*

Subd. 5. [FEES.] *A nonrefundable money order or cashier's check in an amount prescribed by the board under section 16A.128, but not to exceed $3, must accompany an application for registration or reregistration under this section.*

Sec. 6. [326.3343] [PROCESSING OF EMPLOYEE APPLICATIONS.]

Subdivision 1. [APPLICATION.] *Within ten days after receiving a complete application from an applicant's employer, the board shall issue the applicant a registration certificate, including a registration certificate as an armed employee if the applicant meets the requirements of section 5*

subdivision 4, after the applicant has provided evidence of having successfully completed the preassignment or on-the-job training, or the equivalent, required by section 5, subdivision 4. A registration is valid for one year from its date of issuance and may be renewed for additional one-year periods upon application prescribed by the board and the payment of a fee prescribed by the board under section 16A.128, but not to exceed $3.

Subd. 2. [TERMINATION OF EMPLOYMENT.] *If a registrant's employment is terminated for any reason, the employer shall notify the board of the termination within 30 days. If a registrant is again employed by a license holder while the registrant's registration is valid, the employer shall notify the board within ten days of the start of the new employment. An employer who fails to comply with this section is subject to disciplinary action under section 326.3387.*

Sec. 7. Minnesota Statutes 1990, section 326.336, subdivision 1, is amended to read:

Subdivision 1. A license holder may employ, in connection with the business of private detective or protective agent, as many unlicensed persons as may be necessary; provided that every license holder is at all times accountable for the good conduct of every person employed. *Registration of persons to perform armed security services is governed by section 5. For other employees,* when a license holder hires a person to perform services as a private detective or ~~protective agent~~ *security guard*, the employer shall submit to the bureau of criminal apprehension a full set of fingerprints of each employee and the written consent of the employee to enable the bureau to determine whether that person has a criminal record. The employee is a conditional employee until the employer receives a report from the bureau that, based on a check of the criminal records maintained by the bureau, the prospective employee has not been convicted in Minnesota of a felony or any offense listed in section 326.3381, subdivision 3, other than a misdemeanor or gross misdemeanor assault. During the period of conditional employment, the person may not serve as a private detective or ~~protective agent~~ *security guard*, but may be trained by the employer. The bureau shall immediately request the Federal Bureau of Investigation to conduct a check of each conditional employee's criminal record, and the bureau of criminal apprehension shall immediately forward the results to the employer when they are received. If the bureau report or Federal Bureau of Investigation report indicates that the employee was convicted of a disqualifying offense, the employer shall immediately dismiss the employee.

Sec. 8. Minnesota Statutes 1990, section 326.336, subdivision 2, is amended to read:

Subd. 2. An identification card must be issued by the license holder to each employee. The card must be in the possession of the employee to whom it is issued at all times. The identification card must contain the license holder's name, logo (if any), address or Minnesota office address, and the employee's photograph and physical description. The card must be signed by the employee and by the license holder, qualified representative, or Minnesota office manager. *The card must indicate when the employee suc-*

v completed certified training and certified continuing training, as ed by section 326.3361 and any rules adopted under section 1.

. Minnesota Statutes 1990, section 326.3361, subdivision 1, is to read:

Subdivision 1. [RULES.] The board shall, by rule, prescribe the requirements, duration, contents, and standards for successful completion of *certified* training programs for *license holders, qualified representatives, Minnesota managers, partners, security guards, and* employees, including:

(1) first aid and firearms training required for armed employees, including training in the legal limitations on the justifiable use of force and deadly force as specified in sections 609.06 and 609.065;

(2) training in the use of weapons other than firearms, including bludgeons, nightsticks, batons, chemical weapons, and electronic incapacitation devices, and in the use of restraint or immobilization techniques, including the carotid neck restraint;

(3) *training in the use of alternatives to the use of force;*

(4) standards for weapons and equipment issued to or carried or used by *license holders, qualified representatives, Minnesota managers, partners, security guards, or* employees;

~~(4)~~ *(5)* preassignment or on-the-job training, or its equivalent, required before applicants may be certified; and

~~(5)~~ *(6)* continuing training for *license holders, qualified representatives, Minnesota managers, partners, security guards,* employees, and armed employees.

Sec. 10. Minnesota Statutes 1990, section 326.3361, subdivision 2, is amended to read:

Subd. 2. [REQUIRED CONTENTS.] The rules adopted by the board must require:

(1) 12 hours of preassignment or on-the-job *certified* training within the first 21 days of employment, or evidence that the employee has successfully completed equivalent training before the start of employment;

(2) standards for certification of ~~an~~ *a license holder, qualified representative, Minnesota manager, partner, security guard, or* employee, by the board, ~~as qualified~~ to carry or use a firearm, a weapon other than a firearm, or an immobilizing or restraint technique; and

(3) six hours a year of *certified* continuing training for all *license holders, qualified representatives, Minnesota managers, partners, security guards, and* employees, and an additional six hours a year for armed employees, which must include annual certification of the armed employee.

An employee may not carry or use a weapon while undergoing on-the-job training under this subdivision.

Sec. 11. Minnesota Statutes 1990, section 326.3361, subdivision 3, is amended to read:

Subd. 3. [USE OF WEAPONS; CERTIFICATION REQUIRED.] The rules must provide that no *license holder, qualified representative, Minnesota manager, partner, security guard, or* employee may carry or use a weapon or immobilizing or restraint technique without ~~being certified~~ *having successfully completed certified training as directed* by the board ~~as qualified to do so~~. The ~~board shall issue an~~ identification card ~~to a person certified under this subdivision~~ *issued by the license holder under section 326.336, subdivision 2, shall indicate when the person successfully completed the required certified training and certified continuing training*. A certified

license holder, qualified representative, Minnesota manager, partner, or employee shall have the card in ~~the employee's~~ possession while ~~working as an armed employee~~ *acting within the scope of the licensed activity as a private detective or protective agent as defined in section 326.338.*

Sec. 12. Minnesota Statutes 1990, section 326.3381, subdivision 1a, is amended to read:

Subd. 1a. [PROPRIETARY EMPLOYERS.] A proprietary employer is not required to obtain a license, but must comply with section ~~326.336, subdivision 1~~ *5*, with respect to the hiring of security guards.

Sec. 13. Minnesota Statutes 1990, section 326.3381, subdivision 2, is amended to read:

Subd. 2. [APPLICATION PROCEDURE.] The board shall issue a license upon application to any person qualified under sections 326.32 to 326.339 and under the rules of the board to engage in the business of private detective or protective agent. The license shall remain effective for two years as long as the license holder complies with sections 326.32 to 326.339, the laws of Minnesota, and the rules of the board. Upon receipt of an application for private detective or protective agent license, the board shall:

(1) post notice of the application in its office for a period of 20 days, and notify all persons who have requested notification of applications;

(2) conduct an investigation as it considers necessary to determine the qualifications of the applicant, qualified representative, Minnesota manager, and if appropriate, a partner or corporate officer, *including, when appropriate, a criminal history record check*; and

(3) notify the applicant of the date on which the board will conduct a review of the license application.

Sec. 14. Minnesota Statutes 1990, section 326.3381, subdivision 3, is amended to read:

Subd. 3. [DISQUALIFICATION.] No person is qualified to hold a license who has:

(1) been convicted of (i) a felony by the courts of this or any other state or of the United States; (ii) ~~acts which~~ *an act that*, if done in Minnesota, would be *any of the following offenses at the felony or gross misdemeanor level:* criminal sexual conduct; assault; theft; larceny; burglary; robbery; unlawful entry; extortion; defamation; buying or receiving stolen property; using, possessing, manufacturing, or carrying weapons unlawfully; using, possessing, or carrying burglary tools unlawfully; escape; ~~possession~~ *possessing*, ~~production~~ *producing*, ~~sale~~ *selling*, or ~~distribution of narcotics~~ *distributing controlled substances* unlawfully; or (iii) in any other country of acts which, if done in Minnesota, would be a felony or would be any of the other offenses provided in this clause and for which a full pardon or similar relief has not been granted;

(2) made any false statement in an application for a license or any document required to be submitted to the board; or

(3) failed to demonstrate to the board good character, honesty, and integrity.

Sec. 15. Minnesota Statutes 1990, section 326.3386, subdivision 2, is amended to read:

Subd. 2. [LICENSE FEE.] Each applicant for a private detective or protective agent license shall pay to the board a license fee, as determined by the board. In the event that an applicant is denied licensing by the board, one-half of the license fee shall be refunded to the applicant. *The board may also collect from license applicants an appropriate fee to cover the cost of a criminal history record check.*

Sec. 16. Minnesota Statutes 1990, section 326.3388, is amended to read:

326.3388 [ADMINISTRATIVE PENALTIES.]

The board shall, by rule, establish a graduated schedule of administrative penalties for violations of sections 326.32 to 326.339 or the board's rules. The schedule must include minimum and maximum penalties for each violation and be based on and reflect the culpability, frequency, and severity of the violator's actions. The board may impose a penalty from the schedule on a license holder *or on any other person* for a violation of sections 326.32 to 326.339 or the rules of the board. *In addition, the board may seek court orders against violators requiring them to cease operations that violate sections 326.32 to 326.339.* The penalty is in addition to any criminal penalty imposed for the same violation. Administrative penalties imposed by the board must be paid to the general fund.

Sec. 17. [EXISTING EMPLOYEES.]

Notwithstanding sections 5 and 6, a person employed as a security guard performing armed security services, as defined in section 5, on the effective date of sections 5 and 6 shall register with the board within six months after the effective date. A person employed as an armed employee shall successfully complete the training required for registration as an armed employee within 60 days of the effective date. A person covered by this section shall also comply with the continuing training requirements prescribed by the board.

Sec. 18. [REVISOR INSTRUCTION.]

The revisor of statutes shall arrange the definitions in Minnesota Statutes 1992, section 326.32, in alphabetical order.

Sec. 19. [EFFECTIVE DATE.]

Sections 1 to 18 are effective July 1, 1992."

Delete the title and insert:

"A bill for an act relating to security guards; requiring the registration of certain employees of private detectives and protective agents, and proprietary employers; precluding local regulation of private detectives and protective agents; providing penalties; amending Minnesota Statutes 1990, sections 326.32, subdivisions 13 and 14; 326.3341; 326.336, subdivisions 1 and 2; 326.3361, subdivisions 1, 2, and 3; 326.3381, subdivisions 1a, 2, and 3; 326.3386, subdivision 2; and 326.3388; proposing coding for new law in Minnesota Statutes, chapter 326."

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

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

S.F. No. 1053: A bill for an act relating to Minnesota Statutes; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating

certain redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to statutes and other laws; amending Minnesota Statutes 1990, sections 3C.04, subdivision 3; 14.47, subdivision 5; 15.39, subdivision 2; 15.45, subdivision 1; 16B.06, subdivision 2a; 16B.19, subdivision 2b; 16B.21, subdivision 1; 16B.405, subdivision 2; 18B.05, subdivision 1; 27.138, subdivision 4; 41A.066, subdivision 1; 60A.13, subdivision 3a; 60B.25; 62E.19, subdivision 1; 84B.09; 89.37, subdivision 4; 97A.101, subdivision 2; 103A.405; 103B.211, subdivision 4; 103F.215, subdivision 1; 103G.545, subdivision 2; 115A.06, subdivision 4; 115B.25, subdivision 4; 115B.26, subdivisions 1 and 4; 115B.30, subdivision 1; 115B.31; 115B.32, subdivision 1; 115C.08, subdivision 5; 115D.02; 116.733; 116J.68, subdivision 2; 121.88, subdivision 5; 123.702, subdivision 2; 124.195, subdivision 9; 124.225, subdivision 8l; 124.245, subdivision 6; 124A.036, subdivision 5; 125.032, subdivision 2; 126.036; 126.071, subdivision 1; 127.19; 136.82, subdivision 1; 144.49, subdivision 8; 144.804, subdivision 1; 144.8097, subdivision 2; 144A.29, subdivisions 2 and 3; 147.01, subdivision 1; 148.03; 148.52; 148.90, subdivision 3; 150A.02, subdivision 1; 151.03; 152.022, subdivision 1; 152.023, subdivision 2; 153.02; 154.22; 156.01; 161.17, subdivision 2; 168.325, subdivision 3; 222.63, subdivision 4; 237.161, subdivision 1; 256.035, subdivision 8; 256B.059, subdivision 4; 268.38, subdivision 12; 270.42; 273.1392; 273.1398, subdivision 5a; 275.065, subdivision 1; 275.50, subdivision 5; 290A.04, subdivision 2h; 297A.25, subdivision 8; 298.17; 299A.24, subdivision 1; 299A.41, subdivision 1; 299D.03, subdivision 12; 299F.361, subdivision 1; 299F.451, subdivision 1; 299F.72, subdivision 1; 317A.021, subdivision 7; 325E.045, subdivision 1; 326.04; 341.01; 354A.094, subdivision 7; 356.215, subdivision 4d; 384.14; 386.63, subdivision 1; 400.03, subdivision 1; 423.806, subdivision 1; 446A.10, subdivision 2; 469.129, subdivision 1; 473.844, subdivision 1; 473.845, subdivision 1; 508.36; 529.16; 551.05, subdivision 1; 571.75, subdivision 2; 571.81, subdivision 2; 604.06; 609.531, subdivision 1; 609.892, subdivision 1; Laws 1990, chapter 562, article 8, section 38; chapter 602, article 2, section 10; and chapter 606, article 4, section 1, subdivisions 2 and 6; reenacting Minnesota Statutes 1988, section 169.126, subdivision 2, as amended; repealing Minnesota Statutes 1990, sections 103B.211, subdivision 5; 103I.005, subdivision 18; 117.31; 124.47; 171.015, subdivision 4; 299D.01, subdivision 5; 299F.01, subdivision 3; 299F.362, subdivision 8; 474A.081, subdivisions 1, 2, and 4; 593.40, subdivision 6; and 626A.21.

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

Page 13, after line 22, insert:

"Sec. 12. Minnesota Statutes 1990, section 86B.415, subdivision 1, is amended to read:

Subdivision 1. [WATERCRAFT ~~LESS THAN~~ 19 FEET *OR LESS*.] The fee for a watercraft license for watercraft ~~less than~~ 19 feet *or less* in length is $12 except:

(1) for watercraft 19 feet in length or less that is offered for rent or lease, the fee is $6;

(2) for a canoe, kayak, sailboat, sailboard, paddle boat, or rowing shell 19 feet in length or less, the fee is $7;

(3) for a watercraft 19 feet in length or less used by a nonprofit corporation for teaching boat and water safety, the fee is as provided in subdivision 4; and

(4) for a watercraft owned by a dealer under a dealer's license, the fee is as provided in subdivision 5."

Page 19, after line 3, insert:

"Sec. 25. Minnesota Statutes 1990, section 115B.33, subdivision 1, is amended to read:

Subdivision 1. [STANDARD FOR PERSONAL INJURY.] The board shall grant compensation to a claimant who shows that it is more likely than not that:

(1) the claimant suffers a medically verified injury that is eligible for compensation from the ~~fund~~ *account* and that has resulted in a compensable loss;

(2) the claimant has been exposed to a harmful substance;

(3) the release of the harmful substance from a facility where the substance was placed or came to be located could reasonably have resulted in the claimant's exposure to the substance in the amount and duration experienced by the claimant; and

(4) the injury suffered by the claimant can be caused or significantly contributed to by exposure to the harmful substance in an amount and duration experienced by the claimant.

Sec. 26. Minnesota Statutes 1990, section 115B.34, is amended to read:

115B.34 [COMPENSABLE LOSSES.]

Subdivision 1. [PERSONAL INJURY LOSSES.] Losses compensable by the ~~fund~~ *account* for personal injury are limited to:

(a) medical expenses directly related to the claimant's injury;

(b) up to two-thirds of the claimant's lost wages not to exceed $2,000 per month or $24,000 per year;

(c) up to two-thirds of a self-employed claimant's lost income, not to exceed $2,000 per month or $24,000 per year;

(d) death benefits to dependents which the board shall define by rule subject to the following conditions:

(1) the rule adopted by the board must establish a schedule of benefits similar to that established by section 176.111 and must not provide for the payment of benefits to dependents other than those dependents defined in section 176.111;

(2) the total benefits paid to all dependents of a claimant must not exceed $2,000 per month;

(3) benefits paid to a spouse and all dependents other than children must not continue for a period longer than ten years;

(4) payment of benefits is subject to the limitations of section 115B.36; and

(e) the value of household labor lost due to the claimant's injury or disease, which must be determined in accordance with a schedule established by

the board by rule, not to exceed $2,000 per month or $24,000 per year.

Subd. 2. [PROPERTY DAMAGE LOSSES.] (a) Losses compensable by the ~~fund~~ *account* for property damage are limited to the following losses caused by damage to the principal residence of the claimant:

(1) the reasonable cost of replacing or decontaminating the primary source of drinking water for the property not to exceed the amount actually expended by the claimant or assessed by a local taxing authority, if the department of health has confirmed that the remedy provides safe drinking water and advised that the water not be used for drinking or determined that the replacement or decontamination of the source of drinking water was necessary, up to a maximum of $25,000;

(2) losses incurred as a result of a bona fide sale of the property at less than the appraised market value under circumstances that constitute a hardship to the owner, limited to 75 percent of the difference between the appraised market value and the selling price, but not to exceed $25,000; and

(3) losses incurred as a result of the inability of an owner in hardship circumstances to sell the property due to the presence of harmful substances, limited to the increase in costs associated with the need to maintain two residences, but not to exceed $25,000.

(b) In computation of the loss under paragraph (a), clause (3), the board shall offset the loss by the amount of any income received by the claimant from the rental of the property.

(c) For purposes of paragraph (a), the following definitions apply:

(1) "appraised market value" means an appraisal of the market value of the property disregarding any decrease in value caused by the presence of a harmful substance in or on the property; and

(2) "hardship" means an urgent need to sell the property based on a special circumstance of the owner including catastrophic medical expenses, inability of the owner to physically maintain the property due to a physical or mental condition, and change of employment of the owner or other member of the owner's household requiring the owner to move to a different location.

(d) Appraisals are subject to board approval. The board may adopt rules governing approval of appraisals, criteria for establishing a hardship, and other matters necessary to administer this subdivision.

Sec. 27. Minnesota Statutes 1990, section 115B.36, is amended to read:

115B.36 [AMOUNT AND FORM OF PAYMENT.]

If the board decides to grant compensation, it shall determine the net uncompensated loss payable to the claimant by computing the total amount of compensable losses payable to the claimant and subtracting the total amount of any compensation received by the claimant for the same injury or damage from other sources including, but not limited to, all forms of insurance and social security and any emergency award made by the board. The board shall pay compensation in the amount of the net uncompensated loss, provided that no claimant may receive more than $250,000. In the case of a death, the total amount paid to all persons on behalf of the claimant may not exceed $250,000.

Compensation from the ~~fund~~ *account* may be awarded in a lump sum or in installments at the discretion of the board."

Pages 50 and 51, delete sections 63 to 65

Page 76, after line 1, insert:

"Sec. 90. Minnesota Statutes 1990, section 356.216, is amended to read:

356.216 [CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.]

(a) The provisions of section 356.215 governing the contents of actuarial valuations shall apply to any local police or fire pension fund or relief association required to make an actuarial report under this section except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll shall be the maximum rate of salary from which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 4g, the appropriate amortization target date specified in section 69.77, subdivision 2b, or 69.773, subdivision 4, clause ~~(b)~~ *(c)*, shall be used in calculating any required amortization contribution;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 4i, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members shall be reported;

(4) actuarial valuations required pursuant to section 69.773, subdivision 2, shall be made at least every four years and actuarial valuations required pursuant to section 69.77 shall be made annually; and

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, clause (6), or paragraph (b), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability shall include the following required reserves:

(a) For active members
1. Retirement benefits
2. Disability benefits
3. Refund liability due to death or withdrawal
4. Survivors' benefits

(b) For deferred annuitants' benefits

(c) For former members without vested rights

(d) For annuitants
1. Retirement annuities
2. Disability annuities
3. Surviving spouses' annuities
4. Surviving children's annuities

In addition to those required reserves, separate items shall be shown for

additional benefits, if any, which may not be appropriately included in the reserves listed above.

(6) actuarial valuations shall be due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

(b) For a relief association in a city of the first class with a population of more than 300,000, the following provisions additionally apply:

(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and

(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual post-retirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used."

Renumber the sections of article 1 in sequence

Page 3, after line 2, of the Memorandum of Explanation for article 1, insert:

"Sec. 12. *Explanation.* Laws 1990, chapter 391, article 9, section 24, the water recodification, erroneously dropped this language from Minnesota Statutes 1988, section 361.03, subdivision 3."

Page 3, line 26, of the Memorandum of Explanation for article 1, delete "18 to 24" and insert "19 to 28"

Page 6, line 24, of the Memorandum of Explanation for article 1, delete "63 to 67" and insert "67 and 68" and delete "The proposed amendments to"

Page 6 of the Memorandum of Explanation for article 1, delete lines 25 to 31

Page 6, line 32, of the Memorandum of Explanation for article 1, delete everything before "Section" and delete "66" and insert "67"

Page 6, line 33, of the Memorandum of Explanation for article 1, delete "67" and insert "68"

Renumber the section explanations in sequence

Amend the title as follows:

Page 1, line 13, after the fourth semicolon, insert "86B.415, subdivision 1;"

Page 1, line 19, after "1;" insert "115B.33, subdivision 1; 115B.34; 115B.36;"

Page 1, line 38, delete everything after the first semicolon

Page 1, line 42, after the second semicolon, insert "356.216;"

Page 2, line 9, delete "299D.01,"

Page 2, line 10, delete everything before "299F.362,"

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

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

S.F. No. 525: A bill for an act relating to crimes; expanding the definition of drug free zones to include post-secondary and technical colleges and public housing property; requiring the sentencing guidelines commission to develop a model set of local correctional guidelines; authorizing special levies for local correctional services that do not involve incarceration; changing the name and duties of the drug abuse prevention resource council; providing incentives for judicial districts to adopt local correctional guidelines; requiring reporting of felony convictions; requiring chemical use assessments of persons convicted of felonies; requiring studies; appropriating money; amending Minnesota Statutes 1990, sections 152.01, subdivision 14a, and by adding a subdivision; 152.022, subdivision 1; 152.023, subdivision 2; 244.095, subdivisions 1 and 2; 275.50, subdivision 5; 275.51, subdivision 3f; 299A.30; 299A.31, subdivision 1; 299A.32; 401.14, by adding a subdivision; 485.16; and 609.115, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 244; repealing Minnesota Statutes 1990, sections 244.095, subdivision 3; 299A.29; and 299A.30.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 152.01, is amended by adding a subdivision to read:

Subd. 19. [PUBLIC HOUSING ZONE.] *"Public housing zone" means any public housing project or development administered by a local housing agency, except public housing for the elderly or the handicapped, plus the area within 300 feet of the property's boundary, or one city block, whichever distance is greater.*

Sec. 2. Minnesota Statutes 1990, section 152.022, subdivision 1, is amended to read:

Subdivision 1. [SALE CRIMES.] A person is guilty of controlled substance crime in the second degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight or three grams or more containing cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols;

(5) the person unlawfully sells any amount of a schedule I or II narcotic drug to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(6) the person unlawfully sells any amount of a schedule I or II narcotic drug in a school zone ~~or~~, a park zone, *or a public housing zone*.

Sec. 3. Minnesota Statutes 1990, section 152.023, subdivision 2, is amended to read:

Subd. 2. [POSSESSION CRIMES.] A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures containing a narcotic drug with the intent to sell it;

(4) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 more dosage units; or

(5) the person unlawfully possesses any amount of a schedule I or II narcotic drug in a school zone ~~or~~, a park zone, *or a public housing zone*; or

(6) the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 4. Minnesota Statutes 1990, section 152.029, is amended to read:

152.029 [PUBLIC INFORMATION: SCHOOL ZONES ~~AND~~, PARK ZONES, *AND PUBLIC HOUSING ZONES*.]

The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones ~~and~~, school zones, *and public housing zones*. The attorney general shall draft a plain language version of sections 152.022~~,~~ *and* 152.023~~,~~ and ~~244.095~~ *relevant provisions of the sentencing guidelines*, that describes in a clear and coherent manner using words with common and everyday meanings the ~~contents~~ *content* of those ~~sections~~ *provisions*. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards ~~and~~, local governments, *and administrators and occupants of public housing*.

Sec. 5. Minnesota Statutes 1990, section 299A.29, is amended by adding a subdivision to read:

Subd. 1a. [CHEMICAL ABUSE.] *"Chemical abuse" means the use of a controlled substance or the abuse of alcoholic beverages.*

Sec. 6. Minnesota Statutes 1990, section 299A.29, subdivision 3, is amended to read:

Subd. 3. [~~DRUG~~ *CONTROLLED SUBSTANCE*.] ~~"Drug" means a~~ "Controlled substance" ~~as defined~~ *has the meaning given* in section 152.01, subdivision 4.

Sec. 7. Minnesota Statutes 1990, section 299A.29, is amended by adding

a subdivision to read:

Subd. 4a. [PREVENTION ACTIVITY.] *"Prevention activity" means an activity carried on by a government agency that is designed to reduce chemical abuse and dependency, including education, prevention, treatment, and rehabilitation programs.*

Sec. 8. Minnesota Statutes 1990, section 299A.29, subdivision 5, is amended to read:

Subd. 5. [SUPPLY REDUCTION *ACTIVITY*.] "Supply reduction *activity*" means an activity carried on by a ~~drug program~~ *government* agency that is designed to reduce the supply or use of ~~drugs~~ *controlled substances*, including law enforcement, eradication, and prosecutorial activities.

Sec. 9. Minnesota Statutes 1990, section 299A.30, is amended to read:

299A.30 [OFFICE OF DRUG POLICY.]

Subdivision 1. [OFFICE; ASSISTANT COMMISSIONER.] The office of drug policy is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees in the unclassified service. The assistant commissioner shall coordinate the *prevention and supply reduction* activities of ~~drug program~~ *state and local* agencies and ~~serve as~~ *provide one professional* staff *member* to *assist on a full-time basis* the ~~drug~~ *work of the chemical* abuse prevention resource council.

Subd. 2. [DUTIES.] (a) The assistant commissioner shall gather and make available information on ~~demand reduction~~ *prevention* and supply reduction *activities* throughout the state, foster cooperation among ~~drug program~~ *involved state and local* agencies, and assist agencies and public officials in training and other programs designed to improve the effectiveness of ~~demand reduction~~ *prevention* and supply reduction *activities*.

(b) The assistant commissioner shall coordinate the distribution of funds received by the state of Minnesota through the federal Anti-Drug Abuse Act. The assistant commissioner may obtain technical assistance from the state planning agency to perform this function. The assistant commissioner shall recommend to the commissioner recipients of grants under sections 299A.33 and 299A.34, after consultation with the ~~drug~~ *chemical* abuse prevention resource council.

(c) The assistant commissioner shall:

(1) after consultation with all ~~drug program~~ *state* agencies ~~operating in the state~~ *involved in prevention or supply reduction activities*, develop a state ~~drug~~ *chemical abuse and dependency* strategy encompassing the efforts of those agencies and taking into account all money available for ~~demand reduction~~ *prevention* and supply reduction *activities*, from any source;

(2) submit the strategy to the governor and the legislature by January 15 of each year, along with a summary of ~~demand reduction~~ *prevention* and supply reduction *activities* during the preceding calendar year;

(3) assist appropriate professional and occupational organizations, including organizations of law enforcement officers, prosecutors, and educators, in developing and operating informational and training programs to improve the effectiveness of ~~demand reduction~~ *prevention* and supply reduction *activities*; ~~and~~

(4) provide information, *including information on drug trends*, and assistance to ~~drug program~~ *state and local* agencies, both directly and by functioning as a clearinghouse for information from other ~~drug program~~ agencies;

(5) facilitate cooperation among drug program agencies; and

(6) coordinate the administration of prevention, criminal justice, and treatment grants.

Sec. 10. Minnesota Statutes 1990, section 299A.31, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; MEMBERSHIP.] A ~~drug~~ *chemical* abuse prevention resource council consisting of 18 members is established. The commissioners of public safety, education, health, human services, and the state planning agency, and the attorney general shall each appoint one member from among their employees. The speaker of the house of representatives and the subcommittee on committees of the senate shall each appoint a legislative member. The governor shall appoint an additional ten members who ~~shall demonstrate knowledge in the area of drug abuse prevention,~~ shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following ~~groups: parents, educators, clergy, local government, racial and ethnic minority communities, professional providers of drug abuse prevention services, volunteers in private, nonprofit drug prevention programs, and the business community~~*: public health; education including preschool, elementary, and higher education; social services; financial aid services; chemical dependency treatment; law enforcement; prosecution; defense; the judiciary; corrections; treatment research professionals; drug abuse prevention professionals; the business sector; religious leaders; and community representatives*. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.

Sec. 11. Minnesota Statutes 1990, section 299A.32, is amended to read:

299A.32 [RESPONSIBILITIES OF COUNCIL.]

Subdivision 1. [PURPOSE OF COUNCIL.] The general purpose of the council is to ~~foster the coordination and development of a statewide drug~~ *serve as an advisory body to the governor and the legislature on all aspects of chemical* abuse prevention policy.

Subd. 2. [SPECIFIC DUTIES AND RESPONSIBILITIES.] In furtherance of the general purpose specified in subdivision 1, the council ~~has the following duties and responsibilities~~ *shall*:

(1) ~~it shall develop a coordinated, statewide drug abuse prevention policy~~ *assist state agencies in the coordination of drug policies and programs and in the provision of services to other units of government, communities, and citizens*;

(2) ~~it shall develop a mission statement that defines the roles and relationships of agencies operating within the continuum of chemical health care~~ *promote among state agencies policies to achieve uniformity in state and federal grant programs and to streamline those programs*;

(3) ~~it shall develop guidelines for drug abuse prevention program development and operation based on its research and program evaluation activities~~ *oversee comprehensive data collection and research and evaluation of alcohol and drug program activities*;

~~(4) it shall assist local governments and groups in planning, organizing, and establishing comprehensive, community-based drug abuse prevention programs and services;~~

~~(5) it shall coordinate and provide technical assistance to organizations and individuals seeking public or private funding for drug abuse prevention programs, and to government and private agencies seeking to grant funds for these purposes;~~

~~(6) it shall assist providers of drug abuse prevention services in implementing, monitoring, and evaluating new and existing programs and services;~~

~~(7) it shall provide information on and analysis of the relative public and private costs of drug abuse prevention, enforcement, intervention, and treatment efforts; and~~

~~(8) it shall advise the assistant commissioner of the office of drug policy in awarding grants and in other duties.~~ *seek the advice and counsel of appropriate interest groups and advise the assistant commissioner of the office of drug policy;*

(5) seek additional private funding for community-based programs and research and evaluation;

(6) evaluate whether law enforcement narcotics task forces should be reduced in number and increased in geographic size, and whether new sources of funding are available for the task forces;

(7) continue to promote clarity of roles among federal, state, and local law enforcement activities; and

(8) establish criteria to evaluate law enforcement drug programs.

Subd. 2a. [GRANT PROGRAMS.] *The council shall review and approve state agency plans regarding the use of federal funds for programs to reduce chemical abuse or reduce the supply of controlled substances. The appropriate state agencies would have responsibility for management of state and federal drug grant programs.*

Subd. 3. [ANNUAL REPORT.] ~~On or before~~ *By* February 1~~, 1991, and~~ each year ~~thereafter~~, the council shall submit a written report to the *governor and the* legislature describing its activities during the preceding year, describing efforts that have been made to enhance and improve utilization of existing resources and to identify deficits in prevention efforts, and recommending appropriate changes, including any legislative changes that it considers necessary or advisable in the area of ~~drug~~ *chemical* abuse prevention policy, programs, ~~or~~ *and* services.

Sec. 12. Minnesota Statutes 1990, section 299A.35, is amended to read:

299A.35 [COMMUNITY CRIME REDUCTION PROGRAMS; GRANTS.]

Subdivision 1. [PROGRAMS.] The commissioner shall, in consultation with the ~~drug~~ *chemical* abuse prevention resource council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control efforts. Examples of qualifying programs include, but are not limited to, the following:

(1) programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or

mental disabilities;

(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;

(3) neighborhood block clubs and innovative community-based crime watch programs; and

(4) other community-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.

Subd. 2. [GRANT PROCEDURE.] A local unit of government or a nonprofit community-based entity may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in its application:

(1) a description of each program for which funding is sought;

(2) the amount of funding to be provided to the program;

(3) the geographical area to be served by the program; and

(4) statistical information as to the number of arrests in the geographical area for violent crimes and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; ~~and~~ *or* any provision of chapter 152 that is punishable by a maximum term of imprisonment greater than ten years.

The commissioner shall give priority to funding programs in the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), and that demonstrate substantial involvement by members of the community served by the program. The maximum amount that may be awarded to an applicant is $50,000.

Subd. 3. [REPORT.] An applicant that receives a grant under this section shall provide the commissioner with a summary of how the grant funds were spent and the extent to which the objectives of the program were achieved. The commissioner shall submit a written report ~~with~~ *to* the legislature *by February 1 each year,* based on the information provided by applicants under this subdivision.

Sec. 13. Minnesota Statutes 1990, section 299A.36, is amended to read:

299A.36 [OTHER DUTIES.]

The assistant commissioner assigned to the office of drug policy, in consultation with the ~~drug~~ *chemical* abuse prevention resource council, shall:

(1) provide information and assistance upon request to school preassessment teams established under section 126.034 and school and community advisory teams established under section 126.035;

(2) provide information and assistance upon request to the state board of pharmacy with respect to the board's enforcement of chapter 152;

(3) cooperate with and provide information and assistance upon request to the alcohol and other drug abuse section in the department of human

services;

(4) assist in coordinating the policy of the office with that of the narcotic enforcement unit in the bureau of criminal apprehension; and

(5) coordinate the activities of the regional drug task forces, provide assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.

Sec. 14. Minnesota Statutes 1990, section 609.115, is amended by adding a subdivision to read:

Subd. 8. [CHEMICAL USE ASSESSMENT REQUIRED.] *(a) If a person is convicted of a felony, the probation officer shall determine in the report prepared under subdivision 1 whether or not alcohol or controlled substance use was a contributing factor to the commission of the offense. If so, the report shall contain the results of a chemical use assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the defendant to undergo the chemical use assessment if so indicated.*

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3. The assessment must be conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An assessor providing a chemical use assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

Sec. 15. [DRUG-IMPAIRED DRIVER STUDY.]

The commissioner of public safety shall study expanding Minnesota's implied consent law to provide for immediate revocation of the driver's license of a driver who tests positive for the presence of a controlled substance. The commissioner shall report to the judiciary committees in the senate and house of representatives by June 1, 1992. If the commissioner determines that this amendment is feasible, the commissioner shall make specific recommendations concerning the following:

(1) the controlled substances that should be included;

(2) for each controlled substance, whether or not it is feasible to establish a threshold amount that would trigger license revocation, with due consideration of the length of time after use that each controlled substance remains detectable, the level of impairment caused by the controlled substance at different levels, and the state of current testing technology for the controlled substance;

(3) an analysis of the impact of requiring license revocation for the presence of any controlled substance, without a specific threshold;

(4) an estimate of the cost to the state and local governments; and

(5) any other relevant matter.

Sec. 16. [CHEMICAL USE ASSESSMENT FUNDING.]

The commissioner of human services, in consultation with the commissioner of corrections and the state court administrator, shall appoint a task force of officials of state and local agencies and the judicial branch. The task force shall calculate the additional cost of providing the chemical use assessments of convicted felons required by section 14, and shall report to the legislature by January 1, 1992, its recommendations for funding those assessments.

Sec. 17. [REPEALER.]

Minnesota Statutes 1990, section 244.095, is repealed.

Sec. 18. [EFFECTIVE DATE.]

Sections 1 to 3 are effective August 1, 1991, and apply to crimes committed on or after that date. Section 14 is effective July 1, 1992, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; expanding the definition of drug free zones to include public housing property; changing the name and duties of the drug abuse prevention resource council; requiring chemical use assessments of persons convicted of felonies; amending Minnesota Statutes 1990, sections 152.01, by adding a subdivision; 152.022, subdivision 1; 152.023, subdivision 2; 152.029; 299A.29, subdivisions 3, 5, and by adding subdivisions; 299A.30; 299A.31, subdivision 1; 299A.32; 299A.35; 299A.36; and 609.115, by adding a subdivision; repealing Minnesota Statutes 1990, section 244.095."

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

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

S.F. No. 766: A bill for an act relating to civil actions; providing that proof of a person's failure to use seat belts is admissible in litigation; amending Minnesota Statutes 1990, sections 169.685, subdivision 4; and 604.01, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 169.685, subdivision 4, is amended to read:

Subd. 4. [USE OF SEAT BELTS OR CHILD PASSENGER RESTRAINT SYSTEMS.] *Except as provided in subdivision 4a,* proof of the use or failure to use seat belts or a child passenger restraint system as described in subdivision 5, or proof of the installation or failure of installation of seat belts or a child passenger restraint system as described in subdivision 5 shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle.

Sec. 2. Minnesota Statutes 1990, section 169.685, is amended by adding a subdivision to read:

Subd. 4a. [USE OF SEAT BELTS BY PERSON AGE 16 OR OLDER.] *Proof of the use or failure to use a seat belt by a person 16 years of age*

or older as required under section 169.686 is admissible in evidence in litigation involving personal injuries, death, or property damage resulting from the use or operation of a motor vehicle. This evidence is admissible only to determine the amount of damages and is not admissible to determine fault. A plaintiff's compensation may be reduced by the amount of damages that would have been prevented by the use of a seat belt, provided that the plaintiff's total damages may not be reduced by more than ten percent or $7,500, whichever is less.

Sec. 3. [EFFECTIVE DATE.]

This act is effective January 1, 1992, and applies to causes of action arising on or after that date."

Delete the title and insert:

"A bill for an act relating to civil actions; providing that proof of use or failure to use seat belts by a person age 16 or older is admissible in litigation; limiting the reduction of damages resulting from failure to use a seat belt; amending Minnesota Statutes 1990, section 169.685, subdivision 4, and by adding a subdivision."

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

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

S.F. No. 788: A bill for an act relating to privacy; prohibiting disclosure of health records without patient consent; imposing civil liability; amending Minnesota Statutes 1990, section 144.335, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 144.335, is amended by adding a subdivision to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] *(a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a third person without a signed and dated consent from the patient authorizing the release, unless the release is specifically authorized by law. A consent is valid for one year or for a different period specified in the consent or provided for by law.*

(b) This subdivision does not prohibit the release of health records for a medical emergency when the provider is unable to obtain the patient's consent.

(c) A person who releases a health record in violation of this subdivision, or who makes or alters the consent form of another person without the person's consent, is liable to the patient for damages caused by an unauthorized release, plus costs and reasonable attorney fees."

Amend the title as follows:

Page 1, line 2, delete "disclosure" and insert "release"

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

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

S.F. No. 598: A bill for an act relating to transportation; establish state transportation goals and requiring periodic revisions of the state transportation plan; directing a study of rail-highway grade crossings; establishing penalties for violations of grade crossing safety laws; directing the commissioner to take certain actions relating to grade crossings; authorizing the commissioner of transportation to make grants and loans for the improvement of commercial navigation facilities; establishing special categories of roads and highways; authorizing local units of government to advance funds for the completion of highway projects; establishing a transportation utility; authorizing road authorities to enter into agreements for the construction, maintenance, and operation of toll facilities; creating a transportation services fund; specifying percentage of unrefunded motor fuel tax revenue that is attributable to use on forest roads; authorizing the commissioner of transportation to plan, acquire, construct, and equip light rail transit facilities; authorizing regional rail authorities to seek federal funds and construct a demonstration project; authorizing transportation research; directing a study of highway corridors; extending the transportation study board and specifying duties; appropriating money; amending Minnesota Statutes 1990, sections 162.02, subdivision 3a; 162.09, subdivision 3a; 162.14, subdivision 6; 168.54, subdivisions 5 and 6; 169.09, subdivision 13; 169.14, by adding a subdivision; 169.26; 170.23; 171.13, subdivision 1, and by adding a subdivision; 171.185; 171.26; 171.36; 173.13, subdivision 4; 173.231; 174.01; 174.03, subdivision 2, and by adding a subdivision; 219.074, by adding a subdivision; 219.402; 221.036, subdivision 14; 222.50, subdivision 7; 296.16, subdivision 1a; 296.421, subdivision 8; 297A.02, by adding a subdivision; 297.44, subdivision 1; 299D.03, subdivision 5; 473.373, subdivision 4a; 473.3993, subdivisions 2 and 3, and by adding a subdivision; 473.3994; and 473.3996; proposing coding for new law in Minnesota Statutes, chapters 3; 160; 161; 162; 174; 219; 221; and 444; proposing coding for new law as Minnesota Statutes, chapter 457A; repealing Laws 1988, chapter 603, section 6.

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

Page 4, line 30, after "(b)" insert "*The fact that a moving train approaching a railroad grade crossing is visible from the crossing is prima facie evidence that it is not safe to proceed.*

(c)"

Page 4, delete lines 35 and 36

Page 5, delete line 1

Page 5, line 2, delete "*(a)*"

Page 5, delete lines 7 to 16

Page 5, line 17, before "A" insert "*(a)*" and strike "person" and insert "*driver*" and strike "this section" and insert "*subdivision 1*"

Page 5, lines 18 to 24, delete the new language

Page 5, after line 24, insert:

"*(b) The owner or, in the case of a leased vehicle, the lessee of a motor vehicle is guilty of a petty misdemeanor if a motor vehicle owned or leased by that person is operated in violation of subdivision 1. This paragraph*

does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee. This paragraph does not prohibit or limit the prosecution of a motor vehicle operator for violating subdivision 1. A violation of this paragraph does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license."

Page 12, line 34, before the period, insert ", *if the design standards comply with the standards established by the commissioner under subdivision 1*"

Page 13, line 31, delete "*where*" and insert "*if*"

Page 13, line 32, delete "*has been*" and insert "*is*" and before the period, insert ", *the design complies with the minimum state-aid standard applicable to the road, and the design is not grossly negligent*"

Pages 17 to 20, delete section 9

Amend the title as follows:

Page 1, line 14, delete "establishing a transportation utility;"

Page 1, line 43, after "219;" insert "and" and delete "and 444;"

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

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

S.F. No. 951: A bill for an act relating to housing and economic development; modifying procedures relating to rent escrow actions; modifying procedures relating to the tenant's loss of essential services; modifying provisions relating to tenant remedy actions, retaliatory eviction proceedings, and receivership proceedings; modifying provisions relating to Minnesota housing finance agency low- and moderate-income housing programs; providing for an emergency mortgage and rental assistance pilot project; requiring counseling for reverse mortgage loans; modifying certain receivership, assignment of rents and profits, and landlord and tenant provisions; modifying provisions relating to housing and redevelopment authorities; providing for the issuance of general obligation bonds for housing by the cities of Minneapolis and St. Paul; authorizing the city of Minneapolis to make small business loans; authorizing certain economic development activities within the city of St. Paul; modifying the property tax classification of certain residential real estate; excluding housing districts from the calculation of local government aid reductions; modifying the interest rate reduction program; appropriating money; amending Minnesota Statutes 1990, sections 47.58, by adding a subdivision; 273.124, subdivisions 1 and 11; 273.13, subdivision 25; 273.1399, subdivision 1; 462A.03, subdivisions 10 and 13; 462A.05, by adding a subdivision; 462A.222, subdivision 3; 462C.03, subdivision 10; 469.011, subdivision 4; 469.012, subdivision 1; 469.015, subdivisions 3, 4, and by adding a subdivision; 469.176, subdivision 4f; 481.02, subdivision 3; 504.02; 504.18, subdivision 1; 504.185, subdivision 2; 504.20, subdivisions 3, 4, 5, and 7; 504.27; 559.17, subdivision 2; 566.03, subdivision 1; 566.17, subdivisions 1, 2, and by adding a subdivision; 566.175, subdivision 6; 566.18, subdivision 9; 566.29, subdivisions 2 and 4; and 576.01, subdivision 2; Laws 1974, chapter 285, section 4, as amended; Laws 1988, chapter 594, section 6; proposing coding for new law in Minnesota Statutes, chapters 268 and 609.

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

Page 5, after line 13, insert:

"*(c) If the tenant has paid to the plaintiff or brought into court the amount of rent in arrears but is unable to pay the interest, costs of the action, and attorney fees required by this subdivision, the court may permit the defendant to pay these amounts into court and be restored to possession within the same period of time, if any, which the court stays the issuance of the writ of restitution pursuant to section 566.09.*

(d) Prior to or after commencement of an action to recover possession for nonpayment of rent, the parties may agree only in writing that partial payment of rent in arrears which is accepted by the landlord prior to issuance of the order granting restitution of the premises pursuant to section 566.09 may be applied to the balance due and does not waive the landlord's action to recover possession of the premises for nonpayment of rent.

(e) Rental payments under this subdivision must first be applied to rent claimed as due in the complaint from prior rental periods before applying any payment toward rent claimed in the complaint for the current rental period, unless the court finds that under the circumstances the claim for rent from prior rental periods has been waived."

Pages 10 to 13, delete sections 1 to 3 and insert:

"Section 1. Minnesota Statutes 1990, section 566.03, subdivision 1, is amended to read:

Subdivision 1. *The person entitled to the premises may recover possession in the manner provided in this section* when*:*

(1) any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage, and expiration of the time for redemption, or after termination of contract to convey the same, provided that if the person holding such lands or tenements after the ~~sale, foreclosure,~~ *expiration of the time for redemption* or termination is a tenant, the person has received*:*

(i) at least one month's written notice ~~of the termination of tenancy as a result of~~ *to vacate no sooner than one month after* the ~~sale, foreclosure,~~ *expiration of the time for redemption* or termination, *provided that the tenant pays the rent and abides by all terms of the lease*; or ~~when~~

(ii) at least one month's written notice to vacate no later than the date of the expiration of the time for redemption or termination, which notice shall also state that the sender will hold the tenant harmless for breaching the lease by vacating the premises if the mortgage is redeemed or the contract is reinstated;

(2) any person holds over lands or tenements after termination of the time for which they are demised or let to that person or to the persons under whom that person holds possession, or contrary to the conditions or covenants of the lease or agreement under which that person holds, or after any rent becomes due according to the terms of such lease or agreement; or ~~when~~

(3) any tenant at will holds over after the determination of ~~any such~~ *the* estate by notice to quit~~; in all such cases the person entitled to the premises may recover possession thereof in the manner hereinafter provided~~."

Page 13, lines 35 and 36, delete "*or a manufactured home*"

Page 14, line 1, delete "*or manufactured home*"

Page 14, lines 3 and 4, delete "*or manufactured home*"

Renumber the sections of article 2 in sequence

Page 27, after line 31, insert:

"Section 1. Minnesota Statutes 1990, section 469.002, subdivision 24, is amended to read:

Subd. 24. [SECTION 8 PROGRAM.] "Section 8 program" means an existing housing assistance payments program under section 8 of the United States Housing Act of 1937, United States Code, title 42, section 1437f, as amended through December 31, ~~1989~~ *1990*."

Page 35, after line 33, insert:

"Sec. 4. Minnesota Statutes 1990, section 469.012, subdivision 3, is amended to read:

Subd. 3. [EXERCISE OF POWERS.] An authority may exercise all or any part or combination of the powers granted by sections 469.001 to 469.047 within its area of operation. Any two or more authorities may join with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds and giving security therefor, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project located within the area of operation of any one or more of the authorities. For that purpose an authority may by resolution prescribe and authorize any other housing authority, so joining with it, to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the authority so joining or in its own name.

A city, county, or multicounty authority may by resolution authorize another housing authority to exercise its powers within the authorizing authority's area of operation at the same time that the authorizing authority is exercising the same powers.

A county or city may join with any authority to permit the authority, on behalf of the county, town within the county, or city, to plan, undertake, administer, and carry out a leased existing housing assistance payments program, pursuant to section 8 of the United States Housing Act of 1937 as amended, 42 United States Code, section 1437f. A city may so join with an authority unless there is an authority in the city which has been authorized by resolution under section 469.003 to transact business or exercise powers. A county may so join with an authority unless (a) there is a county authority which has been authorized by resolution under section 469.004 to exercise powers, or the county is a member of a multicounty authority, and (b) the authority has initiated or has in progress an active program or has applied for federal assistance in a public housing, section 8, or redevelopment program within 12 months after its establishment.

Notwithstanding the provisions of this subdivision, an authority administering and carrying out a leased existing housing assistance payments program, under section 8 of the United States Housing Act of 1937, United States Code, title 42, section 1437f, as amended through December 31, 1990, may administer the leased existing housing assistance payments program under the statutory and regulatory portability provisions of the federal

section 8 existing housing assistance payments program, United States Code, title 42, section 1437f(r), as amended through December 31, 1990."

Renumber the sections of article 5 in sequence

Amend the title as follows:

Page 1, line 31, after the first semicolon, insert "469.002, subdivision 24;"

Page 1, line 32, delete "subdivision 1" and insert "subdivisions 1 and 3"

Page 1, line 37, delete "subdivisions 1, 2, and"

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

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

S.F. No. 716: A bill for an act relating to domestic abuse; increasing the penalty for violation of an order for protection after a previous conviction; clarifying and conforming arrest provisions; authorizing arrests without a warrant for violation of orders for protection relating to the petitioner's place of employment; increasing the period of probation for misdemeanor domestic assaults; appropriating money; amending Minnesota Statutes 1990, sections 518B.01, subdivision 14; and 609.135, subdivision 2.

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

Page 1, after line 12, insert:

"Section 1. Minnesota Statutes 1990, section 518B.01, subdivision 4, is amended to read:

Subd. 4. [ORDER FOR PROTECTION.] There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or on behalf of minor family or household members.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief ~~may be made regardless of~~ *must state* whether ~~or not~~ *there is an existing order for protection in effect under this chapter governing both the parties and whether* there is a pending lawsuit, complaint, petition or other action between the parties *under chapter 257, 518, 518A, 518B, or 518C. The clerk of court shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. If an order under this chapter modifies an existing order, the subsequent order must indicate the provisions being modified. A petition for relief may be granted regardless of whether there is a pending action between the parties.*

(d) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(e) The court shall advise a petitioner under clause (d) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(f) The court shall advise a petitioner under clause (d) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

Sec. 2. Minnesota Statutes 1990, section 518B.01, subdivision 6, is amended to read:

Subd. 6. [RELIEF BY THE COURT.] (a) Upon notice and hearing, the court may provide relief as follows:

(1) restrain the abusing party from committing acts of domestic abuse;

(2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court's deliberation under this subdivision shall in no way delay the issuance of an order for protection granting other reliefs provided for in Laws 1985, chapter 195;

(4) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;

(5) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(6) order the abusing party to participate in treatment or counseling services;

(7) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(8) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment; and

(9) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage

or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file."

Page 1, line 19, after "*paragraph*" insert "*within two years*"

Page 1, line 21, after the period, insert "*When a court sentences a person convicted of a gross misdemeanor and does not impose a period of incarceration, the court shall make findings on the record regarding the reasons for not requiring incarceration.*"

Page 3, line 4, after "(f)" insert "*If it is alleged that the respondent has violated an order for protection issued under subdivision 6 and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year.*

(g)"

Page 3, after line 29, insert:

"Sec. 5. Minnesota Statutes 1990, section 629.72, subdivision 2, is amended to read:

Subd. 2. [JUDICIAL REVIEW; RELEASE; BAIL.] *(a)* The judge before whom the arrested person is brought shall review the facts surrounding the arrest and detention. The arrested person must be ordered released pending trial or hearing on the person's personal recognizance or on an order to appear or upon the execution of an unsecured bond in a specified amount unless the judge determines that release (1) will be inimical to public safety, (2) will create a threat of bodily harm to the arrested person, the victim of the alleged assault, or another, or (3) will not reasonably assure the appearance of the arrested person at subsequent proceedings.

(b) If the judge determines release is not advisable, the judge may impose any conditions of release that will reasonably assure the appearance of the person for subsequent proceedings, or will protect the victim of the alleged assault, or may fix the amount of money bail without other conditions upon which the arrested person may obtain release. If conditions of release are imposed, the judge shall issue a written order for conditional release. The court administrator shall immediately distribute a copy of the order for conditional release to the agency having custody of the arrested person and shall provide the agency having custody of the arrested person with any available information on the location of the victim in a manner that protects

the victim's safety. Either the court or its designee or the agency having custody of the arrested person shall serve upon the defendant a copy of the order. Failure to serve the arrested person with a copy of the order for conditional release does not invalidate the conditions of release.

(c) If the judge imposes as a condition of release a requirement that the person have no contact with the victim of the alleged assault, the judge may also, on its own motion or that of the prosecutor or on request of the victim, issue an ex parte temporary order for protection under section 518B.01, subdivision 7."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "requiring domestic abuse petitions to state whether there is an existing order for protection; providing for verification of terms of orders; requiring notice to court with jurisdiction over a dissolution or legal separation;"

Page 1, line 10, delete "subdivision" and insert "subdivisions 4, 6, and" and after the semicolon, delete "and"

Page 1, line 11, before the period, insert "; and 629.72, subdivision 2"

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

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

S.F. No. 1411: A bill for an act relating to housing; requiring counseling for reverse mortgage loans; providing penalties; amending Minnesota Statutes 1990, section 47.58, by adding a subdivision.

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

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

S.F. No. 553: A bill for an act relating to education; encouraging a Minnesota volunteer corps to the USSR and East Central Europe; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 16B.88, is amended by adding a subdivision to read:

Subd. 6. [MINNESOTA INTERNATIONAL VOLUNTEER CORPS.] *The office shall disseminate information about and encourage participation in the Minnesota international volunteer corps. The office shall convene representatives from public and private sector organizations to develop the framework for the corps. The Minnesota international volunteer corps is an informal group made up of those who donate their time and expertise to teach American business entrepreneurship, English language instruction, or business and economics instruction, or to help people start businesses.*

The activity must be performed by a resident of the state in the Soviet Union or in East Central Europe.

If the donated effort is of at least two months' duration and is documented in writing by someone from the host country with a firsthand knowledge of the effort, the office shall designate the person donating the effort a member of the "Minnesota international volunteer corps" and may issue a certificate to the person attesting to the designation."

Delete the title and insert:

"A bill for an act relating to education; encouraging a Minnesota international volunteer corps; amending Minnesota Statutes 1990, section 16B.88, by adding a subdivision."

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

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

S.F. No. 1264: A bill for an act relating to economic development; establishing a business development and preservation program delivered by certain nonprofit organizations; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

Page 2, line 2, delete "*Five*" and insert "*Four*"

Page 2, lines 3 and 4, delete "*Metro East Development Partnership;*"

Page 2, line 9, delete "*$2,200,000*" and insert "*$ . . . . . .* "

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

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

S.F. No. 1012: A bill for an act relating to taxation; excluding the captured tax capacity of certain districts in determining the state tax increment financing aid reduction; extending the duration limits of certain districts; amending Minnesota Statutes 1990, section 273.1399, subdivision 1; and 469.176, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 273.1399, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given.

(a) "Qualifying captured tax capacity" means the following amounts:

(1) the captured tax capacity of *a new or the expanded part of* an *existing* economic development or soils condition tax increment financing district, *other than a manufacturing district,* for which certification was requested

after April 30, 1990; and

(2) the captured tax capacity of a *new or the expanded part of an existing mined underground space development* tax increment financing district, ~~other than an economic development or soils condition district,~~ for which certification was requested after April 30, 1990, multiplied by the following percentage based on the number of years that have elapsed since the district was first certified (measured from January 2 immediately preceding certification of the original tax capacity). In no case may the final amounts be less than zero or greater than the total captured tax capacity of the district.

Number of years	~~Renewal and Renovation Districts~~	~~All other~~ *Mined Underground Space Development* Districts
0 to 5	~~0~~	0
6	~~12.5~~	6.25
7	~~25~~	12.5
8	~~37.5~~	18.75
9	~~50~~	25
10	~~62.5~~	31.25
11	~~75~~	37.5
12	~~87.5~~	43.75
13	~~100~~	50
14	~~100~~	56.25
15	~~100~~	62.5
16	~~100~~	68.75
17	~~100~~	75
18	~~100~~	81.25
19	~~100~~	87.5
20	~~100~~	93.75
21 or more	~~100~~	100

~~In the case of a hazardous substance subdistrict, the number of years must be measured from the date of certification of the subdistrict for purposes of the additional captured tax capacity resulting from the reduction in the subdistrict's or site's original tax capacity.~~

(b) The terms defined in section 469.174 have the meanings given in that section.

Sec. 2. Minnesota Statutes 1990, section 273.1399, subdivision 3, is amended to read:

Subd. 3. [CALCULATION OF EDUCATION AIDS.] For each school district containing qualifying captured tax capacity, the commissioner of education shall compute a hypothetical state aid amount that would be paid to the school district if the qualifying captured tax capacity were divided by the sales ratio and included in the school district's adjusted tax capacity for purposes of calculating *equalized levies as defined in section 273.1398, subdivision 2a, and associated* state aids. The commissioner of education shall notify the commissioner of revenue of the difference between the actual aid paid and the hypothetical aid amounts calculated for each school district, broken down by the municipality that approved the tax increment financing district containing the qualifying captured tax capacity. The resulting amount is the reduction in state tax increment financing aid.

Sec. 3. Minnesota Statutes 1990, section 276.131, is amended to read:

276.131 [DISTRIBUTION OF PENALTIES, INTEREST, AND COSTS.]

The penalties, interest, and costs collected on special assessments and real and personal property taxes must be distributed as follows:

(1) all penalties and interest collected on special assessments against real or personal property must be distributed to the taxing jurisdiction that levied the assessment;

(2) ~~50 percent of~~ *except as provided in clause (3),* all penalties and interest collected on real and personal property taxes must be distributed to the ~~county~~ *taxing jurisdictions* in which the property is located~~, and the other 50 percent must be distributed to the school district in which the property is located~~ *in the proportion that the local tax rate of each taxing jurisdiction in the year of collection bears to the total local tax rates of all the taxing jurisdictions.* The distribution to the school district must be in accordance with the provisions of section 124.10; ~~and~~

(3) *penalties and interest collected on real and personal property taxes from real and personal property located within a tax increment financing district must be allocated between the original net tax capacity and the captured net tax capacity of the real and personal property in the same proportion that each bears to the total tax capacity of the real and personal property and distributed as follows:*

(i) the penalties and interest allocated to the original net tax capacity must be distributed in accordance with the provisions of clause (2);

(ii) the penalties and interest allocated to the captured net tax capacity must be distributed to the authority that created the tax increment financing district; and

(iii) the terms "original net tax capacity," "captured net tax capacity," and "authority" have the meanings given in section 469.174. The term "tax increment financing district" has the meaning given in section 469.175; and

(4) all costs collected by the county on special assessments and on delinquent real and personal property taxes must be distributed to the county in which the property is located.

Sec. 4. Minnesota Statutes 1990, section 469.012, subdivision 8, is amended to read:

Subd. 8. [INTEREST REDUCTION PROGRAM; LIMITATIONS.] In developing the interest reduction program authorized by subdivision 7 the authority shall consider:

(1) the availability and affordability of other governmental programs;

(2) the availability and affordability of private market financing; and

(3) the need for additional affordable mortgage credit to encourage the construction and enable the purchase of housing units within the jurisdiction of the authority.

The authority shall adopt rules for the interest reduction program. Interest reduction assistance shall not be provided if the authority determines that financing for the purchase of a housing unit or for the construction or rehabilitation of housing units is otherwise available from private lenders

upon terms and conditions that are affordable by the applicant, as provided by the authority in its rules.

For the purposes of this subdivision an "assisted housing unit" is a housing unit which is rented or to be rented and which is a part of a rental housing development where the financing for the rental housing development is assisted with interest reduction assistance provided by the authority during the calendar year. If interest reduction assistance is provided for construction period interest for a rental housing development, the housing units in the housing development shall be considered assisted housing units for a period after occupancy of the housing units which is equal to the period during which interest reduction assistance is provided to assist the construction financing of the rental housing development. In any calendar year when an authority provides interest reduction assistance for assisted housing units (1) at least 20 percent of the total assisted housing units within the jurisdiction of the authority shall be held available for rental to families or individuals with an adjusted gross income which is equal to or less than 80 percent of the median family income, and (2) at least an additional 55 percent of the total assisted housing units within the jurisdiction of the authority shall be held available for rental to individuals or families with an annual adjusted gross income which is equal to or less than 66 times 120 percent of the monthly fair market rent for the unit established by the United States Department of Housing and Urban Development. At least 80 percent of the aggregate dollar amount of funds appropriated by an authority within any calendar year to provide interest reduction assistance for financing of construction, rehabilitation, or purchase of single family housing, as that term is defined in section 462C.02, subdivision 4, shall be appropriated for housing units that are to be sold to or occupied by families or individuals with an adjusted gross income which is equal to or less than 110 percent of median family income. For the purposes of this subdivision, "median family income" means the median family income established by the United States Department of Housing and Urban Development for the nonmetropolitan county or the standard metropolitan statistical area, as the case may be. The adjusted gross income ~~may~~ *must* be adjusted by the authority for family size. The limitations imposed upon assisted housing units by this subdivision do not apply to interest reduction assistance for a rental housing development located in a targeted area as defined in section 462C.02. An authority that establishes a program pursuant to this subdivision shall by January 2 each year report to the commissioner of trade and economic development a description of the program established and a description of the recipients of interest reduction assistance.

Sec. 5. Minnesota Statutes 1990, section 469.174, subdivision 10, is amended to read:

Subd. 10. [REDEVELOPMENT DISTRICT.] (a) "Redevelopment district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one of the following conditions, reasonably distributed throughout the district, exists:

(1) parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, or other improvements and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; or

(2) the property consists of vacant, unused, underused, inappropriately

used, or infrequently used railyards, rail storage facilities, or excessive or vacated railroad rights-of-way.

(b) For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

A building is not structurally substandard if it is in compliance with the building code applicable to new buildings or could be modified to satisfy the building code at a cost of less than 15 percent of the cost of constructing a new structure of the same square footage and type on the site. The municipality may find that a building is not disqualified as structurally substandard under the preceding sentence on the basis of reasonably available evidence, such as the size, type, and age of the building, the average cost of plumbing, electrical, or structural repairs, or other similar reliable evidence. If the evidence supports a reasonable conclusion that the building is not disqualified as structurally substandard, the municipality may make such a determination without an interior inspection or an independent, expert appraisal of the cost of repair and rehabilitation of the building.

For purposes of this subdivision, a parcel is considered to be occupied by structurally substandard buildings if:

(1) the parcel was occupied by structurally substandard buildings within the seven years prior to the creation of the district;

(2) prior to the demolition and clearance of the parcel the authority found by resolution that the parcel was occupied by structurally substandard buildings and that after demolition and clearance the parcel would be included within a district; and

(3) upon filing the request for certification of the tax capacity of the parcel as part of a district, the authority notifies the county auditor that the original tax capacity of the parcel must be adjusted as provided by section 469.177, subdivision 1, paragraph (h).

(c) For purposes of this subdivision, a parcel is not occupied by buildings, streets, utilities, or other improvements unless 15 percent of the area of the parcel contains improvements.

(d) For districts consisting of two or more noncontiguous areas, each area must qualify as a redevelopment district under paragraph (a), clauses (1) to (3), to be included in the district, and the entire area of the district must satisfy paragraph (a).

Sec. 6. Minnesota Statutes 1990, section 469.174, is amended by adding a subdivision to read:

Subd. 22. [MANUFACTURING DISTRICT.] *"Manufacturing district" means a tax increment financing district that is an economic development district in which at least 70 percent of the buildings and facilities, determined on the basis of square footage, are used for any of the following purposes:*

(1) the manufacturing or production of tangible personal property, including processing resulting in the change in condition of the property;

(2) warehousing, storage, and distribution of property, but excluding retail sales; or

(3) research and development.

Sec. 7. Minnesota Statutes 1990, section 469.175, subdivision 1, is amended to read:

Subdivision 1. [TAX INCREMENT FINANCING PLAN.] A tax increment financing plan shall contain:

(1) a statement of objectives of an authority for the improvement of a project;

(2) a statement as to the development program for the project, including the property within the project, if any, that the authority intends to acquire;

(3) a list of any development activities that the plan proposes to take place within the project, for which contracts have been entered into at the time of the preparation of the plan, including the names of the parties to the contract, the activity governed by the contract, the cost stated in the contract, and the expected date of completion of that activity;

(4) identification or description of the type of any other specific development reasonably expected to take place within the project, and the date when the development is likely to occur;

(5) estimates of the following:

(i) cost of the project, including administration expenses;

(ii) amount of bonded indebtedness to be incurred;

(iii) sources of revenue to finance or otherwise pay public costs;

(iv) the most recent net tax capacity of taxable real property within the tax increment financing district;

(v) the estimated captured net tax capacity of the tax increment financing district at completion; and

(vi) the duration of the tax increment financing district's existence;

(6) statements of the authority's alternate estimates of the impact of tax increment financing on the net tax capacities of all taxing jurisdictions in which the tax increment financing district is located in whole or in part. For purposes of one statement, the authority shall assume that the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district, and for purposes of the second statement, the authority shall assume that none of the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district;

(7) identification and description of studies and analyses used to make the determination set forth in subdivision 3, clause (2); ~~and~~

(8) identification of all parcels to be included in the district*; and*

(9) the election, if any, as to the first year in which the initial receipt of tax increment from the district occurs, which shall not be later than the year in which the fifth anniversary of the date of certification of any parcel in the district occurs.

Sec. 8. Minnesota Statutes 1990, section 469.176, subdivision 1, is amended to read:

Subdivision 1. [DURATION OF TAX INCREMENT FINANCING DISTRICTS.] (a) Subject to the limitations contained in paragraphs (b) to (g), any tax increment financing district as to which bonds are outstanding, payment for which the tax increment and other revenues have been pledged, shall remain in existence at least as long as the bonds continue to be outstanding. The municipality may, at the time of approval of the initial tax increment financing plan, provide for a shorter maximum duration limit than specified in paragraphs (b) to (g). The specified limit applies in place of the otherwise applicable limit.

(b) The tax increment pledged to the payment of the bonds and interest thereon may be discharged and the tax increment financing district may be terminated if sufficient funds have been irrevocably deposited in the debt service fund or other escrow account held in trust for all outstanding bonds to provide for the payment of the bonds at maturity or date of redemption and interest thereon to the maturity or redemption date.

(c) For bonds issued pursuant to section 469.178, subdivisions 2 and 3, the full faith and credit and any taxing powers of the municipality or authority shall continue to be pledged to the payment of the bonds until the principal of and interest on the bonds has been paid in full.

(d) No tax increment shall be paid to an authority for a tax increment financing district after three years from the date of certification of the original net tax capacity of the taxable real property in the district by the county auditor or after August 1, 1982, for tax increment financing districts authorized prior to August 1, 1979, unless within the three-year period (1) bonds have been issued pursuant to section 469.178, or in aid of a project pursuant to any other law, except revenue bonds issued pursuant to sections 469.152 to 469.165, prior to August 1, 1979, or (2) the authority has acquired property within the district, or (3) the authority has constructed or caused to be constructed public improvements within the district.

(e) No tax increment shall in any event be paid to the authority (1) after 25 years from date of receipt by the authority of the first tax increment for a mined underground space development district, redevelopment district, or housing district, (2) after 15 years after receipt by the authority of the first increment for a renewal and renovation district, (3) after 12 years from approval of the tax increment financing plan for a soils condition district, and (4) after eight years from the date of the receipt, or ten years from approval of the tax increment financing plan, whichever is less, for an economic development district *other than a manufacturing district under section 469.174, subdivision 22. If the tax increment financing district is a manufacturing district under section 469.174, subdivision 22, no increment may be paid to the authority after 15 years from the date of receipt by the authority of the first tax increment.*

For tax increment financing districts created prior to August 1, 1979, no tax increment shall be paid to the authority after April 1, 2001, or the term of a nondefeased bond or obligation outstanding on April 1, 1990, secured by increments from the district or project area, whichever time is greater, provided that in no case will a tax increment be paid to an authority after August 1, 2009, from such a district. If a district's termination date is extended beyond April 1, 2001, because bonds were outstanding on April 1, 1990, with maturities extending beyond April 1, 2001, the following restrictions apply. No increment collected from the district may be expended after April 1, 2001, except to pay or defease (i) bonds issued before April

1, 1990, or (ii) bonds issued to refund the principal of the outstanding bonds and pay associated issuance costs, provided the average maturity of the refunding bonds does not exceed the bonds refunded.

(f) Modification of a tax increment financing plan pursuant to section 469.175, subdivision 4, shall not extend the durational limitations of this subdivision.

(g) If a parcel of a district is part of a designated hazardous substance site or a hazardous substance subdistrict, tax increment may be paid to the authority from the parcel for longer than the period otherwise provided by this subdivision. The extended period for collection of tax increment begins on the date of receipt of the first tax increment from the parcel that is more than any tax increment received from the parcel before the date of the certification under section 469.175, subdivision 7, paragraph (b), and received after the date of certification to the county auditor described in section 469.175, subdivision 7, paragraph (b). The extended period for collection of tax increment is the lesser of: (1) 25 years from the date of commencement of the extended period; or (2) the period necessary to recover the costs of removal actions or remedial actions specified in a development response action plan.

(h) If property taxes on a parcel in a district are delinquent on the date tax increment can no longer be paid to the authority from the district under paragraph (e), the portion of the property taxes that would have been paid to the authority as tax increment except for the application of paragraph (e) are considered to be tax increment and must be paid to the authority, notwithstanding paragraph (e), if the tax increment would have been applied to the payment of the principal of or interest on bonds and the principal or interest was paid from sources other than tax increment. The authority shall provide the county auditor with any information necessary to administer this paragraph.

Sec. 9. Minnesota Statutes 1990, section 469.1763, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given.

(b) "Activities" means *any purpose for which tax increment may be lawfully expended, including* acquisition of property, clearing of land, site preparation, soils correction, removal of hazardous waste or pollution, installation of utilities, construction of public or private improvements, and other similar activities, but only to the extent that tax increment revenues may be spent for such purposes under other law. ~~Activities do not include allocated administrative expenses, but do include engineering, architectural, and similar costs of the improvements in the district.~~

(c) "Third party" means an entity other than (1) the person receiving the benefit of assistance financed with tax increments, or (2) the municipality or the development authority or other person substantially under the control of the municipality.

(d) "Polluted property" means property that contains land pollution as defined in section 116.06, or contains a release or threatened release of petroleum, as provided in chapter 115C, or contains a release or threatened release of a pollutant, contaminant, hazardous substance, or hazardous waste as provided in chapter 115B.

Sec. 10. Minnesota Statutes 1990, section 469.1763, subdivision 2, is amended to read:

Subd. 2. [EXPENDITURES OUTSIDE DISTRICT.] (a) For each tax increment financing district, an amount equal to at least ~~75~~ *70* percent of the revenue derived from tax increments paid by properties in the district must be expended *(1)* on activities in the district ~~or~~, *(2)* to pay bonds, to the extent that the proceeds of the bonds were used to finance activities in the district ~~or~~, *(3)* to pay, or secure payment of, debt service on credit enhanced bonds, *or (4) on activities with respect to polluted property in the project*. Not more than ~~25~~ *30* percent of the revenue derived from tax increments paid by properties in the district may be expended, through a development fund or otherwise, on activities outside of the district but within the defined geographic area of the project except *on activities with respect to polluted property in the project, or* to pay, or secure payment of, debt service on credit enhanced bonds. The revenue derived from tax increments for the district that are expended on costs under section 469.176, subdivision 4h, ~~paragraph (b),~~ may be deducted first before calculating the percentages that must be expended within and without the district.

(b) In the case of a housing district, a housing project, as defined in section 469.174, subdivision 11, is an activity in the district.

Sec. 11. Minnesota Statutes 1990, section 469.1763, subdivision 3, is amended to read:

Subd. 3. [FIVE-YEAR RULE.] (a) Revenues derived from tax increments *from an economic development district, a manufacturing district, a mined underground space development district, a housing district, or a soils condition district* are considered to have been expended on an activity within the district under subdivision 2 only if one of the following occurs:

(1) before or within five years after certification of the district, the revenues are actually paid to a third party with respect to the activity;

(2) bonds, the proceeds of which must be used to finance the activity, are issued and sold to a third party before or within five years after certification ~~and~~, the revenues are spent to repay the bonds, *and the proceeds of the bonds are spent before the end of the later of (i) the five-year period or (ii) a reasonable temporary period within the meaning of the use of that term under section 148(c)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1990*;

(3) binding contracts with a third party are entered into for performance of the activity before or within five years after certification of the district and the revenues are spent under the contractual obligation; ~~or~~

(4) costs with respect to the activity are paid before or within five years after certification of the district and the revenues are spent to reimburse a party for payment of the costs, *including interest on unreimbursed costs; or*

(5)(i) within five years after the date of receipt of the first tax increment from the district, the authority adopts by resolution an expenditure plan that describes the property in the district to be acquired by the authority (by metes and bounds or plat and parcel description), the clearing, site preparation, and soils correction, hazardous waste or pollution removal or abatement, and utility installation to be undertaken in the district, the public and private improvements to be constructed in the district, and the other

activities to be undertaken in the district by the authority, and states the expenditures to be made with respect to each of the activities, and (ii) tax increment is expended only on specified activities in amounts not in excess of the specified amounts for each activity.

(b) For purposes of this subdivision, bonds include subsequent refunding bonds if ~~one of two tests is met: (1) the proceeds of~~ the original refunded bonds ~~were spent on activities within five years after the district was certified or (2) the original refunded bonds are issued within five years after the district was certified and the proceeds are expended on activities within a reasonable temporary period within the meaning of the use of that term under section 148(c)(1) of the Internal Revenue Code~~ *meet the requirements of paragraph (a), clause (2).*

Sec. 12. Minnesota Statutes 1990, section 469.1763, subdivision 4, is amended to read:

Subd. 4. [USE OF REVENUES FOR DECERTIFICATION.] *(a)* Beginning with the sixth year following certification of ~~the~~ *an economic development district, a manufacturing district, a mined underground space development, a housing district, or a soils condition* district, ~~75~~ *70* percent of the revenues derived from tax increments paid by properties in the district that remain after the expenditures permitted under subdivision 3 must be used only to pay*:*

(1) outstanding bonds, as defined in subdivision 3, paragraphs (a), clause (2), and (b) ~~or~~*;*

(2) contracts, as defined in subdivision 3, paragraph (a), clauses (3) and (4)*;*

(3) credit enhanced bonds to which the revenues derived from tax increments are pledged, but only to the extent that revenues of the district for which the credit enhanced bonds were issued to pay are insufficient to pay the bonds and to the extent that the increments from the unrestricted 30 percent share are insufficient; or

(4) administrative costs for activities within the district.

(b) When the outstanding bonds have been defeased and when sufficient money has been set aside to pay contractual obligations as defined in subdivision 3, paragraph (a), clauses (3) and (4), the district must be decertified and the pledge of tax increment discharged.

Sec. 13. Minnesota Statutes 1990, section 469.1763, is amended by adding a subdivision to read:

Subd. 5. [CREDIT ENHANCED BONDS.] *Except as otherwise provided in this section, revenues derived from tax increments may be used to pay debt service on credit enhanced bonds issued to finance activities outside of the district from which the revenues are derived, regardless of when the district is created.*

Sec. 14. Minnesota Statutes 1990, section 469.177, subdivision 1, is amended to read:

Subdivision 1. [ORIGINAL NET TAX CAPACITY.] *(a)* Upon or after adoption of a tax increment financing plan, the auditor of any county in which the district is situated shall, upon request of the authority, certify the original net tax capacity of the tax increment financing district as described in the tax increment financing plan and shall certify in each year

thereafter the amount by which the original net tax capacity has increased or decreased as a result of a change in tax exempt status of property within the district, reduction or enlargement of the district or changes pursuant to subdivision 4.

(b) In the case of a mined underground space development district the county auditor shall certify the original net tax capacity as zero, plus the net tax capacity, if any, previously assigned to any subsurface area included in the mined underground space development district pursuant to section 272.04.

(c) For districts approved under section 469.175, subdivision 3, or parcels added to existing districts after May 1, 1988, if the classification under section 273.13 of property located in a district changes to a classification that has a different assessment ratio, the original net tax capacity of that property must be redetermined at the time when its use is changed as if the property had originally been classified in the same class in which it is classified after its use is changed.

(d) The amount to be added to the original net tax capacity of the district as a result of previously tax exempt real property within the district becoming taxable shall be equal to the net tax capacity of the real property as most recently assessed pursuant to section 273.18 or, if that assessment was made more than one year prior to the date of title transfer rendering the property taxable, the net tax capacity assessed by the assessor at the time of the transfer. *If substantial taxable improvements were made to a parcel after certification of the district and if the property became tax exempt, in whole or part, as a result of the authority acquiring the property through foreclosure, forced sale, or conveyance as part of the resolution of a default, the amount to be added to the original net tax capacity of the district if the parcel becomes taxable is the amount of the parcel's value that was included in original net tax capacity when the parcel was first certified.* The amount to be added to the original net tax capacity of the district as a result of enlargements ~~thereof shall be equal to~~ *equals* the net tax capacity of the added real property as most recently certified by the commissioner of revenue as of the date of modification of the tax increment financing plan pursuant to section 469.175, subdivision 4.

(e) For districts approved under section 469.175, subdivision 3, or parcels added to existing districts after May 1, 1988, if the net tax capacity of a property increases because the property no longer qualifies under the Minnesota agricultural property tax law, section 273.111; the Minnesota open space property tax law, section 273.112; or the metropolitan agricultural preserves act, chapter 473H, or because platted, unimproved property is improved or three years pass after approval of the plat under section 273.11, subdivision 1, the increase in net tax capacity must be added to the original net tax capacity.

(f) Each year the auditor shall also add to the original net tax capacity of each economic development district an amount equal to the original net tax capacity for the preceding year multiplied by the average percentage increase in the net tax capacity of all property included in the economic development district during the five years prior to certification of the district.

(g) The amount to be subtracted from the original net tax capacity of the district as a result of previously taxable real property within the district becoming tax exempt, or a reduction in the geographic area of the district, shall be the amount of original net tax capacity initially attributed to the

property becoming tax exempt or being removed from the district. If the net tax capacity of property located within the tax increment financing district is reduced by reason of a court-ordered abatement, stipulation agreement, voluntary abatement made by the assessor or auditor or by order of the commissioner of revenue, the reduction shall be applied to the original net tax capacity of the district when the property upon which the abatement is made has not been improved since the date of certification of the district and to the captured net tax capacity of the district in each year thereafter when the abatement relates to improvements made after the date of certification. The county auditor may specify reasonable form and content of the request for certification of the authority and any modification thereof pursuant to section 469.175, subdivision 4.

(h) If a parcel of property contained a substantial building that was demolished or removed and if the authority elects to treat the parcel as occupied by a substandard building under section 469.174, subdivision 10, paragraph (b), the auditor shall certify the original net tax capacity of the parcel using the greater of (1) the current net tax capacity of the parcel, or (2) the estimated market value of the parcel for the year in which the building was demolished or removed, but applying the class rates for the current year.

Sec. 15. Minnesota Statutes 1990, section 469.177, subdivision 2, is amended to read:

Subd. 2. [CAPTURED NET TAX CAPACITY.] The county auditor shall certify the amount of the captured net tax capacity to the authority each year, *commencing in the first year in which tax increment is payable to the authority as required by the tax increment financing plan under section 469.175, subdivision 1, clause (9), or as otherwise required by the terms of sections 469.174 to 469.179,* together with the proportion that the captured net tax capacity bears to the total net tax capacity of the real property within the tax increment financing district for that year.

(a) An authority may choose to retain any part or all of the captured net tax capacity for purposes of tax increment financing according to one of the following options:

(1) If the plan provides that all the captured net tax capacity is necessary to finance or otherwise make permissible expenditures under section 469.176, subdivision 4, the authority may retain the full captured net tax capacity.

(2) If the plan provides that only a portion of the captured net tax capacity is necessary to finance or otherwise make permissible expenditures under section 469.176, subdivision 4, only that portion shall be set aside and the remainder shall be distributed among the affected taxing districts by the county auditor.

(b) The portion of captured net tax capacity that an authority intends to use for purposes of tax increment financing must be clearly stated in the tax increment financing plan.

Sec. 16. Minnesota Statutes 1990, section 469.177, subdivision 3, is amended to read:

Subd. 3. [TAX INCREMENT, RELATIONSHIP TO CHAPTER 473F.] (a) Unless the governing body elects pursuant to clause (b) the following method of computation shall apply:

(1) The original net tax capacity and the current net tax capacity shall be determined before the application of the fiscal disparity provisions of chapter 473F. *The first year in which the current net tax capacity of a district is determined, shall be no earlier than the year preceding the first year elected for payment of tax increment to the authority pursuant to section 469.175, subdivision 1, clause (9), or, in the absence of an election, in the year in which the original net tax capacity of the district is certified.* Where the original net tax capacity is equal to or greater than the current net tax capacity, there is no captured net tax capacity and no tax increment determination. Where the original net tax capacity is less than the current net tax capacity, the difference between the original net tax capacity and the current net tax capacity is the captured net tax capacity. This amount less any portion thereof which the authority has designated, in its tax increment financing plan, to share with the local taxing districts is the retained captured net tax capacity of the authority.

(2) The county auditor shall exclude the retained captured net tax capacity of the authority from the net tax capacity of the local taxing districts in determining local taxing district tax rates. The local tax rates so determined are to be extended against the retained captured net tax capacity of the authority as well as the net tax capacity of the local taxing districts. The tax generated by the extension of the lesser of (A) the local taxing district tax rates or (B) the original local tax rate to the retained captured net tax capacity of the authority is the tax increment of the authority.

(b) The governing body may, by resolution approving the tax increment financing plan pursuant to section 469.175, subdivision 3, elect the following method of computation:

(1) The original net tax capacity shall be determined before the application of the fiscal disparity provisions of chapter 473F. *The first year in which the current net tax capacity of a district is determined shall be no earlier than the year preceding the first year elected for payment of tax increment to the authority pursuant to section 469.175, subdivision 1, clause (9), or, in the absence of an election, in the year in which the original net tax capacity of the district is certified.* The current net tax capacity shall exclude any fiscal disparity commercial-industrial net tax capacity increase between the original year and the current year multiplied by the fiscal disparity ratio determined pursuant to section 473F.08, subdivision 6. Where the original net tax capacity is equal to or greater than the current net tax capacity, there is no captured net tax capacity and no tax increment determination. Where the original net tax capacity is less than the current net tax capacity, the difference between the original net tax capacity and the current net tax capacity is the captured net tax capacity. This amount less any portion thereof which the authority has designated, in its tax increment financing plan, to share with the local taxing districts is the retained captured net tax capacity of the authority.

(2) The county auditor shall exclude the retained captured net tax capacity of the authority from the net tax capacity of the local taxing districts in determining local taxing district tax rates. The local tax rates so determined are to be extended against the retained captured net tax capacity of the authority as well as the net tax capacity of the local taxing districts. The tax generated by the extension of the lesser of (A) the local taxing district tax rates or (B) the original local tax rate to the retained captured net tax capacity of the authority is the tax increment of the authority.

(3) An election by the governing body pursuant to paragraph (b) shall be submitted to the county auditor by the authority at the time of the request for certification pursuant to subdivision 1.

(c) The method of computation of tax increment applied to a district pursuant to paragraph (a) or (b) shall remain the same for the duration of the district, except that the governing body may elect to change its election from the method of computation in paragraph (a) to the method in paragraph (b).

Sec. 17. Minnesota Statutes 1990, section 469.177, subdivision 8, is amended to read:

Subd. 8. [ASSESSMENT AGREEMENTS.] An authority may enter into a written assessment agreement ~~in recordable form~~ with ~~a developer or redeveloper of property within the tax increment financing district which establishes~~ *any person establishing* a minimum market value of ~~the~~ land ~~and completed~~, *existing improvements, or* improvements to be constructed ~~thereon until a specified termination date, which date shall be not later than the date upon which tax increment will no longer be remitted to the authority pursuant to section 469.176, subdivision 1~~ *in a district, if the property is owned or will be owned by the person. The minimum market value established by an assessment agreement may be fixed, or increase or decrease in later years from the initial minimum market value. An assessment agreement terminates on the earliest of the following dates: the date on which conditions in the assessment agreement for termination are satisfied, the termination date specified in the agreement, or the date when tax increment is no longer paid to the authority under section 469.176, subdivision 1*. The assessment agreement shall be presented to the county assessor, or city assessor having the powers of the county assessor, of the jurisdiction in which the tax increment financing district ~~is~~ *and the property that is the subject of the agreement are* located. The assessor shall review the plans and specifications for the improvements to be constructed, review the market value previously assigned to the land upon which the improvements are to be constructed and, so long as the minimum market value contained in the assessment agreement appears, in the judgment of the assessor, to be a reasonable estimate, shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property ~~upon completion of the improvements to be constructed thereon, hereby~~ certifies that the market ~~value~~ *values* assigned to the land and improvements ~~upon completion shall not be less than~~ $ ~~- - - - - - -~~ *are reasonable*.

~~Upon transfer of title of the land to be developed or redeveloped from the authority to the developer or redeveloper,~~ The assessment agreement~~, together with a copy of this subdivision,~~ shall be filed for record and recorded in the office of the county recorder or ~~filed in the office of~~ the registrar of titles of ~~the~~ *each* county where the real estate or any part thereof is situated. ~~Upon completion of the improvements by the developer or redeveloper,~~ The assessor shall value the property ~~pursuant to~~ *under* section 273.11, except that the market value assigned ~~thereto~~ shall not be less than the minimum market value ~~contained in~~ *established by* the assessment agreement. ~~Nothing herein shall limit the discretion of~~ The assessor ~~to~~ *may* assign a market value to the property in excess of the minimum market value ~~contained in~~ *established by* the assessment agreement ~~nor prohibit~~. The ~~developer or redeveloper from seeking~~ *owner of the property may seek*, through the exercise of

administrative and legal remedies, a reduction in market value for property tax purposes; ~~provided, however, that the developer or redeveloper shall not seek, nor shall the~~, *but no* city assessor, ~~the~~ county assessor, ~~the~~ county auditor, ~~any~~ board of review, ~~any~~ board of equalization, the commissioner of revenue, or any court of this state *shall* grant a reduction of the market value below the minimum market value ~~contained in~~ *established by* the assessment agreement ~~during the term of the agreement filed of record regardless of actual market values which may result from incomplete construction of improvements, destruction, or diminution by any cause, insured or uninsured~~, except in the case of acquisition or reacquisition of the property by a public entity. Recording ~~or filing of~~ an assessment agreement ~~complying with the terms of this subdivision shall constitute~~ *constitutes* notice of the agreement to ~~any subsequent purchaser or encumbraneer of the land or any part thereof, whether voluntary or involuntary~~ *anyone who acquires any interest in the land or improvements subject to the assessment agreement*, and ~~shall be~~ *the agreement is* binding upon them.

Sec. 18. Minnesota Statutes 1990, section 469.1771, subdivision 1, is amended to read:

Subdivision 1. [ENFORCEMENT.] (a) The ~~commissioner of revenue shall enforce the provisions of sections 469.174 to 469.179. In addition, the~~ owner of taxable property located in the city, town, school district, or county in which the tax increment financing district is located may bring suit for equitable relief or for damages, as provided in subdivisions 3 and 4, arising out of a failure of a municipality or authority to comply with the provisions of sections 469.174 to 469.179, or related provisions of this chapter. The prevailing party in a suit filed under the preceding sentence is entitled to costs, including reasonable attorney fees.

(b) The responsibility for financial and compliance auditing of political subdivisions' use of tax increment financing remains with the state auditor. If the state auditor finds evidence that an authority or municipality has violated a provision of the law for which a remedy is provided under this section, the state auditor shall forward the relevant information to the commissioner of revenue. The commissioner of revenue may audit an authority's use of tax increment financing.

Sec. 19. Minnesota Statutes 1990, section 469.1771, subdivision 2, is amended to read:

Subd. 2. [COLLECTION OF INCREMENT.] If an authority includes or retains a parcel of property in a tax increment financing district that does not qualify for inclusion or retention within the district, the authority must pay to the county auditor an amount of money equal to the increment collected from the property for the year or years. The property must be eliminated from the original and captured tax capacity of the district effective for the current property tax assessment year. This subdivision does not apply to a failure to decertify a district ~~required by~~ *at the end of* the duration ~~limits under section 469.176, subdivision 1~~ *limit specified in the tax increment financing plan*.

Sec. 20. Minnesota Statutes 1990, section 469.1771, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS.] (a) If the increments are pledged to repay bonds that were issued before the lawsuit was filed under this section, the damages under this section may not exceed the ~~greatest~~ *greater* of (1) ~~the~~

~~damages under subdivision 2 or 3, (2)~~ ten percent of the expenditures or revenues derived from increment, or ~~(3)~~ *(2)* the amount of available revenues after paying debt services due on the bonds.

(b) The court may abate all or part of the amount if it determines the action was taken in good faith and would work an undue hardship on the municipality.

Sec. 21. Minnesota Statutes 1990, section 469.179, is amended by adding a subdivision to read:

Subd. 3. [AMENDMENTS; PRESUMED EFFECTIVE DATES.] *Unless the act specifically indicates otherwise, amendments to sections 469.174 to 469.178 that are effective for tax increment financing districts for which certification is requested (or for districts certified) after a specified date apply only to the added area of a preexisting district if the tax increment financing plan is amended to add new area and certification of the new area is requested after the specified effective date.*

Sec. 22. Minnesota Statutes 1990, section 469.1831, subdivision 4, is amended to read:

Subd. 4. [PROGRAM MONEY; DISTRIBUTION AND RESTRICTIONS.] (a) Neighborhood revitalization program money may only be expended in accordance with the program for a purpose listed in subdivision 3 or this subdivision. Program money may not be used in those project areas of the city where *the city determines that* private investment ~~is occurring~~ *will be sufficient to provide for development and redevelopment of the project area* without public sector assistance, except in cases where program money is being used to remove or rehabilitate structurally substandard or obsolete buildings. Revenues derived from tax increments may only be expended for the purposes otherwise permitted by law, except that notwithstanding any law to the contrary, the city must pay at least the following amount of program money, including revenues derived from tax increments: (1) 15 percent to the school district, (2) 7.5 percent to the county, and (3) 7.5 percent for social services. Payment must be made to the county and school district within 15 days after the city receives the distribution of increment revenues, provided that the payment for calendar year 1990 may be made at any time during the year. Payment to the county for social services delivery shall be paid only after approval of program and spending plans under paragraph (b). Payment to the school district for education programs and services shall be paid only after approval of program and spending plans under paragraph (b).

(b) The money distributed to the county in a calendar year must be deducted from the county's levy limit for the following calendar year. In calculating the county's levy limit base for later years, the amount deducted must be treated as a local government aid payment.

The city must notify the commissioner of education of the amount of the payment made to the school district for the year. The commissioner shall deduct from the school district's state education aid payments one-half of the amount received by the school district.

The program money paid to the school district must be expended for additional education programs and services in accordance with the program. The amounts expended by the school district may not replace existing services.

The money for social services must be paid to the county for the cost of the provision of social services under the plan, as approved by the policy board and the county board.

(c) The city must expend on housing programs and related purposes as provided by the program at least 75 percent of the program money, after deducting the payments to the school district and county.

(d) Notwithstanding any other provisions of law to the contrary, for a city of the first class qualifying under section 469.1781, paragraph (a), program money may be expended anywhere within the city by the authority for a purpose permitted by this section for any political subdivision.

Sec. 23. Laws 1989, First Special Session chapter 1, article 14, section 16, is amended to read:

Sec. 16. [MOORHEAD TAX INCREMENT FINANCING.]

In the case of a tax increment financing district in the city of Moorhead created prior to August 1, 1979, and used to finance a hotel, parking facility, and conference project, the date "April 1, ~~1992~~ *1994*" must be substituted for "April 1, 1990" in Minnesota Statutes, section 469.176, subdivision 1, paragraph (e), each place it occurs.

Sec. 24. Laws 1990, chapter 604, article 7, section 29, subdivision 1, is amended to read:

Subdivision 1. [EXPENDITURE.] The city of Minneapolis *and the Minneapolis community development agency* shall reserve $10,000,000 in 1990 and $20,000,000 each year from 1991 to 2009 from tax increment and other revenues generated from the Minneapolis community development agency common project, adopted December 30, 1989, to be expended in neighborhood revitalization *anywhere within the city of Minneapolis by the Minneapolis community development agency for any purpose permitted by Minnesota Statutes, section 469.1831, for any political subdivision, except that at least 52.5 percent of the money must be expended on housing programs and related purposes*. None of these revenues shall be expended in 1990.

Sec. 25. [DURATION OF DISTRICT.]

Notwithstanding the provisions of Minnesota Statutes, section 469.176, subdivision 1, paragraph (e), the Dawson tax increment financing district number four shall not terminate until ten years from the effective date of this section.

Sec. 26. [EFFECTIVE DATE.]

Sections 8, except paragraph (h), 14, except paragraph (h), 17, 18, 21, and 22, are effective the day following final enactment. Section 4 is effective for interest reduction assistance authorized after July 1, 1991. Sections 5 and 14, paragraph (h), are effective for improvements demolished or removed after January 1, 1991. Section 8, paragraph (h), is effective for delinquent property taxes paid after April 1, 1991. Sections 7, 9, 10, 11, 12, 15, and 16, are effective for districts certified after April 30, 1990. Sections 19 and 20 are effective for violations occurring after December 31, 1990. Sections 23 and 24 are effective the day after compliance with Minnesota Statutes, section 645.021, by the governing body of the city of Moorhead, and the governing body of the city of Minneapolis, respectively. Section 25 is effective on the day after compliance with Minnesota Statutes, section 645.021,

subdivision 3, by the governing body of the city of Dawson."

Delete the title and insert:

"A bill for an act relating to tax increment and economic development; modifying provisions of the tax increment financing law; providing that the city of Dawson is exempt from certain tax increment financing provisions; amending Minnesota Statutes 1990, sections 273.1399, subdivisions 1 and 3; 276.131; 469.012, subdivision 8; 469.174, subdivision 10, and by adding a subdivision; 469.175, subdivision 1; 469.176, subdivision 1; 469.1763, subdivisions 1, 2, 3, 4, and by adding a subdivision; 469.177, subdivisions 1, 2, 3, and 8; 469.1771, subdivisions 1, 2, and 4; 469.179, by adding a subdivision; 469.1831, subdivision 4; Laws 1989, First Special Session chapter 1, article 14, section 16; and Laws 1990, chapter 604, article 7, section 29, subdivision 1."

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

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

S.F. No. 634: A bill for an act relating to court actions; providing immunity from liability arising out of the use of breathalyzers in liquor establishments; prohibiting the use of the breathalyzer test as evidence; proposing coding for new law in Minnesota Statutes, chapter 604.

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

Delete everything after the enacting clause and insert:

"Section 1. [604.09] [BREATH ALCOHOL TESTING DEVICE IN LIQUOR ESTABLISHMENTS.]

Subdivision 1. [DEFINITIONS.] *(a) For purposes of this section, the following terms have the meanings given them.*

(b) "Breath alcohol testing device" means a device that tests for alcohol concentration by using a breath sample.

(c) "Licensed premises" has the meaning given in section 340A.101, subdivision 15.

(d) "Liquor licensee" means a person licensed under sections 340A.403 to 340A.407 or section 340A.414, and includes an agent or employee of a licensee.

Subd. 2. [IMMUNITY FROM LIABILITY.] *(a) Subject to subdivision 3, a liquor licensee who administers or makes available a breath alcohol testing device in the licensed premises is immune from any liability arising out of the result of the test.*

(b) Subject to subdivision 3, a designer, manufacturer, distributor, or seller of a breath alcohol testing device is immune from any products liability or other cause of action arising out of the result of a test by the breath alcohol testing device in a licensed premises.

Subd. 3. [IMMUNITY REQUIREMENTS.] *Subdivision 2 applies only if:*

(1) a conspicuous notice is posted in the licensed premises:

(i) informing patrons of the immunity provisions of subdivision 2 and notifying them that the test is made available solely for their own informal use and information; and

(ii) informing patrons of the alcohol-related driving penalties under sections 169.121 to 169.123, 169.129, and 609.21;

(2) the type of breath alcohol testing device is certified by the commissioner of public safety under subdivision 7; and

(3) the breath alcohol testing device test results are indicated as follows:

(i) the breath alcohol testing device shows a white light and gives a reading of alcohol concentration if alcohol concentration is less than .05;

(ii) the breath alcohol testing device shows a yellow light and gives a reading of alcohol concentration if alcohol concentration is .05 or more but less than .08;

(iii) the breath alcohol testing device shows an orange light and gives a reading of alcohol concentration if alcohol concentration is .08 or more but less than .10, and displays a message that states "You are close to the legal limit and your driving may be impaired;" or

(iv) the breath alcohol testing device shows a red light if alcohol concentration is .10 or greater but does not give a reading of alcohol concentration, and displays a message that states that the person fails the test.

Subd. 4. [EVIDENCE.] *Evidence regarding the result of a test by a breath alcohol testing device in a licensed premises is not admissible in any civil or criminal proceeding.*

Subd. 5. [DRAMSHOP.] *This section does not affect liability under section 340A.801.*

Subd. 6. [PREPARATION OF NOTICE.] *The commissioner of public safety shall prepare and make available to liquor licensees the notices described in subdivision 3.*

Subd. 7. [RULES; CERTIFICATION.] *The commissioner of public safety shall adopt any rules reasonably required to implement this section, including performance and maintenance standards for breath alcohol testing devices. The commissioner shall certify breath alcohol testing devices that meet the performance standards. The costs of rulemaking and certification must be borne by the manufacturers of the breath alcohol testing devices."*

Amend the title as follows:

Page 1, line 3, delete "breathalyzers" and insert "breath alcohol testing devices"

Page 1, line 5, delete "breathalyzer" and insert "breath alcohol"

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

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

S.F. No. 969: A bill for an act relating to courts; directing the supreme court to establish an alternative dispute resolution program and adopt rules; proposing coding for new law in Minnesota Statutes, chapter 484; repealing Minnesota Statutes 1990, sections 484.73; and 484.74.

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

Page 1, line 18, after "*include*" insert "*mandatory nonbinding alternative dispute resolution where the right to trial is preserved and voluntary binding alternative dispute resolution with only a right of appeal from the binding judgment. Alternative dispute resolution methods provided for under the rules must include*"

Page 1, line 20, after the comma, insert "*including retired judges and qualified attorneys to serve as special magistrates for binding proceedings with a right of appeal,*"

Page 1, after line 25, insert:

"Sec. 2. Minnesota Statutes 1990, section 494.015, is amended to read:

494.015 [~~TRAINING AND~~ PROGRAM ~~CERTIFICATION~~ *AND TRAINING* GUIDELINES*: CERTIFICATION*.]

Subdivision 1. [GUIDELINES.] The state court administrator shall adopt guidelines for use by community dispute resolution programs and training programs for mediators and arbitrators for the community dispute resolution programs. The guidelines must include provisions to ensure that participation in dispute resolution is voluntary, procedures for case processing, and program certification criteria that must be met to receive court referrals. *The guidelines must include:*

(1) standards for training mediators and arbitrators to recognize matters involving violence against a person;

(2) training in family law matters that must be completed by mediators before acceptance of post-dissolution property distribution matters.

Subd. 2. [CERTIFICATION.] The state court administrator shall certify programs that meet the requirements for certification set under subdivision 1.

Sec. 3. Minnesota Statutes 1990, section 494.03, is amended to read:

494.03 [EXCLUSIONS.]

The guidelines shall exclude:

(1) any dispute involving violence against persons, including incidents arising out of situations that would support charges under sections 609.342 to 609.345, or 609.365;

(2) any matter involving a person who has been adjudicated incompetent or relating to guardianship, conservatorship, or civil commitment;

(3) any matter involving neglect or dependency, or involving termination of parental rights arising under sections 260.221 to 260.245; and

(4) any matter arising under section 626.557 or sections 144.651 to 144.652, or any dispute subject to chapters 518, 518A, 518B, and 518C, whether or not an action is pending, *except for post-dissolution property distribution matters*. This shall not restrict the present authority of the court or departments of the court from accepting for resolution a dispute arising under chapters 518, 518A, and 518C, or from referring disputes arising under chapters 518, and 518A to for-profit mediation.

Sec. 4. Minnesota Statutes 1990, section 549.09, is amended to read:

549.09 [INTEREST ON VERDICTS, *AWARDS,* AND JUDGMENTS.]

Subdivision 1. [WHEN OWED; RATE.] (a) When ~~the~~ *a* judgment *or award* is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict, *award,* or report until judgment is finally entered shall be computed by the court administrator *or arbitrator* as provided in clause (c) and added to the judgment *or award.*

(b) Except as otherwise provided by contract or allowed by law, preverdict, *preaward,* or prereport interest on pecuniary damages shall be computed as provided in clause (c) from the time of the commencement of the action *or a demand for arbitration*, or the time of a written settlement demand, whichever occurs first, except as provided herein. ~~The action must be commenced within 60 days of a written settlement demand for interest to begin to accrue from the time of the demand.~~ If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within 60 days. After that time interest on the judgment *or award* shall be calculated by the judge *or arbitrator* in the following manner. The prevailing party shall receive interest on any judgment *or award* from the time *of commencement of* the action ~~was commenced~~ or a *demand for arbitration, or the time of a* written settlement demand ~~was made~~, or as to special damages from the time when special damages were incurred, if later, until the time of verdict, *award,* or report only if the amount of its offer is closer to the judgment *or award* than the amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment *or award* than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment *or award*, whichever is less, and only from the time *of commencement of* the action ~~was commenced~~ or a *demand for arbitration, or the time of a* written settlement demand ~~was made~~, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (3), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict, *preaward,* or prereport interest shall not be awarded on the following:

(1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;

(2) judgments, *awards,* decrees, or orders in dissolution, annulment, or legal separation actions;

(3) judgments *or awards* for future damages;

(4) punitive damages, fines, or other damages that are noncompensatory in nature;

(5) judgments *or awards* not in excess of the amount specified in section 487.30; and

(6) that portion of any verdict, *award,* or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court *or arbitrator.*

(c) The interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States treasury bills, calculated on a bank discount basis as provided in this

section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the secondary market yield on one year United States treasury bills for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the federal reserve system. This yield, rounded to the nearest one percent, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts *and shall make the interest rates available to arbitrators*.

When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment.

Subd. 2. [ACCRUAL OF INTEREST.] During each calendar year, interest shall accrue on the unpaid balance of the judgment *or award* from the time that it is entered *or made* until it is paid, at the annual rate provided in subdivision 1. The court administrator shall compute and add the accrued interest to the total amount to be collected when the execution is issued and compute the amount of daily interest accruing during the calendar year. The person authorized by statute to make the levy shall compute and add interest from the date that the writ of execution was issued to the date of service of the writ of execution and shall direct the daily interest to be computed and added from the date of service until any money is collected as a result of the levy.

Subd. 3. [DEDUCTIONS.] If an affidavit is filed pursuant to subdivision 4, a judgment creditor, or the judgment creditor's attorney or agent, is entitled to deduct from any payment made upon a judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process, all disbursements that are made taxable by statute or by rule of court, that have been paid or incurred by the judgment creditor or the judgment creditor's attorney, after the entry of judgment. Any remaining portion of the payment must be applied to the interest that has accrued upon the unpaid principal balance of the judgment before any remaining part is applied to reduce the unpaid principal balance of the judgment.

Subd. 4. [AFFIDAVIT.] A judgment creditor, or the judgment creditor's attorney, may file an affidavit specifying the nature and amount of taxable disbursements paid or incurred by the judgment creditor, or the judgment creditor's attorney, after the entry of judgment. An execution issued by the court administrator must include increased disbursements as are included in the affidavit filed with the court administrator.

Sec. 5. Minnesota Statutes 1990, section 572.15, is amended to read:

572.15 [AWARD.]

(a) The award shall be in writing and signed by the arbitrators joining in the award. *The award must include interest as provided in section 549.09.* The arbitrators shall deliver a copy to each party personally or by certified mail, or as provided in the agreement.

(b) An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of an objection prior to the delivery of the award to the party.

Sec. 6. Minnesota Statutes 1990, section 572.16, is amended to read:

572.16 [CHANGE OF AWARD BY ARBITRATORS.]

On application of a party or, if an application to the court is pending under section 572.18, 572.19, or 572.20, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in ~~clauses (1) and (3) of subdivision 1,~~ section 572.20, *subdivision 1, clause (1), (3), or (4),* or for the purpose of *amending or* clarifying the award. The application shall be made within 20 days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that the opposing party must serve objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of sections 572.18, 572.19 and 572.20.

Sec. 7. Minnesota Statutes 1990, section 572.20, subdivision 1, is amended to read:

Subdivision 1. Upon application made within 90 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;

(2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; ~~or~~

(3) The award is imperfect in a matter of form, not affecting the merits of the controversy*; or*

(4) The award is based on an error of law."

Page 2, line 1, before "*Minnesota*" insert "*(a)*"

Page 2, after line 2, insert:

"*(b) Minnesota Statutes 1990, section 494.01, subdivisions 3 and 5, are repealed.*"

Page 2, line 4, delete "*Section 2*" and insert "*Section 8, paragraph (a),*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "courts" and insert "alternative dispute resolution"

Page 1, line 4, after the semicolon, insert "providing for interest on arbitration awards; allowing an arbitrator or the court to modify an award based on an error of law; amending Minnesota Statutes 1990, sections 494.015; 494.03; 549.09; 572.15; 572.16; and 572.20, subdivision 1;"

Page 1, line 6, delete "and" and before the period, insert "; and 494.01, subdivisions 3 and 5"

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

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

H.F. No. 87: A bill for an act relating to highways; allowing county board of and appropriate town boards in Itasca county to establish and record certain public roads less than four rods in width until December 31, 1995.

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

Page 1, line 9, after "*maintained*" insert "*in Itasca county*"

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

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

H.F. No. 126: A bill for an act relating to highways; designating the Paul Bunyan Expressway from Little Falls through Cass Lake to Bemidji; amending Minnesota Statutes 1990, section 161.14, by adding a subdivision.

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

Page 1, line 9, delete "EXPRESSWAY" and insert "HIGHWAY"

Page 1, line 14, delete "*Expressway*" and insert "*Highway*"

Amend the title as follows:

Page 1, line 3, delete "Expressway" and insert "Highway"

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

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

H.F. No. 357: A bill for an act relating to highways; authorizing political subdivisions to require notice before constructing or repairing utility structures or equipment in, along, over, or under a road, street, or highway right-of-way; requiring subsequent restoration to a town road; amending Minnesota Statutes 1990, sections 164.36; and 222.37, subdivision 1.

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

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

H.F. No. 106: A bill for an act relating to towns; providing for money from town road account to be distributed to towns by March 1, annually; amending Minnesota Statutes 1990, section 162.081, subdivisions 3 and 4.

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

Page 2, line 9, before the period, insert ", *or within 30 days after receipt of payment from the commissioner*"

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

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

H.F. No. 1042: A bill for an act relating to economic development; changing the organization of the department of trade and economic development; amending Minnesota Statutes 1990, section 116J.01, subdivision 3.

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

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

H.F. No. 155: A bill for an act relating to traffic regulations; authorizing immediate towing of certain unlawfully parked vehicles; amending Minnesota Statutes 1990, section 169.041, subdivision 4.

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

Page 1, line 17, after "lane" insert "*or bus stop*"

Page 2, line 22, delete "*or*"

Page 2, line 24, before the period, insert "*;*

(16) the vehicle is parked in a school zone on a public street where official signs prohibit parking; or

(17) the vehicle is parked in a crosswalk or on a public sidewalk"

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

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

H.F. No. 466: A bill for an act relating to traffic regulations; defining "wrecker" to include new variations of tower vehicles; requiring the use of amber lights on wreckers after January 1, 1992; allowing use of red lights on vehicles of certain emergency response personnel; exempting wreckers from weight requirements under certain circumstances; amending Minnesota Statutes 1990, sections 169.01, subdivision 52; 169.58, subdivision 2; 169.64, subdivision 5; and 169.825, by adding a subdivision.

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

as follows:

Page 2, line 19, strike "LIGHT" and insert "*LIGHTS*" and strike "A device"

Page 2, lines 20 to 28, strike the old language and delete the new language and insert "*A wrecker must be equipped with flashing or intermittent red and amber lights of a type approved by the commissioner of public safety. The lights must be placed on the dome of the vehicle at the highest practicable point visible from a distance of 500 feet. The flashing red light must be displayed only when the wrecker is engaged in emergency service on or near the traveled portion of a highway. The flashing amber light must be displayed when the wrecker is moving a disabled vehicle.*"

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

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

H.F. No. 1006 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1006	754				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1006 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1006 and insert the language after the enacting clause of S.F. No. 754, the first engrossment; further, delete the title of H.F. No. 1006 and insert the title of S.F. No. 754, the first engrossment.

And when so amended H.F. No. 1006 will be identical to S.F. No. 754, and further recommends that H.F. No. 1006 be given its second reading and substituted for S.F. No. 754, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 843 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
843	796				

and that the above Senate File be indefinitely postponed.

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

Mr. Metzen from the Committee on Economic Development and Housing, to which were referred the following appointments as reported in the Journal for April 8, 1991:

MINNESOTA HOUSING FINANCE AGENCY

Robert Worthington
Demetrius G. Jelatis

Reports the same back with the recommendation that the appointments be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

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

S.F. No. 342: A bill for an act relating to human services; clarifying contested case procedures for applicants for human services licensing; establishing appeal procedures for determinations of maltreatment of minors and vulnerable adults; amending Minnesota Statutes 1990, sections 245A.04, subdivision 3c; and 256.045, subdivisions 1, 4, 6, and by adding a subdivision.

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

Page 1, line 12, after "CASE" insert "*OR ARBITRATION*"

Page 1, line 16, after "request" insert "*either*" and after "14" insert ", *or arbitration as provided in a collective bargaining agreement subject to chapter 179A*" and after the period, insert "*If the employee chooses a contested case hearing,*"

Page 2, line 22, after the period, insert "*The confidentiality of the reporter and the alleged victim must be maintained and they are not subject to subpoena under subdivision 4.*"

Page 3, line 2, strike "or" and after the second "recipient" insert ", *or aggrieved party*"

Page 3, line 11, strike "or" and after "recipient" insert ", *or aggrieved party*"

Page 4, line 2, after "hearing" insert ", *except reporters and alleged victims in an appeal hearing under subdivision 3b*"

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 776: A bill for an act relating to agriculture; providing for an agricultural development bond program; proposing coding for new law as Minnesota Statutes, chapter 41C.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 41B.025, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] There is created a public body corporate and politic *within the department of agriculture* to be known as the "Minnesota rural finance authority," which shall perform the governmental functions and exercise the sovereign powers delegated to it in sections 41B.01 to 41B.23 *and 6 to 17* in furtherance of the public policies and purposes declared in section 41B.01. The board of the authority consists of the commissioners of agriculture, commerce, *trade and economic development*, and finance, the state auditor, and ~~three~~ *five* public members appointed by the governor with the advice and consent of the senate. No public member may reside within the metropolitan area, as defined in section 473.121, subdivision 2. Each member shall hold office until a successor has been appointed and has qualified. A certificate of appointment or reappointment of any member is conclusive evidence of the proper appointment of the member.

Sec. 2. Minnesota Statutes 1990, section 41B.025, subdivision 3, is amended to read:

Subd. 3. [CHAIR.] The commissioner of ~~finance~~ *agriculture* is the chair of the board. The commissioner of ~~agriculture~~ *finance* is the vice-chair of the board.

Sec. 3. Minnesota Statutes 1990, section 41B.025, subdivision 6, is amended to read:

Subd. 6. [ADMINISTRATIVE CONTROL.] The authority is under the administrative control of the commissioner of ~~finance~~ *agriculture*.

Sec. 4. Minnesota Statutes 1990, section 41B.03, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY FOR BEGINNING FARMER LOANS.] In addition to the requirements under subdivision 1, a prospective borrower for a beginning farm loan in which the authority holds an interest, must:

(1) have sufficient education, training, or experience in the type of farming for which the loan is desired;

(2) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than ~~$100,000~~ *$200,000*;

(3) demonstrate a need for the loan;

(4) demonstrate an ability to repay the loan;

(5) certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;

(6) certify that farming will be the principal occupation of the borrower;

(7) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first five years of the loan, if an approved program is available within 45 miles from the borrower's residence; and

(8) agree to file an approved soil and water conservation plan with the soil conservation service office in the county where the land is located.

Sec. 5. Minnesota Statutes 1990, section 41B.211, is amended to read:

41B.211 [DATA PRIVACY.]

Financial information, including credit reports, financial statements, and net worth calculations, received or prepared by the authority regarding any authority loan and the name of each individual who is the recipient of a loan are private data on individuals, under chapter 13, *except that information obtained under the agricultural development bond program in sections 6 to 17 may be released as required by federal tax law.*

Sec. 6. [41C.01] [SHORT TITLE.]

This chapter shall be called and may be cited as the "Minnesota agricultural development act."

Sec. 7. [41C.02] [DEFINITIONS.]

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

Subd. 2. [AGRICULTURAL BUSINESS ENTERPRISE.] *"Agricultural business enterprise" means an individual or partnership with a low or moderate net worth who owns or plans to own properties, real or personal, used or useful in connection with the general processing of agricultural products or in the manufacturing, assembly, or fabrication of agricultural or agricultural-related equipment.*

Subd. 3. [AGRICULTURAL IMPROVEMENTS.] *"Agricultural improvements" means improvements, buildings, structures, or fixtures suitable for use in farming located on agricultural land, including a single-family dwelling located on agricultural land which is or will be occupied by a beginning farmer and structures attached to or incidental to the use of the dwelling.*

Subd. 4. [AGRICULTURAL LAND.] *"Agricultural land" means land suitable for use in farming.*

Subd. 5. [AUTHORITY.] *"Authority" means the Minnesota rural finance authority established in section 41B.025.*

Subd. 6. [BEGINNING FARMER.] *"Beginning farmer" means an individual or partnership with a low or moderate net worth who engages in farming or plans to engage in farming.*

Subd. 7. [BONDS.] *"Bonds" means bonds, notes, or other evidence of indebtedness issued by the authority under this chapter.*

Subd. 8. [CONSERVATION FARM EQUIPMENT.] *"Conservation farm equipment" means the specialized planters, cultivators, and tillage equipment used for reduced tillage or no-till planting of row crops.*

Subd. 9. [DEPRECIABLE AGRICULTURAL PROPERTY.] *"Depreciable agricultural property" means personal property suitable for use in*

farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code of 1986, as amended.

Subd. 10. [FARMING.] *"Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority by rules.*

Subd. 11. [LENDING INSTITUTION.] *"Lending institution" includes "eligible lender" as defined in section 41B.02, and individuals.*

Subd. 12. [LOW OR MODERATE NET WORTH.] *"Low or moderate net worth" means:*

(1) for an individual, an aggregate net worth of the individual and the individual's spouse and minor children of less than $200,000; or

(2) for a partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, and each partner's spouse and minor children, of less than $400,000. However, the aggregate net worth of each partner and that partner's spouse and minor children may not exceed $200,000.

Sec. 8. [41C.03] [GUIDING PRINCIPLES.]

(a) In the performance of its duties, implementation of its powers, and selection of specific programs and projects to receive its assistance under this chapter, the authority must be guided by the principles in paragraphs (b) to (e).

(b) The authority shall not become an owner of real or depreciable property, except on a temporary basis if it is necessary in order to implement its programs, to protect its investments by means of foreclosure or other means, or to facilitate transfer of real or depreciable property for the use of beginning farmers.

(c) The authority shall exercise diligence and care in selection of projects to receive its assistance and shall apply customary and acceptable business and lending standards in selection and subsequent implementation of the projects. The authority may delegate primary responsibility for determination and implementation of the projects to any federal governmental agency that assumes any obligation to repay the loan, either directly or by insurance or guarantee.

(d) The authority shall establish a beginning farmer and agricultural business enterprise loan program to aid in the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers, and real and personal property for an agricultural business enterprise.

(e) The authority shall develop programs for providing financial assistance to agricultural producers in this state.

Sec. 9. [41C.04] [COMBINATION PROGRAMS.]

Programs authorized in this chapter may be combined with any other programs authorized in this chapter or under another state or federal program in order to facilitate as far as practicable the acquisition of agricultural

land and property by beginning farmers, to facilitate the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment, and to encourage the development of agricultural business enterprises.

Sec. 10. [41C.05] [AGRICULTURAL DEVELOPMENT BOND BEGINNING FARMER AND AGRICULTURAL BUSINESS ENTERPRISE LOAN PROGRAM.]

Subdivision 1. [DEVELOPMENT OF PROGRAM.] *The authority shall develop an agricultural development bond beginning farmer and agricultural business enterprise loan program to facilitate the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers and real and personal property by an agricultural business enterprise. The authority shall exercise the powers granted to it in this chapter in order to fulfill the goal of providing financial assistance to beginning farmers and agricultural business enterprises in the acquisition of agricultural land, agricultural improvements, depreciable agricultural property, and real and personal property for an agricultural business enterprise. The authority may participate in and cooperate with programs of the Farmers Home Administration, Federal Land Bank, or any other agency or instrumentality of the federal government or with any program of any other state agency in the administration of the agricultural development bond beginning farmer and agricultural business enterprise loan program and in the making or purchasing of mortgage or secured loans under this chapter.*

Subd. 2. [ELIGIBILITY; BEGINNING FARMERS.] *The authority shall provide in the agricultural development bond beginning farmer and agricultural business enterprise loan program that a mortgage or a contract on behalf of a beginning farmer may be provided if the borrower qualifies under section 41B.03, subdivisions 1 and 3, and authority rules and under federal tax law governing qualified small issue bonds.*

Subd. 3. [ELIGIBILITY; AGRICULTURAL BUSINESS ENTERPRISES.] *(a) The authority shall provide in the agricultural development bond beginning farmer and agricultural business enterprise loan program that a mortgage or contract on behalf of an agricultural business enterprise may be provided if the borrower qualifies under this chapter and rules of the authority and under federal tax law governing qualified small issue bonds.*

(b) An agricultural business enterprise is eligible for a program loan in an aggregate amount not exceeding $250,000.

(c) An agricultural business enterprise is eligible for program loans only for new or expanded operations located in a community with a population of 5,000 or less.

Subd. 4. [LOANS AND CONTRACTS FOR BEGINNING FARMERS AND AGRICULTURAL BUSINESS ENTERPRISES.] *(a) The authority may:*

(1) make loans to qualified beginning farmers for the acquisition of agricultural land, agricultural improvements, and depreciable agricultural property, and to an agricultural business enterprise for real and personal property. Each loan made by the authority under this program and all collateral securing the loan may be assigned as security for the authority's bond.

(2) enter into contracts to purchase agricultural land, agricultural improvements, depreciable agricultural property, and real and personal property for an agricultural business enterprise. Each contract entered into by the authority under this program and all obligations of the authority under the contract shall be assigned to the beginning farmer or agricultural business enterprise without recourse.

(b) Loan documents and contracts entered into by the authority shall contain such terms and conditions of repayment as may be agreed to between the beginning farmer or agricultural business enterprise and the individual or agricultural lender involved, and such terms and conditions as the authority may deem necessary.

(c) Each individual or agricultural lender purchasing a bond from the authority under this program is responsible for making their own independent credit evaluation of the beginning farmer or the agricultural business enterprise involved, and for the creation and perfection of any security interest which they deem necessary for the loan or contract to be made on behalf of the beginning farmer or the agricultural business enterprise.

(d) The authority shall bear no continuing responsibility for repayment of any bond issued under the program other than the assignment of its interests under the loan document made with the proceeds of the bond or the contract entered into in connection with the bond.

Subd. 5. [OTHER TERMS.] *The authority may provide that loans and contracts made under this program may not be assumed, or any interest in the agricultural land or improvements or depreciable agricultural property or real or personal property of an agricultural business enterprise may not be leased, sold, or otherwise conveyed without its prior written consent, and may provide a due-on-sale clause with respect to the occurrence of any of the foregoing events without its prior written consent. The authority may provide by rule the grounds for permitted assumptions of loans and contracts or for the leasing, sale, or other conveyance of any interest in the agricultural land or improvements or real or personal property of an agricultural business enterprise. However, the authority shall provide and state in its loan documents and contracts that the interest rate of the loan or contracts shall increase to the then prevailing market rate if the loan or contract is assumed by anyone other than a qualified beginning farmer or agricultural business enterprise. This subdivision controls with respect to a loan or contract made under this program, notwithstanding other law.*

Sec. 11. [41C.06] [LOAN ALLOCATION.]

Not more than 25 percent of the total bond allocation available for beginning farmer and agricultural business enterprise loans may be used for agricultural business enterprise loans. However, any portion of the bond allocation that remains unencumbered on November 1 of each year may be made available for agricultural business enterprise loans.

Sec. 12. [41C.07] [BONDS.]

Subdivision 1. [AUTHORITY.] *The authority may issue its negotiable bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds, the establishment of reserves to secure its bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds are investment securities and negotiable instruments within the meaning of*

and for all purposes of the Uniform Commercial Code.

Subd. 2. [PAYMENT OF BONDS.] *Bonds are payable solely and only out of the money, assets, or revenues of the authority and as provided in the agreement with bondholders pledging any particular money, assets, or revenues. Bonds are not an obligation of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limitations, but are special obligations of the authority payable solely and only from the sources provided in this chapter, and the authority shall not pledge the credit or taxing power of this state or any political subdivision of this state other than the authority or make its debts payable out of any money except that of the authority.*

Subd. 3. [RESOLUTION OF AUTHORITY.] *Bonds must be authorized by a resolution of the authority. However, a resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds by an appropriate certificate of the authorized officer.*

Subd. 4. [REQUIREMENTS.] *Bonds must:*

(1) state the date and series of the issue, be consecutively numbered, and state on their face that they are payable both as to principal and interest solely out of the assets of the authority and do not constitute an indebtedness of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limit; and

(2) be either registered, registered as to principal only, issued in denominations as the authority prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the authority with the manual or facsimile signature of the chair or vice-chair, attested by the manual or facsimile signature of the secretary, have impressed or imprinted on them the seal of the authority or a facsimile of it, be payable as to interest at rates and at times as the authority determines, be payable as to principal at times over a period not to exceed 50 years from the date of issuance, at places and with reserved rights of prior redemption as the authority prescribes, be sold at prices, at public or private sale, and in a manner as the authority prescribes, and the authority may pay all expenses, premiums, and commissions that it considers necessary or advantageous in connection with the issuance and sale, and be issued under and subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter, as are found to be necessary by the authority for the most advantageous sale.

Subd. 5. [REFUNDING.] *The authority may issue its bonds for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premiums and any interest accrued or to accrue to the date of redemption of the outstanding bonds. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds are applied to the purchase or retirement of outstanding bonds or the redemption of outstanding bonds, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this chapter. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized*

on the investments may be returned to the authority for use by it in any lawful manner. All refunding bonds shall be issued and secured and are subject to the provisions of this chapter in the same manner and to the same extent as other bonds.

Subd. 6. [ANTICIPATION NOTES.] *The authority may issue negotiable bond anticipation notes and may renew them from time to time, but the maximum maturity of the notes, including renewals, must not exceed ten years from the date of issue of the original notes. Notes are payable from any available money of the authority not otherwise pledged or from the proceeds of the sale of bonds in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the authority. Notes must be issued in the same manner as bonds and notes and the resolution authorizing them may contain any provisions, conditions, or limitations, not inconsistent with the provisions of this subdivision, which the bonds or a bond resolution of the authority may contain. Notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the authority to the noteholders, the noteholders have all the remedies provided in this chapter for bondholders. Notes are as fully negotiable as bonds of authority.*

Subd. 7. [FILING.] *A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust or similar agreement, or any revisions or supplements to it, must be filed with the secretary of state and no further filing or other action under article 9 of the Uniform Commercial Code or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it; and the lien and trust so created are binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.*

Subd. 8. [PERSONAL LIABILITY LIMITED.] *Members of the authority and any person executing its bonds are not liable personally on the bonds or subject to personal liability or accountability by reason of the issuance of the authority's bonds.*

Subd. 9. [NOTICE.] *The authority shall publish a notice of intention to issue bonds in a newspaper published and of general circulation in the state. The notice shall include a statement of the maximum amount of bonds proposed to be issued and, in general, what net revenues will be pledged to pay the bonds and interest on them. An action may not be brought questioning the legality of the bonds or the power of the authority to issue the bonds or the legality of any proceedings in connection with the authorization or issuance of the bonds after 60 days from the date of publication of the notice.*

Sec. 13. [41C.08] [RESERVE FUNDS AND APPROPRIATIONS.]

Subdivision 1. [AUTHORITY.] *The authority may create and establish one or more special funds, each to be known as a "bond reserve fund," and shall pay into each bond reserve fund any money appropriated and made available by the state for the purpose of the fund, any proceeds of sale of bonds to the extent provided in the resolutions of the authority authorizing their issuance, and any other money that is available to the authority for the purpose of the fund from any other sources. Money held in a bond reserve fund, except as otherwise provided in this chapter, must be used as required solely for the payment of the principal of bonds secured in whole or in part by the fund or of the sinking fund payments with respect*

to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

Subd. 2. [WITHDRAWALS.] *Money in a bond reserve fund may not be withdrawn from it in an amount that will reduce the amount of the fund to less than the bond reserve fund requirement established for the fund, as provided in this section, except for the purpose of making payment when due of principal, interest, redemption premiums, and the sinking fund payments with respect to the bonds for the payment of which other money of the authority is not available. Any income or interest earned by, or incremental to, a bond reserve fund due to the investment of it may be transferred by the authority to other funds or accounts of the authority to the extent the transfer does not reduce the amount of that bond reserve fund below the bond reserve fund requirement for it.*

Subd. 3. [ISSUANCE OF SECURED BONDS.] *The authority may not at any time issue bonds, secured in whole or in part by a bond reserve fund if, upon the issuance of the bonds, the amount in the bond reserve fund will be less than the bond reserve fund requirement for the fund, unless the authority at the time of issuance of the bonds deposits in the fund from the proceeds of the bonds issued or from other sources an amount which, together with the amount then in the fund, will not be less than the bond reserve fund requirement for the fund. For the purposes of this section, the term "bond reserve fund requirement" means, as of any particular date of computation, an amount of money required to be on deposit therein in the bond reserve fund, as provided in the resolutions of the authority authorizing the bonds with respect to which the fund is established.*

Subd. 4. [MAINTENANCE OF LEVELS.] *To assure the continued operation and solvency of the authority for the carrying out of its corporate purposes, provision is made in subdivision 1 for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the chair of the authority shall, on or before July 1 of each calendar year, make and deliver to the governor a certificate stating the sum, if any, required to restore each bond reserve fund to its bond reserve fund requirement. Within 30 days after the beginning of the session of the legislature next following the delivery of the certificate, the governor may submit to both houses printed copies of a budget including any sum required to restore each bond reserve fund to its bond reserve fund requirement. Sums appropriated by the legislature and paid to the authority under this section must be deposited by the authority in the applicable bond reserve fund.*

Subd. 5. [REPAYMENT.] *Amounts paid over to the authority by the state under this section constitute and must be accounted for as advances by the state to the authority and, subject to the rights of the holders of any bonds of the authority, must be repaid to the state without interest from all available operating revenues of the authority in excess of amounts required for the payment of bonds, the bond reserve fund, and operating expenses.*

Subd. 6. [ANNUAL REPORT.] *The authority shall cause to be delivered to the senate committee on finance and the house of representatives committee on appropriations, within 90 days of the close of its fiscal year, its annual report certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of the authority selected by the authority. In the*

event that the principal amount of any bonds deposited in a bond reserve fund is withdrawn for payment of principal or interest thereby reducing the amount of that fund to less than the bond reserve fund requirement, the authority shall immediately notify the legislature of this event and take steps to restore the fund to its bond reserve fund requirement from any amounts available, other than principal of a bond issue, that are not pledged to the payment of other bonds.

Sec. 14. [41C.09] [REMEDIES OF BONDHOLDERS.]

Subdivision 1. [DEFAULT.] *If the authority defaults in the payment of principal or interest on an issue of bonds at maturity or upon call for redemption, and the default continues for a period of 30 days, or if the authority fails or refuses to comply with the provisions of this chapter, or defaults in an agreement made with the holders of an issue of bonds, the holders of 25 percent in aggregate principal amount of bonds of the issue then outstanding, by instrument filed in the office of the clerk of the county in which the principal office of the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds for the purposes provided in this section.*

Subd. 2. [ACTIONS.] *The authority or any trustee appointed under the indenture under which the bonds are issued may, but upon written request of the holders of 25 percent in aggregate principal amount of the issue of bonds then outstanding shall:*

(1) enforce all rights of the bondholders including the right to require the authority to carry out its agreements with the holders and to perform its duties under this chapter;

(2) bring suit upon the bonds;

(3) by action require the authority to account as if it were the trustee of an express trust for the holders;

(4) by action enjoin any acts or things which are unlawful or in violation of the rights of the holders; and

(5) declare all the bonds due and payable and, if all defaults are made good, with the consent of the holders of 25 percent of the aggregate principal amount of the issue of bonds then outstanding, annul the declaration and its consequences.

Subd. 3. [TRUSTEE'S POWERS.] *The trustees may exercise functions specifically set forth or incident to the general representation of bondholders in the enforcement and protection of their rights.*

Subd. 4. [NOTICE.] *Before declaring the principal of bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, to the authority, and to the attorney general of the state.*

Subd. 5. [JURISDICTION.] *The district court has jurisdiction of any action by the trustee on behalf of bondholders. The venue of the action is in the county in which the principal office of the authority is located.*

The bondholders may, to the extent provided in the resolution to which the bonds were issued or in its agreement with the authority, enforce any of the remedies in subdivision 2, clauses (1) to (5), or the remedies provided in the proceedings or agreements for and on their own behalf.

Sec. 15. [41C.10] [BONDS AS LEGAL INVESTMENTS.]

Bonds are securities in which public officers, state departments and agencies, political subdivisions, insurance companies, and other persons carrying on an insurance business, banks, trust companies, savings and loan associations, investment companies, and other persons carrying on a banking business, administrators, executors, guardians, conservators, trustees, and other fiduciaries and other persons authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also securities which may be deposited with and may be received by public officers, state departments and agencies, and political subdivisions for any purpose for which the deposit of bonds or other obligations of this state is authorized.

Sec. 16. [41C.11] [CONFLICTS OF INTEREST.]

If a member or employee of the authority has an interest, either direct or indirect, in a contract to which the authority is or is to be a party or in a mortgage lender requesting a loan from or offering to sell mortgage or secured loans to the authority, the interest must be disclosed to the authority in writing and must be set forth in the minutes of the authority. The member or employee having the interest may not participate in action by the authority with respect to that contract or mortgage lender.

The total base level of appropriations and complement currently assigned to the department of finance for purposes of administering the rural finance authority, under chapter 41B, is transferred to the department of agriculture. This transfer is effective July 1, 1991.

Sec. 17. [41C.12] [APPLICATION AND ORIGINATION FEE; FUND CREATED.]

(a) There is created in the general fund a rural finance authority administrative fund. Proceeds from the application and origination fees assessed by the authority under paragraph (b) must be deposited in the dedicated fund. Beginning July 1, 1993, money in the fund is appropriated as needed to the director of the Minnesota rural finance authority for administrative costs of the agricultural development bond beginning farmer and agricultural business enterprise loan program.

(b) The authority may impose a reasonable application and origination fee for each loan issued under the beginning farmer and agricultural business enterprise loan program. The fee must be deposited in the rural finance authority administrative fund created in paragraph (a).

Sec. 18. Minnesota Statutes 1990, section 474A.02, subdivision 13a, is amended to read:

Subd. 13a. [~~MANUFACTURING~~ *SMALL ISSUE* POOL.] "~~Manufacturing~~ *Small issue* pool" means the amount of the annual volume cap allocated under section 474A.061, that is available for the issuance of small issue bonds to finance manufacturing projects, *and the agricultural development bond beginning farmer and agricultural business enterprise loan program authorized in sections 6 to 17.*

Sec. 19. Minnesota Statutes 1990, section 474A.02, subdivision 23a, is amended to read:

Subd. 23a. [QUALIFIED BONDS.] "Qualified bonds" means the specific

type or types of obligations that are subject to the annual volume cap. Qualified bonds include the following types of obligations as defined in federal tax law:

(a) "public facility bonds" means "exempt facility bonds" as defined in federal tax law, except for residential rental project bonds, which are those obligations issued to finance airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities, and qualified hazardous waste facilities;

(b) "residential rental project bonds" which are those obligations issued to finance qualified residential rental projects;

(c) "mortgage bonds";

(d) "small issue bonds" issued to finance manufacturing projects *and the acquisition or improvement of agricultural property under sections 6 to 17*;

(e) "student loan bonds";

(f) "redevelopment bonds"; and

(g) "governmental bonds" with a nonqualified amount in excess of $15,000,000 as set forth in section 141(b)5 of federal tax law.

Sec. 20. Minnesota Statutes 1990, section 474A.03, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL VOLUME CAP UNDER FEDERAL TAX LAW; POOL ALLOCATIONS.] At the beginning of each calendar year after December 31, ~~1990~~ *1991*, the commissioner shall determine the aggregate dollar amount of the annual volume cap under federal tax law for the calendar year, and of this amount the commissioner shall make the following allocation:

(1) $75,000,000 to the ~~manufacturing~~ *small issue* pool, *of which $ . . . . . must be reserved for the agricultural development bond beginning farmer and agricultural business enterprise loan program authorized under sections 6 to 17*;

(2) $46,000,000 to the housing pool;

(3) $10,000,000 to the public facilities pool; and

(4) amounts to be allocated as provided in subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4) and subdivision 2a, paragraph (a), clauses (1) to (3), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Sec. 21. Minnesota Statutes 1990, section 474A.061, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] (a) An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued,

(4) an application deposit in the amount of one percent of the requested allocation before the last Monday in August, or in the amount of two percent of the requested allocation on or after the last Monday in August, and (5) a public purpose scoring worksheet for ~~small issue~~ *manufacturing project* applications. The issuer must pay the application deposit by check. The Minnesota housing finance agency *and the Minnesota rural finance authority* may apply for and receive an allocation under this section without submitting an application deposit.

(b) An entitlement issuer may not apply for an allocation from the housing pool or from the public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

(c) If an application is rejected under this section, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Sec. 22. Minnesota Statutes 1990, section 474A.061, subdivision 2b, is amended to read:

Subd. 2b. [~~MANUFACTURING~~ *SMALL ISSUE* POOL ALLOCATION.] From the beginning of the calendar year until the last Monday in August, the commissioner shall allocate available bonding authority from the ~~manufacturing~~ *small issue* pool on Monday of each week to applications received on or before the Monday of the preceding week. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 474A.045. Proposed projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed projects that receive less than 50 points are eligible to receive a proportionally reduced share of the proposed authority.

If there are two or more applications for manufacturing projects from the ~~manufacturing~~ *small issue* pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 474A.081, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 23. Minnesota Statutes 1990, section 474A.061, subdivision 3, is amended to read:

Subd. 3. [ADDITIONAL DEPOSIT.] An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Tuesday in September only if the issuer has submitted to the department before the first Tuesday in September a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained. The Minnesota housing finance agency *and the Minnesota rural finance authority* may retain an unused portion of an allocation after the first Tuesday in September without submitting an additional

deposit.

Sec. 24. Minnesota Statutes 1990, section 474A.061, subdivision 4, is amended to read:

Subd. 4. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section within 90 days of allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in August, the amount of allocation is canceled and returned for reallocation through the pool from which it was originally allocated. If the issuer notifies the department or the 90-day period since allocation has expired on or after the last Monday in August, the amount of allocation is canceled and returned for reallocation through the unified pool. If the issuer notifies the department after the last Monday in November, the amount of allocation is canceled and returned for reallocation to the Minnesota housing finance agency.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of allocation shall receive within 30 days a refund equal to:

(1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving allocation;

(2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving allocation; and

(3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving allocation.

No refund shall be available for allocations returned 90 or more days after receiving the allocation. This subdivision does not apply to the Minnesota housing finance agency *or the Minnesota rural finance authority*.

Sec. 25. Minnesota Statutes 1990, section 474A.081, is amended to read:

474A.081 [POOL TRANSFERS.]

Subdivision 1. [AUTHORITY TO TRANSFER BONDING AUTHORITY.] If there is insufficient bonding authority in either the ~~manufacturing~~ *small issue* pool or the multifamily housing pool to provide allocations for applications received in any one week, additional bonding authority for small issue bonds and residential rental project bonds may be obtained under this section.

Subd. 2. [TRANSFER LIMITS.] No transfer of bonding authority may be made from any pool for qualified bonds not eligible to receive allocations from that pool (i) prior to June 30, or (ii) if, on June 30, allocations of bonding authority have been made from that pool equal to or exceeding 50 percent of the annual volume cap originally allocated to that pool. For 1987, the amount considered originally allocated to each of the pools shall be $80,000,000 for the ~~manufacturing~~ *small issue* pool and $60,000,000 for the multifamily housing pool.

Subd. 4. [POOL TRANSFERS.] If there is insufficient bonding authority to provide allocations for all small issue bonds or residential rental project

bonds in any one week, applications for small issue bonds may receive bonding authority from the multifamily housing pool or applications for residential rental project bonds may receive bonding authority from the ~~manufacturing~~ *small issue* pool, except as provided in subdivision 2. If bonding authority is transferred from one pool to the other pool, applications for small issue bonds must receive priority for allocations from the ~~manufacturing~~ *small issue* pool, and applications for residential rental project bonds must receive priority for allocations from the multifamily housing pool.

Sec. 26. Minnesota Statutes 1990, section 474A.091, is amended to read:

474A.091 [ALLOCATION OF UNIFIED POOL.]

Subdivision 1. [UNIFIED POOL AMOUNT.] On the day after the last Monday in August any bonding authority remaining unallocated from the ~~manufacturing~~ *small issue* pool, the housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.

Subd. 2. [APPLICATION.] ~~An issuer~~ *Issuers other than the Minnesota rural finance authority* may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of two percent of the requested allocation, and (5) a public purpose scoring worksheet for ~~small issue~~ *manufacturing* applications. The issuer must pay the application deposit by check. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

For calendar year 1991, $5,000,000 must be reserved upon creation of the unified pool for use by the Minnesota rural finance authority for the agricultural development bond program authorized under sections 6 to 17. This reservation remains in effect until the last Monday in November.

The Minnesota housing finance agency may not apply for an allocation for mortgage bonds under this section until after the last Monday in September. Notwithstanding the restrictions imposed on unified pool allocations after October 1 under subdivision 3, paragraph (c)(2), the Minnesota housing finance agency may be awarded allocations for mortgage bonds from the unified pool after October 1. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.

Subd. 3. [ALLOCATION PROCEDURE.] (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in September through and on the last Monday in November. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day after the holiday.

(b) On or before October 1, allocations shall be awarded from the unified pool in the following order of priority:

(1) applications for small issue bonds;

(2) applications for residential rental project bonds;

(3) applications for public facility projects funded by public facility bonds;

(4) applications for redevelopment bonds;

(5) applications for mortgage bonds; and

(6) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in September. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 474A.045. Proposed manufacturing projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed manufacturing projects that receive less than 50 points under section 474A.045 are only eligible to receive a proportionally reduced share of the proposed authority. If there are two or more applications for manufacturing projects from the unified pool and there is insufficient bonding authority to provide allocations for all manufacturing projects in any one allocation period, the available bonding authority shall be awarded based on the number of points awarded a project under section 474A.045 with those projects receiving the greatest number of points receiving allocation first.

(c)(1) On the first Monday in October, $20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the ~~manufacturing~~ *small issue* pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the ~~manufacturing~~ *small issue* pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in October, $2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year, whichever is less, is reserved within the unified pool for public facility bonds. If sufficient bonding authority is not available to reserve the required amounts for both small issue bonds and public facility bonds, seven-eighths of the remaining available bonding authority is reserved for small issue bonds and one-eighth of the remaining available bonding authority is reserved for public facility bonds.

(2) The total amount of allocations for mortgage bonds from the housing pool and the unified pool may not exceed:

(i) $10,000,000 for any one city; or

(ii) $20,000,000 for any number of cities in any one county.

An allocation for mortgage bonds may be used for mortgage credit certificates.

After October 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds, and residential rental project bonds.

(d) If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise

agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Subd. 4. [MORTGAGE BONDS.] All remaining bonding authority available for allocation under this section on December 1, is allocated to the Minnesota housing finance agency.

Subd. 5. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section within 90 days of the allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in November, the amount of allocation is canceled and returned for reallocation through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of the allocation shall receive within 30 days a refund equal to:

(1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving the allocation;

(2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving the allocation; and

(3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving the allocation.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in November. This subdivision does not apply to the Minnesota housing finance agency *or the Minnesota rural finance authority*.

Subd. 6. [FINAL ALLOCATION; CARRYFORWARD.] Any bonding authority remaining unissued by the Minnesota housing finance agency after the last Monday in December is allocated to the department of finance for reallocation for qualified bonds eligible to be carried forward under federal tax law.

Sec. 27. Minnesota Statutes 1990, section 474A.14, is amended to read:

474A.14 [NOTICE OF AVAILABLE AUTHORITY.]

The department shall publish in the State Register a notice of the amount of bonding authority in the housing, ~~manufacturing~~ *small issue*, and public facilities pools as soon after January 1 as possible. The department shall publish in the State Register a notice of the amount of bonding authority available for allocation in the unified pool as soon after September 1 as possible.

Sec. 28. [APPROPRIATION.]

(a) $ . . . . . is appropriated from the general fund to the Minnesota rural finance authority for the purposes of sections 6 to 17 for the biennium ending June 30, 1993.

(b) It is the intent of the legislature that the agricultural development bond

beginning farmer and agricultural business enterprise loan program established in sections 6 to 17 will be self-supporting after fiscal year 1993.

Sec. 29. [EFFECTIVE DATE.]

Sections 1 to 28 are effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; transferring the rural finance authority to the department of agriculture; providing for an agricultural development bond program to finance agricultural business enterprises and beginning farmers; appropriating funds; amending Minnesota Statutes 1990, sections 41B.025, subdivisions 1, 3, and 6; 41B.03, subdivision 3; 41B.211; 474A.02, subdivisions 13a and 23a; 474A.03, subdivision 1; 474A.061, subdivisions 1, 2b, 3, and 4; 474A.081; 474A.091; 474A.14; proposing coding for new law as Minnesota Statutes, chapter 41C."

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

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

S.F. No. 723: A bill for an act relating to commerce; requiring accessibility specialists; requiring certification by building officials; amending Minnesota Statutes 1990, sections 16B.63, by adding a subdivision; and 16B.65, by adding a subdivision.

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

Page 1, after line 22, insert:

"Sec. 3. Minnesota Statutes 1990, section 471.468, is amended to read:

471.468 [BUILDING PLANS; APPROVAL; EXCEPTIONS.]

On site construction or remodeling shall not hereafter be commenced of any building or facility until the plans and specifications of the building or facility have been reviewed and approved by the local authority. The provisions of sections 471.465 to 471.469 are applicable only to contracts awarded subsequent to May 22, 1971. *The local authority shall certify in writing that the review and approval under this section have occurred. The certification must be attached to the permit of record.*"

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring local authority certification of review and approval of certain building plans and specifications;"

Page 1, line 5, delete "and"

Page 1, line 6, after "subdivision" insert "; and 471.468"

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

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

S.F. No. 1248: A bill for an act relating to workers' compensation; regulating benefits and insurance; establishing a permanent commission on workers' compensation; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 79.252, by adding a subdivision; 176.011, subdivisions 3, 11a, and 18; 176.101, subdivisions 1, 2, and 3f; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 9, and 11; 176.111, subdivision 18; 176.135, subdivisions 1, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.645, subdivisions 1 and 2; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 175 and 176; repealing Minnesota Statutes 1990, sections 175.007; and 176.136, subdivision 5.

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

Page 6, line 5, delete everything after "*job*" and insert "*through no fault of the employee*"

Page 6, delete line 6

Page 6, line 7, delete everything before the comma

Page 15, line 36, reinstate the stricken "chiropractic,"

Page 16, lines 9 and 10, reinstate the stricken language

Page 16, delete lines 11 to 23

Page 16, line 24, delete "*(c)*" and insert "*(b)*"

Page 16, line 27, delete "*(d)*" and insert "*(c)*"

Page 16, line 29, delete "*(e)*" and insert "*(d)*"

Page 17, line 14, delete "*(f)*" and insert "*(e)*"

Page 17, line 17, delete "*(g)*" and insert "*(f)*"

Page 19, line 28, delete "*other treatment*" and insert "*practice*"

Page 19, line 29, after "*commissioner*" insert "*that are based upon standards adopted by the health care licensing boards if those standards exist*" and after "*medical*" insert "*, chiropractic,*"

Page 19, line 32, before the semicolon, insert "*. Nothing in this paragraph or section is intended to restrict access to individual health disciplines required by this chapter*"

Page 19, line 36, after "*of*" insert "*intradiscipline*"

Page 20, line 17, delete "*maintains the*" and insert "*agrees to adhere to standards adopted by the health care licensing boards if those standards exist,*"

Page 20, delete lines 18 to 22

Page 20, line 23, delete "*employee may require, and*" and after "*provider*" insert "*and any referral provider*"

Page 20, line 24, delete "*agrees*" and insert "*agree*"

Page 27, after line 20, insert:

"Sec. 2. Minnesota Statutes 1990, 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 classification 7219, 7230, 7231, ~~or~~ 7360, *or 8293* 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 midterm 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 midterm 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."

Page 27, line 34, delete "*11*" and insert "*12*"

Page 28, line 1, delete "*11*" and insert "*12*"

Page 28, lines 3 and 11, delete "*an 11*" and insert "*a 12*"

Page 28, after line 23, insert:

"Sec. 5. [TRUCK DRIVER CLASSIFICATIONS.]

The commissioner of commerce shall evaluate the current system of classification of truck drivers for workers' compensation rate purposes that

separates truck drivers in classes 7219, 7380, and 8293 from the classifications for the vast majority of truck drivers employed in the private carrier industry as defined in Minnesota Statutes, section 221.011, subdivision 26. The commissioner shall determine if the classification is fair and equitable to employers of truck drivers in those three classes. If the commissioner determines that those classifications are not fair and equitable to those three classes, the commissioner shall make findings and issue an order correcting the unfairness or inequity."

Page 28, line 25, delete "*2*" and insert "*3*"

Page 28, line 26, after the period, insert "*Section 2 is effective August 1, 1991.*" and delete "*3*" and insert "*4*"

Page 28, line 27, delete "*3*" and insert "*4*"

Renumber the sections of article 3 in sequence

Page 30, after line 3, insert:

"Sec. 4. [176.307] [COMPENSATION JUDGES; BLOCK SYSTEM.]

The chief administrative law judge must assign workers' compensation cases to compensation judges using a block system type of assignment that, among other things, ensures that a case will remain with the same judge from commencement to conclusion unless the judge is removed from the case by exercise of a legal right of a party or by incapacity. The block system must be the principal means of assigning cases, but it may be supplemented by other systems of case assignment to ensure that cases are timely decided."

Page 30, delete section 5

Page 30, after line 19, insert:

"Sec. 6. [SPECIAL FUND ASSESSMENTS.]

The commissioner of labor and industry shall, in addition to any other adjustments, reduce the assessment rate for the special compensation fund under Minnesota Statutes, section 176.129, by a percentage that yields a decrease in the gross amount that would otherwise be collected from the assessment in the period January 1, 1992, to January 1, 1993, equal to the appropriation made from the general fund by sections 3 and 5."

Page 30, line 22, delete "*4*" and insert "*5*" and delete everything after the period and insert "*Section 4 is effective July 1, 1991.*"

Page 30, delete line 23 and insert "*Section 6 is effective the day following final enactment.*"

Renumber the sections of article 4 in sequence

Page 32, line 20, before "*salary*" insert "*range of*"

Page 32, line 21, delete "*of*" and insert "*and the salary level within it for*"

Page 33, after line 26, insert:

"ARTICLE 6

WORKERS' COMPENSATION REHABILITATION PROGRAM

Section 1. [VOCATIONAL REHABILITATION.]

The responsibilities of the workers' compensation program of the rehabilitation services division of the department of jobs and training are transferred to the department of labor and industry pursuant to Minnesota Statutes, section 15.039. The transferred employees shall constitute the vocational rehabilitation unit of the department of labor and industry.

Sec. 2. Minnesota Statutes 1990, section 176.104, subdivision 1, is amended to read:

Subdivision 1. [DISPUTE.] If there exists a dispute regarding medical causation or whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4, prior to determination of liability, the employee shall be referred by the commissioner to the ~~division of~~ *department's* vocational rehabilitation *unit* which shall provide rehabilitation consultation if appropriate. The services provided by the ~~division of~~ *department's* vocational rehabilitation *unit* and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be monitored by the commissioner.

Sec. 3. Minnesota Statutes 1990, section 176.1041, is amended to read:

176.1041 [CERTIFICATION FOR FEDERAL TAX CREDIT.]

Subdivision 1. [CERTIFICATION PROGRAM.] The ~~division of~~ vocational rehabilitation *unit* shall establish a program authorizing qualified rehabilitation consultants and approved vendors to refer an employee to the ~~division~~ *unit* for the sole purpose of federal targeted jobs tax credit eligibility determination. The ~~division~~ *unit* shall set forth the specific requirements, procedures and eligibility criteria for purposes of this section. The ~~division~~ *unit* shall not be required to certify an injured employee who does not meet the eligibility requirements set forth in the federal Rehabilitation Act of 1973, as amended.

Subd. 2. [FEE.] The ~~division~~ *unit* is authorized to collect a fee from the qualified rehabilitation consultant or approved vendor in the amount necessary to determine eligibility and to certify an employee for this program.

Sec. 4. Minnesota Statutes 1990, section 268A.03, is amended to read:

268A.03 [POWERS AND DUTIES.]

The commissioner shall:

(a) certify the rehabilitation facilities to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 268A.09;

(b) provide vocational rehabilitation services to persons with disabilities in accordance with the state plan for vocational rehabilitation. These services include but are not limited to: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and

prosthetic and orthotic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment; maintenance; books, supplies, and training materials; initial stocks and supplies; placement; on-the-job skill training and time-limited postemployment services leading to supported employment; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs, or services rendered by severely disabled persons. Persons with a disability are entitled to free choice of vendor for any medical, dental, prosthetic, or orthotic services provided under this paragraph;

(c) expend funds and provide technical assistance for the establishment, improvement, maintenance, or extension of public and other nonprofit rehabilitation facilities or centers;

~~(d) formulate plans of cooperation with the commissioner of labor and industry for providing services to workers covered under the workers' compensation act;~~

~~(e)~~ maintain a contractual or regulatory relationship with the United States as authorized by the Social Security Act, as amended. Under this relationship, the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

~~(f)~~ *(e)* provide an in-service training program for division of rehabilitation services employees by paying for its direct costs with state and federal funds;

~~(g)~~ *(f)* conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to persons with a disability and the general public; and provide technical assistance relating to vocational rehabilitation and independent living;

~~(h)~~ *(g)* receive and disburse pursuant to law money and gifts available from governmental and private sources including, but not limited to, the federal Department of Education and the Social Security Administration, for the purpose of vocational rehabilitation or independent living. ~~Money received from workers' compensation carriers for vocational rehabilitation services to injured workers must be deposited in the general fund~~;

~~(i)~~ *(h)* design all state plans for vocational rehabilitation or independent living services required as a condition to the receipt and disbursement of any money available from the federal government;

~~(j)~~ *(i)* cooperate with other public or private agencies or organizations for the purpose of vocational rehabilitation or independent living. Money received from school districts, governmental subdivisions, mental health centers or boards, and private nonprofit organizations is appropriated to the commissioner for conducting joint or cooperative vocational rehabilitation or independent living programs;

~~(k)~~ *(j)* enter into contractual arrangements with instrumentalities of federal, state, or local government and with private individuals, organizations, agencies, or facilities with respect to providing vocational rehabilitation or independent living services;

~~(l)~~ *(k)* take other actions required by state and federal legislation relating to vocational rehabilitation, independent living, and disability determination programs;

~~(m)~~ *(l)* hire staff and arrange services and facilities necessary to perform the duties and powers specified in this section; and

~~(n)~~ *(m)* adopt, amend, suspend, or repeal rules necessary to implement or make specific programs that the commissioner by sections 268A.01 to 268A.10 is empowered to administer.

Sec. 5. [REPEALER.]

Minnesota Statutes 1990, section 268A.05, subdivision 2, is repealed.

Sec. 6. [EFFECTIVE DATE.]

This article is effective July 1, 1991."

Amend the title as follows:

Page 1, line 9, after "11;" insert "176.104, subdivision 1; 176.1041;"

Page 1, line 11, after the first semicolon, insert "176.185, subdivision 1;"

Page 1, line 13, after the semicolon, insert "268A.03;"

Page 1, line 16, delete "and" and before the period, insert "; and 268A.05, subdivision 2"

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

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

S.F. No. 462: A bill for an act relating to the environment; establishing an environmental enforcement account; establishing a field citation pilot project for unauthorized disposal of solid waste; amending Minnesota Statutes 1990, sections 115.072; and 116.07, subdivision 4d; proposing coding for new law in Minnesota Statutes, chapter 115.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115.072, is amended to read:

115.072 [RECOVERY OF LITIGATION COSTS AND EXPENSES.]

In any action brought by the attorney general, in the name of the state, pursuant to the provisions of this chapter and chapter 116, for civil penalties, injunctive relief, or in an action to compel compliance, if the state shall finally prevail, and if the proven violation was willful, the state, in addition to other penalties provided in this chapter, may be allowed an amount

determined by the court to be the reasonable value of all or a part of the litigation expenses incurred by the state. In determining the amount of such litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

~~All~~ Amounts recovered under the provisions of this section and section 115.071, subdivisions 3 to 5, shall be paid into the *environmental enforcement account in the environmental fund in the* state treasury *to the extent provided in section 2. Any amounts remaining must be deposited in the general fund.*

Sec. 2. [115.073] [ENFORCEMENT FUNDING.]

Subdivision 1. [ENVIRONMENTAL ENFORCEMENT ACCOUNT.] *An environmental enforcement account is created in the environmental fund in the state treasury.*

Subd. 2. [REVENUE SOURCES.] *Revenue from the following sources must be deposited in the state treasury and credited to the environmental enforcement account:*

(1) except as provided in sections 115B.20, subdivision 4, clause (2), 115C.05, and 473.845, subdivision 8, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipulation, or settlement, excluding money paid for past due fees or taxes, up to a maximum of $ . . . . . per year; and

(2) all interest attributable to investment of money deposited in the account.

Subd. 3. [PURPOSES FOR WHICH MONEY MAY BE SPENT.] *Subject to appropriation by the legislature, the money in the account may be spent only for the following purposes:*

(1) paying the costs of sampling, laboratory testing, and monitoring necessary to support enforcement actions;

(2) establishing or improving data management systems necessary to monitor compliance with the requirements of this chapter or chapter 115A or 116;

(3) training of enforcement personnel including legal, technical, and investigative staff of the state and of local units of government;

(4) paying the costs of equipment and other expenses necessary to investigate violations of this chapter and chapters 115A and 116;

(5) providing information to regulated entities and to the public on the requirements of this chapter and chapters 115A and 116;

(6) paying the costs of studies required under sections 5 and 6;

(7) paying the costs of hearings related to enforcement actions; and

(8) reimbursing the game and fish fund and the general fund for costs attributable to the field citation pilot project under section 3.

Sec. 3. [115.074] [FIELD CITATION PILOT PROJECT.]

Subdivision 1. [AUTHORITY TO ISSUE.] *Department of natural resources conservation officers may issue citations to a person who disposes of solid waste as defined in section 116.06, subdivision 10, at a location not authorized by law for the disposal of solid waste.*

Subd. 2. [PENALTY AMOUNT.] *The citation must impose the following penalty amounts:*

(1) $100 per major appliance, as defined in section 115A.03, subdivision 17a, up to a maximum of $2,000;

(2) $25 per waste tire, as defined in section 115A.90, subdivision 11, unless utilized in an agricultural pursuit, up to a maximum of $2,000;

(3) $25 per lead acid battery governed by section 115A.915 up to a maximum of $2,000;

(4) $1 per pound of other solid waste or $20 per cubic foot up to a maximum of $2,000; and

(5) $200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped from the vehicle, the person or company transporting the waste fails to collect the waste.

Subd. 3. [APPEALS.] *Citations may be appealed under the procedures in section 116.072, subdivision 6, if the person requests a hearing by notifying the commissioner within 15 days after receipt of the citation. If a hearing is not requested within the 15-day period, the citation becomes a final order not subject to further review.*

Subd. 4. [ENFORCEMENT OF FIELD CITATIONS.] *Field citations may be enforced under section 116.072, subdivision 9.*

Subd. 5. [CUMULATIVE REMEDY.] *The authority of conservation officers to issue field citations is in addition to other remedies available under statutory or common law, except that the state may not seek penalties under any other provision of law for the incident subject to the citation.*

Sec. 4. Minnesota Statutes 1990, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. [PERMIT FEES.] The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.128 establishing the amounts and methods of collection of any permit fees collected under this subdivision. *The fee schedule must reflect reasonable and routine permitting, implementation, and enforcement costs.* Any money collected under this subdivision shall be deposited in the special revenue account.

Sec. 5. [STUDY OF FIELD CITATION PILOT PROGRAM.]

The pollution control agency, in consultation with the department of natural resources and the attorney general, shall prepare a study on the effectiveness and limitations of the field citation pilot program. The study must make recommendations about the continued use of field citations. The study must be submitted to the legislative commission on waste management by November 15, 1992.

Sec. 6. [STUDY OF THE ROLE OF LOCAL GOVERNMENTAL UNITS IN ENVIRONMENTAL PROGRAMS.]

The pollution control agency shall conduct a study of the role that local

governmental units should play in enforcing the requirements of state environmental programs within the jurisdiction of the pollution control agency. The study must involve representatives of the attorney general, local governmental units, environmental organizations, and businesses. Public meetings must be held in at least four locations in the state prior to the completion of the study. The study must identify which environmental programs, or parts of programs, could be enforced at the local level; criteria for approving local enforcement programs; resources needed to support local enforcement programs; sources of funding to ensure adequate resources are available; the ability of local governmental units to enforce the laws; and the training and testing needs of local governmental units to support enforcement. If the study concludes that additional elements of the state's environmental programs should be enforced by local governmental units, the study report must include a recommended strategy for involving local governmental units in the enforcement of program elements. The strategy must consider methods of maintaining consistent enforcement throughout the state of environmental program elements that may be enforced by local governmental units and methods of avoiding duplicative enforcement activities. The study must be submitted to the committees on environment and natural resources of the legislature by October 1, 1992.

Sec. 7. [REPORT TO THE LEGISLATURE.]

The pollution control agency shall monitor the use of the new enforcement authority provided in the 1991 legislative session and the use of the environmental enforcement account, and after consulting with the attorney general report the results to the legislature by November 15, 1992. The report must also contain recommendations on establishing a permanent system for reporting progress in achieving compliance with environmental laws to the legislature and to the public.

Sec. 8. [REPEALER.]

Section 3 is repealed.

Sec. 9. [EFFECTIVE DATE.]

Section 8 is effective July 1, 1993."

Delete the title and insert:

"A bill for an act relating to the environment; establishing an environmental enforcement account; establishing a field citation pilot project for unauthorized disposal of solid waste; amending Minnesota Statutes 1990, sections 115.072; and 116.07, subdivision 4d; proposing coding for new law in Minnesota Statutes, chapter 115."

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

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 480: A bill for an act relating to the environment; authorizing background investigations of environmental permit applicants; expanding current authority to impose administrative penalties for air and water pollution and solid waste management violations; amending Minnesota Statutes

1990, sections 115.071, by adding a subdivision; 115C.05; and 116.072, subdivisions 1, 2, and 6; proposing coding for new law in Minnesota Statutes, chapter 115.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115.071, is amended by adding a subdivision to read:

Subd. 6. [ADMINISTRATIVE PENALTIES.] *A provision of law that may be enforced under this section may also be enforced under section 116.072.*

Sec. 2. [115.075] [INFORMATION AND MONITORING.]

A person may not:

(1) make a material false statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, manifest, or other document required under section 103F.701 or this chapter or chapter 115A or 116; or

(2) falsify, tamper with, render inaccurate, or fail to install a monitoring device or method required to be maintained or followed for the purpose of compliance with sections 103F.701 to 103F.761 or this chapter or chapter 115A or 116.

Sec. 3. [115.076] [BACKGROUND OF PERMIT APPLICANTS.]

Subdivision 1. [AUTHORITY OF COMMISSIONER.] *The agency may refuse to issue or to authorize the transfer of a hazardous waste facility permit or a solid waste facility permit to construct or operate a commercial waste facility as defined in section 115A.03, subdivision 6, if the agency determines that the permit applicant does not possess sufficient expertise and competence to operate the facility in conformance with the requirements of chapters 115 and 116, or if other circumstances exist that demonstrate that the permit applicant may not operate the facility in conformance with the requirements of chapters 115 and 116. In making this determination, the agency may consider:*

(1) the experience of the permit applicant in constructing or operating commercial waste facilities;

(2) the expertise of the permit applicant;

(3) the past record of the permit applicant in operating commercial waste facilities in Minnesota and other states;

(4) any criminal convictions of the permit applicant in state or federal court during the past five years that bear on the likelihood that the permit applicant will operate the facility in conformance with the requirements of chapters 115 and 116; and

(5) in the case of a corporation or business entity, any criminal convictions in state or federal court during the past five years of any of the permit applicant's officers, partners, or facility managers that bear on the likelihood that the facility will be operated in conformance with the requirements of chapters 115 and 116.

Subd. 2. [INVESTIGATION.] *The commissioner may conduct an investigation to assist in making determinations under subdivision 1. The reasonable costs of an investigation must be paid by the permit applicant.*

Subd. 3. [NOTICE OF PERMIT DENIAL.] *The agency may not refuse to issue or transfer a permit under this section without first providing the permit applicant with the relevant information and with an opportunity to respond by commenting on the information and submitting additional information. The agency shall consider the permit applicant's response prior to making a final decision on the permit.*

Subd. 4. [HEARING.] *If the agency proposes to deny a permit under this section, the permit applicant may request a hearing under chapter 14. The permit applicant may request that the hearing be held under Minnesota Rules, parts 1400.8510 to 1400.8612.*

Sec. 4. Minnesota Statutes 1990, section 115C.05, is amended to read:

115C.05 [CIVIL PENALTY.]

The agency may enforce section 115C.03 using the actions and remedies authorized under ~~section~~ *sections* 115.071, subdivision 3*; and 116.072*. The civil penalties recovered by the state must be credited to the fund.

Sec. 5. Minnesota Statutes 1990, section 116.072, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE PENALTY ORDERS.] The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for ~~hazardous waste~~ violations ~~under sections 115.061 and 116.07, and Minnesota Rules, chapter 7045~~ *of this chapter and chapters 115, 115A, and 115D, any rules promulgated under those chapters, and any standards, limitations, or conditions established in an agency permit; and for failure to respond to a request for information under section 115B.17, subdivision 3*. The order must be issued as provided in this section.

Sec. 6. Minnesota Statutes 1990, section 116.072, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF PENALTY; CONSIDERATIONS.] (a) The commissioner may issue an order assessing a penalty up to $10,000 for all violations identified during an inspection *or other compliance review*.

(b) In determining the amount of a penalty the commissioner may consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the person by allowing or committing the violation; and

(6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(c) For a violation after an initial violation, the commissioner shall, in

determining the amount of a penalty, consider the factors in paragraph (b) and the:

(1) similarity of the most *recent* previous violation and the violation to be penalized;

(2) time elapsed since the last violation;

(3) number of previous violations; and

(4) response of the person to the most *recent* previous violation identified.

Sec. 7. Minnesota Statutes 1990, section 116.072, subdivision 6, is amended to read:

Subd. 6. [EXPEDITED ADMINISTRATIVE HEARING.] (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, *utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612,* to review the commissioner's action. *The hearing request must specifically state the reasons for seeking review of the order.* The person to whom the order is directed and the ~~director~~ *commissioner* are the parties to the expedited hearing. The commissioner must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under ~~the conference contested case rules of the office of administrative hearings~~ *Minnesota Rules, parts 1400.8510 to 1400.8612*, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's action to the commissioner within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner on the recommendations and the commissioner will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69.

If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Sec. 8. Minnesota Statutes 1990, section 116.072, subdivision 10, is amended to read:

Subd. 10. [REVOCATION AND SUSPENSION OF PERMIT.] If a person fails to pay a penalty owed under this section, the agency has grounds to revoke or refuse to reissue or renew a ~~hazardous waste~~ permit issued by the agency.

Sec. 9. Minnesota Statutes 1990, section 116.072, subdivision 11, is amended to read:

Subd. 11. [CUMULATIVE REMEDY.] The authority of the agency to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, *except that the state may not seek penalties under any other provision of law for the violations covered by the administrative penalty order*. The payment of a penalty does not preclude the use of other enforcement provisions *under which penalties are not assessed* in connection with the violation for which the penalty was assessed.

Sec. 10. [116.90] [CITIZEN REPORTS OF ENVIRONMENTAL VIOLATIONS.]

The agency shall maintain and publicize a toll-free number to enable citizens to report information about potential environmental violations. The agency may establish a program to pay awards from funds raised from private sources to persons who provide information that leads to the conviction for an environmental crime.

Sec. 11. [PLAN FOR USE OF ADMINISTRATIVE PENALTY ORDERS.]

The commissioner shall prepare a plan for using the administrative penalty authority in Minnesota Statutes, section 116.072. The commissioner shall provide a 30-day period for public comment on the plan. The plan must be submitted to the agency for approval by October 1, 1991.

Sec. 12. [INSTRUCTION TO REVISOR.]

In Minnesota Statutes 1992 and subsequent editions, the revisor of statutes shall, in each of the following sections, before "115.071" delete "section" and insert "sections" and after "115.071" insert "and 116.072":

18D.325, subdivision 2;

115A.906, subdivision 2;

115A.915;

115A.916;

115A.9561;

116.07, subdivision 4i;

116.83, subdivision 2; and

473.845, subdivision 8."

Delete the title and insert:

"A bill for an act relating to the environment; authorizing background

investigations of environmental permit applicants; expanding current authority to impose administrative penalties for air and water pollution and solid waste management violations; amending Minnesota Statutes 1990, sections 115.071, by adding a subdivision; 115C.05; and 116.072, subdivisions 1, 2, 6, 10, and 11; proposing coding for new law in Minnesota Statutes, chapters 115 and 116."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 546: A bill for an act relating to crimes; environmental enforcement; imposing criminal penalties for knowing violations of standards related to hazardous air pollutants and toxic pollutants in water; providing that certain property is subject to forfeiture in connection with convictions for water pollution and air pollution violations; imposing criminal penalties for unauthorized disposal of solid waste; authorizing prosecution of environmental crimes by the attorney general; providing for environmental restitution as part of a sentence; increasing criminal penalties for false statements on documents related to permits and record keeping; amending Minnesota Statutes 1990, sections 18D.331, subdivision 4; 609.531, subdivision 1; and 609.671.

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

Delete everything after the enacting clause and insert:

"Section 1. [18D.151] [HANDLING AND DISPOSAL OF WASTE AGRICULTURAL CHEMICALS.]

Subdivision 1. [WASTE AGRICULTURAL CHEMICALS.] *(a) Agricultural chemicals not intended for regular use shall be collected, recycled, and reused, including reuse and disposal of agricultural chemicals as provided by the label, land application of soil containing agricultural chemicals, and collection of waste pesticides under section 18B.065.*

(b) The commissioner shall adopt rules prescribing procedures for the storage, handling, transportation, and disposal of waste agricultural chemicals. Waste agricultural chemicals are agricultural chemicals that cannot be recycled or reused, including suspended use agricultural chemicals, canceled use agricultural chemicals, and certain off-specification and adulterated agricultural chemicals that cannot be recycled or reused.

(c) The rules must be consistent with the federal Insecticide, Fungicide, and Rodenticide Act, United States Code, title . . . . . , sections . . . . . et seq., and other federal law.

(d) The commissioner shall establish separate procedures for the storage, handling, transportation, and disposal of: (1) agricultural chemicals for application to land and waters in silvicultural and agricultural practices; (2) agricultural chemicals used for industrial or other commercial purposes; and (3) agricultural chemicals used for residential purposes.

Subd. 2. [HAZARDOUS WASTES.] *Waste agricultural chemicals are*

hazardous wastes under other law if the waste agricultural chemicals are not stored, handled, transported, and disposed as provided in subdivision 1 and would otherwise be hazardous wastes. The commissioner and the commissioner of the pollution control agency shall determine which agricultural chemicals have hazardous waste characteristics, and shall make a list available to registrants and notify users of the agricultural chemicals. The commissioner of agriculture shall administer and enforce provisions of law relating to waste agricultural chemicals that are hazardous wastes under other law.

Sec. 2. Minnesota Statutes 1990, section 18D.331, subdivision 4, is amended to read:

Subd. 4. [DISPOSAL ~~THAT BECOMES~~ *OF* HAZARDOUS WASTE.] A person who knowingly~~, or with reason to know,~~ disposes of an agricultural chemical ~~so that the product becomes hazardous waste~~ *that is a hazardous waste in violation of section 18D.151 and causes an unreasonable adverse effect on the environment* is subject to the penalties in section ~~115.071~~ *609.671, subdivision 4, paragraph (b).*

Sec. 3. Minnesota Statutes 1990, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5317, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter;

(2) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, ~~and~~ 5, *8, and 12*; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 237.73; 617.246; or a gross misdemeanor or felony violation of section 609.891.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 4. Minnesota Statutes 1990, section 609.671, is amended to read:

609.671 [ENVIRONMENT; CRIMINAL PENALTIES.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Agency" means the pollution control agency.

(b) "Deliver" or "delivery" means the transfer of possession of hazardous waste, with or without consideration.

(c) "Dispose" or "disposal" has the meaning given it in section 115A.03, subdivision 9.

(d) *"Hazardous air pollutant" means an air pollutant listed under United States Code, title 42, section 7412(b).*

(e) "Hazardous waste" means any waste identified as hazardous under the authority of section 116.07, subdivision 4, except for those wastes exempted under Minnesota Rules, part 7045.0120, wastes generated under Minnesota Rules, part 7045.0213 or 7045.0304, and household appliances.

~~(e)~~ *(f)* "Permit" means a permit issued by the pollution control agency ~~or interim status for a treatment, storage, or disposal facility~~ *under chapter 115 or 116 or the rules promulgated under those chapters including interim status* for hazardous waste ~~that qualifies under the agency rules~~ *facilities.*

(g) "Solid waste" has the meaning given in section 116.06, subdivision 10.

(h) "Toxic pollutant" means a toxic pollutant on the list established under United States Code, title 33, section 1317.

Subd. 2. [PROOF OF KNOWING STATE OF MIND.] (a) ~~Knowledge possessed by a person other than the defendant but not by the defendant may not be attributed to the defendant. In proving a defendant's actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield the defendant from relevant information.~~

~~(b) Proof of a defendant's reason to know may not consist solely of the fact that the defendant held a certain job or position of management responsibility. If evidence of the defendant's job or position is offered, it must be corroborated by evidence of defendant's reason to know. Corroborating evidence must include evidence that the defendant had information regarding the offense for which the defendant is charged, that the information pertained to hazardous waste management practices directly under the defendant's control or within the defendant's supervisory responsibilities, and that the information would cause a reasonable and prudent person in the defendant's position to learn the actual facts~~ *For purposes of this section, an act is committed knowingly if it is done voluntarily and is not the result of negligence, mistake, accident, or circumstances that are beyond the control of the defendant. Whether an act was knowing may be inferred from the person's conduct, from the person's familiarity with the subject matter in question, or from all of the facts and circumstances connected with the case. Knowledge may also be established by evidence that the person took affirmative steps to shield the person from relevant information. Proof of knowledge does not require that a person knew a particular act or failure to act was a violation of law or that the person had specific knowledge of the regulatory limits or testing procedures involved in*

a case.

(b) Knowledge by a corporate official may be established under paragraph (a) or by proof that the person is a responsible corporate official. To prove that a person is a responsible corporate official, it must be shown that:

(1) the person is an official of the corporation, not merely an employee;

(2) the person has direct control of or supervisory responsibility for the activities, but not solely that the person held a certain job or position in a corporation; and

(3) the person had information regarding the offense for which the defendant is charged that would lead a reasonable and prudent person in the defendant's position to learn the actual facts.

(c) Knowledge by a corporation may be established by showing that an illegal act was performed by an agent acting on behalf of the corporation within the scope of employment and in furtherance of the corporation's business interest, unless a high managerial person with direct supervisory authority over the agent demonstrated due diligence to prevent the crime's commission.

Subd. 3. [~~HAZARDOUS WASTE;~~ KNOWING ENDANGERMENT.] (a) A person is guilty of a felony if the person:

(1) ~~knowingly, or with reason to know, transports, treats, stores, or disposes of hazardous waste in violation of~~ *commits an act described in* subdivision 4 ~~or~~, 5, *8, paragraph (a), or 12*; and

(2) at the time of the violation knowingly places, or has reason to know that the person's conduct places, another person in imminent danger of death, great bodily harm, or substantial bodily harm.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ten years, or to ~~pay~~ *payment of* a fine of not more than $100,000, or both, except that a defendant that is an organization may be sentenced to ~~pay~~ *payment of* a fine of not more than $1,000,000.

Subd. 4. [HAZARDOUS WASTE; UNLAWFUL DISPOSAL *OR ABANDONMENT.*] *(a)* A person who knowingly~~, or with reason to know,~~ disposes of *or abandons* hazardous waste or arranges for the disposal of hazardous waste at a location other than one authorized by the pollution control agency or the United States Environmental Protection Agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to ~~pay~~ *payment of* a fine of not more than $50,000, or both.

(b) A person who knowingly disposes of an agricultural chemical in violation of section 18D.151, causes an unreasonable adverse effect on the environment, and the agricultural chemical is a hazardous waste, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $50,000, or both.

Subd. 5. [HAZARDOUS WASTE; UNLAWFUL TREATMENT, STORAGE, TRANSPORTATION, OR DELIVERY; FALSE STATEMENTS.] (a) A person is guilty of a felony who knowingly~~, or with reason to know,~~ does any of the following:

(1) delivers hazardous waste to any person other than a person who is authorized to receive the waste under rules adopted under section 116.07,

subdivision 4, or under United States Code, title 42, sections ~~9601~~ *6921* to ~~9675~~ *6938*;

(2) treats or stores hazardous waste without a permit if a permit is required, or in violation of a material term or condition of a permit held by the person, unless:

(i) the person notifies the agency prior to the time a permit would be required that the person will be treating or storing waste without a permit; or

(ii) for a violation of a material term or condition of a permit, the person immediately notifies the agency issuing the permit of the circumstances of the violation as soon as the person becomes aware of the violation;

(3) transports hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections ~~9601~~ *6921* to ~~9675~~ *6938*;

(4) transports hazardous waste without a manifest as required by the rules under sections 116.07, subdivision 4, and 221.172; *or*

(5) transports hazardous waste without a license required for the transportation of hazardous waste by chapter 221;

~~(6) makes a false material statement or representation, or a material omission, in an application for a permit or license required by chapter 116 or 221 to treat, transport, store, or dispose of hazardous waste; or~~

~~(7) makes a false material statement or representation, or a material omission, in or on a label, manifest, record, report, or other document filed, maintained, or used for the purpose of compliance with chapter 116 or 221 in connection with the generation, transportation, disposal, treatment, or storage of hazardous waste~~.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to ~~pay~~ *payment of* a fine of not more than $25,000, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than five years, or to ~~pay~~ *payment of* a fine of not more than $50,000, or both.

Subd. 6. [NEGLIGENT VIOLATION AS GROSS MISDEMEANOR.] A person who commits any of the acts set forth in subdivision 4 ~~or~~, 5, *or 12* as a result of the person's gross negligence is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to ~~pay~~ *payment of* a fine of not more than $15,000, or both.

Subd. 7. [~~AGGREGATION~~ *PROSECUTION.*] When two or more offenses in violation of ~~subdivision~~ 4 *this section* are committed by the same person in two or more counties within a two-year period, ~~the offenses may be aggregated and~~ the accused may be prosecuted in any county in which one of the offenses was committed.

Subd. 8. [WATER POLLUTION.] (a) *A person is guilty of a felony who knowingly:*

(1) causes the violation of an effluent standard or limitation for a toxic pollutant in a national pollutant discharge elimination system permit or state disposal system permit;

(2) introduces into a sewer system or into a publicly owned treatment

works a hazardous substance that the person knew or reasonably should have known is likely to cause personal injury or property damage; or

(3) except in compliance with all applicable federal, state, and local requirements and permits, introduces into a sewer system or into a publicly owned treatment works a hazardous substance that causes the treatment works to violate an effluent limitation or condition of the treatment works national pollutant discharge elimination system permit.

(b) For purposes of paragraph (a), "hazardous substance" means a substance on the list established under United States Code, title 33, section 1321(b).

(c) A person convicted under paragraph (a) may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $50,000 a day of violation, or both.

(d) A person is guilty of a gross misdemeanor who ~~willfully commits any of the following acts~~ *knowingly*:

(1) violates any effluent standard or limitation, or any water quality standard adopted by the agency;

(2) violates any national pollutant discharge elimination system permit *or state disposal system permit* or any *material* term or condition of the permit;

(3) fails to ~~permit~~ *allow* or carry out any recording, reporting, monitoring, sampling, *or* information ~~entry, access, copying, or other inspection or investigation~~ *gathering* requirement provided for under chapter 115 or~~, with respect to pollution of the waters of the state,~~ chapter 116; or

(4) fails to ~~comply with any~~ *file a discharge monitoring report or other document required for compliance with a* national pollutant discharge elimination system *or state disposal system* filing requirement.

~~(b)~~ *(e)* A person convicted under ~~this subdivision~~ *paragraph (d)* may be sentenced to imprisonment for not more than one year, or to ~~pay~~ *payment of* a fine of not less than $2,500 and not more than ~~$40,000~~ *$25,000* per day of violation, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than two years, or to ~~pay~~ *payment of* a fine of not more than $50,000 per day of violation, or both.

(f) A person is not guilty of a crime under this subdivision if the person notified the pollution control agency as soon as the person discovered the violation and took steps to promptly remedy the violation, unless the violation was intentional.

Subd. 9. [~~INFORMATION AND MONITORING~~ *FALSE STATEMENTS; TAMPERING.*] (a) ~~Except as provided in subdivision 5, paragraph (a), clauses (6) and (7),~~ A person is guilty of a ~~gross misdemeanor~~ *felony* who knowingly:

(1) makes any ~~material~~ *materially* false statement, representation, or certification in ~~any~~*; omits material information from; or alters, conceals, or fails to file or maintain a notice,* application, record, report, plan, *manifest, permit, license,* or other document ~~filed, maintained, or used for the purpose of compliance with~~ *required under* sections 103F.701 to 103F.761~~, or~~*;* chapter 115, *115A,* or~~, with respect to pollution of the waters of the state, chapter~~ 116*; or the hazardous waste transportation requirements of chapter 221*; or

(2) falsifies, tampers with, ~~or~~ renders inaccurate, *or fails to install* any monitoring device or method *required to be* maintained or ~~used~~ *followed* for the purpose of compliance with sections 103F.701 to 103F.761~~,~~ or chapter 115, *115A*, or ~~,~~ ~~with respect to pollution of the waters of the state, chapter~~ 116.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ~~six months~~ *two years*, or to ~~pay~~ *payment of* a fine of not more than ~~$20,000~~ *$10,000* per day of violation, or both.

Subd. 10. [FAILURE TO REPORT A RELEASE OF A HAZARDOUS SUBSTANCE OR AN EXTREMELY HAZARDOUS SUBSTANCE.] (a) A person is, upon conviction, subject to a fine of up to $25,000 or imprisonment for up to two years, or both, who:

(1) is required to report the release of a hazardous substance under United States Code, title 42, section 9603, or the release of an extremely hazardous substance under United States Code, title 42, section 11004;

(2) knows ~~or has reason to know~~ that a hazardous substance or an extremely hazardous substance has been released; and

(3) fails to provide immediate notification of the release of a reportable quantity of a hazardous substance or an extremely hazardous substance to the state emergency response center, or a firefighting or law enforcement organization.

(b) For a second or subsequent conviction under this subdivision, the violator is subject to a fine of up to $50,000 or imprisonment for not more than five years, or both.

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

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

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

Subd. 11. [INFECTIOUS WASTE.] A person who knowingly~~,~~ ~~or with reason to know,~~ disposes of or arranges for the disposal of infectious waste as defined in section 116.76 at a location or in a manner that is prohibited by section 116.78 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $10,000, or both. A person convicted a second or subsequent time under this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $25,000, or both.

Subd. 12. [AIR POLLUTION.] *(a) A person is guilty of a felony who knowingly:*

(1) causes a violation of a national emission standard for a hazardous air pollutant adopted under United States Code, title 42, section 7412; or

(2) causes a violation of an emission standard, limitation, or operational limitation for a hazardous air pollutant established in a permit issued by

the pollution control agency.

(b) A person is not guilty of a crime under this subdivision if the person notified the pollution control agency as soon as the person discovered the violation and took steps to promptly remedy the violation, unless the violation was intentional.

(c) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $50,000 a day of violation, or both.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective August 1, 1991, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; environmental enforcement; imposing criminal penalties for knowing violations of standards related to hazardous air pollutants and toxic pollutants in water; providing that certain property is subject to forfeiture in connection with convictions for water pollution and air pollution violations; imposing criminal penalties for unauthorized disposal of solid waste; authorizing prosecution of environmental crimes by the attorney general; providing for environmental restitution as part of a sentence; increasing criminal penalties for false statements on documents related to permits and record keeping; amending Minnesota Statutes 1990, sections 18D.331, subdivision 4; 609.531, subdivision 1; and 609.671; proposing coding for new law in Minnesota Statutes, chapter 18D."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 3: A bill for an act relating to wetlands; preserving, enhancing, establishing, and restoring wetlands; identifying wetlands; establishing wetland public value criteria; designating priority areas to establish and preserve wetlands; requiring local water plans to include wetlands with high public value; establishing wetland preservation areas; authorizing a tax exemption for wetland preservation areas; establishing a wetland restoration and compensation fund; establishing fees to pay for wetland establishment, preservation, and restoration; requiring permits and providing criteria for alternative uses of wetlands; requiring compensation for denied uses of wetlands; providing authority to establish and restore wetlands on private land; requiring assessment of direct benefits and payment of damages for establishment of wetlands; requiring a report on simplification and coordination of state and federal wetland permitting procedures; amending Minnesota Statutes 1990, sections 97A.475, by adding a subdivision; 103B.155; 103B.231, subdivision 6; 103B.311, subdivision 6; 103G.005, subdivisions 15 and 18; 103G.221; 103G.225; 103G.231; 103G.235; 103G.301, by adding a subdivision; 103I.208, by adding a subdivision; and 272.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 103F; 103G; 116P; and 144.

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

Delete everything after the enacting clause and insert:

"WETLAND PRESERVATION, ENHANCEMENT, RESTORATION, AND ESTABLISHMENT ACT

ARTICLE 1

POLICY

Section 1. [CITATION.]

This act may be cited as the "wetland preservation, enhancement, restoration, and establishment act."

Sec. 2. [103G.236] [POLICY.]

The state shall:

(1) identify and prioritize the importance of wetlands in the state;

(2) promote multiple use of wetlands wherever practical;

(3) ensure that where activities decrease the public value of wetlands the lost public value is replaced;

(4) compensate owners of private wetlands where they are protected for public use;

(5) promote preservation, enhancement, restoration, and establishment of wetlands for water quality, wildlife habitat, floodwater retention, recreational and other uses; and

(6) work cooperatively with private landowners and local governments to implement the policy of this section.

ARTICLE 2

WETLAND IDENTIFICATION, PRIORITIZATION, AND PLANNING

Section 1. Minnesota Statutes 1990, section 103B.155, is amended to read:

103B.155 [STATE WATER AND RELATED LAND RESOURCE PLAN.]

The commissioner of natural resources, in cooperation with other state and federal agencies, regional development commissions, the metropolitan council, local governmental units, and citizens, shall prepare a statewide framework and assessment water and related land resources plan for presentation to the legislature by November 15, 1975, for its review and approval or disapproval. This plan must relate each of the programs of the department of natural resources for specific aspects of water management to the others. The statewide plan must include:

(1) regulation of improvements and land development by abutting landowners of the beds, banks, and shores of lakes, streams, watercourses, and marshes by permit or otherwise to preserve them for beneficial use;

(2) regulation of construction of improvements on and prevention of encroachments in the flood plains of the rivers, streams, lakes, and marshes of the state;

(3) reclamation or filling of wet and overflowed lands;

(4) repair, improvement, relocation, modification or consolidation in whole or in part of previously established public drainage systems within the state;

(5) preservation of wetland areas;

(6) management of game and fish resources as related to water resources;

(7) control of water weeds;

(8) control or alleviation of damages by flood waters;

(9) alteration of stream channels for conveyance of surface waters, navigation, and any other public purposes;

(10) diversion or changing of watercourses in whole or in part;

(11) regulation of the flow of streams and conservation of their waters;

(12) regulation of lake water levels;

(13) maintenance of water supply for municipal, domestic, industrial, recreational, agricultural, aesthetic, wildlife, fishery, or other public use;

(14) sanitation and public health and regulation of uses of streams, ditches, or watercourses to dispose of waste and maintain water quality;

(15) preventive or remedial measures to control or alleviate land and soil erosion and siltation of affected watercourses or bodies of water; ~~and~~

(16) regulation of uses of water surfaces*; and*

(17) identification of high priority regions for wetland preservation, enhancement, restoration, and establishment.

Sec. 2. Minnesota Statutes 1990, section 103B.231, subdivision 6, is amended to read:

Subd. 6. [CONTENTS.] (a) The plan shall:

(1) describe the existing physical environment, land use, and development in the area and the environment, land use, and development proposed in existing local and metropolitan comprehensive plans;

(2) present information on the hydrologic system and its components, including drainage systems previously constructed under chapter 103E, and existing and potential problems related thereto;

(3) state objectives and policies, including management principles, alternatives and modifications, water quality, and protection of natural characteristics;

(4) set forth a management plan, including the hydrologic and water quality conditions that will be sought and significant opportunities for improvement;

(5) describe the effect of the plan on existing drainage systems;

(6) *identify high priority areas for wetland preservation, enhancement, restoration, and establishment and describe any conflicts with wetlands and land use in these areas;*

(7) describe conflicts between the watershed plan and existing plans of local government units;

~~(7)~~ *(8)* set forth an implementation program consistent with the management plan, which includes a capital improvement program and standards and schedules for amending the comprehensive plans and official controls of local government units in the watershed to bring about conformance with the watershed plan; and

~~(8)~~ *(9)* set out a procedure for amending the plan.

(b) The board shall adopt rules to establish standards and requirements for amendments to watershed plans. The rules must include:

(1) performance standards for the watershed plans, which may distinguish between plans for urban areas and rural areas;

(2) minimum requirements for the content of watershed plans and plan amendments, including public participation process requirements for amendment and implementation of watershed plans;

(3) standards for the content of capital improvement programs to implement watershed plans, including a requirement that capital improvement programs identify structural and nonstructural alternatives that would lessen capital expenditures; and

(4) how watershed plans are to specify the nature of the official controls required to be adopted by the local units of government, including uniform erosion control, stormwater retention, and wetland protection ordinances in the metropolitan area.

Sec. 3. Minnesota Statutes 1990, section 103B.311, subdivision 6, is amended to read:

Subd. 6. [SCOPE OF PLANS.] Comprehensive water plans must include:

(1) a description of the existing and expected changes to physical environment, land use, and development in the county;

(2) available information about the surface water, groundwater, and related land resources in the county, including existing and potential distribution, availability, quality, and use;

(3) objectives for future development, use, and conservation of water and related land resources, including objectives that concern water quality and quantity, and sensitive areas, wellhead protection areas, *high priority areas for wetland preservation, enhancement, restoration, and establishment,* and related land use conditions, and a description of actions that will be taken in affected watersheds or groundwater systems to achieve the objectives;

(4) a description of potential changes in state programs, policies, and requirements considered important by the county to management of water resources in the county;

(5) a description of conflicts between the comprehensive water plan and existing plans of other local units of government;

(6) a description of possible conflicts between the comprehensive water plan and existing or proposed comprehensive water plans of other counties in the affected watershed units or groundwater systems;

(7) a program for implementation of the plan that is consistent with the plan's management objectives and includes schedules for amending official

controls and water and related land resources plans of local units of government to conform with the comprehensive water plan, and the schedule, components, and expected state and local costs of any projects to implement the comprehensive water plan that may be proposed, although this does not mean that projects are required by this section; and

(8) a procedure for amending the comprehensive water plan.

Sec. 4. [103G.2363] [WETLAND IDENTIFICATION AND CLASSIFICATION.]

Subdivision 1. [IDENTIFICATION.] *(a) The commissioner of natural resources and the board of water and soil resources shall identify the wetlands in the state using all available information, including existing maps and information developed by federal and state agencies and local government units. The wetlands must be identified by mapping and digitization and the information must be made available to the public on a county basis.*

(b) By February 1, 1993, the commissioner of natural resources shall file with the recorder of each county and with each soil and water conservation district a map showing the location of wetlands in the county and shall publish notice of the availability of the map in an official newspaper of general circulation in each county.

For purposes of this paragraph, "notice" means the following information in 8-point or larger type:

"NOTICE OF AVAILABILITY OF WETLANDS MAPS

Maps showing the location of wetlands in (name of county) county are available from the Minnesota Department of Natural Resources. Persons wishing to obtain further information regarding the maps should contact (name, address, and telephone number of regional contact person at the department) or their local soil and water conservation district office. WETLANDS IDENTIFIED ON THE MAPS ARE SUBJECT TO REGULATION BY THE STATE AND ACTIVITIES AFFECTING THE WETLANDS MAY BE RESTRICTED OR PROHIBITED UNDER RULES TO BE ADOPTED BY THE BOARD OF WATER AND SOIL RESOURCES AND THE DEPARTMENT OF NATURAL RESOURCES. Persons wishing to participate in the rulemaking process should contact (name, address, and telephone number of contact person at the board) or (name, address, and telephone number of contact person at the department).

Persons on whose property wetlands are identified on the maps may appeal the identification to their local soil and water conservation district. For further information contact your local soil and water conservation district office."

(c) A landowner on whose property wetlands are identified on a map published under this subdivision may appeal the identification to the soil and water conservation district where the wetland is located. The appeal must be in a form prescribed by the soil and water conservation district and must be filed within 60 days after publication of the map. Within 60 days after receiving an appeal, the soil and water conservation district shall notify the landowner and the commissioner of natural resources of the district's decision regarding the wetland identification. With notice to the landowner, the commissioner, and the board, the district may delay its decision regarding the wetland identification for an additional 60 days. The

commissioner or the landowner may appeal the decision of the soil and water conservation district to the board of water and soil resources. Within 60 days after receiving an appeal, the board shall notify the landowner and the commissioner of its decision on the wetland identification. With notice to the landowner and the commissioner, the board may delay its decision on the wetland identification for an additional 60 days. The board's decision is final.

Subd. 2. [EFFECT OF WETLAND DESIGNATION.] *The designation of waters of this state as wetlands under subdivision 1:*

(1) does not grant the public additional or greater right of access to the wetlands;

(2) does not diminish the right of ownership or usage of the beds underlying the designated wetlands, except as otherwise provided by law;

(3) does not affect state law forbidding trespass on private lands; and

(4) does not require the commissioner to acquire access to the designated wetlands under section 97A.141.

Subd. 3. [PROPERTY OWNER'S USE OF WETLANDS.] *(a) A property owner may use the bed of wetlands for pasture or cropland during periods of drought if:*

(1) dikes, ditches, tile lines, or buildings are not constructed; and

(2) the agricultural use does not result in the drainage of the wetlands.

(b) A landowner may fill a wetland to accommodate wheeled booms on irrigation devices if the fill does not impede normal drainage.

Subd. 4. [PUBLIC VALUE.] *(a) The board of water and soil resources, in consultation with the commissioner of natural resources, shall adopt rules establishing criteria to determine the public value of wetlands. The rules must consider the public benefit and use of the wetlands and include:*

(1) criteria to determine the benefits of wetlands for water quality, including filtering of pollutants to surface and groundwater, utilization of nutrients that would otherwise pollute public waters, trapping of sediments, and utilization of the wetland as a recharge area for groundwater;

(2) criteria to determine the benefits of wetlands for floodwater retention, including the potential for flooding in the watershed, the value of property subject to flooding, and the reduction in potential flooding by the wetland;

(3) criteria to determine the benefits of wetlands for public recreation, including wildlife habitat, hunting and fishing areas, wildlife breeding areas, wildlife viewing areas, aesthetically enhanced areas, and nature areas;

(4) criteria to determine the benefits of wetlands for commercial uses, including wild rice growing and harvesting and aquiculture; and

(5) criteria to determine the benefits of wetlands for other public uses.

(b) The criteria established under this subdivision must be used to determine the public value of wetlands in the state. The board of water and soil resources, in consultation with the commissioner of natural resources, shall also use the criteria in identifying regions of the state where preservation, enhancement, restoration, and establishment of wetlands would have high

public value. Before the criteria are adopted, the commissioner, in consultation with the board, may identify high priority wetland regions using available information relating to the factors listed in paragraph (a). The board shall notify local units of government with water planning authority of these high priority regions.

Subd. 5. [CLASSIFICATION OF WETLANDS.] *(a) The board of water and soil resources, in consultation with the commissioner of natural resources, shall adopt criteria by rule to classify wetlands according to allowed uses of the wetland, as described in paragraphs (b) to (f). Classes A through D classify wetlands according to their relative public value, with class A wetlands having the highest public value and class D the lowest.*

(b) Class A wetlands are to be preserved and alternative uses are not allowed. Class A wetlands include calcareous fens.

(c) Class B wetlands must be substantially preserved in their present location but alternative uses that do not permanently diminish the public value of the wetlands are allowed.

(d) Alternative uses of class C wetlands are allowed, including uses that permanently diminish the public value of the wetlands, but lost public value must be replaced to an extent greater than the loss.

(e) Alternative uses of class D wetlands are allowed, including uses that permanently diminish the public value of the wetlands, but lost public value must be replaced to an extent at least equal to the loss.

(f) Class E wetlands are wetlands for which the board of water and soil resources is the permitting authority. The board may designate class E wetlands based on the existence of:

(1) issues of statewide or regional importance;

(2) technical issues of particular complexity; or

(3) other factors deemed sufficient by the board.

Subd. 6. [RULEMAKING.] *In adopting the rules required under subdivisions 4 and 5, the commissioner of natural resources shall comply with subdivision 1, paragraph (b), before publishing the proposed rules in the State Register under chapter 14. Before the rules are adopted and no later than March 1, 1993, the proposed rules and any public comments thereon must be submitted to the agriculture and environment committees of the legislature. The rules must not be adopted earlier than 60 days after submittal to the legislature.*

ARTICLE 3

WETLAND PRESERVATION AREAS

Section 1. [103F.6112] [WETLAND PRESERVATION AREAS.]

Subdivision 1. [DEFINITION.] *For purposes of sections 1 to 5, "wetland" has the meaning given in article 6, section 7.*

Subd. 2. [APPLICATION.] *(a) A wetland owner may apply to the county where a wetland is located for designation of a wetland preservation area in a high priority wetland area identified in the county's comprehensive water plan and located within a high priority wetland region designated by the board of water and soil resources. The application must be made on forms provided by the board. If a wetland is located in more than one county,*

the application must be submitted to the county where the majority of the wetland is located.

(b) The application must contain at least the following information and other information the board of soil and water resources requires:

(1) legal description of the area to be approved, which must include an upland strip at least 16-1/2 feet in width around the perimeter of wetlands within the area and may include total upland area of up to four acres for each acre of wetland;

(2) parcel identification numbers where designated by the county auditor;

(3) name and address of the owner;

(4) a witnessed signature of the owner covenanting that the land will be preserved as a wetland and will only be used in accordance with conditions prescribed by the board of water and soil resources; and

(5) a statement that the restrictive covenant will be binding on the owner and the owner's successors or assigns, and will run with the land.

(c) The upland strip required in paragraph (b), clause (1), must be planted with permanent vegetation other than a noxious weed.

(d) For registered property, the owner shall submit the owner's duplicate certificate of title with the application.

Subd. 3. [REVIEW AND NOTICE.] *Upon receipt of an application, the county shall determine if all material required by subdivision 2 has been submitted and, if so, shall determine that the application is complete. The term "date of application" means the date the application is determined to be complete by the county. The county shall send a copy of the application to the county assessor, the regional development commission, where applicable, the board of water and soil resources, and the soil and water conservation district where the land is located. The soil and water conservation district shall prepare an advisory statement of existing and potential preservation problems or conflicts and send the statement to the owner of record and to the county.*

Subd. 4. [RECORDING.] *Within five days of the date of application, the county shall forward the application to the county recorder, with the owner's duplicate certificate of title in the case of registered property. The county recorder shall record the restrictive covenant and return it to the applicant. In the case of registered property, the recorder shall memorialize the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title. The recorder shall notify the county that the covenant has been recorded or memorialized.*

Subd. 5. [COMMENCEMENT OF WETLAND PRESERVATION AREA.] *The wetland is a wetland preservation area commencing 30 days from the date the county determines the application is complete under subdivision 3.*

Subd. 6. [FEE.] *The county may require an application fee, not to exceed $50.*

Subd. 7. [MAPS.] *The board of water and soil resources shall maintain wetland preservation area maps illustrating land covenanted as wetland preservation areas.*

Sec. 2. [103F.6113] [DURATION OF WETLAND PRESERVATION

AREA.]

Subdivision 1. [GENERAL.] *A wetland preservation area continues in existence until the owner initiates expiration as provided in this section. The date of expiration must be at least eight years from the date of notice under this section.*

Subd. 2. [TERMINATION BY OWNER.] *The owner may initiate expiration of a wetland preservation area by notifying the county on a form prepared by the board of water and soil resources and made available in each county. The notice must describe the property involved and must state the date of expiration. The notice may be rescinded by the owner during the first two years following notice.*

Subd. 3. [NOTICE AND RECORDING; TERMINATION.] *When the county receives notice under subdivision 2, the county shall forward the original notice to the county recorder for recording and shall notify the regional development commission, where applicable, the board of water and soil resources, and the county soil and water conservation district of the date of expiration. The benefits and limitations of the wetland preservation area and the restrictive covenant filed with the application cease on the date of expiration. For registered property, the county recorder shall cancel the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title on the effective date of the expiration.*

Subd. 4. [EARLY EXPIRATION.] *A wetland preservation area may be terminated earlier than as provided in this section only in the event of a public emergency upon petition from the owner or county to the governor. The determination of a public emergency must be made by the governor through executive order under section 4.035 and chapter 12. The executive order must identify the wetland preservation area, the reasons requiring the action, and the date of expiration.*

Sec. 3. [103F.6114] [EMINENT DOMAIN ACTIONS.]

Subdivision 1. [APPLICABILITY.] *An agency of the state, a public benefit corporation, a local government, or any other entity with the power of eminent domain under chapter 117, except a public utility as defined in section 216B.02, a municipal electric or gas utility, a municipal power agency, a cooperative electric association organized under chapter 308A, or a pipeline operating under the authority of the Natural Gas Act, United States Code, title 15, sections 717 to 717z, shall follow the procedures in this section before:*

(1) acquiring land or an easement in land with a total area over ten acres within a wetland preservation area; or

(2) advancing a grant, loan, interest subsidy, or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve structures in areas that are not for agricultural use, that require an acquisition of land or an easement in a wetland preservation area.

Subd. 2. [NOTICE OF INTENT.] *At least 60 days before an action described in subdivision 1, notice of intent must be filed with the environmental quality board containing information and in the manner and form required by the environmental quality board. The notice of intent must contain a report justifying the proposed action, including an evaluation of alternatives that would not affect land within a wetland preservation area.*

Subd. 3. [REVIEW AND ORDER.] *The environmental quality board, in consultation with affected local governments, shall review the proposed action to determine its effect on the preservation and enhancement of wetlands and the relationship to local and regional comprehensive plans. If the environmental quality board finds that the proposed action might have an unreasonable effect on a wetland preservation area, the environmental quality board shall issue an order within the 60-day period under subdivision 2 for the party to refrain from the proposed action for an additional 60 days.*

Subd. 4. [PUBLIC HEARING.] *During the additional 60 days, the environmental quality board shall hold a public hearing concerning the proposed action at a place within the affected wetland preservation area or easily accessible to the wetland preservation area. Notice of the hearing must be published in a newspaper having a general circulation within the area. Individual written notice must be given to the local governments with jurisdiction over the wetland preservation area, the agency, corporation or government proposing to take the action, the owner of land in the wetland preservation area, and any public agency having the power of review or approval of the action.*

Subd. 5. [JOINT REVIEW.] *The review process required in this section may be conducted jointly with any other environmental impact review by the environmental quality board.*

Subd. 6. [SUSPENSION OF ACTION.] *The environmental quality board may suspend an eminent domain action for up to one year if it determines that the action is contrary to wetland preservation and that there are feasible and prudent alternatives that may have a less negative impact on the wetland preservation area.*

Subd. 7. [TERMINATION OF WETLAND PRESERVATION AREA.] *The benefits and limitations of a wetland preservation area, including the restrictive covenant for the portion of the wetland preservation area taken, end on the date title and possession of the property is obtained.*

Subd. 8. [ACTION BY ATTORNEY GENERAL.] *The environmental quality board may request the attorney general to bring an action to enjoin an agency, corporation, or government from violating this section.*

Subd. 9. [EXCEPTION.] *This section does not apply to an emergency project that is immediately necessary for the protection of life and property.*

Sec. 4. [103F.6115] [LIMITATION ON CERTAIN PUBLIC PROJECTS.]

Subdivision 1. [PROJECTS AND ASSESSMENTS PROHIBITED; EXCEPTION.] *Notwithstanding any other law, construction projects for public sanitary sewer systems, public water systems, and new public drainage systems are prohibited in wetland preservation areas. New connections between land or buildings in a wetland preservation area and public projects are prohibited. Land in a wetland preservation area may not be assessed for public projects built in the vicinity of the wetland preservation area.*

Subd. 2. [EXCEPTION; OWNER OPTION.] *Subdivision 1 does not apply to public projects if the owner of the wetland preservation area elects to use and benefit from a public project.*

Sec. 5. [103F.6116] [SOIL CONSERVATION PRACTICES.]

An owner of a wetland preservation area shall manage the area and

surrounding upland areas with sound soil conservation practices that prevent excessive soil loss according to the model ordinance adopted by the board of water and soil resources. The model ordinance and soil loss provisions under sections 103F.401 to 103F.455 relating to soil loss apply to all upland areas within a wetland preservation area and to surrounding upland areas. A sound soil conservation practice prevents excessive soil loss or reduces soil loss to the most practicable extent.

Sec. 6. Minnesota Statutes 1990, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

(1) all public burying grounds;

(2) all public schoolhouses;

(3) all public hospitals;

(4) all academies, colleges, and universities, and all seminaries of learning;

(5) all churches, church property, and houses of worship;

(6) institutions of purely public charity except parcels of property containing structures and the structures described in section 273.13, subdivision 25, paragraph (c), clauses (1), (2), and (3), or paragraph (d);

(7) all public property exclusively used for any public purpose;

(8) except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d), shall be exempt.

The following personal property shall be taxable:

(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) Personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, and real property which is used primarily for abatement and control of air, water, or land pollution as part of an agricultural operation or as part of an electric generation system. For purposes of this clause, personal property includes

ponderous machinery and equipment used in a business or production activity that at common law is considered real property.

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules, or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means ~~(1)~~ land ~~described in section 103G.005, subdivision 18, or (2) land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice. "Wetlands" shall include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands. "Wetlands" shall not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms~~ *in a wetland preservation area under sections 1 to 5*. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause. Upon receipt of an application for the exemption provided in this clause for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated

exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility, or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 103G.535.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band.

An exemption provided by clause (15) shall apply for a period not to exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

(18) Electric power distribution lines and their attachments and appurtenances, that are used primarily for supplying electricity to farmers at retail.

(19) Transitional housing facilities. "Transitional housing facility" means a facility that meets the following requirements. (i) It provides temporary housing to parents and children who are receiving AFDC or parents of children who are temporarily in foster care. (ii) It has the purpose of reuniting families and enabling parents to obtain self-sufficiency, advance their education, get job training, or become employed in jobs that provide a living

wage. (iii) It provides support services such as child care, work readiness training, and career development counseling; and a self-sufficiency program with periodic monitoring of each resident's progress in completing the program's goals. (iv) It provides services to a resident of the facility for at least six months but no longer than three years, except residents enrolled in an educational or vocational institution or job training program. These residents may receive services during the time they are enrolled but in no event longer than four years. (v) It is sponsored by an organization that has received a grant under either section 256.7365 for the biennium ending June 30, 1989, or section 462A.07, subdivision 15, for the biennium ending June 30, 1991, for the purposes of providing the services in items (i) to (iv). (vi) It is sponsored by an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1987. This exemption applies notwithstanding the fact that the sponsoring organization receives financing by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency under the provisions of either Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant to it, and notwithstanding the fact that the sponsoring organization receives funding under Section 8 of the United States Housing Act of 1937, as amended.

Sec. 7. [WETLANDS EXEMPTION; REPLACEMENT OF REVENUE.]

Subdivision 1. [CERTIFICATION.] *The total amount of revenue lost as a result of the exemption provided in Minnesota Statutes, section 272.02, subdivision 1, paragraph (10), must be certified by the county auditor to the commissioner of revenue and submitted to the commissioner as part of the abstract of tax lists to be filed with the commissioner under the provisions of Minnesota Statutes, section 275.29. The amount of revenue lost as a result of the exemption must be computed each year by applying the current tax rates of the taxing jurisdictions in which the wetlands are located to the assessed valuation of the wetlands for purposes of taxes levied beginning in 1991. Payment to the county for lost revenue must not be less than the revenue that would have been received in taxes if the wetlands had an assessed value of $5 per acre. The commissioner of revenue shall review the certification for accuracy and may make necessary changes or return the certification to the county auditor for corrections.*

Subd. 2. [PAYMENT.] *Based on current year tax data reported in the abstracts of tax lists, the commissioner of revenue shall annually determine the taxing district distribution of the amounts certified under subdivision 1. The commissioner shall pay to each taxing district, other than school districts, its total payment for the year in equal installments on or before July 15 and December 15 of each year.*

Subd. 3. [APPROPRIATION.] *There is appropriated from the general fund to the commissioner of revenue the amount necessary to make the payments required in subdivision 2.*

Subd. 4. [DEDUCTION.] *The total exemption allowed by subdivision 1 must be deducted from the gross property tax before determination of the homestead credit provided by Minnesota Statutes, section 273.13, subdivisions 22 and 23, and the taconite homestead credit provided in Minnesota Statutes, section 273.135.*

ARTICLE 4

WETLAND PRESERVATION, ENHANCEMENT, RESTORATION, AND ESTABLISHMENT FUND

Section 1. [103F.6111] [WETLAND PRESERVATION, ENHANCEMENT, RESTORATION, AND ESTABLISHMENT PROGRAM.]

Subdivision 1. [FUND ADMINISTRATION.] *The board of water and soil resources shall administer amounts appropriated from the wetland preservation, enhancement, restoration, and establishment fund. The board shall prepare a budget plan for allocations for:*

(1) compensation to landowners;

(2) establishment of new wetlands;

(3) restoration of wetlands; and

(4) enhancement and preservation of existing wetlands.

Subd. 2. [PRIORITY PLAN.] *By November 1 of each even-numbered year, the commissioners of health, natural resources, and the pollution control agency shall jointly submit a plan to the board of water and soil resources identifying high priority areas for preservation, enhancement, restoration, and establishment of wetlands. The board shall utilize the plan in making allocations of money appropriated from the wetland preservation, enhancement, restoration, and establishment fund.*

Subd. 3. [APPLICATIONS.] *(a) Public and private entities may apply to the board of water and soil resources for grants and cost sharing to preserve, enhance, restore, and establish wetlands. Applications must be made on forms prescribed by the board.*

(b) The board of water and soil resources shall give preference to applications for projects that would preserve, enhance, restore, or establish wetlands with the highest public value and to assessments by wetland authorities against the state.

Sec. 2. [103F.614] [WETLAND PRESERVATION, ENHANCEMENT, RESTORATION, AND ESTABLISHMENT FUND.]

Subdivision 1. [ESTABLISHMENT.] *A wetland preservation, enhancement, restoration, and establishment fund is established in the state treasury.*

Subd. 2. [REVENUE SOURCES.] *(a) The fund consists of:*

(1) receipts from the Minnesota environment and natural resources trust fund as provided by law; and

(2) other appropriations and funds designated to be credited to the fund.

(b) Accounts must be maintained for each revenue source.

Subd. 3. [EXPENDITURES.] *Money in the fund may only be spent for:*

(1) compensation to landowners for restricted uses of wetlands;

(2) compensation to landowners for land used to restore or establish wetlands; and

(3) preservation, enhancement, restoration, and establishment of wetlands.

Sec. 3. [116P.14] [WETLAND ACCELERATION.]

Subdivision 1. [PURPOSE.] *Due to the overwhelming public need and support for preservation, enhancement, restoration, and establishment of wetlands, the legislature finds that an acceleration program is necessary and must receive priority funding from the trust fund proceeds and money deposited in the Minnesota future resources fund under section 116P.13.*

Subd. 2. [TRANSFER TO WETLAND FUND.] *Notwithstanding sections 116P.11 and 116P.13, $15,000,000 each fiscal year until June 30, 2001, must be transferred from the proceeds of the trust fund and the Minnesota future resources fund and credited to the wetland preservation, enhancement, restoration, and establishment fund as follows:*

(1) the first $15,000,000 of proceeds available each fiscal year to fund projects under section 116P.11; and

(2) from the amount credited to the Minnesota future resources fund under section 116P.13, any additional amount needed so that $15,000,000 each fiscal year is credited under this section to the wetland preservation, enhancement, restoration, and establishment fund.

ARTICLE 5

WETLAND ESTABLISHMENT AND RESTORATION PROGRAM

Section 1. [103F.901] [FINDINGS.]

The legislature finds that the disappearance of wetlands has caused and will continue to cause adverse effects on the health and general welfare of the people of the state. The establishment and restoration of wetlands: improves public health and potable water by purifying and filtering surface run-off and water that recharges aquifers; is a public benefit by retaining surface water and sediments that would cause downstream flooding, sedimentation, and further soil erosion; and improves the public welfare by providing wildlife habitat and recreational opportunities for the people of this state.

Sec. 2. [103F.902] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to sections 1 to 63.*

Subd. 2. [AFFECTED.] *"Affected" means benefited or damaged by a wetland system proposed to be established or established under this chapter.*

Subd. 3. [AUDITOR.] *"Auditor" means the county auditor of a county where the proceeding is located.*

Subd. 4. [COMMISSIONER.] *"Commissioner" means the commissioner of natural resources.*

Subd. 5. [COUNTY BOARD.] *"County board" means the county board of the county where the proceeding is located.*

Subd. 6. [DRAINAGE AUTHORITY.] *"Drainage authority" has the meaning given under section 103E.005, subdivision 9.*

Subd. 7. [ENGINEER.] *"Engineer" means a professional engineer registered under state law.*

Subd. 8. [ESTABLISHED.] *"Established" means the wetland authority has made the order to develop and preserve the wetland system.*

Subd. 9. [PROCEEDING.] *"Proceeding" means a procedure under this*

chapter to establish a wetland system.

Subd. 10. [PROPERTY.] *"Property" means real property.*

Subd. 11. [WATERSHED.] *"Watershed" means one of the 81 major watershed units delineated by the map, "State of Minnesota Watershed Boundaries - 1979."*

Subd. 12. [WETLAND.] *"Wetland" means land that is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. A wetland:*

(1) at least periodically supports hydrophytes;

(2) the substrate is predominantly undrained hydric soil; or

(3) the substrate is nonsoil and is saturated with water at some time during the growing season.

Subd. 13. [WETLAND AUTHORITY.] *"Wetland authority" means a county board, joint county board, drainage authority, or the board of managers of a watershed district that have jurisdiction over the property affected by a wetland system.*

Subd. 14. [WETLAND SYSTEM.] *"Wetland system" means one or more wetlands and adjoining areas established or to be established for a common purpose.*

Sec. 3. [103F.903] [WETLAND AUTHORITY POWERS.]

Subdivision 1. [GENERALLY.] *The wetland authority may make orders to:*

(1) acquire, construct, and maintain wetland systems;

(2) deepen, widen, straighten, or change the channel or bed of a natural waterway that is part of the drainage system or is located at the outlet of a drainage system;

(3) change the course of a drainage system;

(4) impound the waters from a drainage system; and

(5) construct necessary dikes, dams, and control structures and power appliances, pumps, and pumping machinery as provided by law.

Subd. 2. [PERMISSION OF COMMISSIONER FOR WORK IN PUBLIC WATERS; APPLICATION.] *(a) The wetland authority must receive permission from the commissioner to:*

(1) remove, construct, or alter a dam affecting public waters; or

(2) establish, raise, or lower the level of public waters.

(b) The petitioners for a proposed wetland system or the wetland authority may apply to the commissioner for permission to do work in public waters or for the determination of public waters status of a water body or watercourse.

Sec. 4. [103F.904] [CONSIDERATIONS BEFORE WETLANDS ARE ESTABLISHED.]

Subdivision 1. [ENVIRONMENTAL AND LAND USE CRITERIA.] *Before establishing a wetland system the wetland authority must consider:*

(1) private and public benefits and damages of the proposed wetland

system;

(2) the present and anticipated agricultural land acreage availability and use in the wetland system area;

(3) the present and anticipated land use within the wetland system area;

(4) flooding characteristics of property in the wetland system;

(5) the waters to be affected and alternative measures to conserve, allocate, and develop the waters;

(6) the effect on water quality of constructing the proposed wetland system;

(7) fish and wildlife resources affected by the proposed wetland system;

(8) shallow groundwater availability, distribution, and use in the wetland system;

(9) the public value of the wetland system; and

(10) the overall environmental impact of all the above criteria.

Subd. 2. [DETERMINING PUBLIC UTILITY, BENEFIT, OR WELFARE.] *In a proceeding to establish a wetland system, the wetland authority having jurisdiction of the proceeding must give proper consideration to conservation of soil, water, forests, wild animals, and related natural resources, and to other public interests affected, together with other material matters as provided by law in determining whether the project will be of public utility, benefit, or welfare.*

Subd. 3. [PRIVATE PROPERTY OWNERS.] *The wetland authority must consider the effects on private property owners affected by the wetland system.*

Sec. 5. [103F.905] [BUFFER ZONES.]

Subdivision 1. [ESTABLISHMENT.] *In any proceeding to establish, construct, improve, or do any work affecting a wetland system, the wetland authority shall order that permanent vegetation, other than a noxious weed, be planted on a strip at least 16-1/2 feet in width around the perimeter of the wetland system. The acreage and additional property required for the planting must be acquired by the wetland authority.*

Subd. 2. [HARVESTING GRASS.] *Harvest of the grass from the grass strip in a manner not harmful to the grass or the wetland system is the privilege of the fee owner or assigns. The wetland authority shall establish rules for the fee owner and assigns to harvest the grass.*

Subd. 3. [AGRICULTURAL PRACTICES PROHIBITED.] *Agricultural practices, other than those required for the maintenance of a permanent growth of grass, are not permitted on any portion of the property acquired for planting.*

Subd. 4. [WORK BY WETLAND AUTHORITY.] *If a property owner does not bring an area into compliance with this section, the wetland authority shall issue an order to have the work performed to bring the property into compliance. After the work is completed, the wetland authority shall send a statement of the expenses incurred to bring the property into compliance to the auditor of the county where the property is located and to the property owner.*

Subd. 5. [COLLECTION OF EXPENSES.] *(a) The amount of the expenses*

to bring an area into compliance with this section is a lien in favor of the wetland authority against the property where the expenses were incurred. The auditor shall certify the expenses and enter the amount in the same manner as drainage liens on the tax list for the following year. The amount must be collected in the same manner as real estate taxes for the property. The provisions of law relating to the collection of real estate taxes shall be used to enforce payment of amounts due under this section. The auditor must include a notice of collection of compliance expenses with the tax statement.

(b) The amounts collected under this subdivision must be deposited in the wetland system account.

Sec. 6. [103F.906] [DEFECTIVE NOTICE.]

If notice is required under this chapter and proper notice has been given to some parties but the notice is defective or not given to other parties, the wetland authority has jurisdiction of all parties that received proper notice. The proceedings may be continued by order of the wetland authority for the time necessary to publish, post, or mail a new notice. The new notice need only be given to those not properly notified by the first notice.

Sec. 7. [103F.907] [PERSONAL SERVICE IN LIEU OF OTHER METHODS OF NOTICE.]

If notice is to be given under this chapter, personal service at least ten days before the date of hearing may be given in lieu of the manner provided. The notice must be served in the manner provided for the service of summons in a civil action in district court.

Sec. 8. [103F.908] [FAILURE OF WETLAND AUTHORITY TO ATTEND HEARINGS.]

If an order has been made and notice for a hearing given under this chapter, and the wetland authority does not appear at the time and place specified for any reason, the auditor shall continue the hearing to a date set by the auditor. The auditor shall notify the wetland authority of the continuance and the date of hearing. The jurisdiction is continued until the date set by the auditor.

Sec. 9. [103F.909] [DEFECTIVE PROCEEDINGS.]

(a) A party may not take advantage of an error in a proceeding or an informality, error, or defect appearing in the record of the proceeding or construction, unless the party complaining is directly affected. The modification of the benefits or damages to any property, or the enjoining of collection of any assessment, does not affect any other property or the collection of any assessment on other property.

(b) If a wetland system has been established and a contract awarded in good faith, without collusion, and at a reasonable price:

(1) a defect or lack of notice in awarding, making, or executing the contract does not affect the enforcement of an assessment; and

(2) if the contract is performed in good faith in whole or in part, a defect does not invalidate the contract.

Sec. 10. [103F.910] [RIGHT OF ENTRY.]

In proceedings under this chapter, the wetland authority, the engineer, the engineer's assistants, the appraisers, and the appraisers' assistants may

enter any property to make a survey, examine the property, or estimate the benefits and damages.

Sec. 11. [103F.911] [ATTORNEY.]

(a) An attorney shall represent the wetland authority in all wetland proceedings and related matters.

(b) A county attorney, the county attorney's assistant, or any attorney associated with the county attorney in business, may not otherwise appear in a wetland proceeding for an interested person.

Sec. 12. [103F.912] [ALTERATION OR DAMAGE OF WETLAND SYSTEM.]

Subdivision 1. [NOTIFICATION TO RESPONSIBLE PARTY.] *If the wetland authority determines that a wetland system has been altered or damaged, the wetland authority shall notify the person or public authority responsible for the alteration or damage as soon as possible and direct the responsible party to remove the cause of the alteration or damage or show the wetland authority why the cause of the alteration or damage should not be removed. The wetland authority shall set a time and location in the notice for the responsible person to appear before the wetland authority.*

Subd. 2. [CAUSE OF ALTERATION OR DAMAGE ON PRIVATE PROPERTY.] *If the cause of the alteration or damage is on private property, the owner is responsible unless the owner proves otherwise. The owner must be notified by certified mail at least ten days before the hearing.*

Subd. 3. [CAUSE OF ALTERATION OR DAMAGE HEARING.] *The wetland authority shall hear all interested parties and if the wetland authority determines that the wetland system has been altered or damaged by a person or public authority, the wetland authority shall order the cause of the alteration or damage removed by the responsible party within a reasonable time set in the order. If the cause of the alteration or damage is not removed by the prescribed time, the wetland authority shall have the cause of the alteration or damage removed and the auditor shall make a statement of the removal cost. The statement must be filed in the county recorder's office as a lien on the property where the cause of the alteration or damage is located or against the responsible party. The lien must be enforced and collected as liens for wetland repairs under this chapter, except that a lien may not be filed against private property if the wetland authority determines that the owner of the property is not responsible for the obstruction. The lien may be enforced against the responsible party by civil action.*

Sec. 13. [103F.913] [CRIMES RELATED TO WETLAND SYSTEMS; PENALTIES.]

Subdivision 1. [OBSTRUCTION OR DAMAGE OF A WETLAND SYSTEM.] *A person may not willfully obstruct or damage a wetland system.*

Subd. 2. [ALTERING MARKING OF STAKES.] *A person may not willfully change the location or alter markings of stakes set by the engineer in a wetland system.*

Subd. 3. [PENALTY.] *Violation of this section is a misdemeanor.*

Sec. 14. [103F.914] [ENFORCEMENT.]

Subdivision 1. [WARRANTS AND ARRESTS.] *The commissioner of natural resources, game refuge patrol officers, and conservation officers*

may execute and serve warrants, and arrest persons detected in actual violation of sections 2 to 63 as provided in sections 97A.205 and 97A.211.

Subd. 2. [PROSECUTION.] *The county attorney shall prosecute all criminal actions.*

Sec. 15. [103F.915] [APPEALS.]

Subdivision 1. [GROUNDS FOR APPEAL.] *A party may appeal to the district court from a recorded order of a wetland authority made in a proceeding that determines:*

(1) the amount of benefits;

(2) the amount of damages;

(3) fees or expenses allowed; or

(4) whether the environmental and land use requirements and criteria are met.

Subd. 2. [PROCEDURE FOR APPEALS RELATED TO BENEFITS AND DAMAGES.] *(a) A person who appeals the amount of benefits or damages may include benefits and damages affecting property not owned by the appellant. Notice of the appeal must be served to the auditor and to the owner or occupant of property included in the appeal or to the attorney representing the property owner in the proceedings.*

(b) The appellant must file a notice of appeal with the auditor within 30 days after the order to be appealed is filed. The notice must state the particular benefits or damages appealed and the basis for the appeal. Within 30 days after the notice is filed, the auditor must file the original notice with the court administrator of the district court.

Subd. 3. [PROCEDURE FOR APPEAL RELATED TO ALLOWANCE OF FEES OR EXPENSES.] *An appeal related to the allowance of fees or expenses may be to the district court of any county where the affected property is located. The appeal must be made within 30 days after the order allowing or disallowing the claim and is governed as applicable by the provisions of subdivision 4.*

Subd. 4. [APPEAL TRIAL.] *(a) The issues in the appeal are entitled to a trial by a jury at the next term of the district court after the appeal is filed that is held within the county where the proceeding was pending.*

(b) If the appellant requests, the trial must be held at the next term of the district court of the county where the affected property is located. The court administrator of the district court where the appeal is first filed shall make, certify, and file with the court administrator of the district court of the county where the trial is transferred, a transcript of the papers and documents on file in the court administrator's office in the proceedings related to the matters of the appeal. After the final determination of the appeal, the court administrator of the district court that tried the appeal shall certify and return the verdict to the district court of the county where the proceedings were filed.

(c) The appeal shall take precedence over all other civil court matters. If there is more than one appeal to be tried in one county, the court may, on its own motion or the motion of an interested party, consolidate two or more appeals and try them together, but the rights of the appellants must be determined separately. If the appellant does not prevail, the cost of the

trial must be paid by the appellant.

(d) The court administrator of the district court where the appeal is filed shall file a certified copy of the final determination of the appeal with the auditor of the affected counties.

Subd. 5. [EFFECT OF DETERMINATION.] *For all appeals, the amount awarded by the jury as a determination of the issue appealed shall replace the amount that was appealed.*

Sec. 16. [103F.916] [APPEAL FROM ORDERS DISMISSING OR ESTABLISHING WETLAND SYSTEMS.]

Subdivision 1. [NOTICE OF APPEAL.] *A party may appeal an order made by the wetland authority that dismisses proceedings or establishes or refuses to establish a wetland system to the district court of the county where the proceedings are pending. The appellant must serve notice of the appeal to the auditor within 30 days after the order is filed. After notice of the appeal is served, the appeal may be brought to trial by the appellant or the drainage authority after notifying the other party at least ten days before the trial date.*

Subd. 2. [TRIAL.] *The appeal must be tried by the court without a jury. The court shall examine the entire proceeding and related matters and receive evidence to determine whether the findings made by the wetland authority can be sustained. At the trial the findings made by the wetland authority are prima facie evidence of the matters stated in the findings, and the wetland authority's order is prima facie reasonable. If the court finds that the order appealed is lawful and reasonable, it shall be affirmed. If the court finds that the order appealed is arbitrary, unlawful, or not supported by the evidence, it shall make an order, justified by the court record, to take the place of the appealed order, or remand the order to the wetland authority for further proceedings. After the appeal has been determined by the court, the wetland authority shall proceed in conformity with the court order.*

Subd. 3. [DETERMINATION OF BENEFITS AND DAMAGES AFTER COURT ORDER.] *If the order establishing a wetland system is appealed, the trial of appeals related to benefits or damages in the proceeding must be stayed until the establishment appeal is determined. If the order establishing the wetland system is affirmed, appeals related to benefits and damages must then be tried.*

Subd. 4. [PROCEDURE IF APPEAL ORDER ESTABLISHES WETLAND SYSTEM.] *If an order refusing to establish a wetland system is appealed, and the court, by order, establishes the wetland system, the auditor shall give notice by publication of the filed order. The notice is sufficient if it refers to the wetland system by number or other descriptive designation, states the meaning of the order, and states the date the court order was filed. A person may appeal the establishment order to the district court as provided in this section.*

Subd. 5. [APPEAL OF APPELLATE ORDER.] *A party aggrieved by a final order or judgment rendered on appeal to the district court may appeal as in other civil cases. The appeal must be made and perfected within 30 days after the filing of the order or entry of judgment.*

Sec. 17. [103F.917] [WETLAND PROCEEDING AND CONSTRUCTION RECORDS.]

Subdivision 1. [DOCUMENTS ARE PUBLIC RECORDS.] *All maps, plats, charts, drawings, plans, specifications, and other documents that have been filed, received in evidence, or used in connection with a proceeding or construction are subject to the provisions on public records in section 15.17.*

Subd. 2. [RECORD REQUIREMENTS.] *All maps, plats, profiles, plans, and specifications prepared and used in relation to a proceeding must:*

(1) be uniform;

(2) have each sheet bound and marked to identify the proceeding by the wetland system number;

(3) show the name of the person preparing the sheet;

(4) show the date the sheet was prepared; and

(5) conform to rules and standards prescribed by the director of the division of waters.

Subd. 3. [INDEX OF PROCEEDINGS AND RECORDS.] *The auditor shall keep all orders, exhibits, maps, charts, profiles, plats, plans, specifications, and records of the proceedings. These records may not be removed except when the wetland authority makes a written order to remove them. The auditor shall keep an accurate index of the proceedings and related documents in a bound book.*

Subd. 4. [DOCUMENTS.] *All original plats, profiles, records, and field books made by the engineer during the proceedings or the construction related to a wetland system are public records and the property of the wetland authority. These public records must be filed with the auditor under the direction of the wetland authority when construction is completed or when the engineer stops acting for the wetland system, whichever is earlier.*

Subd. 5. [FILING AND STORAGE FACILITIES.] *County boards shall provide the auditor with necessary filing and storage facilities to protect the files and records of all proceedings. The county boards may provide for the copying and filing of the documents and records of proceedings by photographic devices as provided for public records under section 15.17. In the event of loss of the originals, the photographic copies are originals after authentication by the auditor.*

Subd. 6. [RECORDS ARE PRIMA FACIE EVIDENCE.] *The record of proceedings under this chapter and of orders made by the wetland authority or the district court in the proceedings, or a certified copy of a record or order, is prima facie evidence of the facts stated in the record or order and of the regularity of all proceedings prior to the making of the order.*

PROCEDURE TO ESTABLISH WETLAND SYSTEMS

Sec. 18. [103F.918] [NEW WETLAND SYSTEMS.]

Subdivision 1. [PROCEDURE.] *To establish a wetland system under sections 1 to 63, the petitioners and wetland authority must proceed according to this section and the provisions applicable to establishment of wetland systems.*

Subd. 2. [FILING PETITION AND BOND.] *A petition for a wetland system and a bond must be filed with the auditor. If a wetland system is within two or more counties, the petition must be filed with the auditor of the county with the greatest area of property to be established as a wetland*

system.

Subd. 3. [SIGNATURES ON PETITION.] *(a) The petition must be signed by the wetland authority or 100 owners of affected property within the watershed where the wetland system is to be located and within the jurisdiction of the wetland authority.*

(b) Before signing a petition, the wetland authority shall first attempt to obtain voluntary establishment of the proposed wetland system under other available programs for establishing and restoring wetlands.

Subd. 4. [PETITION REQUIREMENTS.] *The petition must:*

(1) describe the property where the proposed wetland system is to be located;

(2) describe the general course of the watercourses or water basins affecting the proposed wetland system;

(3) state why the proposed wetland system is necessary;

(4) state that the proposed wetland system will benefit and be useful to the public and will promote public health;

(5) state how the proposed wetland system will be financed; and

(6) state that the petitioners will pay all costs of the proceedings, if the proceedings are dismissed or the wetland system is not established and acquired.

Subd. 5. [WITHDRAWAL OF A PETITIONER.] *After a petition has been filed, a petitioner may not withdraw from the petition except with the written consent of all other petitioners on the filed petition.*

Subd. 6. [NOTICE AND HEARING.] *(a) When a petition is filed, the auditor shall promptly notify the wetland authority. The wetland authority shall hold a public hearing on the petition within 30 days after the petition is filed. At least ten days before the hearing, the wetland authority shall give notice of the petition and of the time and location of the hearing by:*

(1) mailing the notice to the petitioners, owners of affected property, and political subdivisions likely to be affected by the proposed wetland system; and

(2) publishing the notice in an official newspaper of general circulation in the county.

(b) At the hearing, the wetland authority shall describe the petitions and hear comments of interested persons regarding it. Copies of the petition must be made available at the hearing.

Sec. 19. [103F.919] [PETITIONER'S BOND.]

One or more petitioners must file a bond with the petition for at least $10,000 that is payable to the county where the petition is filed, or for a petition for a proposed joint county wetland system that is payable to all of the counties named in the petition. The bond must have adequate surety and be approved by the auditor. The bond must be conditioned to pay the costs incurred if the proceedings are dismissed or the wetland system proposed in the petition is not established and acquired.

Sec. 20. [103F.920] [EXPENSES NOT TO EXCEED BOND.]

The costs incurred before the proposed wetland system is established may

not exceed the amount of the petitioner's bond. A claim for expenses greater than the amount of the bond may not be paid unless an additional bond is filed. If the wetland authority determines that the cost of the proceeding will be greater than the petitioner's bond before the proposed wetland system is established, the wetland authority must require an additional bond to cover all costs to be filed within a prescribed time. The proceeding must be stopped until the additional bond prescribed by the wetland authority is filed. If the additional bond is not filed within the time prescribed, the proceeding may be dismissed.

Sec. 21. [103F.921] [DISMISSAL OF PROCEEDINGS BY PETITIONERS.]

A proceeding under this chapter may be dismissed by a majority of the petitioners. The proceeding may be dismissed at any time before the proposed wetland system is established after payment of the cost of the proceeding. The wetland authority shall determine the cost of the proceeding. After the proceeding is dismissed any other action on the proposed wetland system must begin with a new petition.

Sec. 22. [103F.922] [PRELIMINARY SURVEY AND REPORT.]

Subdivision 1. [ORDER FOR SURVEY.] *Within 30 days after the petition to establish a wetland system is filed, the wetland authority shall, by order, direct the soil and water conservation engineer where the wetland system is located to conduct a preliminary survey of the property where the proposed wetland system is to be located.*

Subd. 2. [SURVEY.] *The engineer shall proceed promptly to:*

(1) examine the petition and order;

(2) make a preliminary survey of the area likely to be affected by the proposed wetland system;

(3) determine how the wetland will be affected by the hydrology of the area;

(4) examine and gather information related to determining how the proposed wetland system affects private property owners; and

(5) if the proposed wetland system requires construction, examine the nature and capacity of the inflow, outlet, and any necessary extension.

Subd. 3. [LIMITATION OF SURVEY.] *The engineer shall restrict the preliminary survey to the wetland area described in the petition, except that to secure an outlet the engineer may run levels necessary to determine the distance for the proper fall. The preliminary survey must consider the impact of the proposed wetland system on the environmental and land use criteria in section 4. The wetland authority may have other areas surveyed after:*

(1) giving notice by mail of a hearing to survey additional areas, to be held at least ten days after the notice is mailed, to the petitioners and persons liable on the petitioner's bond;

(2) holding the hearing;

(3) obtaining consent of the persons liable on the petitioner's bond; and

(4) ordering the additional area surveyed by the engineer.

Subd. 4. [PRELIMINARY SURVEY REPORT.] *The engineer shall report the proposed wetland system plan or recommend a different practical plan.*

The report must give sufficient information, in detail, to inform the wetland authority on issues related to feasibility, and show changes necessary to make the proposed plan practicable and feasible. If the engineer finds the proposed wetland system in the petition is feasible and complies with the environmental and land use criteria in section 4, the engineer shall include in the preliminary survey report a preliminary plan of the proposed wetland system showing the proposed wetland area to be acquired, the watershed of the wetland system, and the property likely to be affected and its known owners. The plan must show:

(1) the controlling elevations of the property likely to be affected referenced to standard sea level datum, if practical;

(2) the probable size and character of the construction necessary to make the plan practicable and feasible;

(3) the probable cost of the improvements shown on the plan;

(4) all other information and data necessary to disclose the practicability, necessity, and feasibility of the proposed wetland system;

(5) consideration of the project under the environmental and land use criteria in section 4; and

(6) other information as ordered by the wetland authority.

Sec. 23. [103F.923] [WETLAND SYSTEM IN TWO OR MORE COUNTIES.]

Subdivision 1. [DESIGNATION.] *A petition for a proposed wetland system in the jurisdiction of two or more wetland authorities must be designated as a joint wetland system with a number assigned by the auditor of the county with the largest area of property in the wetland system.*

Subd. 2. [JOINT WETLAND AUTHORITY.] *The wetland authority where a petition for a proposed joint wetland system is filed shall notify the wetland authority of each jurisdiction where property is affected by the wetland system and request the wetland authorities to meet jointly and consider the petition. The wetland authorities shall select five of their members at the meeting to be the joint wetland authority. At least one member must be from each county. The wetland authority shall be known as the joint wetland authority with a joint wetland system number. A vacancy in the membership of the joint wetland authority must be filled by joint action of the boards.*

Sec. 24. [103F.924] [FILING PRELIMINARY SURVEY REPORT.]

The engineer shall file the completed preliminary survey report in duplicate with the auditor. The auditor shall send one copy of the report to the director of the division of waters and the director of the division of fish and wildlife. If the proposed wetland system involves a joint wetland system, a copy of the report must be filed with the auditor of each affected county.

Sec. 25. [103F.925] [COMMISSIONER'S PRELIMINARY ADVISORY REPORT.]

The commissioner shall make a preliminary advisory report to the wetland authority with an opinion about the adequacy of the preliminary survey report. The commissioner shall state any additional investigation and evaluation that should be done, the public value of the wetland system, and the environmental and land use criteria, and shall cite specific portions of the

preliminary survey report that are inadequate. The commissioner shall also indicate the potential benefits and damages to fish and wildlife by establishing the wetland system. The commissioner shall file an initial preliminary advisory report with the auditor before the date of the preliminary hearing. The commissioner may request additional time for review and evaluation of the preliminary survey report if additional time is necessary for proper evaluation. A request for additional time for filing the commissioner's preliminary advisory report may not be made more than five days after the date of the notice by the auditor that a date is to be set for the preliminary hearing. An extension of time may not exceed two weeks after the date of the request.

Sec. 26. [103F.926] [PRELIMINARY HEARING.]

Subdivision 1. [NOTICE.] *When the preliminary survey report is filed, the auditor shall promptly notify the wetland authority. The wetland authority in consultation with the auditor shall set a time, by order, not more than 30 days after the date of the order, for a hearing on the preliminary survey report. At least ten days before the hearing, the wetland authority after consulting with the auditor shall give notice by mail of the time and location of the hearing to the petitioners, owners of property, and political subdivisions likely to be affected by the proposed wetland system in the preliminary survey report.*

Subd. 2. [HEARING.] *The engineer shall attend the preliminary hearing and provide necessary information. The petitioners and all other interested parties may appear and be heard. The commissioner's advisory report on the preliminary plan must be publicly read and included in the record of proceedings.*

Subd. 3. [SUFFICIENCY OF PETITION.] *(a) The wetland authority shall first examine the petition and determine if it meets the legal requirements.*

(b) If the petition does not meet the legal requirements of this chapter, the hearing shall be adjourned and the petition referred back to the petitioners. The petitioners, by unanimous action, may amend the petition. The petitioners may obtain signatures.

(c) If at the adjourned hearing the petition does not meet the legal requirements, the proceedings must be dismissed.

Subd. 4. [DISMISSAL.] *(a) The wetland authority shall dismiss the proceedings if it determines that:*

(1) the proposed wetland system is not feasible;

(2) the adverse environmental impact is greater than the public benefit and utility after considering the environmental and land use criteria and the engineer has not reported a plan to make the proposed wetland system feasible and acceptable; or

(3) the proposed wetland system is not of public benefit or utility.

(b) If the proceedings are dismissed, any other action on the proposed wetland system must begin with a new petition.

Subd. 5. [FINDINGS AND ORDER.] *(a) The wetland authority shall state, by order, its findings, a proposed financing plan, and any changes that must be made in the proposed wetland system from those outlined in the petition, including changes necessary to minimize or mitigate adverse*

impact on the environment, if it determines that:

(1) the proposed wetland system outlined in the petition, or modified and recommended by the engineer, is feasible;

(2) there is necessity for the proposed wetland system; and

(3) the proposed wetland system will be of public benefit and promote the public health, after considering the environmental and land use criteria.

(b) Changes may be stated by describing them in general terms or filing a map that outlines the changes in the proposed wetland system with the order. The order and accompanying documents must be filed with the auditor.

Subd. 6. [EFFECT OF FINDINGS.] *(a) For all further proceedings, the order modifies the petition and the order must be considered with the petition.*

(b) The findings and order of the wetland authority at the preliminary hearing are conclusive only for the signatures and legal requirements of the petition, the nature and extent of the proposed plan, and the need for a detailed survey, and only for the persons or parties shown by the preliminary survey report as likely to be affected by the proposed wetland system. All questions related to the practicability and necessity of the proposed wetland system are subject to additional investigation and consideration at the final hearing.

Sec. 27. [103F.927] [ORDER FOR DETAILED SURVEY AND DETAILED SURVEY REPORT.]

When the preliminary hearing order is filed with the auditor, the wetland authority shall order the engineer to make a detailed survey with plans and specifications for the proposed wetland system and submit a detailed survey report to the wetland authority as soon as possible.

Sec. 28. [103F.928] [DETAILED SURVEY.]

Subdivision 1. [SURVEY AND EXAMINATION.] *When an order for a detailed survey is filed, the engineer shall proceed to survey the lines of the proposed wetland system in the preliminary hearing order, and survey and examine affected property.*

Subd. 2. [SURVEY REQUIREMENTS.] *All boundary lines must be surveyed in 100-foot stations and elevations must be based on standard sea level datum, if practical. Bench marks must be established on permanent objects along the boundary line, not more than one mile apart. Field notes made by the engineer must be entered in bound field books and preserved by the engineer until they are filed with the auditor.*

Sec. 29. [103F.929] [VARIANCE FROM WETLAND AUTHORITY ORDER.]

In planning a proposed wetland system, the engineer may vary from the plan described by the preliminary hearing order if the property likely to be assessed in the proposed wetland system has not been included.

Sec. 30. [103F.930] [SOIL SURVEY.]

The engineer shall make a soil survey if: (1) the wetland authority orders a soil survey; (2) the commissioner requests a soil survey; or (3) the engineer determines a soil survey is necessary. The soil survey must show the nature and character of the soil in the proposed wetland area and include the district board's findings from the soil survey. The report on the soil survey

must be included in the detailed survey report or reported and filed separately before the final hearing.

Sec. 31. [103F.931] [DETAILED SURVEY REPORT.]

Subdivision 1. [REPORT AND INFORMATION REQUIRED.] *The engineer shall prepare a detailed survey report that includes the data and information in this section.*

Subd. 2. [MAP.] *A complete map of the proposed wetland system must be drawn to scale, showing:*

(1) the area to be included in the wetland system;

(2) the location and situation of the outlet;

(3) the watershed of the proposed wetland system and the subwatershed of wetlands, if any, with the location of existing highway bridges and culverts;

(4) all property affected, with the names of the known owners;

(5) public roads and railways affected;

(6) the outline of any lake basin, wetland, or public water body affected;

(7) areas of groundwater recharge affected by the proposed wetland system;

(8) areas where flooding will be reduced due to surface water retention by the wetland;

(9) areas where fish and wildlife habitat will be improved;

(10) areas where water quality will be improved due to the existence of the wetland;

(11) areas that use water flowing through the wetland as a potable water supply; and

(12) other physical characteristics of the watershed necessary to understand the proposed wetland system.

Sec. 32. [103F.932] [FILING DETAILED SURVEY REPORT.]

The engineer must file the detailed survey report with the auditor where the proceedings are pending and the auditor must deliver a copy of the detailed survey report to the commissioner. The engineer must also file copies of the detailed survey report with the auditors of any affected counties.

Sec. 33. [103F.933] [REVISION OF DETAILED SURVEY REPORT AFTER ACCEPTANCE.]

After the final acceptance of the proposed wetland system, the engineer shall revise the plan, profiles, and designs of structures to show the project as actually constructed on the original tracings. The engineer shall file the revised detailed survey report with the auditor. The auditor shall forward the original or a copy to the director as a permanent record.

Sec. 34. [103F.934] [COMMISSIONER'S FINAL ADVISORY REPORT.]

(a) The commissioner shall examine the detailed survey report and within 30 days of receipt make a final advisory report to the wetland authority. The final advisory report must state whether the commissioner:

(1) finds the detailed survey report is incomplete and not in accordance with the provisions of this chapter, specifying the incomplete or nonconforming provisions;

(2) approves the detailed survey report as an acceptable plan to establish a wetland system;

(3) does not approve the plan and recommendations for changes;

(4) finds the proposed wetland system is not of public benefit or utility under the environmental and land use criteria, specifying the facts and evidence supporting the findings; or

(5) finds a soil survey is needed, and, if needed, makes a request to the engineer to make a soil survey.

(b) The commissioner shall direct the final advisory report to the wetland authority and file it with the auditor.

Sec. 35. [103F.935] [APPRAISERS' APPOINTMENT AND QUALIFICATION.]

Subdivision 1. [APPOINTMENT.] *When the order for a detailed survey is made, the wetland authority shall, by order, appoint appraisers consisting of three disinterested persons knowledgeable in wetland values and benefits, hydrology, floodland protection, water use values, and property values. One of the appraisers must be a member of the soil and water conservation district board.*

Subd. 2. [AUDITOR'S ORDER FOR FIRST MEETING.] *Within five days after the detailed survey report is filed, the auditor shall, by order, designate the time and location for the first meeting of the appraisers, and issue a copy to the appraisers of the auditor's order and a certified copy of the order appointing the appraisers.*

Subd. 3. [FIRST MEETING.] *At the first meeting and before beginning their duties, the appraisers shall subscribe to an oath to faithfully perform their duties. If an appointed appraiser does not qualify for any reason, the auditor shall designate another qualified person to take the disqualified appraiser's place.*

Sec. 36. [103F.936] [APPRAISERS' DUTIES.]

The appraisers, with or without the engineer, shall determine the damages and direct benefits to all property and watercourses affected by the proposed wetland system and make an appraisers' report.

Sec. 37. [103F.937] [ASSESSMENT OF BENEFITS AND DAMAGES.]

Subdivision 1. [PRIVATE PROPERTY.] *(a) The wetland authority must assess damages and direct benefits to private property in the wetland system. If establishment of the wetland would convert the property to an entirely different use and restrict the owner's use, the damages must be equal to the current market value of the property or the owner may enter into an agreement with the wetland authority to accept replacement land under paragraph (b).*

(b) If the private property owner enters into an agreement with the wetland authority to accept replacement land, the replacement land must be a functional replacement consisting of land substantially equal in acreage, use, interest, or estate to the private property damaged. If the parties are unable to agree on the designation of the replacement land, the parties may agree

to submit to an arbiter or the district court the issue of which replacement land proposed by the parties is a functional replacement for the property damaged.

Subd. 2. [FLOODWATER RETENTION.] *If the wetland system is designed to retain floodwaters, benefits must be assessed against property protected from flooding.*

Subd. 3. [PUBLIC VALUE BENEFITS.] *The public value benefits of the wetland system must be assessed against the state.*

Subd. 4. [STATE LAND.] *Property owned by the state must have benefits and damages reported in the same manner as other property.*

Subd. 5. [GOVERNMENT PROPERTY.] *The appraisers shall report the benefits and damages to the state, counties, and municipalities from the proposed wetland system.*

Subd. 6. [PUBLIC ROADS.] *If a public road or street is benefited or damaged, the state, county, or political subdivision that is the governmental unit with the legal duty of maintaining the road or street, must be assessed benefits or damages to the road or street, except that benefits and damages for bridges and culverts must be assessed to the governmental unit that has the legal duty to construct and maintain the bridge or culvert.*

Subd. 7. [RAILWAY AND OTHER UTILITIES.] *The appraisers shall report the benefits and damages to railways and other utilities, including benefits and damages to property used for railway or other utility purposes.*

Subd. 8. [EXTENT OF BENEFITS.] *The appraisers shall determine the amount of direct benefits to all property as provided in this section.*

Sec. 38. [103F.938] [APPRAISERS' REPORT.]

Subdivision 1. [REQUIREMENTS.] *The appraisers' report must show, in tabular form, for each lot, 40-acre tract, and fraction of a lot or tract under separate ownership that is benefited or damaged:*

(1) a description of the lot or tract, under separate ownership, that is benefited or damaged;

(2) the names of the owners as they appear on the current tax records of the county;

(3) the number of acres in each tract or lot;

(4) the number and value of acres of a tract or lot added by the proposed wetland system;

(5) the damage, if any, to riparian rights;

(6) the amount that each tract or lot will be benefited or damaged; and

(7) the public value benefits based on criteria adopted under article 2, section 4, subdivision 4.

Subd. 2. [DISAGREEMENT OF APPRAISERS.] *If the appraisers are unable to agree, each appraiser shall separately state findings on the disagreed issue. A majority of the appraisers may perform the required duties under this chapter.*

Subd. 3. [FILING.] *When the appraisers complete their duties, they shall file the appraisers' report with the auditor of each affected county. A detailed statement must be filed with the appraisers' report showing the actual time*

the appraisers were engaged and the costs incurred. The appraisers shall perform their duties and complete the appraisers' report as soon as possible after their first meeting.

Sec. 39. [103F.939] [FINAL HEARING.]

Subdivision 1. [TIME.] *Promptly after the filing of the appraisers' report and the commissioner's final advisory report, the wetland authority after consulting with the auditor shall set a time and location for the final hearing on the petition, the detailed survey report, and the appraisers' report. The hearing must be set 25 to 50 days after the date of the final hearing notice.*

Subd. 2. [NOTICE.] *(a) The final hearing notice must state:*

(1) that the petition is pending;

(2) that the detailed survey report is filed;

(3) that the appraisers' report is filed;

(4) the time and place set for the final hearing;

(5) a brief description of the proposed wetland system, giving in general terms the location of the wetland system;

(6) a description of property benefited and damaged, and the names of the owners of the property; and

(7) the municipal and other corporations affected by the proposed wetland system as shown by the detailed survey report and appraisers' report.

(b) Names may be listed in a narrative form and property affected may be separately listed in narrative form by governmental sections or otherwise.

(c) For a joint county proceeding, separate notice may be prepared for each county affected, showing the portion of the proposed wetland system and the names and descriptions of affected property in the county.

Subd. 3. [METHOD OF NOTICE.] *The auditor shall notify the wetland authority, auditors of affected counties, and all interested persons of the time and location of the final hearing by publication, posting, and mail. A printed copy of the final hearing notice for each affected county must be posted at least three weeks before the date of the final hearing at the front door of the courthouse in each county. Within one week after the first publication of the notice, the auditor shall give notice by mail of the time and location of the final hearing to the commissioner, all property owners, and others affected by the proposed wetland system and listed in the detailed survey report and the appraisers' report.*

Subd. 4. [DEFECTIVE NOTICE.] *If the final hearing notice is not given or is not legally given, the auditor shall properly publish, post, and mail the notice or provide the notice under the provisions to cure defective notice in section 6.*

Sec. 40. [103F.940] [PROCEEDINGS AT THE FINAL HEARING.]

Subdivision 1. [CONSIDERATION OF PETITION AND REPORTS.] *At the time and location for the final hearing specified in the notice, or after the hearing adjourns, the wetland authority shall consider the petition for the wetland system, with all matters pertaining to the detailed survey report, the appraisers' report, and the commissioner's final advisory report. The wetland authority shall hear and consider the testimony presented by all interested parties. The engineer or the engineer's assistant and at least one*

appraiser shall be present. The commissioner may appear and be heard. If the commissioner does not appear personally, the final advisory report shall be read during the hearing. The final hearing may be adjourned and reconvened as is necessary.

Subd. 2. [CHANGES IN WETLAND PLAN.] *If the wetland authority determines that the general plan reported by the engineer may be improved by changes, or that the appraisers have made an inequitable assessment of benefits or damages to any property, the wetland authority may amend the detailed survey report or the appraisers' report, and make necessary and proper findings in relation to the reports. The wetland authority may resubmit matters to the engineer or to the appraisers for immediate consideration. The engineer or appraisers shall proceed promptly to reconsider the resubmitted matters and shall make and file the amended findings and reports. The amended reports are a part of the original reports.*

Subd. 3. [REEXAMINATION.] *If the wetland authority determines that property not included in the notice should be included and assessed or that the engineer or appraisers, or both, should reexamine the proposed wetland system or the property benefited or damaged by the system, the wetland authority may resubmit the reports to the engineer and appraisers. If a report is resubmitted, the final hearing may be continued as is necessary to make the reexamination and reexamination report. If the reexamination report includes property not included in the original report, the wetland authority may, by order, adjourn the hearing and direct the auditor to serve or publish, post, and mail a final hearing notice with reference to all property not included in the previous notice. The jurisdiction of the wetland authority continues in the property given proper notice, and new or additional notice is not required for that property.*

Sec. 41. [103F.941] [WETLAND AUTHORITY FINAL ORDER.]

Subdivision 1. [DISMISSAL OF PROCEEDINGS.] *The wetland authority must dismiss the proceedings and petition, by order, if it determines that:*

(1) the benefits of the proposed wetland system including the public value benefits are less than the total cost, including damages awarded;

(2) the proposed wetland system will not be of public benefit and utility;

(3) the proposed wetland system is not practicable after considering the environmental and land use criteria;

(4) the state will pay more than 50 percent of the benefits and the commissioner has recommended against establishment of the wetland system; or

(5) written approval for financing the wetland system has not been obtained from counties if bonds are required or from the board of water and soil resources for public value benefits.

Subd. 2. [ESTABLISHMENT OF PROPOSED WETLAND SYSTEM.] *(a) The wetland authority shall establish, by order, a proposed wetland system if it determines that:*

(1) the detailed survey report and appraisers' report have been made and other proceedings have been completed under this chapter;

(2) the reports made or amended are complete and correct;

(3) the damages and benefits have been properly determined;

(4) the estimated benefits including the public value of the wetland are greater than the total estimated cost, including damages;

(5) the proposed wetland system will be of public utility and benefit, and will promote the public health;

(6) the assessment against the state has been presented to the board of water and soil resources and the board has agreed to pay the assessment;

(7) the proposed wetland system is practicable; and

(8) written approval of counties for issuing bonds or the board of water and soil resources for paying public value benefits has been obtained.

(b) The order must contain the wetland authority's findings, adopt and confirm the appraisers' report as made or amended, and establish the proposed wetland system as reported and amended.

(c) A wetland system established under this section must be included in the wetland inventory established under article 2, section 4, subdivision 1. Establishing a wetland system does not give the public any greater right of access to the wetland system than is provided in section 103G.205.

Subd. 3. [CONSERVATION EASEMENT.] *The owner of land on which a wetland system is established under this section shall convey to the board of water and soil resources a permanent conservation easement, as defined in section 84C.01, paragraph (1). In the easement agreement between the landowner and the board, the landowner shall agree:*

(1) not to drain, burn, fill, or otherwise destroy the wetland character of the wetland system, or to use the wetlands for agricultural purposes, as determined by the board;

(2) not to adopt a practice specified by the board in the easement agreement as a practice that would tend to defeat the purposes of the wetland system and the easement; and

(3) to additional provisions that the commissioner determines are desirable.

Sec. 42. [103F.942] [APPORTIONMENT OF COST FOR JOINT WETLAND SYSTEMS.]

For joint proceedings, the auditor where the petition is filed shall file a certified copy of the appraisers' report with the auditor of each affected county within 20 days after the date of the final order establishing the system. When the final order to establish the wetland system is made, the wetland authority shall determine and order the percentage of the cost of the wetland system to be paid by each affected county. The cost shall be in proportion to the benefits received, unless there is a contrary reason. An auditor of an affected county may petition the wetland authority after the final order is made to determine and order the percentage of costs to be paid by the affected counties. The wetland authority shall hold a hearing five days after giving written notice to the auditor of each affected county. After giving the notice to the auditors of the affected counties, the wetland authority may, at any time that it is necessary, modify an order or make an additional order to allocate the cost among the affected counties.

Sec. 43. [103F.943] [USE OF WETLAND SYSTEM AS AN OUTLET.]

Subdivision 1. [EXPRESS AUTHORITY NECESSARY.] *After the establishment of a wetland system, the property not assessed benefits may not*

discharge additional flow of water to the wetland system as an outlet without obtaining express authority from the wetland authority of the wetland system proposed to be used as the outlet. This section is applicable to the construction of a public or private drainage system that outlets water into an established wetland system regardless of the actual physical connection.

Subd. 2. [PETITION.] *A person seeking authority to use an established wetland system as an outlet must petition the wetland authority. When the petition is filed, the wetland authority in consultation with the auditor shall set a time and location for a hearing on the petition and shall give notice by mail and notice by publication of the hearing. The auditor must be paid a fee of $25 plus 30 cents for each notice mailed in excess of ten.*

Subd. 3. [HEARING.] *At the hearing the wetland authority shall consider the capacity of the wetland system as an outlet. If express authority is given to use the wetland system as an outlet, the wetland authority shall state, by order, the terms and conditions for use of the established wetland system as an outlet and shall set the amount to be paid as an outlet fee. The order must describe the property to be benefited by the wetland system and must state the amount of benefits to the property for the outlet. The property benefited is liable for assessments levied after that time in the wetland system, on the basis of the benefits as if the benefits had been determined in the order establishing the wetland system.*

Subd. 4. [PAYMENT OF OUTLET FEE.] *The outlet fee for a proposed wetland system is a part of the cost of the proposed wetland system and is to be paid by assessment against the property benefited by the proposed wetland system and credited to the account to establish the wetland system.*

Sec. 44. [103F.944] [WETLAND SYSTEM AS OUTLET FOR MUNICIPALITY.]

Subdivision 1. [PETITION.] *After a wetland system has been established, a municipality may discharge additional flow of water to a wetland system as an outlet for its municipal drainage system or the overflow from the system under the provisions of this section. The municipality must petition to the wetland authority to use the wetland system. The petition must:*

(1) show the necessity for the use of the wetland system as an outlet;

(2) show that the use of the wetland system will be of public benefit and utility and promote the public health;

(3) be accompanied by a plat showing the location of the wetland system and the location of the municipal drainage system; and

(4) be accompanied by specifications showing the plan of connection from the municipal drainage system to the wetland system.

Subd. 2. [APPROVAL BY POLLUTION CONTROL AGENCY.] *The plan for connecting the municipal drainage system to the wetland system must be approved by the pollution control agency.*

Subd. 3. [FILING; NOTICE.] *(a) If proceedings to establish the wetland system to be used as an outlet are pending, the petition must be filed with the auditor. The municipal drainage system petition must be presented to the wetland authority at the final hearing to consider the detailed survey report and appraisers' report. Notice of the municipal drainage system petition must be included in the final hearing notice.*

(b) If the wetland system to be used as an outlet is established, the

municipal drainage system petition must be filed with the auditor. When the petition is filed, the wetland authority in consultation with the auditor shall, by order, set a time and place for hearing on the petition. Notice of the hearing must be given by publication and by mailed notice to the auditor of each affected county.

Subd. 4. [HEARING AND ORDER.] *(a) At the hearing the wetland authority may receive all evidence of interested parties for or against the granting of the petition. The wetland authority, by order, may authorize the municipality to use the wetland system as an outlet, subject to the conditions that are necessary and proper to protect the rights of the parties and safeguard the interests of the general public, if the wetland authority determines:*

(1) that a necessity exists for the use of the wetland system as an outlet for the municipal drainage system or the overflow from the system;

(2) that use of the wetland system will be of public utility and promote the public health; and

(3) that the proposed connection conforms to the requirements of the pollution control agency and provides for the construction and use of proper disposal works.

(b) The wetland authority must, by order, make the municipality a party to the proceedings and determine the benefits from using the wetland system as an outlet.

Subd. 5. [BENEFITS AND ASSESSMENTS IF WETLAND SYSTEM IS ESTABLISHED.] *If the wetland system is established, the wetland authority must determine the amount the municipality must pay for the privilege of using the wetland system as an outlet for additional flow. The amount must be paid to the affected counties and credited to the account of the wetland system used as an outlet. The municipality is liable for all subsequent liens and assessments for the repair and maintenance of the wetland system in proportion to the benefits, as though the benefits were determined in the order establishing the wetland system.*

CONSTRUCTION OF WETLAND SYSTEM

Sec. 45. [103F.945] [CONTRACT AND BOND.]

Subdivision 1. [PREPARATION.] *The engineer and the wetland authority attorney shall prepare the contract and bond. The contract and bond must include the provisions required by this chapter and section 574.26 for bonds given by contractors for public works and must be conditioned as provided by section 574.26 for the better security of the contracting counties and parties performing labor and furnishing material in performance of the contract. The prepared contract and bond must be attached and provided to the contractor for execution.*

Subd. 2. [CONTRACTOR'S BOND.] *The contractor shall file a bond with the auditor for an amount not less than 75 percent of the contract price of the work. The bond must have adequate surety and be approved by the auditor. The bond must provide that the surety for the bond is liable for all damages resulting from a failure to perform work under the contract, whether the work is resold or not, and that a person or political subdivision showing damages from the failure to perform work under the contract may maintain an action against the bond in their own names. Actions may be successive in favor of all persons injured, but the aggregate liability of the surety for*

all the damages may not exceed the amount of the bond. The surety is liable for the tile work guaranteed by the contractor. The contractor is considered a public officer and the bond an official bond within the meaning of section 574.24 construing the official bonds of public officers as security to all persons and providing for actions on the bonds by a party that is damaged.

Subd. 3. [CONTRACT.] *The contract must contain a specific description of the work to be done, either expressly or by reference to the plans and specifications, and must provide that the work must be done and completed as provided in the plans and specifications and subject to the inspection and approval of the engineer. The contract must provide that time is of the essence of the contract, and that if there is a failure to perform the work according to the terms of the contract within the time given in the original contract or as extended, the contractors shall forfeit and pay counties an amount stated in the contract as liquidated damages. The amount must be fixed by the auditor for each day that the failure of performance continues.*

Subd. 4. [CONTRACT PROVISIONS FOR CHANGES DURING CONSTRUCTION.] *The contract must give the engineer the right, with the consent of the wetland authority, to modify the detailed survey report, plans, and specifications as the work proceeds and as circumstances require. The contract must provide that the increased cost resulting from the changes will be paid by the wetland authority to the contractor at a rate not greater than the amount for similar work in the contract. A change may not be made that will substantially impair the usefulness of any part of the wetland system, substantially alter its original character, or increase its total cost by more than ten percent of the total original contract price. A change may not be made that will cause the cost to exceed the total estimated benefits found by the wetland authority, or that will cause any detrimental effects to the public interest under section 1.*

Subd. 5. [CONTRACT WITH FEDERAL UNIT.] *If any portion of the work is to be done by the United States or an agency of the United States, a bond or contract is not necessary for that portion of the work, except that a contract must be made if the United States or its agencies require a contract with the local governmental units. The contract must contain the terms, conditions, provisions, and guaranties required by the United States or its agencies to proceed with the work.*

Subd. 6. [MODIFICATION OF CONTRACT BY AGREEMENT.] *This chapter does not prevent the persons with property affected by the construction of a wetland system from uniting in a written agreement with the contractor and the surety of the contractor's bond to modify the contract as to the manner or time when any portion of the wetland system is constructed, if the modification is recommended, in writing, by the engineer and approved by the wetland authority.*

Sec. 46. [103F.946] [AWARDING THE CONSTRUCTION CONTRACT.]

Subdivision 1. [AUDITORS AND WETLAND AUTHORITY TO PROCEED.] *Thirty days after the order establishing a wetland system is filed, the auditor and the wetland authority or, for a joint wetland system, a majority of the auditors of the affected counties shall proceed to award the contract to construct the wetland system.*

Subd. 2. [PENDING APPEAL OF BENEFITS AND DAMAGES.] *If an appeal regarding the determination of benefits and damages is made within*

30 days after the order establishing the wetland system has been filed, a contract may not be awarded until the appeal has been determined, unless the wetland authority orders the contract awarded. The auditor of an affected county or an interested person may request the wetland authority to make the order. If the request is not made by an affected auditor, the auditors of affected counties must be given notice five days before the hearing on the request.

Subd. 3. [NOTICE OF CONTRACT AWARDING.] *The auditor of an affected county shall give notice of the awarding of the contract by publication in a newspaper in the county. The notice must state the time and location for awarding the contract. For a joint wetland system the auditors shall award the contract at the office of the auditor where the proceedings are pending. If the estimated cost of construction is more than $3,000, the auditor shall also place a notice in a construction trade paper. The trade paper notice must state:*

(1) the time and location for awarding the contract;

(2) the approximate amount of work and its estimated cost;

(3) that bids may be for the work as one job, or in sections, or separately, for bridges, ditches and open work, tile, or tile construction work, if required or advisable;

(4) that each bid must be accompanied by a certified check or a bond furnished by an approved surety corporation payable to the auditors of affected counties for ten percent of the bid, as security that the bidder will enter into a contract and give a bond as required by section 45; and

(5) that the wetland authority reserves the right to reject any and all bids.

Subd. 4. [ENGINEER SHALL ATTEND AWARDING OF CONTRACT.] *The engineer shall attend the meeting to award the contract. A bid may not be accepted without the engineer's approval of compliance with plans and specifications.*

Subd. 5. [HOW CONTRACT MAY BE AWARDED.] *The contract may be awarded in one job, in sections, or separately for labor and material and must be let to the lowest responsible bidder.*

Subd. 6. [BIDS EXCEEDING 130 PERCENT OF ESTIMATED COST NOT ACCEPTED.] *Bids that in the aggregate exceed the total estimated cost of construction by more than 130 percent may not be accepted.*

Subd. 7. [AFFECTED COUNTIES CONTRACT THROUGH AUDITOR.] *The wetland authority and the auditor of each affected county shall contract, in the names of their respective counties, to construct the wetland system in the time and manner and according to the plans and specifications and the contract provisions in this chapter.*

Subd. 8. [WORK DONE BY FEDERAL GOVERNMENT.] *If any of the wetland work is to be done by the United States or its agencies, a notice of awarding that contract does not need to be published and a contract for that construction is not necessary. Affected municipalities may contract or arrange with the United States or its agencies for cooperation or assistance in constructing, maintaining, and operating the wetland system, for control of waters in the district, or for making a survey and investigation or reports on the wetland system. The municipalities may provide required guaranty and protection to the United States or its agencies.*

Sec. 47. [103F.947] [PROCEDURE IF CONTRACT IS NOT AWARDED DUE TO BIDS OR COSTS.]

Subdivision 1. [CONDITIONS TO USE PROCEDURE IN THIS SECTION.] *The procedure in this section may be used if after a wetland system is established:*

(1) the only bids received are for more than 30 percent in excess of the engineer's estimated cost, or in excess of the benefits, less damages and other costs; or

(2) a contract is awarded, but due to unavoidable delays not caused by the contractor, the contract cannot be completed for an amount equal to or less than the benefits, less damages and other costs.

Subd. 2. [PETITION AFTER COST ESTIMATE ERROR OR CHANGE TO LOWER COST.] *A person interested in the wetland system may petition the wetland authority if the person determines that the engineer made an error in the estimate of the wetland system cost or that the plans and specifications could be changed in a manner materially affecting the cost of the wetland system without interfering with the efficiency. The petition must state the person's determinations and request that the detailed survey report and appraisers' report be referred back to the engineer and to the appraisers for additional consideration.*

Subd. 3. [PETITION AFTER EXCESSIVE COST DUE TO INFLATION.] *(a) A person interested in the wetland system may petition the wetland authority for an order to reconsider the detailed survey report and appraisers' report if the person determines:*

(1) that bids were received only for a price more than 30 percent in excess of the detailed survey report estimate because inflation increased the construction cost between the time of the detailed survey cost estimate and the time of awarding the contract; or

(2) that after the contract was awarded there was unavoidable delay not caused by the contractor, and between the time of awarding the contract and completion of construction inflation increased construction costs resulting in the contract not being completed for an amount equal to or less than the assessed benefits.

(b) The person may request in the petition that the wetland authority reconsider the original cost estimate in the detailed survey report and appraisers' report and adjust the cost estimate consistent with the increased construction cost.

Subd. 4. [HEARING ORDERED AFTER RECEIPT OF PETITION.] *After receiving a petition, the wetland authority shall order a hearing. The order must designate the time and place of the hearing and direct the auditor to give notice by publication.*

Subd. 5. [HEARING ON COST PETITION.] *(a) At the hearing the wetland authority shall consider the petition and hear all interested parties.*

(b) The wetland authority may, by order, authorize the engineer to amend the detailed survey report, if the wetland authority determines that:

(1) the detailed survey report cost estimate was erroneous and should be corrected;

(2) the plans and specifications could be changed in a manner materially

affecting the cost of the wetland system without interfering with the efficiency; and

(3) with the correction or modification a contract could be awarded within the 30 percent limitation and equal to or less than benefits.

(c) If the wetland authority determines that the amended changes affect the amount of benefits or damages to any property or that the benefits should be reexamined because of inflated land values or inflated construction costs, it shall refer the appraisers' report to the appraisers to reexamine the benefits and damages.

(d) The wetland authority may, by order, direct the engineer and appraisers to amend their detailed survey report and appraisers' report to consider the inflationary cost increases if the wetland authority determines that:

(1) bids were not received; or

(2) because of inflationary construction cost increases, construction under the awarded contract cannot be completed for 30 percent or less over the detailed survey cost estimate or in excess of the benefits, less damages and other costs.

(e) The wetland authority may continue the hearing to give the engineer or appraisers additional time to amend the reports. The jurisdiction of the wetland authority continues at the adjourned hearing.

(f) The wetland authority has full authority to consider the amended reports and make findings and orders. A party may appeal to the district court.

Sec. 48. [103F.948] [DAMAGES; PAYMENT.]

The wetland authority where the damaged property is located must order the awarded damages to be paid, less any assessment against the property, before the property is entered for construction of the wetland system. If a county or a municipality that is awarded damages requests it, the assessment may not be deducted. If there is an appeal, the damages may not be paid until the final determination. If it is not clear who is entitled to the damages, the wetland authority may pay the damages to the court administrator of the district court of the county. The court shall direct the court administrator, by order, to pay the parties entitled to the damages.

Sec. 49. [103F.949] [SUPERVISION OF CONSTRUCTION.]

The wetland authority shall require the engineer to supervise and inspect the construction under contract. The wetland authority shall cause the contracts under this chapter to be performed properly.

Sec. 50. [103F.950] [EXTENSION OF TIME ON CONTRACTS.]

The auditors of affected counties may extend the time for the performance of a contract as provided in this section. The contractor may apply, in writing, for an extension of the contract. Notice of the application must be given to:

(1) the engineer and the attorney for the petitioners; and

(2) for a joint wetland system, to the auditors of the affected counties. The auditors may grant an extension if sufficient reasons are shown. The extension does not affect a claim for liquidated damages that may arise after the original time expires and before an extension or a claim that may

arise after the time for the extension expires.

Sec. 51. [103F.951] [REDUCTION OF CONTRACTOR'S BOND.]

Subdivision 1. [APPLICATION TO WETLAND AUTHORITY.] *The contractor, at the end of each season's work and before the contract is completed, may make a verified application to the wetland authority to reduce the contractor's bond and file the application with the auditor. The application must state:*

(1) the work certified as completed by the engineer;

(2) the certified work's value;

(3) the amount of money received by the contractor and the amount retained;

(4) the amount unpaid by the contractor for labor or material furnished on the contract; and

(5) a request for an order to reduce the amount of the contractor's bond.

The application must be filed with the auditor.

Subd. 2. [NOTICE OF HEARING.] *When an application is filed, the auditor, by order, shall set the time and location for a hearing on the application. Ten days before the hearing, notice of the hearing must be published in each affected county and notice by mail given to the engineer, the attorney for the petitioners, and the auditor of each affected county. The contractor must pay the cost of the hearing notice by publication.*

Subd. 3. [HEARING; REDUCTION OF BOND.] *The wetland authority may, by order, reduce the contractor's bond if it determines that the contractor is not in default and that a loss will not result from reducing the bond. The bond may be reduced to an amount sufficient to protect the affected counties from loss and damage, but the reduction:*

(1) may not be more than 35 percent of the amount already paid to the contractor;

(2) may not affect the remaining amount of the bond; and

(3) does not affect liability incurred on the bond before the reduction.

Sec. 52. [103F.952] [CONTRACTOR'S DEFAULT.]

Subdivision 1. [NOTICE.] *If a contractor defaults in the performance of the contract, the auditor shall mail a notice of the default to the contractor, the surety of the contractor's bond, the engineer, and the auditors of the affected counties. The notice must specify the default and state that if the default is not promptly removed and the contract completed, the unfinished portion of the contract will be awarded to another contractor.*

Subd. 2. [COMPLETION OF CONTRACT BY SURETY.] *If the surety of the contractor's bond promptly proceeds with the completion of the contract, the affected auditors may grant an extension of time. If the contract is completed by the surety, the balance due on the contract must be paid to the surety, less damages incurred by the affected counties from the default.*

Subd. 3. [AWARDING OF CONTRACT; RECOVERY ON BOND.] *If the surety of the contractor's bond does not undertake the completion of the contract or does not complete the contract within the time specified or extended, auditors of the affected counties shall advertise for bids to complete*

the contract in the manner provided in the original awarding of contracts. The wetland authority may recover the increased amounts paid to a subsequent contractor after reselling the work, and damages incurred by affected counties, from the first contractor's bond.

Sec. 53. [103F.953] [ACCEPTANCE OF CONTRACT.]

Subdivision 1. [ENGINEER'S REPORT AND NOTICE.] *When a contract is completed, the engineer shall make a report to the wetland authority showing the contract price, the amount paid on certificates, the unpaid balance, and the work that is completed under the contract. When the report is filed, the auditor shall set a time and location for a hearing on the report. The auditor shall give notice of the hearing by publication or notice by mail at least ten days before the hearing to the owners of affected property. The notice must state that the report is filed, the time and location for the hearing, and that a party objecting to the acceptance of the contract may appear and be heard.*

Subd. 2. [HEARING.] *At the hearing the wetland authority may, by order, direct payment of the balance due if it determines that the contract has been completed in accordance with the plans and specifications. If good cause is shown, the wetland authority may waive any part of the liquidated damages accruing under the contract. When the order is filed, the wetland authority shall pay for the balance due on the contract. For a joint wetland system the auditor shall make an order to the wetland authorities to pay for their proportionate shares of the balance due on the contract. After receiving the order, the wetland authorities shall pay the amount specified in the order.*

Sec. 54. [103F.954] [WETLAND LIEN STATEMENT.]

Subdivision 1. [DETERMINATION OF PROPERTY LIABILITY.] *When the contract for the construction of a wetland system is awarded, the auditor of an affected county shall make a statement showing the total cost of the wetland system with the estimated cost of all items required to complete the work. The cost must be prorated to each tract of property affected in direct proportion to the benefits. The cost, less any damages, is the amount of liability for each tract for the wetland system. The property liability must be shown in the tabular statement under subdivision 2, opposite the property owner's name and description of each tract of property. The amount of liability on a tract of property for establishment and construction of a wetland system may not exceed the benefits determined in the proceedings that accrue to the tract.*

Subd. 2. [WETLAND LIEN STATEMENT.] *The auditor of each affected county shall make a lien statement in tabular form showing:*

(1) the names of the property owners, corporate entities, or political subdivisions of the county benefited or damaged by the construction of the wetland system in the appraisers' report as approved by the final order for establishment;

(2) the description of the property in the appraisers' report, and the total number of acres in each tract according to the county tax lists;

(3) the number of acres benefited or damaged in each tract shown in the appraisers' report;

(4) the amount of benefits and damages to each tract of property as stated in the appraisers' report and confirmed by the final order that established

the wetland system unless the order is appealed and a different amount is set; and

(5) the amount each tract of property will be liable for and must pay the wetland authority for the establishment and construction of the wetland system.

Subd. 3. [SUPPLEMENTAL WETLAND LIEN STATEMENT.] *If any items of the cost of the wetland system have been omitted from the original wetland lien statement, a supplemental wetland lien statement with the omitted items must be made and recorded in the same manner provided for a wetland lien statement. The total amount of the original wetland lien and any supplemental wetland liens may not exceed the benefits.*

Subd. 4. [RECORDING WETLAND LIEN STATEMENT.] *The wetland lien statement and supplemental wetland lien statements must be certified by the auditor and recorded by the county recorder of the county where the tract is located. The county recorder's fees for recording must be paid on allowance by the wetland authority. The wetland lien statement and any supplemental wetland lien statements, after recording, must be returned and preserved by the auditor.*

Sec. 55. [103F.955] [EFFECT OF FILED WETLAND LIEN.]

The amount recorded on the wetland lien statement and supplemental wetland lien statements that each tract of property will be liable for, and the interest allowed on that amount, is a wetland lien on the property. The wetland lien is a first and paramount lien until fully paid, and has priority over all mortgages, charges, encumbrances, and other liens unless the county board subordinates the wetland lien to easements of record. The recording of the wetland lien statement or a supplemental wetland lien statement is notice to all parties of the existence of the wetland lien.

Sec. 56. [103F.956] [PAYMENT OF WETLAND LIENS AND INTEREST.]

Subdivision 1. [PAYMENT OF WETLAND LIEN PRINCIPAL.] *(a) Wetland liens against property benefited under this chapter are payable to the treasurer of the county in five or less equal annual installments. The first installment of the principal is due on or before November 1 after the wetland lien statement is recorded, and each subsequent installment is due on or before November 1 of each year afterwards until the principal is paid.*

(b) The wetland authority may, by order, direct the wetland lien to be paid by one-fifth of the principal on or before five years from November 1 after the lien statement is recorded, and one-fifth on or before November 1 of each year afterwards until the principal is paid.

(c) The wetland authority may order that the wetland lien must be paid by one or two installments, notwithstanding paragraphs (a) and (b), if the principal amount of a lien against a lot or tract of property or against a county or municipality is less than $500.

Subd. 2. [INTEREST.] *(a) Interest is an additional wetland lien on all property until paid. The interest rate on the wetland lien principal must be set by the county board, but may not exceed seven percent per year from the date the wetland lien statement is recorded.*

(b) Before the tax lists for the year are given to the county treasurer, the auditor shall compute the interest on the unpaid balance of the wetland lien

at the rate set by the county board. The amount of interest must be computed on the entire unpaid principal from the date the wetland lien was recorded to August 15 of the next calendar year, and afterwards from August 15 to August 15 of each year.

(c) Interest is due and payable after November 1 of each year the wetland lien principal or interest is due and unpaid.

Subd. 3. [COLLECTION OF PAYMENTS.] *Interest and any installment due must be entered on the tax lists for the year. The installment and interest must be collected in the same manner as real estate taxes for that year by collecting one-half of the total of the installment and interest with and as a part of the real estate taxes on or before May 15 and one-half on or before October 15 of the next year.*

Subd. 4. [PREPAYMENT OF INTEREST.] *Interest may be paid at any time, computed to the date of payment, except that after the interest is entered on the tax lists for the year, it is due as entered, without a reduction for prepayment.*

Subd. 5. [PAYMENT OF WETLAND LIENS WITH BONDS.] *The county board may direct the county treasurer to accept any outstanding bond that is a legal obligation of the county under this chapter issued on account of a wetland lien in payment of wetland liens under the provisions of this chapter. The bonds must be accepted at their par value plus accrued interest.*

Subd. 6. [WETLAND LIEN RECORD.] *The auditor shall keep a wetland lien record for each wetland system showing the amount of the wetland lien remaining unpaid against each tract of property.*

Subd. 7. [COLLECTION AND ENFORCEMENT OF WETLAND LIENS.] *The provisions of law that exist relating to the collection of real estate taxes are adopted to enforce payment of wetland liens. If there is a default, a penalty may not be added to an installment of principal and interest, but each defaulted payment, principal, and interest draws interest from the date of default until paid at seven percent per year.*

Sec. 57. [103F.957] [ENFORCEMENT OF ASSESSMENTS.]

Subdivision 1. [MUNICIPALITIES.] *Assessments filed for benefits to a municipality are a liability of the municipality and are due and payable with interest in installments on November 1 of each year. If the installments and interest are not paid on or before November 1, the amount due with interest added must be extended by the county auditor against all property in the municipality that is liable to taxation. A levy must be made and the amount due must be paid and collected in the same manner and time as other taxes.*

Subd. 2. [RAILROAD AND UTILITY PROPERTY.] *Property owned by a railroad or other utility corporation benefited by a wetland system is liable for the assessments of benefits on the property as other taxable property. From the date the wetland lien is recorded, the amount of the assessment with interest is a lien against all property of the corporation within the county. Upon default the assessment may be collected by civil action or the wetland lien may be foreclosed by action in the same manner as provided by law for the foreclosure of mortgage liens. The county where the wetland lien is filed has the right of action against the corporation to enforce and collect the assessment.*

Sec. 58. [103F.958] [SATISFACTION OF LIENS.]

When a wetland lien with the accumulated interest is fully paid, the auditor shall issue a certificate of payment with the auditor's official seal and record the certificate with the county recorder. The recorded certificate releases and discharges the wetland lien. The auditor may collect 25 cents for each description in the certificate. The auditor's fee and the fee of the county recorder must be paid from the account for the wetland system.

Sec. 59. [103F.959] [SUBDIVISION BY PLATTING MUST HAVE LIENS APPORTIONED.]

A tract of property with a wetland lien that is subdivided by platting is not complete and the plat may not be recorded until the wetland liens against the tracts are apportioned and the apportionment filed with the county recorder of the county where the tract is located.

Sec. 60. [103F.960] [APPORTIONMENT OF LIENS.]

Subdivision 1. [PETITION.] *A person who has an interest in property that has a wetland lien attached to it may petition the wetland authority to apportion the lien among specified portions of the tract if the payments of principal and interest on the property are not in default.*

Subd. 2. [NOTICE.] *When the petition is filed, the wetland authority shall, by order, set a time and location for a hearing on the petition. The wetland authority shall give notice of the hearing by personal service to the auditor, the occupants of the tract, and on all parties having an interest in the tract as shown by the records in the county recorder's office. The service must be made at least ten days before the hearing. If personal service cannot be made to all interested persons, notice may be given by publication. The petitioner shall pay the costs for service or publication.*

Subd. 3. [HEARING.] *The wetland authority shall hear all related evidence and, by order, apportion the lien. A certified copy of the order must be recorded in the county recorder's office and filed with the auditor.*

Sec. 61. [103F.961] [WETLAND BOND ISSUES.]

Subdivision 1. [AUTHORITY.] *After the contract for the construction of a wetland system is awarded, the county board of an affected county may issue the bonds of the county in an amount necessary to pay the cost of establishing and constructing the wetland system.*

Subd. 2. [SINGLE ISSUE FOR TWO OR MORE WETLAND SYSTEMS.] *The county board may include two or more wetland systems in a single wetland bond issue. The total amount of the wetland bond issue may not exceed the total cost, including expenses, to be assessed to pay for the wetland systems. The total cost to be assessed must be determined or estimated by the county board when the wetland bonds are issued.*

Subd. 3. [SECURITY AND SOURCE OF PAYMENT.] *The wetland bonds must be issued in accordance with chapter 475 and must pledge the full faith, credit, and resources of the county for the prompt payment of the principal and interest of the wetland bonds. The wetland bonds are primarily payable from the funds of the wetland systems financed by the bonds or from the common wetland bond redemption fund of the county. The common wetland bond redemption fund may be created by resolution of the county board as a debt redemption fund for the payment of wetland bonds issued under this chapter.*

Subd. 4. [PAYMENT PERIOD AND INTEREST ON WETLAND

BONDS.] *(a) The county board shall determine, by resolution:*

(1) the time of payment for the wetland bonds not exceeding 23 years from their date;

(2) the rates of interest for the wetland bonds, with the net average rate of interest over the term of the bonds not to exceed the rate established under section 475.55; and

(3) whether the wetland bonds are payable annually or semiannually.

(b) The county board shall determine the years and amounts of principal maturities that are necessary by the anticipated collections of the wetland systems assessments, without regard to any limitations on the maturities imposed by section 475.54.

Subd. 5. [TEMPORARY WETLAND BONDS MATURING IN TWO YEARS OR LESS.] *The county board may issue and sell temporary wetland bonds under this subdivision maturing not more than two years after their date of issue, instead of bonds under subdivision 4. The county shall issue and sell definitive wetland bonds before the maturity of bonds issued under this subdivision and use the proceeds to pay for the temporary wetland bonds and interest to the extent that the temporary bonds are not paid for by assessments collected or other available funds. The holders of temporary wetland bonds and the taxpayers of the county have and may enforce by mandamus or other appropriate proceedings:*

(1) all rights respecting the levy and collection of assessments sufficient to pay the cost of proceedings and construction financed by the temporary wetland bonds that are granted by law to holders of other wetland bonds, except the right to require levies to be collected before the temporary wetland bonds mature; and

(2) the right to require the offering of definitive wetland bonds for sale, or to require the issuance of definitive wetland bonds in exchange for the temporary wetland bonds, on a par for par basis, bearing interest at the rate established under section 475.55 if the definitive wetland bonds have not been sold and delivered before the maturity of the temporary wetland bonds.

Subd. 6. [DEFINITIVE WETLAND BONDS.] *The definitive wetland bonds issued in exchange for an issue of temporary wetland bonds must be numbered and mature serially at times and in amounts to allow the principal and interest to be paid when due by the collection of assessments levied for the wetland systems financed by the temporary bond issue. The definitive bonds are subject to redemption and prepayment on any interest payment date by the county notifying each definitive bondholder who has registered their name and address with the county treasurer. The bondholders must be notified by mail 30 days before the interest payment date. The definitive bonds must be delivered in order of their serial numbers, lowest numbers first, to the holders of the temporary wetland bonds in order of the serial numbers of the bonds held by them.*

Subd. 7. [SALE OF DEFINITIVE WETLAND BONDS.] *The county board must sell and negotiate the definitive wetland bonds for at least their par value. The definitive bonds must be sold in accordance with section 475.60.*

Subd. 8. [COUNTY INVESTMENT, PURCHASE, AND SELLING OF TEMPORARY WETLAND BONDS.] *(a) Funds of the issuing county may*

be invested in temporary wetland bonds under sections 471.56 and 475.66, except that the temporary wetland bonds may be:

(1) purchased by the county when the temporary wetland bonds are initially issued;

(2) purchased only out of funds that the county board determines will not be required for other purposes before the temporary wetland bonds mature; and

(3) resold before the temporary wetland bonds mature only if there is an unforeseen emergency.

(b) If a temporary wetland bond purchase is made from money held in a sinking fund for other bonds of the county, the holders of the other bonds may enforce the county's obligation to sell definitive bonds at or before the maturity of the temporary wetland bonds, or exchange the other bonds, in the same manner as holders of the temporary wetland bonds.

Subd. 9. [DELIVERY OF BONDS AS WETLAND WORK PROCEEDS.] *The county board may provide in the contract for the sale of wetland bonds, temporary wetland bonds, and definitive wetland bonds, that the bonds are delivered as the wetland work proceeds and the money is needed, and that interest is paid only from the date of delivery.*

Subd. 10. [BOND RECITAL.] *Each wetland bond, temporary wetland bond, and definitive wetland bond must contain a recital that it is issued by authority of and in strict accordance with this chapter. The recital is conclusive in favor of the holders of the bonds as against the county, that the wetland system has been properly established, that property within the county is subject to assessment for benefits in an amount not less than the amount of the bonds, and that all proceedings and construction relative to the wetland systems financed by the bonds have been or will be made according to law.*

Subd. 11. [HOW BONDS MAY BE PAID.] *The county board may pay wetland bonds, temporary wetland bonds, and definitive wetland bonds issued under this chapter from any available funds in the county treasury if the money in the common wetland bond redemption fund or in the wetland fund for the issued bonds is insufficient. The county treasury funds that money is transferred from must be reimbursed, with interest at a rate of seven percent per year for the time the money is actually needed, from assessments on the wetland systems or from the sale of wetland funding bonds.*

Sec. 62. [103F.962] [ALLOWANCE AND PAYMENT OF FEES AND EXPENSES.]

Subdivision 1. [FEES AND EXPENSES.] *The fees and expenses in this section are allowed and must be paid for services provided under this chapter.*

Subd. 2. [ENGINEER, ENGINEER'S ASSISTANTS, AND OTHER EMPLOYEES.] *The compensation of the engineer, the engineer's assistants, and other employees is on a per diem basis and must be set by order of the wetland authority. The order setting compensation must provide for payment of the actual and necessary expenses of the engineer, the engineer's assistants, and other employees, including the cost of the engineer's bond.*

Subd. 3. [APPRAISERS.] *Each appraiser may be paid for every necessary day the appraiser is engaged on a per diem basis and for the appraiser's*

actual and necessary expenses. The compensation must be set by the wetland authority.

Subd. 4. [WETLAND AUTHORITY MEMBERS.] *Each member of a wetland authority may be paid a per diem under section 375.055, subdivision 1, and actual and necessary expenses incurred while actually employed in proceedings or construction, or in the inspection of any wetland system if the member is appointed to a committee for that purpose.*

Subd. 5. [AUDITOR, ATTORNEY, AND OTHER COUNTY OFFICIALS.] *The county auditor and the attorney for the petitioners and wetland authority must each be paid reasonable compensation for services actually provided as determined by the wetland authority. The fees and compensation of all county officials in proceedings and construction are in addition to other fees and compensation allowed by law.*

Subd. 6. [PETITIONERS' BOND.] *The cost of the petitioners' bond must be allowed and paid.*

Subd. 7. [PAYMENT.] *The fees and expenses provided for in this chapter for a wetland system in one county must be audited, allowed, and paid by order of the county board or for a wetland system in more than one county must be audited, allowed, and paid by order of the wetland authority after ten days' written notice to each affected county. The notice must be given by the auditor to the auditors of affected counties. The notice must state the time and location of the hearing and that all bills on file with the auditor at the date of the notice must be presented for hearing and allowance.*

Sec. 63. [103F.963] [WETLAND SYSTEM ACCOUNT.]

Subdivision 1. [FUNDS FOR WETLAND SYSTEM COSTS.] *The wetland authority shall provide funds to pay the costs of wetland systems.*

Subd. 2. [WETLAND SYSTEM ACCOUNT.] *The wetland authority shall keep a separate account for each wetland system. The account must be credited with all money from the sale of bonds and bond premiums and all money received from interest, liens, assessments, and other sources for the wetland system. The account must be debited with every item of expense made for the wetland system.*

Subd. 3. [INVESTMENT OF SURPLUS FUNDS.] *If a wetland system account or the common wetland bond redemption fund has a surplus over the amount required for payment of obligations presently due and payable from the account or fund, the county board may invest any part of the surplus in bonds or certificates of indebtedness of the United States or of the state.*

Subd. 4. [DORMANT WETLAND SYSTEM ACCOUNT TRANSFERRED TO GENERAL REVENUE FUND.] *If a surplus has existed in a wetland system account for a period of 20 years or more and there have not been any expenditures from the account during the period, the wetland authority, by a unanimous resolution, may transfer the surplus remaining in the wetland system account to the county general revenue fund of affected counties.*

ARTICLE 6

WETLAND USE PERMITS

Section 1. Minnesota Statutes 1990, section 103G.005, subdivision 15, is amended to read:

Subd. 15. [PUBLIC WATERS.] (a) "Public waters" means:

(1) waterbasins assigned a shoreland management classification by the commissioner under sections 103F.201 to 103F.221, except wetlands less than 80 acres in size that are classified as natural environment lakes;

(2) waters of the state that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;

(3) meandered lakes, excluding lakes that have been legally drained;

(4) waterbasins previously designated by the commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;

(5) waterbasins designated as scientific and natural areas under section 84.033;

(6) waterbasins located within and totally surrounded by publicly owned lands;

(7) waterbasins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;

(8) waterbasins where there is a publicly owned and controlled access that is intended to provide for public access to the waterbasin;

(9) natural and altered watercourses with a total drainage area greater than two square miles;

(10) natural and altered watercourses designated by the commissioner as trout streams; and

(11) *public waters* wetlands, unless the statute expressly states otherwise.

(b) Public waters are not determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water that was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.

Sec. 2. Minnesota Statutes 1990, section 103G.005, subdivision 18, is amended to read:

Subd. 18. [*PUBLIC WATERS* WETLANDS.] "*Public waters* wetlands" means all types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

Sec. 3. Minnesota Statutes 1990, section 103G.221, is amended to read:

103G.221 [DRAINAGE OF *PUBLIC WATERS* WETLANDS.]

Subdivision 1. [DRAINAGE OF *PUBLIC WATERS* WETLANDS GENERALLY PROHIBITED WITHOUT REPLACEMENT.] Except as provided in subdivisions 2 and 3, *public waters* wetlands may not be drained, and a permit authorizing drainage of *public waters* wetlands may not be issued, unless the *public waters* wetlands to be drained are replaced by wetlands that will have equal or greater public value.

Subd. 2. [DRAINAGE OF *PUBLIC WATERS* WETLANDS FOR CROPLAND.] (a) *Public waters* wetlands that are lawful, feasible, and practical to drain and if drained would provide high quality cropland and that is the

projected land use, as determined by the commissioner, may be drained without a permit and without replacement ~~of~~ *by* wetlands of equal or greater public value if the commissioner does not choose, within 60 days of receiving an application for a permit to drain the *public waters* wetlands to:

(1) place the *public waters* wetlands in the state water bank program under section 103F.601; or

(2) acquire them in fee under section 97A.145.

(b) If the commissioner does not make the offer under paragraph (a), clause (1) or (2), to a person applying for a permit, the *public waters* wetlands may be drained without a permit.

Subd. 3. [PERMIT TO DRAIN *PUBLIC WATERS* WETLANDS TEN YEARS AFTER PUBLIC WATERS DESIGNATION.] (a) The owner of property underneath *public waters* wetlands on privately owned property may apply to the commissioner for a permit to drain the *public waters* wetlands after ten years from their original designation as public waters. After receiving the application, the commissioner shall review the status of the *public waters* wetlands and current conditions.

(b) If the commissioner finds that the status of the *public waters* wetlands and the current conditions make it likely that the economic or other benefits from agricultural use to the owner from drainage would exceed the public benefits of maintaining the *public waters* wetlands, the commissioner shall grant the application and issue a drainage permit.

(c) If the application is denied, the owner may not apply again for another ten years.

Sec. 4. Minnesota Statutes 1990, section 103G.225, is amended to read:

103G.225 [STATE WETLANDS AND PUBLIC DRAINAGE SYSTEMS.]

If the state owns *public waters* wetlands on or adjacent to existing public drainage systems, the state shall consider the use of the *public waters* wetlands as part of the drainage system. If the *public waters* wetlands interfere with or prevent the authorized functioning of the public drainage system, the state shall provide for necessary work to allow proper use and maintenance of the drainage system while still preserving the *public waters* wetlands.

Sec. 5. Minnesota Statutes 1990, section 103G.231, is amended to read:

103G.231 [PROPERTY OWNER'S USE OF *PUBLIC WATERS* WETLANDS.]

Subdivision 1. [AGRICULTURAL USE DURING DROUGHT.] A property owner may use the bed of *public waters* wetlands for pasture or cropland during periods of drought if:

(1) dikes, ditches, tile lines, or buildings are not constructed; and

(2) the agricultural use does not result in the drainage of the *public waters* wetlands.

Subd. 2. [FILLING *PUBLIC WATERS* WETLANDS FOR IRRIGATION BOOMS.] A landowner may fill a *public waters* wetland to accommodate wheeled booms on irrigation devices if the fill does not impede normal drainage.

Sec. 6. Minnesota Statutes 1990, section 103G.235, is amended to read:

103G.235 [RESTRICTIONS ON ACCESS TO *PUBLIC WATERS* WETLANDS.]

To protect the public health or safety, local units of government may by ordinance restrict public access to *public waters* wetlands from municipality, county, or township roads that abut *public waters* wetlands.

Sec. 7. [103G.2361] [DEFINITION.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to article 2, section 4, and sections 7 to 11 of this article.*

Subd. 2. [METROPOLITAN AREA.] *"Metropolitan area" has the meaning given in section 473.121, subdivision 2.*

Subd. 3. [PERMITTING AUTHORITY.] *"Permitting authority" means:*

(1) outside the metropolitan area, the county in which a wetland is located or a soil and water conservation district to which the county has delegated its authority to issue permits under section 8, subdivision 5;

(2) within the metropolitan area, except as provided in clause (3), a watershed management organization or a local government unit with planning and zoning authority to which the watershed management organization has delegated its authority to issue permits under section 8, subdivision 5; or

(3) in areas within the metropolitan area that are not within a watershed management organization, the county in which a wetland is located or a soil and water conservation district to which the county has delegated its authority to issue permits under section 8, subdivision 5.

Subd. 4. [WATERSHED MANAGEMENT ORGANIZATION.] *"Watershed management organization" has the meaning given in section 103B.205, subdivision 13.*

Subd. 5. [WETLAND.] *(a) "Wetland" means transitional areas between terrestrial and aquatic systems where the water table is usually at, near, or above the land surface and the area:*

(1) at least periodically supports predominantly hydrophytes;

(2) has a substrate of predominantly undrained hydric soil; or

(3) has a nonsoil substrate that is saturated with water or covered by water at some time during the growing season each year.

(b) "Wetland" does not include public waters wetlands as defined in section 103G.005, subdivision 18.

Sec. 8. [103G.2362] [JURISDICTION.]

Subdivision 1. [COOPERATION.] *The commissioner of natural resources, the board of water and soil resources, soil and water conservation districts, and local governments shall work cooperatively to implement article 2, section 4, and sections 7 to 12 of this article.*

Subd. 2. [COMMISSIONER OF NATURAL RESOURCES.] *The commissioner of natural resources shall promote and act as an advocate of wetlands under article 2, section 4, and sections 7 to 12 of this article.*

Subd. 3. [BOARD OF WATER AND SOIL RESOURCES.] *The board of water and soil resources shall make determinations of law and policy and provide guidance to permitting authorities and soil and water conservation districts under article 2, section 4, and sections 7 to 12 of this article.*

Subd. 4. [SOIL AND WATER CONSERVATION DISTRICTS.] *Soil and water conservation districts shall evaluate wetlands according to established criteria and provide other technical assistance as requested by the permitting authority under article 2, section 4, and sections 7 to 12 of this article.*

Subd. 5. [PERMITTING AUTHORITIES.] *The permitting authority shall issue or deny permits for alternative wetland uses. A county may delegate its permitting authority to the soil and water conservation district. A watershed management organization may delegate its permitting authority to a local government unit with planning and zoning authority.*

Sec. 9. [103G.2364] [WETLAND USE PERMITS.]

Subdivision 1. [PERMIT REQUIRED.] *After the effective date of the rules adopted under article 2, section 4, subdivision 4 or 5, whichever is later, a wetland use permit is required to conduct actions that change the water level, area, vegetation, cross section, or character of a wetland.*

Subd. 2. [EXEMPTIONS.] *A wetland use permit is not required for:*

(1) activities in a wetland that was planted and harvested with annually seeded crops or was in a crop rotation seeding six of the ten years prior to January 1, 1991;

(2) activities in a wetland that was included in a request for a commenced drainage determination provided for by the 1985 federal Food Security Act that was made to the county agricultural stabilization and conservation service office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that drainage of the wetland had been commenced prior to December 23, 1985;

(3) activities necessary to repair and maintain existing public private drainage systems;

(4) activities exempted from federal regulation under United States Code, title 33, section 1344(f); and

(5) activities in a wetland created solely as a result of:

(i) beaver dam construction;

(ii) blockage of culverts through roadways maintained by a public authority;

(iii) actions by public entities that were taken for a purpose other than creating the wetland; or

(iv) any combination of (i) to (iii).

Subd. 3. [APPLICATION.] *(a) A person shall apply to the permitting authority where the wetland is located to receive a permit. The application must be on forms approved by the board of water and soil resources and include:*

(1) the location of the wetland;

(2) the owner of the wetland;

(3) the proposed alternative use of the wetland;

(4) any proposed mitigation or replacement of the wetland; and

(5) other information determined by the board of water and soil resources to be necessary for the application.

(b) The permitting authority shall provide to the applicant information, including permit application forms, concerning other local, state, and federal permit programs under which the applicant's proposed use may be regulated.

(c) After receiving an application, the permitting authority, where it is not the soil and water conservation district, shall forward a copy of the application to the soil and water conservation district where the wetland is located. The permitting authority shall assign a classification of class A, class B, class C, or class D wetland based on the wetland classification criteria adopted under article 2, section 4, subdivision 4, and shall report the classification to the permitting authority.

(d) The permitting authority shall meet with the applicant and determine whether the alternative use requested in the application is allowed for the particular class of wetland. The permitting authority shall also discuss actions required to replace the public value of the wetland that would be lost as a result of the requested alternative use, and other conditions that may be imposed as a requirement of receiving a permit.

Subd. 4. [REVIEW.] *(a) If the permitting authority makes a preliminary determination that it will approve the wetland use permit, the permitting authority shall submit the proposed permit with any conditions to the board of water and soil resources and the commissioner of natural resources for review and comment. The commissioner of natural resources and the board of water and soil resources shall review and comment on the proposed wetland use permit by 30 days after it is received from the permitting authority.*

(b) The permitting authority must consider the comments of the board of water and soil resources and the commissioner of natural resources and may impose conditions on the permit to reflect their comments.

(c) Notwithstanding paragraph (b), if the board of water and soil resources determines that the wetland should be classified as a class E wetland, the board shall notify the permitting authority and the applicant of this determination. After considering the comments of the commissioner of natural resources, the board of water and soil resources may issue a permit in accordance with subdivision 5.

Subd. 5. [ISSUANCE.] *(a) For class B, C, or D wetlands, the permitting authority may issue a wetland use permit subject to rules adopted by the board of water and soil resources.*

(b) The permitting authority shall impose reasonable permit conditions to require replacement of the public value of the wetland to an extent that is commensurate with the loss of public value resulting from the permitted use of the wetland. Conditions may include:

(1) implementation of soil and water conservation practices;

(2) maintenance of buffer strips;

(3) wildlife enhancement projects including improvement of nesting habitat, food sources, and shelter areas;

(4) increased water retention capacity of the wetland; and

(5) other projects and practices that increase the public value of the wetland.

(c) The permitting authority must notify the applicant and give public notice whether the wetland use permit is approved or denied by 60 days after the application is received.

(d) The wetland use permit must be issued by 20 days after public notice of approval is given if an appeal is not filed.

(e) The permit must be issued for a time period determined by the permitting authority and may be revoked if the permitting authority determines the public value of the wetland, after taking into account required mitigation, is diminished because of the use allowed under the permit.

Subd. 6. [ACTIVITY PERMITS.] *(a) Notwithstanding subdivisions 1 to 5, the board of water and soil resources may issue activity permits by rule. An activity permit may allow certain uses in specified areas or the entire state that do not diminish the long-term public value of wetlands. The board of water and soil resources shall include provisions that protect and enhance the wetland resources of the state and shall require written notice to the appropriate soil and water conservation district at least ten days before a person engages in an activity covered by an activity permit. The board shall review activity permits issued under this section at least every three years.*

(b) The board shall issue statewide activity permits under this subdivision for:

(1) placement of water lines to serve a single-family house and the installation of cables for utilities, such as telephone and power cables, provided that the excavated trench is backfilled and appropriate measures are taken to prevent erosion;

(2) normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings, provided that:

(i) erosion control measures are taken to prevent sedimentation of the water; and

(ii) the crossing does not block fish passage in the watercourse;

(3) alteration of a wetland for the purpose of exploring for or mining peat;

(4) alteration of wetlands associated with the construction, operation, maintenance, or repair of an interstate pipeline;

(5) forest management activities, including associated road construction or maintenance, in an existing forested wetland or harvested forested wetland, provided:

(i) any road construction is solely for forest management activities;

(ii) the road is the minimum feasible width and total length consistent with the forest management activities; and

(iii) the road is removed and the site restored to its prior natural condition;

(6) emergency repair and normal maintenance and repair of existing public works, provided that the activity employs erosion control measures

to prevent sedimentation of surface water, does not block fish passage in a watercourse, and does not result in additional intrusion of the public works into the wetland;

(7) aquiculture activities, except building or altering of docks and activities involving the filling of wetlands;

(8) wild rice production activities including necessary diking and other activities authorized under a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344;

(9) activities associated with routine maintenance of existing public highways, roads, streets, and bridges, provided the activities do not result in additional intrusion into the wetland;

(10) duck blinds; and

(11) activities associated with routine maintenance of utility right-of-ways, provided the activities do not result in additional intrusion into the wetland.

(c) In addition to the conditions in paragraphs (a) and (b), the board shall include in each activity permit a condition that the permitted activity be conducted in compliance with all other applicable requirements under state and federal law, including best management practices and water resource protection requirements established under chapter 103H.

Subd. 7. [APPEAL.] *(a) The applicant, the commissioner of natural resources, or other affected parties may appeal a permitting authority's decision in classifying a wetland, issuing a wetland use permit with conditions, or denying or revoking a permit to the board of water and soil resources under sections 103A.305 to 103A.341. The appeal must be filed within 15 days after public notice is given of the decision to issue, deny, or revoke the permit.*

(b) On appeal of a permit decision under paragraph (a), the board of water and soil resources may classify the wetland as a class E wetland, and may issue a permit in accordance with the procedures in subdivision 5.

Sec. 10. [103G.2365] [COMPENSATION FOR LOSS OF PRIVATE USE.]

Subdivision 1. [ELIGIBILITY.] *A person who is not allowed to make requested uses of a wetland shall be compensated as provided in this section. A person is eligible for compensation if:*

(1) the person applies for a wetland use permit;

(2) the permit is denied or the permit conditions make the proposed use unworkable or not feasible;

(3) the person appeals the permit;

(4) the proposed use would otherwise be allowed under federal, state, and local laws, rules, ordinances, and other legal requirements;

(5) the person has suffered or will suffer damages;

(6) disallowing the proposed use will enhance the public value of the wetland; and

(7) the person applies to the board of water and soil resources for compensation.

Subd. 2. [APPLICATION.] *An application for compensation must be made on forms prescribed by the board of water and soil resources and include:*

(1) the location and classification of the wetland where the use was proposed;

(2) a description and reason for the proposed wetland use; and

(3) the objection to the permitted wetland use, if any.

Subd. 3. [COMPENSATION.] *(a) If the applicant's proposed use of the wetland is an agricultural use, as defined in section 40A.02, subdivision 3, the board shall award compensation in an amount equal to 70 percent of the average equalized estimated market value of agricultural property in the township as established by the commissioner of revenue at the time application for compensation is made, minus the total cost of conversion of the wetland to the proposed use.*

(b) If the applicant's proposed use of the wetland is other than an agricultural use, the board may award compensation not to exceed 70 percent of the estimated fair market value of the wetland minus the total cost of conversion of the wetland to the proposed use.

(c) For the purpose of this subdivision, "total cost of conversion" means the sum of all costs of converting the wetland to accomplish the applicant's proposed use, including but not limited to:

(1) the cost of draining, burning, or filling the wetland;

(2) the cost of replacing lost wetland values under a mitigation requirement if the permit were issued;

(3) reduction in benefits under a federal, state, or local program that would result from the applicant's proposed use; and

(4) increased value of other land owned by the applicant resulting from the retention of the wetland values.

Subd. 4. [CONSERVATION EASEMENT] *(a) In exchange for compensation under subdivision 3, paragraph (a), the applicant shall convey to the board of water and soil resources a permanent conservation easement, as defined in section 84C.01, paragraph (1), on the wetland. In the easement agreement between the landowner and the board, the landowner shall agree:*

(1) not to drain, burn, fill, or otherwise destroy the wetland character of the wetland system, or to use the wetlands for agricultural purposes, as determined by the board;

(2) not to adopt a practice specified by the board in the easement agreement as a practice that would tend to defeat the purposes of the wetland system and the easement; and

(3) to additional provisions that the board determines are desirable.

(b) In exchange for compensation under subdivision 3, paragraph (b), the board may require appropriate convenants, easements, or other restrictions on the applicant's use of the wetlands, commensurate with the amount of compensation awarded.

Sec. 11. [103G.2366] [RULES.]

The board of water and soil resources shall adopt rules to implement sections 9 and 10.

Sec. 12. [103G.2367] [ENFORCEMENT.]

Subdivision 1. [COMMISSIONER OF NATURAL RESOURCES.] *The commissioner of natural resources and conservation officers shall enforce laws preserving and protecting wetlands. The commissioner of natural resources may issue a cease and desist order to stop any illegal activity adversely affecting a wetland. In the order, or by separate order, the commissioner may require:*

(1) restoration of the wetland;

(2) replacement with a wetland of equal or greater value; or

(3) payment of the cost of restoring or replacing the wetland, as determined by the commissioner in consultation with the board of water and soil resources.

Subd. 2. [MISDEMEANOR.] *A violation of an order issued by the commissioner of natural resources under subdivision 1 is a misdemeanor and must be prosecuted by the county attorney where the wetland is located or the illegal activity occurred.*

Subd. 3. [RESTITUTION.] *The court may, as part of sentencing, require a person convicted under subdivision 2 to:*

(1) restore the wetland;

(2) replace the wetland with a wetland of equal or greater value; or

(3) pay the cost of restoring or replacing the wetland, as determined by the commissioner of natural resources in consultation with the board of water and soil resources.

Sec. 13. [103G.2368] [ANNUAL WETLANDS REPORT.]

By January 1 of each year, the commissioner of natural resources and the board of water and soil resources shall jointly report to the committees of the legislature with jurisdiction over matters relating to agriculture, the environment, and natural resources on:

(1) the status of implementation of state laws and programs relating to wetlands;

(2) the quantity, quality, size, and public value of wetlands in the state; and

(3) changes in the items in clause (2).

Sec. 14. [PERMIT SIMPLIFICATION REPORT.]

The board of water and soil resources and the commissioner of the department of natural resources, in consultation with the appropriate federal agencies, shall jointly develop a plan to simplify and coordinate state and federal permitting procedures related to wetland use and shall report on the plan to the legislature by January 1, 1992.

Sec. 15. [LAND EXEMPTED FROM REGULATION.]

Notwithstanding section 9, subdivision 1, a wetland use permit is not required for activities on a parcel containing approximately 50 acres in Washington county described as: the northeast quarter of the northwest

quarter and the southeast quarter of the northwest quarter of section 32, township 29 north, range 21 west, lying east of Minnesota trunk highway no. 694, and the south 466.69 feet of the west 466.69 feet of the northwest quarter of the northeast quarter of section 32, township 29 north, range 21 west.

ARTICLE 7

ECOLOGICALLY SIGNIFICANT PEATLANDS

Section 1. [84.0335] [PEATLAND PROTECTION.]

Subdivision 1. [CITATION.] *This section may be cited as the "Minnesota peatland protection act."*

Subd. 2. [FINDINGS.] *The legislature finds that certain Minnesota peatlands possess unique scientific, aesthetic, vegetative, hydrologic, geologic, wildlife, wilderness, and educational values and represent the various peatland ecological types in the state. The legislature finds that it is desirable and appropriate to protect and preserve these patterned peatlands as a peatland management system through establishment and designation of certain peatland core areas as scientific and natural areas.*

Subd. 3. [DEFINITIONS.] *(a) Unless language or context clearly indicates that a different meaning is intended, the following words and terms, for the purposes of section 1, have the meanings given them.*

(b) "Commissioner" means the commissioner of natural resources.

(c) "Winter road" means an access route that may be used by vehicles only when the substrate is frozen.

(d) "Corridors of disturbance" means rights-of-way such as ditches, ditch banks, transmission lines, pipelines, permanent roads, winter roads, and recreational trails. The existence of a corridor of disturbance may be demonstrated by physical evidence, a document recorded in the office of a county recorder or the public official, an aerial survey, or other similar evidence.

(e) "State land" means land owned by this state and administered by the commissioner.

Subd. 4. [DESIGNATION OF PEATLAND SCIENTIFIC AND NATURAL AREAS.] *The areas listed in section 3 are hereby established and designated as peatland scientific and natural areas to be preserved and managed by the commissioner in accordance with subdivision 5, and section 86A.05, subdivision 5.*

Subd. 5. [ACTIVITIES IN PEATLAND SCIENTIFIC AND NATURAL AREAS.] *(a) Areas designated in subdivision 4 as peatland scientific and natural areas are subject to the conditions in this subdivision.*

(b) Except as provided in paragraph (c) of this subdivision, all restrictions otherwise applicable to scientific and natural areas designated under section 86A.05, subdivision 5, apply to the surface use and to any use of the mineral estate that would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas, including but not limited to prohibitions on:

(1) construction of a new public drainage system or improvement or repair of an existing public drainage system under chapter 103E or any other

alteration of surface water or groundwater levels or flows unless specifically permitted under paragraph (c), clause (5) or (6);

(2) removal of peat, sand, gravel, or other industrial minerals;

(3) exploratory boring or other exploration for or removal of oil, natural gas, radioactive materials, or metallic minerals that would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas, except in the event of a national emergency declared by Congress;

(4) commercial timber harvesting;

(5) construction of new corridors of disturbance; and

(6) ditching, draining, filling, or any other activities that modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas.

(c) The following activities are allowed in peatland scientific and natural areas:

(1) recreational activities, including hunting, fishing, trapping, cross-country skiing, snowshoeing, nature observation, and other recreational activities permitted in a management plan approved by the commissioner;

(2) scientific and educational work and research;

(3) maintenance of corridors of disturbance, including survey lines, consistent with protection of the peatland ecosystem;

(4) use of corridors of disturbance unless limited by a management plan adopted by the commissioner under subdivision 6;

(5) improvements to a public drainage system only for the protection and maintenance of the ecological integrity of the peatland scientific and natural area and when included in a management plan adopted by the commissioner under subdivision 6;

(6) repairs to a public drainage system that crosses a peatland scientific and natural area and is used for the purposes of providing a drainage outlet for lands outside of the peatland scientific and natural area, provided that there are no other feasible and prudent alternative means of providing the drainage outlet. The commissioner shall cooperate with the ditch authority in the determination of feasible and prudent alternatives. No repairs that would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas may be made unless approved by the commissioner;

(7) motorized uses on corridors of disturbance before the effective date of this act;

(8) control of forest insects, disease, and wildfires, as described in a management plan adopted by the commissioner under subdivision 6; and

(9) geological and geophysical surveys that do not significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural area.

Subd. 6. [MANAGEMENT PLANS.] *The commissioner shall develop a management plan for each peatland scientific and natural area designated in subdivision 4 in a manner prescribed by section 86A.09.*

Subd. 7. [ESTABLISHING BASELINE ECOLOGICAL DATA.] *The commissioner shall establish baseline data on the ecology and biological diversity of peatland scientific and natural areas and provide for ongoing long-term ecological monitoring to determine whether changes are occurring in the peatland scientific and natural areas and to identify any changes occurring as a result of permitted activities outside the peatland scientific and natural areas. The baseline data may include, but is not limited to, the history of the peatlands and their geologic origins, plant and animal communities, hydrology, water chemistry, and contaminants introduced from remote sources by atmospheric deposition.*

Subd. 8. [DITCH ABANDONMENTS.] *In order to eliminate repair or improvement to a public drainage system that crosses a peatland scientific and natural area where the repair or improvement adversely affects the area, the commissioner may petition for the abandonment of parts of the public drainage system under section 103E.811. If the public drainage system is necessary as a drainage outlet for lands outside of the peatland scientific and natural area, the commissioner shall cooperate with the ditch authority in the development of feasible and prudent alternative means of providing a drainage outlet that avoids the crossing of and damage to the peatland scientific and natural area. The commissioner may grant flowage easements to the ditch authority for disposal of the outlet water on other state lands. The ditch authority shall approve the abandonment of parts of a public drainage system crossing a peatland scientific and natural area if the portion of the public drainage system crossing the area is not necessary as a drainage outlet for lands outside of the area or if there are feasible and prudent alternative means of providing a drainage outlet without crossing the area. In an abandonment under this subdivision, the commissioner may enter into an agreement with the ditch authority regarding apportionment of costs and, contingent upon appropriations of money for this purpose, may agree to pay a reasonable share of the cost of abandonment.*

Subd. 9. [COMPENSATION FOR TRUST FUND LANDS.] *The commissioner shall acquire by exchange or eminent domain the surface interests, including peat, on trust fund lands contained in peatland scientific and natural areas designated in subdivision 4.*

Sec. 2. Minnesota Statutes 1990, section 103G.231, is amended by adding a subdivision to read:

Subd. 3. [PEAT MINING.] *Peat mining, as defined in section 93.461, is permitted subject to the mine permit and reclamation requirements of sections 93.44 to 93.51, and rules adopted under those sections, except as provided for in section 1.*

Sec. 3. [PEATLAND SCIENTIFIC AND NATURAL AREAS, DESIGNATION.]

The following scientific and natural areas are established and are composed of all of the core peatland areas identified on maps in the 1984 report by the commissioner of natural resources entitled "Recommendations for the Protection of Ecologically Significant Peatlands in Minnesota" and maps on file at the department of natural resources:

(1) Red Lake scientific and natural area in Beltrami, Koochiching, and

Lake of the Woods counties;

(2) Myrtle Lake scientific and natural area in Koochiching county;

(3) Lost River scientific and natural area in Koochiching county;

(4) North Black River scientific and natural area in Koochiching county;

(5) Sand Lake scientific and natural area in Lake county;

(6) Mulligan Lake scientific and natural area in Lake of the Woods county;

(7) Lost Lake scientific and natural area in St. Louis county;

(8) Pine Creek scientific and natural area in Roseau county;

(9) Hole in the Bog scientific and natural area in Cass county;

(10) Wawina scientific and natural area in St. Louis county;

(11) Nett Lake scientific and natural area in Koochiching county;

(12) East Rat Root River scientific and natural area in Koochiching county;

(13) South Black River scientific and natural area in Koochiching county;

(14) Winter Road Lake scientific and natural area in Lake of the Woods county;

(15) Sprague Creek scientific and natural area in Roseau county;

(16) Luxemberg scientific and natural area in Roseau county;

(17) West Rat Root River scientific and natural area in Koochiching county; and

(18) Norris Camp scientific and natural area in Lake of the Woods county.

Sec. 4. [EFFECTIVE DATE.]

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

ARTICLE 8

GRANTS

Section 1. [GRANTS.]

The board of water and soil resources may make grants to the Minnesota association of soil and water conservation districts for education and training of local government officials relating to the implementation of this act. Not more than five percent of a grant made under this section may be used for administrative expenses.

Sec. 2. [APPROPRIATION.]

$ . . . . . is appropriated from the general fund to the board of water and soil resources for grants under section 1 to be available until June 30, 1993.

ARTICLE 9

INTERIM REGULATION

Section 1. [103G.2369] [INTERIM REGULATION.]

Subdivision 1. [DEFINITION.] *For purposes of this section, "wetland" means a wetland as defined in article 6, section 7, subdivision 5, that:*

(1) is identified on a United States Fish and Wildlife Service National Wetlands Inventory map; or

(2) for areas not covered by a map under clause (1), is identified using the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (January 1989).

Subd. 2. [REGULATION AS PUBLIC WATERS WETLANDS.] *Except as provided in subdivisions 3 and 4, until the permit requirement in article 6, section 9, subdivision 1, becomes effective, activities in a wetland are regulated as public waters wetlands under chapter 103G, except that section 103G.221, subdivisions 2 and 3, do not apply.*

Subd. 3. [EXEMPTIONS.] *The following activities are exempt from this section:*

(1) development projects and ditch improvement projects that have received preliminary or final plat approval or for which infrastructure has been installed, or that have received site plan approval or a conditional use permit, on or before the effective date of this act; and

(2) activities listed in article 6, section 9, subdivision 2.

Subd. 4. [REPLACEMENT OF WETLANDS.] *(a) Wetlands must not be drained or filled, wholly or partially, unless there are no feasible and prudent alternatives and unless replaced by restoring or creating wetland areas of at least equivalent size, quantity, character, and diversity under a mitigation plan approved under subdivision 5.*

(b) Mitigation or replacement must be within the same watershed or county as the impacted wetlands, except that counties or watersheds in which 80 percent or more of the presettlement wetland acreage is intact may accomplish mitigation in counties or watersheds in which 50 percent or more of the presettlement wetland acreage has been filled, drained, or otherwise degraded.

(c) Mitigation must be in the ratio of two acres of mitigated wetland for each acre of drained or filled wetland, of which from ten to 50 percent must be a buffer zone of permanent vegetative cover.

(d) Wetlands that are restored or created as a result of an approved mitigation plan are subject to the provisions of this section for any subsequent drainage or filling.

Subd. 5. [MITIGATION PLANS.] *(a) Mitigation plans required in subdivision 4 must be approved or disapproved by a five-member review panel within 120 days of application for a permit required in section 103G.245, subdivision 1. The review panel must be composed of the area regional administrator for the department of natural resources, one board member of the local soil and water conservation district or districts within the county or one manager of the watershed district, one member of the local water planning organization who must be appointed by the county board, the commissioner of agriculture or the commissioner's designee, and one landowner within the county appointed by the local water planning organization.*

(b) The review panel shall use the "Minnesota Wetland Evaluation Methodology" as the criteria for ensuring that degraded wetlands are mitigated effectively before a permit is approved.

(c) The review panel shall determine whether avoidance of activities that directly or indirectly impact, destroy, or diminish a wetland is feasible and

prudent. In cases where the review panel determines that avoidance of activity in a wetland is not feasible and prudent, the panel must be guided by the following principles in approving mitigation plans:

(1) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(2) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

(3) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

(4) compensating for the impact by replacing or providing substitute wetland resources or environments.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

ARTICLE 10

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 84.085, is amended to read:

84.085 [ACCEPTANCE OF GIFTS.]

Subdivision 1. [AUTHORITY.] *(a)* The commissioner of natural resources may accept for and on behalf of the state any gift, bequest, ~~devise~~ *devise*, or grants of lands or interest in lands or personal property of any kind or of money tendered to the state for any purpose pertaining to the activities of the department or any of its divisions. Any money so received is hereby appropriated and dedicated for the purpose for which it is granted. Lands and interests in lands so received may be sold or exchanged as provided in chapter 94.

(b) The commissioner may accept for and on behalf of the permanent school fund a donation of lands, interest in lands, or improvements on lands. A donation so received shall become state property, be classified as school trust land as defined in section 92.025, and be managed consistent with section 120.85.

Subd. 2. [WETLANDS.] *The commissioner of natural resources must accept a gift, bequest, devise, or grant of wetlands, as defined in article 6, section 7, subdivision 5, or public waters wetlands, as defined in section 103G.005, subdivision 18, unless:*

(1) the commissioner determines that the value of the wetland for water quality, floodwater retention, public recreation, wildlife habitat, or other public benefits is minimal;

(2) the wetland has been degraded by activities conducted without a required permit by the person offering the wetland and the person has not taken actions determined by the commissioner to be necessary to restore the wetland;

(3) the commissioner determines that the wetland has been contaminated by a hazardous substance as defined in section 115B.02, subdivision 8, a pollutant or contaminant as defined in section 115B.02, subdivision 13, or petroleum as defined in section 115C.02, subdivision 10, and the contamination has not been remedied as required under chapter 115B or 115C;

(4) the wetland is subject to a lien or other encumbrance; or

(5) the commissioner, after reasonable effort, has been unable to obtain an access to the wetland.

Sec. 2. Minnesota Statutes 1990, section 124.2131, subdivision 1, is amended to read:

Subdivision 1. [ADJUSTED GROSS TAX CAPACITY.] (a) [COMPUTATION.] The department of revenue shall annually conduct an assessment/sales ratio study of the taxable property in each school district in accordance with the procedures in paragraphs (b) and (c). Based upon the results of this assessment/sales ratio study, the department of revenue shall determine an aggregate equalized gross tax capacity and an aggregate equalized net tax capacity for the various classes of taxable property in each school district, which tax capacity shall be designated as the adjusted gross tax capacity and the adjusted net tax capacity, respectively. The department of revenue may incur the expense necessary to make the determinations. The commissioner of revenue may reimburse any county or governmental official for requested services performed in ascertaining the adjusted gross tax capacity and the adjusted net tax capacity. On or before March 15 annually, the department of revenue shall file with the chair of the tax committee of the house of representatives and the chair of the committee on taxes and tax laws of the senate a report of adjusted gross tax capacities and adjusted net tax capacities. On or before April 15 annually, the department of revenue shall file its final report on the adjusted gross tax capacities and adjusted net tax capacities established by the previous year's assessment with the commissioner of education and each county auditor for those school districts for which the auditor has the responsibility for determination of local tax rates. A copy of the report so filed shall be mailed to the clerk of each district involved and to the county assessor or supervisor of assessments of the county or counties in which each district is located.

(b) [METHODOLOGY.] In making its annual assessment/sales ratio studies, the department of revenue shall use a methodology consistent with the most recent Standard on Assessment Ratio Studies published by the assessment standards committee of the International Association of Assessing Officers. The commissioner of revenue shall supplement this general methodology with specific procedures necessary for execution of the study in accordance with other Minnesota laws impacting the assessment/sales ratio study. The commissioner shall document these specific procedures in writing and shall publish the procedures in the State Register, but these procedures will not be considered "rules" pursuant to the Minnesota administrative procedure act.

(c) [AGRICULTURAL LANDS.] For purposes of determining the adjusted gross tax capacity and adjusted net tax capacity of agricultural lands for the calculation of adjusted gross tax capacities and adjusted net tax capacities, the market value of *tillable* agricultural lands shall be ~~the price for which the property would sell in an arms length transaction~~ *determined as provided in section 273.11, subdivision 11.*

Sec. 3. Minnesota Statutes 1990, section 273.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Except as provided in subdivisions 6, 8, ~~and~~ 9, *and 11* 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. The assessor shall take into account the effect on the market value of property of environmental factors in the vicinity of the property. 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 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, that lot or any single contiguous lot fronting on the same street shall be eligible for 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. 4. Minnesota Statutes 1990, section 273.11, is amended by adding a subdivision to read:

Subd. 11. [AGRICULTURAL LAND.] *(a) Tillable agricultural land must be valued under this subdivision. The department of revenue shall determine the following data on a per acre basis by soil productivity index, based on moving averages for the most recent five-year period for which statistics are available:*

(1) gross income, estimated by using yields per acre as assigned to soil productivity indexes, the crop mix for each soil productivity index as determined by the University of Minnesota agricultural extension service, and average prices received by farmers for principal crops as published by the Minnesota crop reporting service;

(2) production costs, other than land costs, provided by the University of Minnesota agricultural extension service; and

(3) net return to land, which is the difference between clauses (1) and (2).

(b) The department of revenue shall certify a proposed agricultural economic value per acre for each soil productivity index, determined by dividing the net return to land as calculated in paragraph (a), clause (3), by the moving average of the federal land bank farmland mortgage interest rate for the same five-year period used in calculating the net return to land.

(c) If the crop equivalency rating is not available in a county, the department of revenue shall use rentals or yield records of the United States Department of Agriculture agricultural stabilization and conservation services in determining the net income. The rentals or yield records must be capitalized in the same manner to determine the valuation of the tillable agricultural land.

(d) Cropland must be valued at the full amount determined under this subdivision. Permanent pasture must be valued at no less than one-third of the cropland value. Other agricultural land, including wetlands, must be valued at no less than one-sixth of the cropland value.

Sec. 5. Minnesota Statutes 1990, section 273.111, subdivision 4, is amended to read:

Subd. 4. The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 8, be determined solely with reference to its appropriate agricultural classification and value notwithstanding sections 272.03, subdivision 8, and 273.11. In determining the value for ad valorem tax purposes, the assessor shall use sales data obtained from agricultural lands located outside the seven metropolitan counties ~~but within the region used for computing the range of values under section 273.11, subdivision 10. The sales shall have similar soil types, number of degree days, and other similar agricultural characteristics as contained in section 273.11, subdivision 10~~. *The sales data used must be for tillable agricultural land having a corresponding soil productivity index under section 273.11, subdivision 11.* Furthermore, the assessor shall not consider any added values resulting from nonagricultural factors.

Sec. 6. [REPEALER.]

Minnesota Statutes 1990, section 273.11, subdivision 10, is repealed.

Sec. 7. [EFFECTIVE DATE.]

Sections 3 to 6 are effective for assessments in 1992 and subsequent years, for taxes payable in 1993 and subsequent years."

Delete the title and insert:

"A bill for an act relating to wetlands; providing for preservation, enhancement, restoration, and establishment of wetlands; requiring identification of wetlands; requiring adoption of wetland public value and classification criteria; requiring designation of priority areas to establish and preserve wetlands; requiring local water plans to include wetlands with high public value; providing for establishment of wetland preservation areas; authorizing a tax exemption for wetland preservation areas; establishing a wetland restoration and compensation fund; requiring permits for alternative uses of wetlands; requiring compensation for denied uses of wetlands; providing authority to establish and restore wetlands on private land; requiring assessment of direct benefits and payment of damages for establishment and restoration of wetlands; requiring a report on simplification and coordination of state and federal wetland permitting procedures; designating and regulating activities in peatland scientific and natural areas; requiring the commissioner of natural resources to accept donated wetlands with certain exceptions; modifying the method of determining agricultural market value for property tax purposes; amending Minnesota Statutes 1990, sections 84.085; 103B.155; 103B.231, subdivision 6; 103B.311, subdivision 6;

103G.005, subdivisions 15 and 18; 103G.221; 103G.225; 103G.231; 103G.235; 124.2131, subdivision 1; 272.02, subdivision 1; 273.11, subdivision 1, and by adding a subdivision; and 273.111, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 84; 103F; 103G; and 116P; repealing Minnesota Statutes 1990, section 273.11, subdivision 10."

And when so amended the bill do pass and be re-referred to the Committee on Agriculture and Rural Development.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

SECOND READING OF SENATE BILLS

S.F. Nos. 174, 708, 775, 837, 1034, 899, 268, 691, 822, 1206, 753, 762, 1244, 1198, 875, 1315, 1224, 108, 931, 204, 946, 1178, 508, 1053, 525, 766, 788, 1411, 553, 634 and 969 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 87, 126, 357, 106, 1042, 155, 466, 1006 and 843 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Bertram moved that the name of Mr. Beckman be added as a co-author to S.F. No. 760. The motion prevailed.

Mr. McGowan moved that the name of Mr. Marty be added as a co-author to S.F. No. 858. The motion prevailed.

Mr. Metzen moved that the name of Mr. Beckman be added as a co-author to S.F. No. 1037. The motion prevailed.

Ms. Johnson, J.B. moved that the name of Ms. Flynn be added as a co-author to S.F. No. 1268. The motion prevailed.

Ms. Reichgott moved that the name of Mr. Larson be added as a co-author to S.F. No. 1443. The motion prevailed.

Mr. Neuville introduced—

Senate Resolution No. 57: A Senate resolution observing the 125th Anniversary of the Minnesota State Academy for the Blind.

Referred to the Committee on Rules and Administration.

Mr. Samuelson moved that the name of Mr. Merriam be added as a co-author to S.F. No. 1468. The motion prevailed.

Mr. McGowan moved that S.F. No. 108, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Benson, D.D. moved that his name be stricken as a co-author to S.F. No. 835. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Dicklich introduced—

S.F. No. 1473: A bill for an act relating to education; requiring the higher education coordinating board to make certain recommendations to the legislature.

Referred to the Committee on Education.

Mr. Dicklich introduced—

S.F. No. 1474: A bill for an act relating to occupations and professions; barber registration; clarifying registration requirements for barbers, apprentices, and instructors; expanding causes for discipline; providing for summary suspension; amending Minnesota Statutes 1990, sections 154.01; 154.03; 154.04; 154.05; 154.06; 154.065, subdivisions 2 and 4; 154.07, subdivisions 1, 3, 5, 6, and by adding a subdivision; 154.09; 154.10; 154.11; 154.12; 154.14; 154.15; 154.16; 154.18; and 154.22; proposing coding for new law in Minnesota Statutes, chapter 154; repealing Minnesota Statutes 1990, sections 154.065, subdivisions 1, 3, 5, 7, and 8; 154.07, subdivision 2; 154.085; 154.13; and 154.17.

Referred to the Committee on Commerce.

Mr. Sams, Ms. Berglin, Messrs. Renneke and Samuelson introduced—

S.F. No. 1475: A bill for an act relating to human services; allowing additional variances for payment rates for county funded day training and habilitation services; amending Minnesota Statutes 1990, section 252.46, subdivision 6.

Referred to the Committee on Health and Human Services.

Mr. Pogemiller introduced—

S.F. No. 1476: A bill for an act relating to education; requiring districts to develop five-year facilities plans; changing the review and comment procedure; authorizing joint powers debt sharing; promoting shared facilities; requiring formation of a county facilities group; requiring an evaluation; amending Minnesota Statutes 1990, sections 121.15, subdivisions 1, 2, 3, 6, 7, 8, 9, and by adding subdivisions; and 121.155; proposing coding for new law in Minnesota Statutes, chapter 373.

Referred to the Committee on Education.

Mr. Marty, Ms. Berglin, Messrs. Metzen and Kroening introduced—

S.F. No. 1477: A bill for an act relating to the state lottery; providing for the distribution of a portion of net proceeds from the state lottery in fiscal years 1992 and 1993 to the housing trust fund account and a head start account; amending Minnesota Statutes 1990, section 349A.10, subdivision 5, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 268.

Referred to the Committee on Gaming Regulation.

Messrs. Frederickson, D.J.; Marty; Ms. Piper and Mr. Beckman introduced—

S.F. No. 1478: A bill for an act relating to taxation; imposing a sales or excise tax on sales of certain property and services; increasing the sales tax on certain items of tangible personal property; amending Minnesota Statutes 1990, sections 295.01, subdivision 10; 297A.01, subdivisions 3 and 8; 297A.02, by adding a subdivision; 297A.25, subdivisions 2 and 8; 297B.02, by adding a subdivision; 297C.01, by adding a subdivision; 297C.02, by adding subdivisions; 297C.06, subdivision 1; 297C.07; and 297C.10, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 297A and 297C.

Referred to the Committee on Taxes and Tax Laws.

Mr. Vickerman introduced—

S.F. No. 1479: A bill for an act relating to health; allowing licensed practitioners to delegate the dispensing of a legend drug under certain circumstances; amending Minnesota Statutes 1990, section 151.37, subdivision 2.

Referred to the Committee on Health and Human Services.

Mr. Bertram introduced—

S.F. No. 1480: A bill for an act relating to the military; appropriating money for a museum of the national guard.

Referred to the Committee on Veterans and General Legislation.

Mr. Frank introduced—

S.F. No. 1481: A bill for an act relating to housing; requiring disclosure of conditions in sales of used manufactured homes; creating a used manufactured home transfer disclosure form; authorizing the commissioner of commerce to adopt rules; proposing coding for new law in Minnesota Statutes, chapter 327B.

Referred to the Committee on Commerce.

Mses. Ranum, Berglin, Reichgott, Messrs. Spear and McGowan introduced—

S.F. No. 1482: A bill for an act relating to the prevention of child abuse and neglect; authorizing the commissioner of state planning to award grants for programs designed to prevent child abuse and neglect; authorizing the commissioner of health to award grants for programs to prevent child abuse and neglect; establishing a bonus incentive for counties to provide family-based services; amending Minnesota Statutes 1990, section 256F.05, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 116K and 145.

Referred to the Committee on Health and Human Services.

Mr. Dahl introduced—

S.F. No. 1483: A bill for an act relating to the environment; regulating the distribution of copies of reports to the legislature; requiring public

entities to conform to certain printing requirements; amending Minnesota Statutes 1990, sections 3.195, subdivision 1; and 16B.122; repealing Minnesota Statutes 1990, section 16B.125.

Referred to the Committee on Environment and Natural Resources.

Mr. Dahl introduced—

S.F. No. 1484: A bill for an act relating to education; adding a requirement for licensure of teachers of hearing impaired students; proposing coding for new law in Minnesota Statutes, chapter 125.

Referred to the Committee on Education.

Mr. Stumpf introduced—

S.F. No. 1485: A bill for an act relating to taxation; increasing the rate of interest on certain delinquent property taxes; reducing the period for redemption of certain tax-forfeited property; amending Minnesota Statutes 1990, sections 279.03, subdivision 1a; and 281.17.

Referred to the Committee on Taxes and Tax Laws.

Mr. Kelly introduced—

S.F. No. 1486: A bill for an act relating to public safety; establishing the board of jail employee training and standards; regulating jail employees; requiring an assessment to be dedicated from work-release earnings to be used by the board of jail employee training and standards; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 214.01, subdivision 3; 214.04, subdivisions 1 and 3; 364.09; and 631.425, subdivision 5, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 214; proposing coding for new law as Minnesota Statutes, chapter 644.

Referred to the Committee on Health and Human Services.

Mr. Kelly introduced—

S.F. No. 1487: A bill for an act relating to courts; permitting a joint committee to determine functions to be discharged in Ramsey county municipalities; amending Minnesota Statutes 1990, section 488A.18, subdivision 10; repealing Minnesota Statutes 1990, sections 488A.18, subdivision 13; and 488A.185.

Referred to the Committee on Judiciary.

Ms. Reichgott, Messrs. Pogemiller, Metzen and Johnson, D.J. introduced—

S.F. No. 1488: A bill for an act relating to taxation; property; providing for classification of certain low-income housing; amending Minnesota Statutes 1990, sections 13.51, by adding a subdivision; 13.54, by adding a subdivision; and 273.13, subdivision 25; proposing coding for new law in Minnesota Statutes, chapter 273.

Referred to the Committee on Taxes and Tax Laws.

Mr. DeCramer introduced—

S.F. No. 1489: A bill for an act relating to taxation; imposing personal liability for unpaid property taxes on owners of certain property used for retail sales; allowing county auditors to impose charges for certain collection activities; amending Minnesota Statutes 1990, section 384.151, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 279.

Referred to the Committee on Taxes and Tax Laws.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until immediately after the conclusion of the Joint Convention. The motion prevailed.

The Senate reconvened at the appropriate time.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 2:00 p.m., Thursday, April 18, 1991. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate