

## THIRTY-EIGHTH DAY

St. Paul, Minnesota, Wednesday, April 24, 1991

The Senate met at 12:45 p.m. and was called to order by the President.

### CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by Senator Dean E. Johnson.

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

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

The President declared a quorum present.

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

### EXECUTIVE AND OFFICIAL COMMUNICATIONS

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

March 22, 1991

The Honorable Jerome Hughes  
President of the Senate

Dear Sir:

The following appointments are hereby respectfully submitted to the Senate for confirmation as requested by law:

**MEMBER, STATE BOARD OF TECHNICAL COLLEGES**

F. B. Daniel, 2056 Timmy Street, Mendota Heights, Dakota County, Minnesota, has been appointed by me, effective March 25, 1991, for a term expiring on the first Monday in January, 1995.

**MEMBER, STATE BOARD OF TECHNICAL COLLEGES**

Billeigh H. Riser, 2205 Hazelwood, Maplewood, Ramsey County, Minnesota, has been appointed by me, effective March 25, 1991, for a term expiring on the first Monday in January, 1995.

**MEMBER, STATE BOARD OF TECHNICAL COLLEGES**

Robert L. Cahlander, 4315 Southview Ridge, Red Wing, Goodhue County, Minnesota, has been appointed by me, effective March 25, 1991, for a term expiring on the first Monday in January, 1995.

(Referred to the Committee on Education.)

April 5, 1991

The Honorable Jerome Hughes  
President of the Senate

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as requested by law:

**DIRECTOR, OFFICE OF WASTE MANAGEMENT**

Dottie M. Rietow, 1317 Kilmer Avenue South, St. Louis Park, Hennepin County, Minnesota, has been appointed by me, effective April 7, 1991, for a term expiring on the first Monday in January, 1995.

(Referred to the Committee on Environment and Natural Resources.)

April 8, 1991

The Honorable Jerome Hughes  
President of the Senate

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as requested by law:

**MEMBER, MINNESOTA WORLD TRADE CENTER CORPORATION  
BOARD OF DIRECTORS**

Wallace F. Gustafson, 14099 Skyline Drive, Spicer, Kandiyohi County, Minnesota, has been appointed by me, effective April 7, 1991, for a term expiring on the first Monday in January, 1994.

(Referred to the Committee on Economic Development and Housing.)

April 9, 1991

The Honorable Jerome Hughes

President of the Senate

Dear Sir:

The following appointments are hereby respectfully submitted to the Senate for confirmation as requested by law:

**MEMBER, STATE BOARD FOR COMMUNITY COLLEGES**

Robert M. Bigwood, Hoot Lake Drive, Route 6, Fergus Falls, Otter Tail County, Minnesota, has been appointed by me, effective April 7, 1991, for a term expiring on the first Monday in January, 1995.

Stephen Lloyd Maxwell, 882 Carroll Avenue, St. Paul, Ramsey County, Minnesota, has been appointed by me, effective April 7, 1991, for a term expiring on the first Monday in January, 1995.

**STUDENT MEMBER, STATE BOARD FOR COMMUNITY COLLEGES**

Ann M. Kruchten, 601 114th Avenue Northwest, Coon Rapids, Anoka County, Minnesota, has been appointed by me, effective April 7, 1991, for a term expiring on the first Monday in January, 1993.

(Referred to the Committee on Education.)

Warmest regards,  
Arne H. Carlson, Governor

April 19, 1991

The Honorable Jerome M. Hughes  
President of the Senate

Dear Senator Hughes:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 583.

Warmest regards,  
Arne H. Carlson, Governor

April 22, 1991

The Honorable Jerome M. Hughes  
President of the Senate

Dear Senator Hughes:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 252.

Warmest regards,  
Arne H. Carlson, Governor

April 23, 1991

The Honorable Robert E. Vanasek

Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1991	Date Filed 1991
583		30	5:12 p.m. April 19	April 22

Sincerely,  
Joan Anderson Growe  
Secretary of State

April 23, 1991

The Honorable Robert E. Vanasek  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1991	Date Filed 1991
	196	Res. No. 5	3:05 p.m. April 22	April 22
	795	31	3:10 p.m. April 22	April 22
	131	32	3:12 p.m. April 22	April 22
252		33	4:16 p.m. April 22	April 23

Sincerely,  
Joan Anderson Growe  
Secretary of State

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 6.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1991

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 977, 1549, 983, 1105, 1282, 1396 and 1418.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1991

### FIRST READING OF HOUSE BILLS

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

H.F. No. 977: A bill for an act relating to the environment; prescribing who must prevent, prepare for, and respond to worst case discharges of oil and hazardous substances; describing response plans; authorizing the commissioners of the pollution control agency and departments of agriculture and public safety to order compliance; providing for good samaritan assistance; authorizing cooperation between public and private responders; requiring the establishment of a single answering point system; authorizing citizens advisory groups; providing penalties; amending Minnesota Statutes 1990, section 116.072, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 115E.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 891.

H.F. No. 1549: A resolution memorializing the President and the Congress of the United States to take action to alleviate the crisis in the Midwest dairy industry.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1414.

H.F. No. 983: A bill for an act relating to Ramsey county; changing Ramsey county special laws to make them consistent with the county home rule charter; amending Minnesota Statutes 1990, sections 383A.06, subdivision 2; 383A.16, subdivision 4; 383A.20, subdivision 10; 383A.32, subdivision 1; and 383A.50, subdivision 4; repealing Minnesota Statutes 1990, sections 383A.04; 383A.06, subdivision 3; 383A.07, subdivisions 6, 15, and 20; 383A.16, subdivision 5; 383A.20, subdivisions 1, 6 to 9, and 11; 383A.23, subdivision 1; 383A.24; 383A.25; 383A.45; 383A.46; 383A.48; 383A.49; and 383A.50, subdivisions 1 and 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 943, now on General Orders.

H.F. No. 1105: A bill for an act relating to Ramsey county; providing for additional civil service certification of underrepresented groups; amending Minnesota Statutes 1990, section 383A.291, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 973, now on General Orders.

H.F. No. 1282: A bill for an act relating to local government; providing procedures for storm sewer improvements; amending Minnesota Statutes 1990, section 444.18, by adding a subdivision; repealing Minnesota Statutes 1990, section 444.18, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1126, now on General Orders.

H.F. No. 1396: A bill for an act relating to local government; allowing Pine county to transfer money from the county welfare fund to the general fund to support a hospital.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1040, now on General Orders.

H.F. No. 1418: A bill for an act relating to human services; Minnesota comprehensive health association; clarifying the calculation of contributing members' share of expenses; excluding medical assistance and general assistance medical care payments from the calculation; amending Minnesota Statutes 1990, section 62E.11, subdivision 5.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1211, now on General Orders.

### REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 937. The motion prevailed.

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

S.F. No. 772: A bill for an act relating to crimes; imposing a duty to investigate and render aid when a person is injured in a shooting accident; imposing penalties; amending Minnesota Statutes 1990, section 97A.051, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 609.

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

Page 1, line 25, delete "DISCHARGE BY HUNTER" and insert "SHOOTING VICTIM"

Page 2, lines 3 and 33, delete "*accident*" and insert "*incident*"

Page 2, lines 4 and 5, delete "*intentional or unintentional*"

Page 2, lines 15 and 25, delete "*unless the injuries are minor,*"

Page 2, delete lines 28 to 30 and insert "*misdemeanor.*"

Page 3, line 1, delete "*the injuries are minor or*"

Page 3, line 5, delete "*gross*" and insert "*petty*"

Amend the title as follows:

Page 1, line 4, delete "*accident*" and insert "*incident*"

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

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

S.F. No. 626: A bill for an act relating to public safety; regulating limousine drivers; adding identification to license plates; providing for limousine driver

endorsement on drivers licenses; providing for payment of fees for limousine drivers licenses; requiring the commissioner of public safety to adopt rules relating to limousine permits; appropriating money; amending Minnesota Statutes 1990, sections 168.128, subdivisions 2 and 3; 171.01, by adding a subdivision; 171.02, subdivision 2; 171.10, subdivision 2; 171.13, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 171.

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 168.011, subdivision 35, is amended to read:

Subd. 35. [LIMOUSINE.] ~~"Limousine" means a passenger automobile, other than a taxicab or a passenger-carrying van-type vehicle, that does not provide regular route service and that has a seating capacity, excluding the driver, of not more than 12 passengers. For purposes of motor vehicle registration only, "limousine" means an unmarked luxury passenger automobile that is not a van or station wagon and has a seating capacity of not more than 12 persons, excluding the driver.~~

Sec. 2. Minnesota Statutes 1990, section 168.128, subdivision 2, is amended to read:

Subd. 2. [LICENSE PLATES.] A person who operates a limousine for other than personal use shall apply to register the vehicle as provided in this section. A person who operates a limousine for personal use may apply. The registrar shall issue limousine license plates upon the applicant's compliance with laws relating to registration and licensing of motor vehicles and drivers and certification by the owner that an insurance policy in an aggregate amount of \$300,000 per accident is in effect for the entire period of the registration under section 65B.135. The applicant must provide the registrar with proof that the passenger automobile license tax and a \$10 fee have been paid for each limousine receiving limousine license plates. The limousine license plates must be designed to specifically identify the vehicle as a limousine *and must be clearly marked with the letters "LM."* Limousine license plates may not be transferred upon sale of the limousine, but may be transferred to another limousine owned by the same person upon notifying the registrar and paying a \$5 transfer fee.

Sec. 3. Minnesota Statutes 1990, section 168.128, subdivision 3, is amended to read:

Subd. 3. [INSURANCE.] The application must include a certificate of insurance verifying that a valid commercial insurance policy is in effect and giving the name of the insurance company and the number of the insurance policy. The policy must provide stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is granted, of not less than \$100,000 because of bodily injury to one person in any one accident and, subject to said limit for one person, of not less than \$300,000 because of injury to two or more persons in any one accident *and of not less than \$100,000 because of injury to or destruction of property.* The insurance company must notify the commissioner if the policy is canceled or if the policy no longer provides the coverage required by this subdivision.

*The commissioner shall immediately notify the commissioner of transportation if the policy of a person required to have a permit under section 6 is canceled or no longer provides the coverage required by this subdivision.*

Sec. 4. Minnesota Statutes 1990, section 221.025, is amended to read:  
221.025 [EXEMPTIONS.]

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

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

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

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

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

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

(f) the delivery of agricultural lime;

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

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

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

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

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

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

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



farm;

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

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

Sec. 5. Minnesota Statutes 1990, section 221.091, is amended to read:  
221.091 [LIMITATIONS.]

No provision in sections 221.011 to 221.291 and section 6 shall authorize the use by any carrier of any public highway in any city of the first class in violation of any charter provision or ordinance of such city in effect January 1, 1925, unless and except as such charter provisions or ordinance may be repealed after that date; nor shall sections 221.011 to 221.291 and section 6 be construed as in any manner taking from or curtailing the right of any city to reasonably regulate or control the routing, parking, speed or the safety of operation of a motor vehicle operated by any carrier under the terms of sections 221.011 to 221.291 and section 6, or the general police power of any such city over its highways; nor shall sections 221.011 to 221.291 and section 6 be construed as abrogating any provision of the charter of any such city requiring certain conditions to be complied with before such carrier can use the highways of such city and such rights and powers herein stated are hereby expressly reserved and granted to such city; but no such city shall prohibit or deny the use of the public highways within its territorial boundaries by any such carrier for transportation of passengers or property received within its boundaries to destinations beyond such boundaries, or for transportation of passengers or property from points beyond such boundaries to destinations within the same, or for transportation of passengers or property from points beyond such boundaries through such municipality to points beyond the boundaries of such municipality, where such operation is pursuant to a certificate of convenience and necessity issued by the commission or to a permit issued by the commissioner under section 6.

Sec. 6. [221.85] [OPERATION OF LIMOUSINES.]

*Subdivision 1. [DEFINITION.] "Limousine service" means a service that:*

- (i) is not provided on a regular route;*
- (ii) is provided in an unmarked luxury passenger automobile that is not a van or station wagon and has a seating capacity of not more than 12 persons, excluding the driver;*
- (iii) provides only prearranged pickup; and*
- (iv) charges more than a taxicab fare for a comparable trip.*

*Subd. 2. [PERMIT REQUIRED; RULES.] No person may operate a for-hire limousine service without a permit from the commissioner. The commissioner shall adopt rules governing the issuance of permits for for-hire operation of limousines that include:*

- (1) annual inspections of limousines;*
- (2) driver qualifications, including requiring a criminal history check of drivers;*

- (3) insurance requirements in accordance with section 168.128;
- (4) advertising regulation, including requiring a copy of the permit to be carried in the limousine and use of the words "licensed and insured";
- (5) provisions for agreements with political subdivisions for sharing enforcement costs;
- (6) issuance of temporary permits and temporary permit fees; and
- (7) other requirements deemed necessary by the commissioner.

*This section does not apply to limousines operated by persons meeting the definition of private carrier in section 221.011, subdivision 26.*

*Subd. 3. [PENALTIES.] The commissioner may issue an order requiring violations of statutes, rules, and local ordinances governing operation of limousines to be corrected and assessing monetary penalties up to \$1,000. The commissioner may suspend or revoke a permit for violation of applicable statutes and rules and, upon the request of a political subdivision, may immediately suspend a permit for multiple violations of local ordinances. The commissioner shall immediately suspend a permit for failure to maintain required insurance and shall not restore the permit until proof of insurance is provided. A person whose permit is revoked or suspended or who is assessed an administrative penalty may appeal the commissioner's action in a contested case proceeding under chapter 14.*

*Subd. 4. [FEES.] Persons operating a for-hire limousine service shall pay a fee of \$150 for an annual permit and a decal fee of \$20 for each limousine operated under the permit. The commissioner shall issue a distinctive decal to be displayed on each limousine covered by the permit. All fees must be deposited by the commissioner in the trunk highway fund.*

#### **Sec. 7. [APPROPRIATION.]**

*\$ . . . . is appropriated from the trunk highway fund to the commissioner of transportation for the purposes of section 6, to be available for the biennium ending June 30, 1993. The complement of the department of transportation is increased by . . . . ."*

Delete the title and insert:

*"A bill for an act relating to transportation; regulating limousine service; adding identification to license plates; requiring the commissioner of transportation to adopt rules relating to limousine permits; appropriating money; amending Minnesota Statutes 1990, sections 168.011, subdivision 35; 168.128, subdivisions 2 and 3; 221.025; and 221.091; proposing coding for new law in Minnesota Statutes, chapter 221."*

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. 789: A bill for an act relating to retirement; first class city teachers; establishing an employer additional contribution rate; increasing the employer contribution on behalf of coordinated members; amending Minnesota Statutes 1990, section 354A.12, subdivision 2.

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

as follows:

Page 3, after line 2, insert:

*"Subd. 2b. [STATE FUNDING OF EMPLOYER ADDITIONAL CONTRIBUTION.] The state shall pay to the employing unit annually from the general fund an amount equal to the employer additional contribution to the Minneapolis teacher and St. Paul teacher retirement funds for coordinated members as specified in subdivision 2a, paragraph (4). The employer additional contribution state funding is payable monthly by the commissioner of finance based on the coordinated program covered payroll for the preceding month, as certified by the chief administrative officer of the applicable school district.*

**Sec. 2. [MINNEAPOLIS TEACHERS MEDICAL LEAVE CREDIT.]**

*In accordance with Minnesota Statutes, section 354A.12, subdivision 4, approval is granted for the Minneapolis teachers retirement fund association to amend its articles of incorporation or bylaws to allow basic plan members who are granted medical leave of absence by special school district No. 1, Minneapolis, to receive up to one year service credit of that leave in accordance with Minnesota Statutes, section 354A.096.*

**Sec. 3. [MINNEAPOLIS TEACHERS RETIREE RESUMING SERVICE.]**

*In accordance with Minnesota Statutes, section 354A.12, subdivision 4, approval is granted for the Minneapolis teachers retirement fund association to amend its articles of incorporation or bylaws to provide that any person who is retired and receiving a basic program formula retirement annuity under the articles of incorporation or bylaws of the association, and who has resumed teaching service for the special school district No. 1, is entitled to continue to receive retirement annuity payments except that annuity payments must be reduced in accordance with Minnesota Statutes, section 354A.31, subdivision 3, if the person's income from teaching service is an amount greater than the maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors, and disability insurance program as set by the Secretary of Health and Human Services under United States Code, title 42, section 403."*

Page 3, line 5, after "of" insert "final"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "authorizing certain bylaw amendments by the Minneapolis teachers retirement fund association; directing state payments to employing units;"

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. 656: A bill for an act relating to retirement; Minneapolis municipal employees; making various changes reflecting benefits, administration, and investment practices of the Minneapolis employees retirement fund; amending Minnesota Statutes 1990, sections 422A.03, subdivision 1; 422A.05,

subdivision 2c; 422A.09, subdivision 3; 422A.13, subdivision 2; and 422A.16, subdivisions 1 and 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 11A.24, subdivision 1, is amended to read:

Subdivision 1. [SECURITIES GENERALLY.] The state board shall have the authority to purchase, sell, lend or exchange the following securities for funds or accounts specifically made subject to this section including puts and call options and future contracts traded on a contract market designated and regulated by a federal agency. *These securities may be owned as units in commingled trusts that own the securities described in subdivisions 2 to 5.*

Sec. 2. Minnesota Statutes 1990, section 356.71, is amended to read:

356.71 [REAL ESTATE INVESTMENTS.]

Notwithstanding any law to the contrary, any public pension plan whose assets are not invested by the state board of investment may invest its funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust *if the investment is consistent with section 356A.04. Except to the extent authorized in the case of the Minneapolis employees retirement fund under section 422A.05, subdivision 2c, paragraph (a), an investment otherwise authorized by this section must also comply with the requirements and limitations of section 11A.24, subdivision 6.*

Sec. 3. Minnesota Statutes 1990, section 422A.03, subdivision 1, is amended to read:

Subdivision 1. The retirement board shall meet on the third Tuesday of each calendar month of each year and may adjourn from time to time. Special meetings may be held upon the call of the president. The board shall, by a four-sevenths vote of all members of the board, appoint an executive director, who shall have charge of the performance of the duties required by the provisions of sections 422A.01 to 422A.25, and *who shall appoint other necessary employees to positions approved in advance by the board.* If at the time of appointment as executive director the appointee holds a position subject to the civil service rules and regulations of the city the appointee shall be deemed to be on leave of absence from the civil service position during tenure as executive director, and upon termination of service shall be returned to the appointee's permanent civil service classification. If no vacancy is available in the appointee's permanent civil service classified position, seniority shall prevail, and the person most recently certified to the position shall be returned to the permanent civil service classification held prior to such certification.

Sec. 4. Minnesota Statutes 1990, section 422A.05, subdivision 2c, is amended to read:

Subd. 2c. (a) *For investments made on or after July 1, 1991, the board may shall invest funds only in investments authorized by section 11A.24. However, in addition to other authorized real estate investments authorized*

*by section 11A.24, the board may also ~~invest funds in~~ make loans to purchasers of Minnesota situs nonfarm residential real estate ~~ownership interests or loans~~ that is owned by the Minneapolis employees retirement fund. The loans must be secured by mortgages or deeds of trust.*

*(b) For investments made before July 1, 1991, the board may, but is not required to, comply with section 11A.24. However, with respect to these investments, the board shall act in accordance with subdivision 2a and chapter 356A.*

Sec. 5. Minnesota Statutes 1990, section 422A.09, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS FROM MEMBERSHIP.] The exempt class shall consist of:

(1) Employees who are members of any other organization or association of the city on behalf of which a tax is levied by the city for the purpose of paying retirement allowances to disabled or superannuated employees.

(2) Persons filling elective position; provided that any elective officer holding an elective city office, except a judge of municipal court, shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance, which shall be granted only upon completion of ten or more years of service and attaining at least age 60.

All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, or member of an executive board or commission or any combination thereof. Persons who have served in elective positions which qualified them for membership in the fund prior to July 1, 1967, and who immediately thereafter hold elective office, first being appointed to that elective office in Hennepin county, may retain or resume membership in the fund as an elective officer of the county. The county shall collect and pay to the retirement fund the employee contribution as required ~~pursuant to~~ *under* section 422A.10. The employer contribution on behalf of the elected officer ~~shall~~ *must* be paid by the county. Before receiving a retirement allowance, or any other benefit, any person who claims credit for service ~~pursuant to~~ *under* this section shall contribute to the fund an amount equal to the amount of contributions to the fund which the person would have made had the person been a contributor to the fund since the date the person first became eligible for membership in the fund, ~~in accordance with~~ *under* section 422A.10, plus six percent compound interest.

(3) Persons serving without pay.

(4) Persons employed on a temporary basis, as doorkeepers, ticket takers, and attendants at the municipal auditorium, park recreation facilities, or like activities, employed less than 1000 hours, or its equivalent if employed on any other basis than an hourly basis, in any calendar year from January 1 to December 31, inclusive, provided that employees who were contributing members of the fund on July 1, 1959 shall not be affected by the exclusions ~~contained~~ in this section.

(5) A person who is exempted from the contributing class by Minnesota

Statutes 1974, section 422A.09, subdivision 3, clauses (4) and (5), but who is employed by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of the city government or independently, if financed in whole or in part by city funds, including any person employed by a public corporation, and including any person employed by special school district No. 1, each of whom is not a member of any other retirement system, who later becomes a contributing member of the fund may elect to qualify at that time for credit by paying into the fund an amount equal to the amount of contributions to the fund which the person would have made had the person been a contributor to the fund since the date the person first qualified as an exempt member of the contributing class, ~~in accordance with~~ *under* section 422A.10, plus six percent compound interest.

~~(6) Any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act from and after March 30, 1978, unless the city council of the city of Minneapolis specifies that the person is to be considered as a provisional member of the retirement fund pursuant to section 356.451 or unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Training and Employment Act, or the person agrees in writing to make the required employer contribution in addition to the required employee contribution.~~

Sec. 6. Minnesota Statutes 1990, section 422A.13, subdivision 2, is amended to read:

Subd. 2. Subject to the limitations ~~stated~~ in sections 422A.01 to 422A.25, ~~any an~~ employee in the contributing class who ~~shall have been was~~ employed by the city for ten or more years and ~~shall have attained attains~~ the established age for retirement, or ~~shall have been was~~ employed by the city for 30 or more years ~~all~~, as determined by the retirement board, ~~shall be entitled to may~~ retire. ~~Any employee in the contributing class shall be retired upon reaching the age of 70 regardless of the provisions of the veterans preference act and receive a service allowance as specified in sections 356.30, 356.32, or 422A.01 to 422A.25.~~

Sec. 7. Minnesota Statutes 1990, section 422A.16, subdivision 1, is amended to read:

Subdivision 1. Any member of the contributing class who becomes permanently separated from the service of the city after ~~20 three~~ or more years of service to the city may, by an instrument in writing filed with the retirement board within 30 days after such separation becomes permanent, elect to allow the member's contributions to the fund to the date of separation to remain on deposit in the fund.

Sec. 8. Minnesota Statutes 1990, section 422A.16, subdivision 3, is amended to read:

Subd. 3. If such contributing member dies ~~before reaching the age of 65 years, or having attained the age of 65 years~~ without having made the election provided for herein, the net accumulated amount of deductions from the

member's salary, pay or compensation plus interest to the member's credit on date of death ~~shall~~ *must* be paid to such person, or persons, as the member shall have nominated by written designation filed with the retirement board, in such form as the retirement board shall require. If the employee fails to make a designation, or if the person or persons designated by the employee is not living to receive payment, the net accumulated amount of deductions from the employee's salary, pay, or compensation, plus interest to the credit of such employee on date of death ~~shall~~ *must* be paid to the employee's estate. The net accumulated city deposits ~~shall~~ *must* be paid to a beneficiary designated by such contributing member in such form as the retirement board shall require, who shall be the surviving spouse, or surviving child, or children of such member. If there ~~be~~ *is* no surviving spouse, or surviving child or children, deposits ~~shall~~ *must* be paid to a person actually dependent on and receiving principal support from such member or surviving mother or father, or surviving brother or sister, or surviving children of the deceased brother or sister of such member.

If the beneficiary designated by the member is not one of the class of persons named in the preceding paragraph, such benefit from the accumulations of city deposits shall be paid in the following order: (1) to the surviving spouse, the whole thereof; (2) if there be no surviving spouse, to the surviving children, share and share alike; (3) if there be no surviving spouse or child, or children, to the dependent or dependents of the member, share and share alike; (4) if there be no surviving spouse, child, or children, or dependents, to the surviving mother and father, share and share alike; (5) if there be no surviving mother and father, to the surviving brothers and sisters of the member, in equal shares; (6) and if there be no surviving brothers and sisters, to the surviving children of the deceased brothers and sisters of the member, in equal shares; (7) and if there be no person named in this paragraph who survives the member, the accumulation of city deposits ~~shall~~ *must* be canceled.

Sec. 9. [EFFECTIVE DATE.]

*Sections 1 to 8 are effective July 1, 1991."*

Amend the title as follows:

Page 1, line 6, after "sections" insert "11A.24, subdivision 1; 356.71;"

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. 1168: A bill for an act relating to public employment; transferring certain state employees from the unclassified to the classified service; requiring rules for evaluating the performance of arbitrators; establishing deadlines for certain steps in the arbitration process; establishing a procedure for setting the dates for meetings of arbitration panels; amending Minnesota Statutes 1990, sections 11A.07, subdivision 4; 43A.08, subdivisions 1, 1a, and by adding a subdivision; 43A.18, subdivision 4; 43A.37, subdivision 1; 116K.04, subdivision 5; 136A.03; 179A.05, subdivision 6; 179A.16, subdivisions 4, 6, and 7; and 349A.02, subdivision 4; repealing Minnesota Statutes 1990, section 352D.02, subdivision 1b.

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

as follows:

Delete everything after the enacting clause and insert:

“ARTICLE 1

TRANSFER OF UNCLASSIFIED POSITIONS

Section 1. Minnesota Statutes 1990, section 16B.88, subdivision 1, is amended to read:

Subdivision 1. [INFORMATION CENTER FOR VOLUNTEER PROGRAMS.] ~~There is created in the office of the commissioner the office on volunteer services, hereafter referred to as “the office.”~~ The office shall be ~~on volunteer services~~ is under the supervision and administration of an executive director ~~to be appointed by the commissioner and hereinafter referred to in this section as “director.”~~ ~~The director shall remain in the unclassified service.~~ The office shall operate as a state information center for volunteer programs and needed services that could be delivered by volunteer programs. ~~Any~~ A person or public or private agency may request information on the availability of volunteer programs relating to specific services and may report to the director whenever a volunteer program is needed or desired.

Sec. 2. Minnesota Statutes 1990, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

- (a) (1) chosen by election or appointed to fill an elective office;
- (b) (2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (c) (3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a;
- (d) (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (e) (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (f) (6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;
- (g) (7) employees of the Washington, D.C., office of the state of Minnesota;
- (h) (8) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;
- (i) (9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program



in the school and resource center for the arts, state universities and community colleges, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(+) (10) officers and enlisted persons in the national guard;

(+) (11) attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(+) (12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(+) (13) members of the state patrol; provided that selection and appointment of state patrol troopers ~~shall~~ *must* be made in accordance with applicable laws governing the classified service;

(+) (14) chaplains employed by the state;

(+) (15) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;

(+) (16) student workers;

(+) (17) one position in the hazardous substance notification and response activity in the department of public safety;

(+) (18) employees unclassified pursuant to other statutory authority;

(+) (19) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation; and

(+) (20) the administrators and the deputy administrators at the state academies for the deaf and the blind.

Sec. 3. Minnesota Statutes 1990, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. [ADDITIONAL UNCLASSIFIED POSITIONS.] Appointing authorities ~~for the following agencies~~ may designate additional unclassified positions according to this subdivision: the departments of administration; agriculture; commerce; corrections; jobs and training; education; employee relations; trade and economic development; finance; *gaming*; health; human rights; labor and industry; natural resources; office of administrative hearings; public safety; public service; human services; revenue; transportation; and veterans affairs; the housing finance, state planning, and pollution control agencies; *the state lottery division*; the state board of investment; the office of waste management; the offices of the *attorney general*, secretary of state, state auditor, and state treasurer; the state board of technical colleges; *the higher education coordinating board*; the Minnesota center for arts education; and the Minnesota zoological board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(1) the designation of the position would not be contrary to other law relating specifically to that agency;

(2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency

head's management team;

(3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with the governor and the agency head, or the employing constitutional officer;

(6) the position would be at the level of division or bureau director or assistant to the agency head; and

(7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

Sec. 4. Minnesota Statutes 1990, section 43A.08, is amended by adding a subdivision to read:

*Subd. 4. [LENGTH OF SERVICE FOR STUDENT WORKERS.] A person may not be employed as a student worker in the unclassified service under subdivision 1 for more than 36 months. Employment at a school that a student attends is not counted for purposes of this 36-month limit.*

Sec. 5. Minnesota Statutes 1990, section 43A.18, subdivision 4, is amended to read:

Subd. 4. [PLANS NOT ESTABLISHED BUT APPROVED BY COMMISSIONER.] Notwithstanding any other law to the contrary, total compensation for employees listed in this subdivision must be set by appointing authorities within the limits of compensation plans that have been approved by the commissioner before becoming effective. Compensation plans established under paragraphs (b), (c), and (d) must be approved by the legislature and the legislative commission on employee relations under subdivision 2 before becoming effective.

(a) Total compensation for employees who are not covered by a collective bargaining agreement in the offices of the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer must be determined by the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer, respectively.

(b) Total compensation for unclassified positions ~~pursuant to~~ under section 43A.08, subdivision 1, clause ~~(4)~~ (9), in the state universities and the community colleges not covered by a collective bargaining agreement must be determined by the state university board and the state board for community colleges, respectively.

(c) Total compensation for classified administrative law judges in the office of administrative hearings must be determined by the chief administrative law judge.

(d) Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education coordinating board and in the state board of technical colleges must be determined by the higher education coordinating board and the state board of technical colleges, respectively.

Sec. 6. Minnesota Statutes 1990, section 43A.37, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATION.] Neither the commissioner of finance nor any other fiscal officer of this state may draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the state, nor may the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the civil service, unless a payroll register for the salary or compensation containing the name of every person to be paid bears the certificate of the commissioner that the persons named in the payroll register have been appointed as required by law, rules, or administrative procedures and that the salary or compensation is within the compensation plan fixed by law. The appointing authority shall certify that all employees named in the payroll register are performing service as required by law. This provision does not apply to positions defined in section 43A.08, subdivision 1, clauses ~~(H)~~, ~~(I)~~, ~~(J)~~, (8), (9), (10), and ~~(H)~~ (12). Employees to whom this subdivision does not apply may be paid on the state's payroll system, and the appointing authority or fiscal officer submitting their payroll register is responsible for the accuracy and legality of the payments.

Salary or compensation claims presented against existing appropriations, which have been deemed in violation of the provisions of this subdivision, may be certified for payment if, upon investigation, the commissioner determines the personal services for which payment is claimed actually have been rendered in good faith without collusion and without intent to defraud.

Sec. 7. Minnesota Statutes 1990, section 116K.04, subdivision 5, is amended to read:

Subd. 5. (1) The land management information center is established to foster integration of environmental information and provide services in computer mapping and graphics, environmental analysis, and small systems development.

(2) The commissioner shall periodically compile studies of land use and natural resources on the basis of county, regional, and other political subdivisions.

(3) The commissioner shall charge fees to clients for information products and services. Fees shall be deposited in the state treasury and credited to the land management information center revolving account. Money in the account is appropriated to the state planning agency for operation of the land management information system, including the cost of all services, supplies, materials, labor, and equipment, as well as the portion of the general support costs and statewide indirect costs of the agency that is attributable to the land management information system. The commissioner may require a state agency to make advance payments to the revolving account sufficient to cover the agency's estimated obligation for a period of 60 days or more. If the revolving account is abolished or liquidated, the total net profit from operations ~~shall~~ *must* be distributed to the various funds from which purchases were made. The amount to be distributed to each fund ~~shall~~ *must* bear to the net profit the same ratio as the total purchases from each fund bears to the total purchases from all the funds during a period of time that fairly reflects the amount of net profit each fund is entitled to receive under this distribution. ~~Employees paid from this account are in the unclassified service.~~

Sec. 8. Minnesota Statutes 1990, section 144A.52, subdivision 1, is amended to read:

Subdivision 1. The office of health facility complaints is hereby created in the department of health. The office shall be headed by a director appointed by the state commissioner of health. ~~The director shall report to and serve at the pleasure of the state commissioner of health.~~

The commissioner of health shall provide the office of health facility complaints with office space, administrative services and secretarial and clerical assistance.

Sec. 9. Minnesota Statutes 1990, section 196.23, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF SECTION.] The commissioner shall establish an Agent Orange information and assistance section in the department of veterans affairs. The section shall be headed by a director ~~who shall serve in the unclassified service.~~ The commissioner shall provide the director with office space, administrative services, and clerical support.

Sec. 10. Minnesota Statutes 1990, section 240A.02, subdivision 3, is amended to read:

Subd. 3. [STAFF] The commission shall appoint an executive director, who may hire other employees authorized by the commission. The executive director ~~and any other employees are~~ is in the unclassified service under section 43A.08.

Sec. 11. Minnesota Statutes 1990, section 241.01, subdivision 3a, is amended to read:

Subd. 3a. [COMMISSIONER, POWERS AND DUTIES.] The commissioner of corrections has the following powers and duties:

(a) To accept persons committed to the commissioner by the courts of this state for care, custody, and rehabilitation.

(b) To determine the place of confinement of committed persons in a correctional facility or other facility of the department of corrections and to prescribe reasonable conditions and rules for their employment, conduct, instruction, and discipline within or outside the facility. Inmates shall not exercise custodial functions or have authority over other inmates. Inmates may serve on the board of directors or hold an executive position subordinate to correctional staff in any corporation, private industry or educational program located on the grounds of, or conducted within, a state correctional facility with written permission from the chief executive officer of the facility.

(c) To administer the money and property of the department.

(d) To administer, maintain, and inspect all state correctional facilities.

(e) To transfer authorized positions and personnel between state correctional facilities as necessary to properly staff facilities and programs.

(f) To utilize state correctional facilities in the manner deemed to be most efficient and beneficial to accomplish the purposes of this section, but not to close the Minnesota correctional facility-Stillwater or the Minnesota correctional facility-St. Cloud without legislative approval. The commissioner may place juveniles and adults at the same state minimum security correctional facilities, if there is total separation of and no regular contact

between juveniles and adults, except contact incidental to admission, classification, and mental and physical health care.

(g) To organize the department and employ personnel the commissioner deems necessary to discharge the functions of the department, including a chief executive officer for each facility under the commissioner's control who shall serve in the unclassified civil service and may, under the provisions of section 43A.33, be removed only for cause, and two internal affairs officers for security ~~who shall be in the unclassified civil service.~~

(h) To define the duties of these employees and to delegate to them any of the commissioner's powers, duties and responsibilities, subject to the commissioner's control and the conditions the commissioner prescribes.

(i) To annually develop a comprehensive set of goals and objectives designed to clearly establish the priorities of the department of corrections. This report shall be submitted to the governor and the state legislature commencing January 1, 1976. The commissioner may establish ad hoc advisory committees.

Sec. 12. Minnesota Statutes 1990, section 241.43, subdivision 1, is amended to read:

Subdivision 1. The ombudsman may select, appoint, and compensate out of available funds such assistants and employees as deemed necessary to discharge responsibilities. ~~All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsman in the unclassified service.~~ The ombudsman and full-time staff shall be members of the Minnesota state retirement association.

Sec. 13. Minnesota Statutes 1990, section 241.43, subdivision 2, is amended to read:

Subd. 2. The ombudsman shall designate ~~an assistant to be a~~ the deputy ombudsman ~~in the unclassified service.~~

Sec. 14. Minnesota Statutes 1990, section 299A.30, subdivision 1, is amended to read:

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 activities of drug program agencies and serve as staff to the drug abuse prevention resource council.

Sec. 15. Minnesota Statutes 1990, section 349A.02, subdivision 4, is amended to read:

Subd. 4. [EMPLOYEES; CLASSIFICATION.] The director may appoint other personnel as ~~are~~ necessary to operate the state lottery. ~~Employees of the division who are not professional employees as defined in section 179A.03, subdivision 13, and employees whose primary responsibilities are in data processing and accounting, are in the classified service. All other employees of the division are in the unclassified service.~~ At least one position in the division must be an attorney position and the director ~~must~~ shall employ in that position an attorney to perform legal services for the division.

Sec. 16. Minnesota Statutes 1990, section 446A.03, subdivision 5, is amended to read:

Subd. 5. [EXECUTIVE DIRECTOR.] The commissioner shall employ, with the concurrence of the authority, an executive director. The director shall perform duties that the authority may require in carrying out its responsibilities. ~~The executive director's position is in the unclassified service.~~

Sec. 17. Laws 1984, chapter 654, article 2, section 152, subdivision 3, is amended to read:

Subd. 3. [POWERS OF COMMISSION.] (a) [GENERAL.] The commission shall have all powers necessary or convenient to discharge the duties imposed by law, including those specified in this section.

(b) [ACTIONS.] The commission may sue and be sued and ~~shall~~ is a public body within the meaning of chapter 562.

(c) [EMPLOYEES; CONTRACTS FOR SERVICES.] The commissioner of energy and economic development may employ persons and contract for services necessary to carry out the functions of the commission. Employees ~~are in the unclassified service and~~ members of the Minnesota State Retirement System.

(d) [RESEARCH.] The commission may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its functions.

Sec. 18. Laws 1987, chapter 386, article 1, section 11, is amended to read:

Sec. 11. [RURAL DEVELOPMENT BOARD COMPLEMENT.]

The approved complement of the rural development board is six and one-half positions, ~~with six positions in the unclassified service and one-half position in the classified service, one of which is an executive director position.~~

Sec. 19. [UNCLASSIFIED POSITIONS IN THE DEPARTMENT OF NATURAL RESOURCES.]

*Notwithstanding Laws 1985, First Special Session chapter 15, section 4, subdivision 3, paragraph (g), and Laws 1987, chapter 400, section 5, subdivision 4, paragraph (e), positions in the department of natural resources established for the reinvest in Minnesota fund under Minnesota Statutes, sections 84.025, subdivision 9, and 84.95, are transferred to the classified service. Incumbents of positions that are transferred to the classified service on the effective date of this section must be moved to the classified service without examination and begin to serve a probationary period in the class.*

Sec. 20. [UNCLASSIFIED POSITIONS IN THE COMMUNITY COLLEGE AND STATE UNIVERSITY SYSTEMS.]

*The commissioner of employee relations, with the chancellors of the state university and community college systems, shall develop criteria that determine the placement of professional and managerial positions in the classified or unclassified civil service under Minnesota Statutes, section 43A.08, subdivision 1, clause (9). The commissioner shall consider criteria that recognize the unique educational functions of each system. The commissioner shall report to the legislative commission on employee relations by December 1, 1991, on the criteria that have been established and any reassignments of positions that have been required.*

**Sec. 21. [IMPLEMENTATION PLAN.]**

*The commissioner of employee relations based on a report by the legislative commission on employee relations entitled "The Use of the Unclassified State Civil Service for Non-Managerial Positions" shall develop an implementation plan to transfer positions that do not meet the criteria in Minnesota Statutes, section 43A.08, subdivision 1a or 2a, to the classified service. The commissioner shall consult with affected appointing authorities, exclusive representatives, and unrepresented employees in preparing the implementation plan. The implementation plan must include, but is not limited to, unclassified positions in the state board of investment and the higher education coordinating board. The plan must include recommendations regarding the impact of the plan on incumbents of positions that would be transferred to the classified service. The implementation plan must be submitted to the legislative commission on employee relations by December 15, 1991.*

**Sec. 22. [STUDY OF UNCLASSIFIED POSITIONS.]**

*The attorney general, with the commissioner of employee relations and affected unclassified employees, shall develop criteria that determine the placement of legal assistant positions in the classified or unclassified civil service under Minnesota Statutes, section 43A.08, subdivision 1, clause (11). The attorney general and the commissioner shall report to the legislative commission on employee relations by December 15, 1991, on the criteria that have been established and any reassignment of positions that may be required.*

**Sec. 23. [CLASSIFICATION OF POSITIONS.]**

*Subdivision 1. [TRADE AND ECONOMIC DEVELOPMENT.] Notwithstanding Laws 1984, chapter 654, article 2, section 15, or any other law to the contrary, the positions associated with the following functions in the department of trade and economic development that do not meet the criteria set in Minnesota Statutes, section 43A.08, subdivision 1a or 2a, are in the classified service:*

*(1) coordination of economic development assistance in the high technology industries of medical biotechnology and software development;*

*(2) manufacturing growth council;*

*(3) convention facilities commission;*

*(4) recycling and environmental programs; and*

*(5) coordination of projects involving foreign business.*

*Subd. 2. [TRADE OFFICE.] Notwithstanding Laws 1984, chapter 654, article 3, section 3, or any other law to the contrary, positions associated with the Minnesota trade office that do not meet the criteria set in Minnesota Statutes, section 43A.08, subdivision 1a or 2a, are in the classified service.*

*Subd. 3. [ADMINISTRATION.] Notwithstanding any law to the contrary, a position in the department of administration originally created for the director of the cable communications board must be placed in the classified service.*

**Sec. 24. [TRANSFER OF UNCLASSIFIED POSITIONS TO THE CLASSIFIED SERVICE.]**

*The commissioner shall transfer unclassified positions described in sections 1, 2, 7, and 9 to 23, or affected by section 26, that do not meet the criteria set in Minnesota Statutes, section 43A.08, subdivision 1a or 2a, to the classified service. Incumbents of positions that are transferred to the classified service on the effective date of this section must be moved to the classified service without examination and begin to serve a probationary period in the class.*

#### Sec. 25. [RETIEMENT PLANS.]

*A person who on the day before the effective date of this article is a participant in the state unclassified employees retirement program, and whose position is placed in the classified service under this article, may elect to maintain membership in the unclassified program as long as the person holds the position or a position in a higher class in the same agency. When an unclassified position that entitles a person to participate in the unclassified retirement program is placed in the classified service, the commissioner of employee relations shall send written notice to the incumbent of the position and to the director of the Minnesota state retirement system. The notice must state the incumbent's option under this section. A person eligible to maintain membership in the unclassified plan must notify the executive director of the state retirement system of the person's election to maintain membership in the unclassified plan within 60 days of the date on which the commissioner sends the notice stating that the position has been placed in the classified service. A person who does not send notice is deemed to have waived the right to remain in the unclassified plan.*

#### Sec. 26. [REPEALER.]

*Minnesota Statutes 1990, sections 116J.615, subdivision 3; and 352D.02, subdivision 1b, are repealed.*

### ARTICLE 2

#### INTEREST ARBITRATION

Section 1. Minnesota Statutes 1990, section 179A.05, subdivision 6, is amended to read:

Subd. 6. [ADMINISTRATION OF ARBITRATOR ROSTER.] The board shall maintain a list of names of arbitrators qualified by experience and training in the field of labor management negotiations and arbitration. Names on the list may be selected and removed at any time by a majority of the board. In maintaining the list the board shall, to the maximum extent possible, select persons from varying geographical areas of the state. The board shall adopt rules under chapter 14 governing the administration of the arbitration roster, *including rules establishing standards for evaluating the performance of arbitrators. The standards must include, at a minimum, the acceptability of arbitrators to the parties and the arbitrators' management of their cases, including their promptness in holding hearings and issuing awards.*

Sec. 2. Minnesota Statutes 1990, section 179A.16, subdivision 4, is amended to read:

Subd. 4. [CONSTRUCTION OF ARBITRATION PANEL.] The parties may select persons who are members of the arbitration roster maintained by the board to act as the arbitration panel in their dispute by mutual agreement. In the event of a mutual agreement on the members of the arbitration panel, the commissioner shall advise the board in writing of the



selection of the panel members, and the persons selected shall serve as the arbitration panel. If the parties have not mutually agreed upon the panel members by the time the commissioner certifies the matter to the board, the board shall provide the parties to the interest arbitration a list of seven arbitrators. *The board shall mail the list of arbitrators to the parties within five working days.* The parties shall alternately strike names from the list of arbitrators until only a single arbitrator remains, unless the parties request and mutually agree to utilize a panel of three arbitrators. If the parties are unable to agree on who shall strike the first name, the question must be decided by the flip of a coin. The arbitrator or arbitrators remaining after the striking procedure constitute the arbitration panel.

Sec. 3. Minnesota Statutes 1990, section 179A.16, subdivision 6, is amended to read:

Subd. 6. [POWERS OF THE PANEL.] *If the parties are unable to agree on a prompt, mutually acceptable date for an arbitration panel to meet, the panel may propose a series of dates on which to meet. The parties shall alternatively strike dates until a single date remains. The hearing must be held on that date.*

The arbitration panel may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any dispute before it. The panel may administer oaths and affidavits and may examine witnesses. Attendance of witnesses and the production of evidence may be required from any place in the state at any hearing. However, the panel's meeting shall be held in the county where the principal administrative offices of the employer are located, unless another location is selected by agreement of the parties. In case of refusal to obey a subpoena issued under this section, the district court of the state for the county where the proceeding is pending or where the person who refuses to obey is found, or resides, or transacts business shall, on application of the panel, have jurisdiction to issue an order requiring the person to appear before the panel, to produce evidence, or to give testimony. Failure to obey the order may be punished by the court as a contempt.

Sec. 4. Minnesota Statutes 1990, section 179A.16, subdivision 7, is amended to read:

Subd. 7. [DECISION BY THE PANEL.] The panel's order shall be issued by a majority vote of its members. The order shall resolve the issues in dispute between the parties as submitted by the board. For principals and assistant principals, the panel shall be restricted to selecting between the final offers of the parties on each impasse item. For other employees, if the parties agree in writing, the panel shall be restricted to selecting between the final offers of the parties on each impasse item, or the final offer of one or the other parties in its entirety. In considering a dispute and issuing its order, the panel shall consider the statutory rights and obligations of public employers to efficiently manage and conduct their operations within the legal limitations surrounding the financing of these operations. The panel's decision and order shall be final and binding on all parties.

The panel shall render its order within ~~ten~~ 30 days from the date that all arbitration proceedings have concluded. ~~However, the panel must issue its order by the last date the employer is required by statute, charter, ordinance, or resolution to submit its tax levy or budget or certify its taxes voted to the appropriate public officer, agency, public body or office, or by November 1, whichever date is earlier. This deadline may be extended only with the~~

*approval of the chair of the board. The board shall adopt rules establishing criteria to be followed in determining whether an extension should be granted. The panel's order shall must be for the period stated in the order, except that orders determining contracts for teacher units shall be are effective to the end of the contract period determined by section 179A.20.*

The panel shall send its decision and orders to the board, the commissioner, the appropriate representative of the public employer, and the employees. If any issues submitted to arbitration are settled voluntarily before the arbitrator issues a decision, the arbitrator shall report the settlement to the board and the commissioner.

The parties may at any time prior to or after issuance of an order of the arbitration panel, agree upon terms and conditions of employment regardless of the terms and conditions of employment determined by the order. The parties shall, if so agreeing, execute a written contract or memorandum of contract.

### ARTICLE 3

#### RATIFICATIONS

##### Section 1. [RATIFICATIONS.]

*Subdivision 1. [MANAGERIAL PLAN.] The commissioner of employee relations' amendments to the plan for managerial employees, approved by the legislative commission on employee relations September 12, 1990, are ratified.*

*Subd. 2. [COMMISSIONER'S PLAN.] The commissioner of employee relations' amendments to the commissioner's plan for unrepresented employees, approved by the legislative commission on employee relations September 12, 1990, are ratified.*

*Subd. 3. [CHANCELLOR, TECHNICAL COLLEGE SYSTEM.] The salary for the chancellor of the technical college system, approved by the legislative commission on employee relations September 12, 1990, is ratified.*

*Subd. 4. [CHANCELLOR, STATE UNIVERSITY SYSTEM.] The salary for the chancellor of the state university system, approved by the legislative commission on employee relations September 12, 1990, is ratified.*

*Subd. 5. [UNREPRESENTED EMPLOYEES, STATE UNIVERSITY SYSTEM.] The amendments to the plan for unrepresented employees of the state university system, as approved by the department of employee relations and by the legislative commission on employee relations September 12, 1990, are ratified.*

*Subd. 6. [UNCLASSIFIED EMPLOYEES, HIGHER EDUCATION COORDINATING BOARD.] The amendments to the plan for unclassified employees of the higher education coordinating board, as approved by the department of employee relations and the legislative commission on employee relations September 12, 1990, are ratified.*

*Subd. 7. [ADMINISTRATIVE LAW JUDGES, OFFICE OF ADMINISTRATIVE HEARINGS.] The commissioner of employee relations' amendments to the plan for administrative law judges in the office of administrative hearings, approved by the legislative commission on employee relations September 12, 1990, are ratified.*

*Subd. 8. [AGENCY HEADS.] The salary plan for certain positions listed in Minnesota Statutes, section 15A.081, approved by the legislative commission on employee relations September 12, 1990, is ratified.*

*Subd. 9. [ADMINISTRATIVE LAW JUDGES, OFFICE OF ADMINISTRATIVE HEARINGS.] The commissioner of employee relations' amendments to the plans for administrative law judges in the office of administrative hearings, approved by the legislative commission on employee relations on March 22, 1991, are ratified.*

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

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

Delete the title and insert:

"A bill for an act relating to public employment; transferring certain state employees from the unclassified to the classified service; requiring a study; requiring rules for evaluating the performance of arbitrators; establishing deadlines for certain steps in the arbitration process; establishing a procedure for setting the dates for meetings of arbitration panels; amending Minnesota Statutes 1990, sections 16B.88, subdivision 1; 43A.08, subdivisions 1, 1a, and by adding a subdivision; 43A.18, subdivision 4; 43A.37, subdivision 1; 116K.04, subdivision 5; 144A.52, subdivision 1; 179A.05, subdivision 6; 179A.16, subdivisions 4, 6, and 7; 196.23, subdivision 1; 240A.02, subdivision 3; 241.01, subdivision 3a; 241.43, subdivisions 1 and 2; 299A.30, subdivision 1; 349A.02, subdivision 4; 446A.03, subdivision 5; amending Laws 1984, chapter 654, article 2, section 152, subdivision 3; and Laws 1987, chapter 386, article 1, section 11; repealing Minnesota Statutes 1990, sections 116J.615, subdivision 3; and 352D.02, subdivision 1b."

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

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

H.F. No. 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.

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

Page 1, line 26, strike "January" and before "1992" insert "March"

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

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

H.F. No. 606: A bill for an act relating to transportation; authorizing state departments to cancel uncollectible debts up to \$200 in certain cases; allowing department of transportation to employ debt collection services; allowing department of transportation to make direct expenditures from state aid funds for administrative expenses; providing penalty for failure to pay fee for sign permit more than 30 days after fee is due; providing when estimates of certain construction projects are nonpublic data; directing the commissioner of transportation to adopt rules governing the location and breakaway

standards for mailbox installations; allowing white strobe lamps to be used on highway maintenance vehicles; authorizing exchange of lands with Grand Portage Band of Chippewa Indians; abolishing conflicting requirements related to market artery highways; adding a route and changing the description of a route in the state highway system; providing a penalty; amending Minnesota Statutes 1990, sections 10.12; 13.72, subdivision 1; 161.20, subdivision 4; 162.06, subdivision 2; 162.12, subdivision 2; 169.64, by adding a subdivision; and 173.13, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1990, section 169.833.

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 10.12, is amended to read:

10.12 [UNCOLLECTIBLE DRAFTS CANCELED.]

Subdivision 1. [OVER ~~\$100~~ \$200.] When any draft or account for a sum in excess of ~~\$100~~ \$200 due to the state is found to be uncollectible by any department, it shall report such fact to the executive council, and the executive council may cancel such draft or account upon the approval of the attorney general.

Subd. 2. [TO ~~\$100~~ \$200.] When any draft or account for a sum of not more than ~~\$100~~ \$200 due to the state is found to be uncollectible by an agency, the agency head may cancel the draft or account upon the approval of the attorney general. When drafts or accounts are canceled under this subdivision the head of the canceling agency shall send a certified list of them to the commissioner of finance, who shall enter the cancellations on the department of finance's records.

*Subd. 3. [TO \$100.] When any draft or account for a sum of not more than \$100 due to the state is found to be uncollectible by an agency, the agency head or authorized representative may cancel the draft or account. When drafts or accounts are canceled under this subdivision the agency head shall send a certified list of them to the commissioner of finance, who shall enter the cancellations on the department of finance's records.*

Sec. 2. Minnesota Statutes 1990, section 13.72, subdivision 1, is amended to read:

Subdivision 1. [ESTIMATES FOR CONSTRUCTION PROJECTS.] ~~Estimates~~ *An estimate* of the cost of a construction ~~projects~~ *project* of the Minnesota department of transportation prepared by department employees ~~are~~ *is* nonpublic data and ~~are~~ *is* not available to the public from the time of ~~final preliminary~~ design until the ~~bids are opened for the project is awarded.~~

Sec. 3. Minnesota Statutes 1990, section 161.20, subdivision 4, is amended to read:

Subd. 4. [DEBT COLLECTION.] The commissioner shall make reasonable and businesslike efforts to collect money owed for licenses, fines, penalties, and permit fees or arising from damages to state-owned property or other causes related to the activities of the department of transportation. ~~When a debt has been reduced to a money judgment,~~ The commissioner may contract for debt collection services for the purpose of collecting ~~the a money~~

judgment or legal indebtedness. The commissioner may enter into an agreement with the commissioner of public safety to use debt collection services authorized by this subdivision when civil penalties relating to the use of highways have been reduced to money judgment. Money received as full or partial payment shall be deposited to the appropriate fund. When money is collected through contracted services, the commissioner may make payment for the service from the money collected. The amount necessary for payment of contractual collection costs is appropriated from the fund in which money so collected is deposited.

Sec. 4. Minnesota Statutes 1990, section 162.06, subdivision 2, is amended to read:

Subd. 2. ~~[REIMBURSEMENT OF ADMINISTRATIVE COSTS OF STATE DEPARTMENT OF TRANSPORTATION.]~~ From the total of such sums the commissioner shall deduct a sum equal to 1-1/2 percent of the total sum. The sum so deducted shall be set aside in a separate account and shall be used to reimburse the trunk highway fund for administrative costs incurred by the state transportation department in carrying out the provisions relating to the county state-aid highway system. On the 31st day of December of each year any money remaining in the account not needed to reimburse the trunk highway fund as heretofore provided for administrative costs shall be transferred to the county state-aid highway fund.

Sec. 5. Minnesota Statutes 1990, section 162.12, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATIVE COSTS OF STATE TRANSPORTATION DEPARTMENT.] From the total of such sums the commissioner, each year, shall deduct a sum of money equal to one and one-half percent of the total sums. The sum so deducted shall be set aside in a separate account and shall be used to reimburse the trunk highway fund for administration costs incurred by the state transportation department in carrying out the provisions relating to the municipal state-aid street system. On the 31st day of December of each year, any money remaining in the account not needed to reimburse the trunk highway fund as heretofore provided for administrative costs shall be transferred to the municipal state-aid street fund.

Sec. 6. Minnesota Statutes 1990, section 169.64, is amended by adding a subdivision to read:

Subd. 6a. [WHITE STROBE LAMPS.] *Notwithstanding sections 169.55, subdivision 1, 169.57, subdivision 3, clause (b), or any other law to the contrary, a vehicle may be equipped with a 360-degree flashing strobe lamp that emits a white light with a flash rate of 60 to 120 flashes a minute, and the lamp may be used as provided in this subdivision, if the vehicle is:*

*(1) a school bus that is subject to and complies with the color and equipment requirements of section 169.44, subdivision 1a. The lamp shall be permanently mounted on the longitudinal center line of the bus roof not less than five feet nor more than seven feet forward of the rear roof edge. It shall operate from a separate switch containing an indicator lamp to show when the strobe lamp is in use. The strobe lamp may be lighted only when atmospheric conditions or terrain restrict the visibility of school bus lamps and signals so as to require use of the bright strobe lamp to alert motorists to the presence of the school bus. A strobe lamp may not be lighted unless the school bus is actually being used as a school bus; or*

*(2) a road maintenance vehicle owned or under contract to the department*

*of transportation or a road authority of a county, home rule or statutory city, or town, but the strobe lamp may only be operated while the vehicle is actually engaged in snow removal during daylight hours.*

*The strobe lamp shall be of a double flash type certified to the commissioner of public safety by the manufacturer as being weatherproof and having a minimum effective light output of 200 candelas as measured by the Blondel-Rey formula.*

Sec. 7. Minnesota Statutes 1990, section 173.13, subdivision 7, is amended to read:

Subd. 7. A penalty equal to one-half the annual fee shall be charged upon failure to pay the annual permit fee for renewal on or before ~~August~~ July 1 of each year.

Sec. 8. [LAND EXCHANGE WITH CHIPPEWA INDIANS.]

*Subdivision 1. [AUTHORITY; CONSIDERATION.] Notwithstanding contrary provisions of Minnesota Statutes, sections 94.341 to 94.349; 161.20, 161.23, and 161.44, or other law, and subject to approval of the land exchange board, the commissioner of the department of transportation shall convey a part of State Pit 174, as described in subdivision 3, to the United States of America, on behalf of and as trustee for the Grand Portage Band of Chippewa Indians and with the concurrence of the Grand Portage Reservation Business Committee, for a consideration of lands and interests in real property described in subdivision 4. Upon executing the necessary deeds, grants, resolutions, or other forms required by Minnesota Statutes, sections 161.20, subdivision 2, and 161.44, subdivision 1, and Code of Federal Regulations, title 25, parts 151, 152, and 169, the parties shall exchange lands and interests in lands, described in subdivisions 3 and 4, without additional monetary consideration and in recognition of the substantially equal values of the parcels being exchanged.*

*Subd. 2. [FORM.] The conveyance authorized by this section must be in a form approved by the attorney general, after the attorney general has determined, in the manner provided for in section 94.343, subdivision 9, that the title to the land proposed to be conveyed to the state is good and marketable.*

*Subd. 3. [LAND TO BE CONVEYED.] In exchange and for consideration of lands and interests in real property described in subdivision 4, the commissioner of transportation shall convey that part of tract A of State Pit 174, S.P. 1604 (61 = 1-47-3), in Cook county, described as follows:*

*That part of Tract A described below:*

*Tract A. Government Lot 8 of Section 6, Township 62 North, Range 5 East, Cook County, Minnesota;*

*which lies southerly of a line run parallel with and distant 200 feet south-easterly of Line 1 described below:*

*Line 1. Beginning at a point on the east line of said Section 6, distant 150.9 feet north of the east quarter corner thereof; thence run southwesterly at an angle of 72 degrees 08 minutes 00 seconds from said east section line (measured from south to west) for 25.7 feet; thence deflect to the left on a*

00 degree 30 minute 00 second curve (delta angle 06 degrees 48 minutes 00 seconds) for 1360 feet; thence on tangent to said curve for 200 feet and there terminating;

containing 19.16 acres, more or less.

Subd. 4. [LAND AND INTERESTS TO BE ACQUIRED.] The commissioner of transportation shall convey the land described in subdivision 3 in exchange for land and property interests in certain tracts in parcel 301, S.P. 1604 (61 = 1-47-4), in Cook county, described as follows:

All of Tracts A and B described below:

Tract A. That part of Government Lots 2 and 3 of Section 4, Township 63 North, Range 6 East, Cook County, Minnesota, which lies northerly of the northwesterly right-of-way line of Trunk Highway No. 61 as now located and established and easterly of a line run parallel with and distant 650 feet westerly of the east line of said Government Lot 3; excepting therefrom that part contained within the following described tract: Beginning at the northwest corner of said Government Lot 2; thence east 363 feet; thence south 360 feet; thence west 363 feet; thence north 360 feet to the point of beginning;

Tract B. The southerly 450 feet of the Southwest Quarter of the Southeast Quarter and the southerly 450 feet of the easterly 650 feet of the Southeast Quarter of the Southwest Quarter, both in Section 33, Township 64 North, Range 6 East, Cook County, Minnesota; excepting therefrom the right-of-way of Trunk Highway No. 61 as now located and established;

containing 22.09 acres, more or less;

together with a grant of Right-of-Way for sewer and water purposes in perpetuity over that part of Tract C described below:

Tract C. The North Half of the Southwest Quarter of the Northeast Quarter and that part of Government Lot 2, lying southerly of the southerly right of way line of Trunk Highway No. 61 as now located and established, both in Section 4, Township 63 North, Range 6 East, Cook County, Minnesota;

which lies within a distance of 50 feet southwesterly and westerly and 60 feet northeasterly and easterly of Line 1 described below:

Line 1. Beginning at a point on the north line of said Section 4, distant 335 feet east of the north quarter corner thereof; thence run southeasterly at an angle of 52 degrees 40 minutes 00 seconds from said north section line (measured from east to south) for 660 feet; thence run southerly along a line which intersects the south line of said Government Lot 2 at a point thereon, distant 680 feet east of the southwest corner thereof, for 1240 feet and there terminating;

together with that part of Tract C hereinbefore described, adjoining and northeasterly of the last above described strip, which lies westerly of a line run parallel with and distant 60 feet easterly of the following described line: Beginning at a point on Line 1 described above, distant 1140 feet north

*of its point of termination; thence run north on said Line 1 for 100 feet; thence continue north on the last described course for 400 feet and there terminating;*

*containing 4.26 acres, more or less.*

*Subd. 5. [LEGISLATIVE FINDINGS AND DECLARATION.] The legislature finds that the department of transportation has constructed a tourist information center under permit adjacent to trunk highway marked No. 61 at Grand Portage, Minnesota (Grand Portage Bay rest area) and requires certain lands within the reservation of the Grand Portage Band of Chippewa Indians, now owned by the United States in trust for the Grand Portage Band, for a rest area site together with a sewer and water easement in perpetuity; that the United States presently owns land in trust for the Grand Portage Band on both sides of that part of State Pit 174 lying southeasterly of trunk highway marked No. 61 and wishes to obtain ownership of that part of State Pit 174, now owned by the state, for the benefit of the Grand Portage Band; and, that a land exchange would be mutually beneficial. The legislature declares that the exchange authorized by this section is in the public interest and for a public purpose.*

**Sec. 9. [TRUNK HIGHWAY SYSTEM; ROUTE NO. 336 ADDED.]**

*Subdivision 1. [ADDITIONAL ROUTE.] On execution of the agreement required by subdivision 2, there is added to the trunk highway system a new route in Minnesota Statutes, section 161.115, described as follows:*

*Route No. 336. Beginning at a point on Route No. 2 at or near Dilworth; thence extending in a general southerly direction following generally the location of present County State-Aid Highway No. 11 to a point on Route No. 392.*

*Subd. 2. [AGREEMENT REQUIRED.] Legislative Route No. 336 is added to the trunk highway system only when an agreement to transfer jurisdiction has been approved by the commissioner of transportation and the Clay county board and a copy of the agreement, signed by the commissioner and the chair of the Clay county board, has been filed in the office of the commissioner.*

*Subd. 3. [REVISOR INSTRUCTION.] Following execution of the agreement required in subdivision 2, the revisor of statutes, in compiling the next and subsequent editions of Minnesota Statutes, shall add the route identified in subdivision 1.*

**Sec. 10. [TRUNK HIGHWAY SYSTEM; NEW ROUTE SUBSTITUTED FOR EXISTING ROUTE.]**

*Subdivision 1. [ROUTE.] There is added to the trunk highway system a new route in Minnesota Statutes, section 161.115, described as follows:*

*Route No. 297. Beginning at a point on Route No. 392 northwest of Fergus Falls; thence extending in a general southeasterly direction to a point at or near the intersection of West Fir Avenue and North Oak Street in the city of Fergus Falls; thence in a general northwesterly direction into and through the grounds of the Fergus Falls Regional Treatment Center; thence in a general southeasterly direction to a point at or near the intersection of West Fir Avenue and North Union Avenue in the city of Fergus Falls.*

*Subd. 2. [SUBSTITUTION; AGREEMENT REQUIRED.] The route*



*established in subdivision 1 is substituted for Route No. 297 as contained and described in Minnesota Statutes 1990, section 161.115. Route No. 297 as contained and described in that section is discontinued and removed from the trunk highway system. No transfer is effective until an agreement to transfer jurisdiction of a portion of the old route has been agreed to by the commissioner of transportation and Otter Tail county and the city of Fergus Falls and signed by the commissioner and the chair of the Otter Tail county board and the mayor of Fergus Falls and filed in the office of the commissioner.*

*Subd. 3. [REVISOR INSTRUCTION.] The revisor of statutes, in compiling the next and subsequent editions of Minnesota Statutes, shall substitute the route established in subdivision 1 for the route discontinued and removed from the trunk highway system according to subdivision 2.*

Sec. 11. [REPEALER.]

*Minnesota Statutes 1990, section 169.833, subdivisions 1, 2, and 3, are repealed.*

Sec. 12. [EFFECTIVE DATE.]

*Sections 9 and 10 are effective the day following final enactment."*

Delete the title and insert:

"A bill for an act relating to transportation; authorizing state departments to cancel uncollectible debts up to \$200 in certain cases; allowing department of transportation to employ debt collection services; allowing department of transportation to make direct expenditures from state aid funds for administrative expenses; providing penalty for failure to pay fee for sign permit more than 30 days after fee is due; providing when estimates of certain construction projects are nonpublic data; allowing white strobe lamps to be used on highway maintenance vehicles; authorizing exchange of lands with Grand Portage Band of Chippewa Indians; abolishing conflicting requirements related to market artery highways; providing a penalty; adding and substituting routes on the state highway system; amending Minnesota Statutes 1990, sections 10.12; 13.72, subdivision 1; 161.20, subdivision 4; 162.06, subdivision 2; 162.12, subdivision 2; 169.64, by adding a subdivision; and 173.13, subdivision 7; repealing Minnesota Statutes 1990, section 169.833."

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. 1370: A bill for an act relating to economic development; establishing an international partnership program in the Minnesota trade office; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

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

S.F. No. 1371: A bill for an act relating to the governor; creating a division of science and technology; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 4.

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

Page 1, line 19, after “and” insert “identify”

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. 1382: A bill for an act relating to housing; providing for a neighborhood rehabilitation program for the cities of Saint Paul and Duluth; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 462A.

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

Page 1, line 14, after “of” insert “Minneapolis,” and after “Paul” insert a comma

Amend the title as follows:

Page 1, line 3, after “of” insert “Minneapolis,” and after “Paul” insert a comma

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

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

S.F. No. 1443: A bill for an act relating to tax increment financing; clarifying and modifying provisions relating to administration and enforcement of the tax increment financing law; clarifying effective dates; extending the application of provisions of the tax increment financing law for the city of Moorhead; providing for the computation of original net tax capacity of a district in the city of Fergus Falls; amending Minnesota Statutes 1990, sections 273.1399, subdivisions 1 and 3; 469.012, subdivision 8; 469.174, subdivision 10; 469.176, subdivision 1; 469.1763, subdivisions 1, 2, 3, and 4; 469.177, subdivisions 1 and 8; 469.1771, subdivisions 2 and 4; 469.179, by adding a subdivision; and 469.1831, subdivision 4; Laws 1989, First Special Session chapter 1, article 14, section 16; and Laws 1990, chapter 604, article 7, section 31.

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

Page 1, line 31, after “district” insert “or a hazardous substance subdistrict”

Page 2, strike lines 28 to 32

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. DeCramer from the Committee on Transportation, to which was referred

S.F. No. 986: A bill for an act relating to traffic regulations; increasing criminal and civil penalties for littering; amending Minnesota Statutes 1990, sections 169.42, subdivision 5; and 169.421, subdivision 4.

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

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

S.F. No. 893: A bill for an act relating to law enforcement; authorizing the Mille Lacs Band of Chippewa Indians to exercise law enforcement authority within the Mille Lacs Reservation and certain trust lands; proposing coding for new law in Minnesota Statutes, chapter 626.

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

Delete everything after the enacting clause and insert:

“Section 1. [626.90] [LAW ENFORCEMENT AUTHORITY; TRIBAL PEACE OFFICERS.]

*Subdivision 1. [DEFINITION.] As used in this section, “band” means the federally recognized Mille Lacs Band of Chippewa Indians.*

*Subd. 2. [LAW ENFORCEMENT AGENCY.] (a) The band has the powers of a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), if all of the requirements of clauses (1) to (4) are met:*

*(1) the band agrees to be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of a law enforcement agency function conferred by this section, to the same extent as a municipality under chapter 466, and the band further agrees, notwithstanding section 16B.06, subdivision 6, to waive its sovereign immunity for purposes of claims of this liability;*

*(2) the band files with the board of peace officer standards and training a bond or certificate of insurance for liability coverage for the maximum amounts set forth in section 466.04;*

*(3) the band files with the board of peace officer standards and training a certificate of insurance for liability of its law enforcement officers, employees, and agents for lawsuits under the United States Constitution; and*

*(4) the band agrees to be subject to section 13.82 and any other laws of the state relating to data practices of law enforcement agencies.*

*(b) The band shall enter into mutual aid/cooperative agreements with the Mille Lacs county sheriff under section 471.59 to define and regulate the provision of law enforcement services under this section. The agreements must define the trust property involved in the joint powers agreement.*

*(c) The band shall have concurrent jurisdictional authority under this section with the Mille Lacs county sheriff's department only if the requirements of paragraph (a) are met and under the following circumstances:*

*(1) over all persons in the geographical boundaries of the property held*

*by the United States in trust for the Mille Lacs band or the Minnesota Chippewa tribe;*

*(2) over all Minnesota Chippewa tribal members within the boundaries of the Treaty of February 22, 1855, 10 Stat. 1165, in Mille Lacs county, Minnesota; and*

*(3) concurrent jurisdiction over any person who commits or attempts to commit a crime in the presence of an appointed band peace officer within the boundaries of the Treaty of February 22, 1855, 10 Stat. 1165, in Mille Lacs county, Minnesota.*

*Subd. 3. [PEACE OFFICERS.] If the band complies with the requirements set forth in subdivision 2, the band is authorized to appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), who have the same powers as peace officers employed by local units of government.*

*Subd. 4. [COUNTY JAIL.] The sheriff of the county in which the violation occurred is responsible for receiving persons arrested by peace officers appointed under subdivision 3 and acting under the authority conferred by this section.*

*Subd. 5. [PROSECUTING AUTHORITY.] The Mille Lacs county attorney is responsible to prosecute or initiate petitions for any person arrested, investigated, or detained by peace officers appointed under subdivision 3 and acting under the authority conferred by this section.*

*Subd. 6. [EFFECT ON FEDERAL LAW.] Nothing in this section shall be construed to restrict the band's authority under federal law.*

*Subd. 7. [CONSTRUCTION.] This section is limited to law enforcement authority only, and nothing in this section shall affect any other jurisdictional relationships or disputes involving the band or current reservation boundaries or entitle the band as a municipality or subdivision of government to any fine or penalty revenue allocation under section 487.33.*

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

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

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

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

H.F. No. 934: A bill for an act relating to motor vehicles; prohibiting registration of vehicle for which salvage certificate of title is issued; amending Minnesota Statutes 1990, section 168A.152, subdivision 1.

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

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

H.F. No. 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.

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

Page 1, line 7, delete "*In this act*" and insert "*For purposes of sections 1 to 14*"

Page 1, line 14, delete "*this act*" and insert "*sections 1 to 14*"

Page 2, line 36, delete "*This act applies*" and insert "*Sections 1 to 14 apply*"

Page 3, line 2, delete "*This act applies*" and insert "*Sections 1 to 14 apply*"

Page 3, line 6, delete "*this act*" and insert "*sections 1 to 14*"

Page 8, line 11, delete "*this act*" and insert "*sections 1 to 14*"

Page 8, line 16, delete "*its*" and insert "*the*" and after "*provisions*" insert "*of sections 1 to 14*"

Page 8, line 18, delete "*This act*" and insert "*Sections 1 to 14*"

Page 8, after line 19, insert:

"Sec. 15. Minnesota Statutes 1990, section 550.136, subdivision 3, is amended to read:

Subd. 3. [LIMITATION ON LEVY ON EARNINGS.] Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to an execution levy may not exceed the lesser of:

(1) 25 percent of the judgment debtor's disposable earnings; or

(2) the amount by which the judgment debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the levy may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*;

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*; or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received).

No court may make, execute, or enforce an order or any process in violation of this section.

Sec. 16. Minnesota Statutes 1990, section 550.136, subdivision 10, is amended to read:

Subd. 10. [EXECUTION EARNINGS DISCLOSURE FORM AND WORKSHEET FOR CHILD SUPPORT JUDGMENTS.] The judgment creditor shall provide to the sheriff for service upon a child support judgment debtor's employer an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF .....

..... JUDICIAL DISTRICT

FILE NO. ....

..... (Judgment Creditor)

against

EARNINGS

..... (Judgment Debtor)

EXECUTION

and

DISCLOSURE

..... (Third Party)

#### DEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers' compensation, or unemployment compensation.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

.....

Yes

.....

No

### INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the sheriff within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the sheriff and deliver a copy of the disclosure and worksheet to the judgment debtor within ten days after the last payday that falls within the 70-day period. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of judgment debtor's payday.

(3) COLUMN B. Enter judgment debtor's gross earnings for each payday.

(4) COLUMN C. Enter judgment debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

(a) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*;

(b) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(c) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*; or

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is

over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) **COLUMN E.** ~~Subtract the amount in column D from the amount in column C, and enter here.~~

(7) **COLUMN F.** Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you incurred within ten days prior to your receipt of the first execution levy may not be set off against the earnings otherwise subject to this levy. Any wage assignment made by the judgment debtor within ten days prior to your receipt of the first execution levy is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column ~~F~~ E if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) (7) **COLUMN G F.** Subtract the amount in column ~~F~~ E from the amount in column ~~E~~ D and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

**AFFIRMATION**

I, . . . . . (person signing Affirmation), am the third party/ employer or I am authorized by the third party/employer to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated: . . . . .

. . . . .  
Signature  
. . . . .  
Title  
. . . . .  
Telephone Number

**EARNINGS DISCLOSURE WORKSHEET**

			. . . . . Debtor's Name
A Payday Date	B Gross Earnings	C Disposable Earnings	
1. . . . .	\$ . . . . .	\$ . . . . .	
2. . . . .	. . . . .	. . . . .	
3. . . . .	. . . . .	. . . . .	
4. . . . .	. . . . .	. . . . .	
5. . . . .	. . . . .	. . . . .	
6. . . . .	. . . . .	. . . . .	
7. . . . .	. . . . .	. . . . .	
8. . . . .	. . . . .	. . . . .	
9. . . . .	. . . . .	. . . . .	
10. . . . .	. . . . .	. . . . .	
D Either 50, 55,	<del>E</del> Column C	<del>F</del> E Setoff, Lien,	



60, or 65% of Column C	<del>minus</del> Column D	Adverse Interest, or Other Claims
1. ....	.....	.....
2. ....	.....	.....
3. ....	.....	.....
4. ....	.....	.....
5. ....	.....	.....
6. ....	.....	.....
7. ....	.....	.....
8. ....	.....	.....
9. ....	.....	.....
10. ....	.....	.....
		<b>G F</b>
		<b>Column E D</b>
		<b>minus</b>
		<b>Column F E</b>
1. ....		.....
2. ....		.....
3. ....		.....
4. ....		.....
5. ....		.....
6. ....		.....
7. ....		.....
8. ....		.....
9. ....		.....
10. ....		.....
<b>TOTAL OF COLUMN G F \$</b> .....		

\*If you entered any amount in column F E for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

.....  
 .....  
 .....

#### AFFIRMATION

I, . . . . . (person signing Affirmation), am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

.....  
 Signature

Dated:

.....  
 Title

(...) .....  
 Phone Number

Sec. 17. Minnesota Statutes 1990, section 551.06, subdivision 3, is amended to read:

Subd. 3. [LIMITATION ON LEVY ON EARNINGS.] Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to an execution levy may not exceed the lesser of:

(1) 25 percent of the judgment debtor's disposable earnings; or

(2) the amount by which the judgment debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the levy may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*;

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*; or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received).

No court may make, execute, or enforce an order or any process in violation of this section.

Sec. 18. Minnesota Statutes 1990, section 551.06, subdivision 10, is amended to read:

Subd. 10. [NOTICE OF LEVY ON EARNINGS, DISCLOSURE, AND WORKSHEET FOR CHILD SUPPORT JUDGMENT.] The attorney for the judgment creditor shall serve upon the judgment debtor's employer a notice of levy on earnings and an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF .....

..... JUDICIAL DISTRICT

FILE NO. ....

..... (Judgment Creditor)

against

NOTICE OF LEVY ON  
EARNINGS AND DISCLOSURE

..... (Judgment Debtor)

and

..... (Third Party)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, sections 551.04 and 551.06, the undersigned, as attorney for the judgment creditor, hereby makes demand and levies execution upon all earnings due and owing by you (up to \$5,000) to the judgment debtor for the amount of the judgment specified below. A copy of the writ of execution issued by the court is enclosed. The unpaid judgment balance is \$ . . . . .

This levy attaches all unpaid nonexempt disposable earnings owing or to be owed by you and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the service of this levy.

In responding to this levy, you are to complete the attached disclosure form and worksheet and mail it to the undersigned attorney for the judgment creditor, together with your check payable to the above-named judgment creditor, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits set forth in the aforementioned statutes.

.....  
 Attorney for the Judgment Creditor  
 .....  
 .....  
 Address  
 (...) .....  
 Phone Number

DISCLOSURE

DEFINITIONS

“EARNINGS”: For the purpose of execution, “earnings” means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers’ compensation, or unemployment compensation.

“DISPOSABLE EARNINGS”: Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

“PAYDAY”: For the purpose of execution, “payday(s)” means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

.....

Yes

.....

No

### INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the judgment creditor's attorney within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the judgment creditor's attorney and deliver a copy of the disclosure and worksheet to the judgment debtor within ten days after the last payday that falls within the 70-day period. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of judgment debtor's payday.

(3) COLUMN B. Enter judgment debtor's gross earnings for each payday.

(4) COLUMN C. Enter judgment debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

(a) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*;

(b) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(c) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work*

*week in which the execution levy is received); or*

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) COLUMN E. ~~Subtract the amount in column D from the amount in column C, and enter here.~~

(7) ~~COLUMN F.~~ Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you incurred within ten days prior to your receipt of the first execution levy on a debt may not be set off against the earnings otherwise subject to this levy. Any wage assignment made by the judgment debtor within ten days prior to your receipt of the first execution levy on a debt is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column ~~F~~ E if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) (7) COLUMN ~~G~~ F. Subtract the amount in column ~~F~~ E from the amount in column ~~E~~ D and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

#### AFFIRMATION

I, . . . . . (person signing Affirmation), am the third party/employer or I am authorized by the third party/employer to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated: . . . . .

.....  
Signature

.....  
Title

.....  
Telephone Number

#### EARNINGS DISCLOSURE WORKSHEET

			Debtor's Name
A	B	C	
Payday	Gross	Disposable	
Date	Earnings	Earnings	
1. ....	\$ .....	\$ .....	
2. ....	.....	.....	
3. ....	.....	.....	
4. ....	.....	.....	
5. ....	.....	.....	
6. ....	.....	.....	
7. ....	.....	.....	
8. ....	.....	.....	
9. ....	.....	.....	

10. ....	.....	.....
D	E	F E
Either 50, 55,	Column E	Setoff, Lien,
60, or 65% of	minus	Adverse
Column C	Column D	Interest, or
		Other Claims
1. ....	.....	.....
2. ....	.....	.....
3. ....	.....	.....
4. ....	.....	.....
5. ....	.....	.....
6. ....	.....	.....
7. ....	.....	.....
8. ....	.....	.....
9. ....	.....	.....
10. ....	.....	.....
		G F
		Column E D
		minus
		Column F E
1. ....		.....
2. ....		.....
3. ....		.....
4. ....		.....
5. ....		.....
6. ....		.....
7. ....		.....
8. ....		.....
9. ....		.....
10. ....		.....

TOTAL OF COLUMN G F \$ .....

\*If you entered any amount in column F E for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

.....  
.....  
.....

AFFIRMATION

I, . . . . . (person signing Affirmation), am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

		.....
		Signature
Dated: .....	.....	(...) .....
	Title	Phone Number

Sec. 19. Minnesota Statutes 1990, section 571.75, subdivision 2, is amended to read:

Subd. 2. [CONTENTS OF DISCLOSURE.] The disclosure must state:

(a) If an earnings garnishment disclosure, the amount of disposable earnings earned by the debtor within the debtor's pay periods as specified in section 571.921.

(b) If a nonearnings garnishment disclosure, a description of any personal property or any instrument or papers relating to this property belonging to the judgment debtor or in which the debtor is interested or other indebtedness of the garnishee to the debtor.

(c) If the garnishee asserts any setoff, defense, claim, or lien on disposable earnings, other indebtedness, money, or property, the garnishee shall disclose the amount and the facts concerning the same.

(d) Whether the debtor asserts any exemption, or any other objection, known to the garnishee against the right of the creditor to garnish the disposable earnings, other indebtedness, money, or property disclosed.

(e) If other persons assert claims to any disposable earnings, other indebtedness, money, or property disclosed, the garnishee shall disclose the names and addresses of these claimants and, so far as known by the garnishee, the nature of their claims.

(f) The garnishment disclosure forms and earnings disclosure worksheet must be the same or substantially similar to the following forms. If the garnishment affects earnings of the debtor, the creditor shall use the earnings garnishment disclosure form. If the garnishment affects any indebtedness, money, or property of the debtor, other than earnings, the creditor shall use the nonearnings garnishment disclosure form. Nothing contained in this paragraph limits the simultaneous use of the earnings and nonearnings garnishment disclosure forms.

#### EARNINGS DISCLOSURE FORM AND WORKSHEET

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF .....

..... JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

GARNISHMENT

..... (Garnishee)

EARNINGS DISCLOSURE

#### DEFINITIONS

**"EARNINGS":** For the purpose of garnishment, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement.

**"DISPOSABLE EARNINGS":** Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

**"PAYDAY":** For the purpose of garnishment, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the debtor has no regular payday, payday(s) means the fifteenth and the last day of each month.

**THE GARNISHEE MUST ANSWER THE FOLLOWING QUESTIONS:**

1. Do you now owe, or within 70 days from the date the garnishment summons was served on you, will you or do you expect to owe money to the debtor for earnings?

Yes ..... No .....

2. Does the debtor earn more than \$ ..... per week? (This amount is the federal minimum wage per week.)

Yes ..... No .....

**INSTRUCTIONS FOR COMPLETING THE  
EARNINGS DISCLOSURE**

A. If your answer to either question 1 or 2 is "No," then you must sign the affirmation on Page 2 and return this disclosure to the creditor's attorney (or the creditor if not represented by an attorney) within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answers to both questions 1 and 2 are "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the garnishment summons was served on you, YOU MUST calculate the amount of earnings to be retained by completing Steps 3 through 11, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in Column I on the Earnings Disclosure Worksheet.

You must return this Earnings Disclosure Form and the Earnings Disclosure Worksheet to the creditor's attorney (or the creditor if not represented by an attorney) and deliver a copy to the debtor within ten days after the last payday that falls within the 70-day period.

If the claim is wholly satisfied or if the debtor's employment ends before the expiration of the 70-day period, your disclosure should be made within ten days after the last payday for which earnings were attached.

For Steps 3 through 11, "Columns" refers to columns on the Earnings Disclosure Worksheet.

3. COLUMN A. Enter the date of debtor's payday.
4. COLUMN B. Enter debtor's gross earnings for each payday.
5. COLUMN C. Enter debtor's disposable earnings for each payday.
6. COLUMN D. Enter 25 percent of disposable earnings. (Multiply Column C by .25.)



7. COLUMN E. Enter here 40 times the hourly federal minimum wage (\$ . . . . .) times the number of work weeks included in each payday. (Note: If a pay period includes days in excess of whole work weeks, the additional days should be counted as a fraction of a work week equal to the number of work days in excess of a whole work week divided by the number of work days in a normal work week.)
8. COLUMN F. Subtract the amount in Column E from the amount in Column C, and enter here.
9. COLUMN G. Enter here the lesser of the amount in Column D and the amount in Column F.
10. COLUMN H. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest which would reduce the amount of earnings owing to the debtor. (Note: Any indebtedness to you incurred by the debtor within the ten days before the receipt of the first garnishment on a debt may not be set off against amounts otherwise subject to the garnishment. Any assignment of earnings made by the debtor to any party within ten days before the receipt of the first garnishment on a debt is void.)
- You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.
- Enter zero in Column H if there are no claims by you or others which would reduce the amount of earnings owing to the debtor.
11. COLUMN I. Subtract the amount in Column H from the amount in Column G and enter here. This is the amount of earnings that you must retain for the payday for which the calculations were made.

**AFFIRMATION**

I, . . . . . (person signing Affirmation), am the garnishee or I am authorized by the garnishee to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated: . . . . .

Signature

Title

Telephone Number

**EARNINGS DISCLOSURE WORKSHEET**

. . . . .

Debtor's Name

A  
Payday

B  
Gross

C  
Disposable

	Date	Earnings	Earnings
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....
5.	.....	.....	.....
6.	.....	.....	.....
7.	.....	.....	.....
8.	.....	.....	.....
9.	.....	.....	.....
10.	.....	.....	.....

	D 25% of Column C	E 40 X Min. Wage	F Column C minus Column E
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....
5.	.....	.....	.....
6.	.....	.....	.....
7.	.....	.....	.....
8.	.....	.....	.....
9.	.....	.....	.....
10.	.....	.....	.....

	G Lesser of Column D and Column F	H Setoff, Lien, Adverse Interest, or Other Claims	I Column G minus Column H
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....
5.	.....	.....	.....
6.	.....	.....	.....
7.	.....	.....	.....
8.	.....	.....	.....
9.	.....	.....	.....
10.	.....	.....	.....

TOTAL OF COLUMN I    \$ .....

\*If you entered any amount in Column H for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others you must both state the names and addresses of these persons, and the nature of their claim, if known.

.....  
.....  
.....

## AFFIRMATION

I, . . . . . (person signing Affirmation), am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

Dated: . . . . .

Signature . . . . .

Title . . . . .

Telephone Number (...) . . . . .

**EARNINGS DISCLOSURE FORM AND WORKSHEET  
FOR CHILD SUPPORT DEBTOR**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF . . . . .

..... JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

GARNISHMENT

..... (Garnishee)

EARNINGS DISCLOSURE

**DEFINITIONS**

**“EARNINGS”**: For the purpose of execution, “earnings” means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers’ compensation, or unemployment compensation.

**“DISPOSABLE EARNINGS”**: Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

**“PAYDAY”**: For the purpose of execution, “payday(s)” means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

**THE GARNISHEE MUST ANSWER THE FOLLOWING QUESTION:**

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the debtor for earnings?

.....  
Yes

.....  
No

## INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the creditor's attorney (or the creditor if not represented by an attorney) within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the garnishment summons was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the creditor's attorney (or the creditor if not represented by an attorney) and deliver a copy to the debtor within ten days after the last payday that falls within the 70-day period. If the claim is wholly satisfied or if the debtor's employment ends before the expiration of the 70-day period, your disclosure should be made within ten days after the last payday for which earnings were attached.

For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of debtor's payday.

(3) COLUMN B. Enter debtor's gross earnings for each payday.

(4) COLUMN C. Enter debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

(a) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*;

(b) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(c) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*; or

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is

over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) **COLUMN E.** ~~Subtract the amount in column D from the amount in column C, and enter here.~~

(7) **COLUMN F.** Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the debtor. (Note: Any assignment of earnings made by the debtor to any party within ten days before the receipt of the first garnishment on a debt is void. Any indebtedness to you incurred by the debtor within the ten days before the receipt of the first garnishment on a debt may not be set off against amounts otherwise subject to the garnishment.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column **F E** if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) (7) **COLUMN G F.** Subtract the amount in column **F E** from the amount in column **E D** and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

**AFFIRMATION**

I, . . . . . (person signing Affirmation), am the garnishee or I am authorized by the garnishee to complete this earnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated: . . . . .

.....  
Signature

.....  
Title

.....  
Telephone Number

**EARNINGS DISCLOSURE WORKSHEET**

..... Debtor's Name		
A Payday Date	B Gross Earnings	C Disposable Earnings
1. ....	\$ .....	\$ .....
2. ....	.....	.....
3. ....	.....	.....
4. ....	.....	.....
5. ....	.....	.....
6. ....	.....	.....
7. ....	.....	.....
8. ....	.....	.....
9. ....	.....	.....
10. ....	.....	.....
D Either 50, 55, 60, or 65% of	<del>E</del> <b>Column C</b> minus	<del>F E</del> Setoff, Lien, Adverse

Column C	<del>Column D</del>	Interest, or Other Claims
1. ....	.....	.....
2. ....	.....	.....
3. ....	.....	.....
4. ....	.....	.....
5. ....	.....	.....
6. ....	.....	.....
7. ....	.....	.....
8. ....	.....	.....
9. ....	.....	.....
10. ....	.....	.....
		<b>G F</b>
		Column <b>E D</b>
		minus
		Column <b>F E</b>
1. ....		.....
2. ....		.....
3. ....		.....
4. ....		.....
5. ....		.....
6. ....		.....
7. ....		.....
8. ....		.....
9. ....		.....
10. ....		.....

TOTAL OF COLUMN **G F** \$ .....

\*If you entered any amount in column **F E** for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

.....  
 .....  
 .....

#### AFFIRMATION

I, ..... (person signing Affirmation), am the third party or I am authorized by the third party to complete this earnings disclosure worksheet, and have done so truthfully and to the best of my knowledge.

.....  
 Signature

Dated: ..... (.....)  
 Title Phone Number

#### NONEARNINGS DISCLOSURE FORM

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF .....

..... JUDICIAL DISTRICT

..... (Creditor)

against

..... (Debtor)

## NONEARNINGS DISCLOSURE

and

..... (Garnishee)

On the . . . . . day of . . . . . , 19 . . . , the time of service of garnishment summons herein, there was due and owing the debtor from the garnishee the following:

(1) Money. Enter on the line below any amounts due and owing the debtor, except earnings, from the garnishee.

.....

(2) Property. Describe on the line below any personal property, instruments, or papers belonging to the debtor and in the possession of the garnishee.

.....

(3) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the garnishee claims against the amount set forth on lines (1) and (2) above. State the facts by which the setoff, defense, lien, or claim is claimed. (Any indebtedness to a garnishee incurred by the debtor within the ten days before the receipt of the first garnishment on a debt may not be set off against amounts otherwise subject to the garnishment.)

.....

(4) Exemption. Enter on the line below any amounts or property claimed by the debtor to be exempt from execution.

.....

(5) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the debtor's property.

.....

(6) Enter on the line below the total of lines (4), (5), and (6).

.....

(7) Enter on the line below the difference obtained (never less than zero) when line (6) is subtracted from the sum of lines (1) and (2).

.....

(8) Enter on the line below 110 percent of the amount of the creditor's claim which remains unpaid.

.....

(9) Enter on the line below the lesser of line (8) and line (9). Retain this amount only if it is \$10 or more.

.....

## AFFIRMATION

I, . . . . . (person signing Affirmation), am the garnishee or I am authorized by the garnishee to complete this nonearnings garnishment disclosure, and have done so truthfully and to the best of my knowledge.

Dated: .....  
 Signature .....  
 Title .....  
 Telephone Number .....

Sec. 20. Minnesota Statutes 1990, section 571.922, is amended to read:  
 571.922 [LIMITATION ON WAGE GARNISHMENT.]

Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to garnishment may not exceed the lesser of:

(1) 25 percent of the debtor's disposable earnings; or

(2) the amount by which the debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the garnishment may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*;

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the garnishment summons is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child *and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received)*; or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the garnishment summons is received).

No court may make, execute, or enforce an order or any process in violation of this section."

Page 8, line 21, delete "*This act becomes*" and insert "*Sections 1 to 14 become*" and delete "*applies*" and insert "*apply*"

Page 8, line 22, delete "*its*" and insert "*the*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "foreign" and delete "claims"



Page 1, line 3, after the semicolon, insert "making clarifying and technical changes to garnishment and execution laws; amending Minnesota Statutes 1990, sections 550.136, subdivisions 3 and 10; 551.06, subdivisions 3 and 10; 571.75, subdivision 2; and 571.922;"

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. 1433: A bill for an act relating to self-insurance; regulating custodial accounts; amending Minnesota Statutes 1990, sections 79A.02, subdivision 2, and by adding a subdivision; 79A.03, subdivisions 3, 7, and 9; 79A.04, subdivision 2; and 79A.06, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 79A; repealing Minnesota Rules, part 2780.0400, subparts 2, 3, 6, and 7.

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. 802: A bill for an act relating to the collection and dissemination of data; authorizing child protective service agencies and family court service agencies to share information about cases relating to child abuse when they involve common clients; amending Minnesota Statutes 1990, sections 13.46, by adding a subdivision; and 13.84, 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 13.01, is amended by adding a subdivision to read:

*Subd. 3. [SCOPE.] This chapter regulates the collection, creation, storage, maintenance, dissemination, and access to government data in state agencies, statewide systems, and political subdivisions. It establishes a presumption that government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public.*

Sec. 2. Minnesota Statutes 1990, section 13.03, is amended by adding a subdivision to read:

*Subd. 9. [EFFECT OF CHANGES IN CLASSIFICATION OF DATA.] Unless otherwise expressly provided by a particular statute or in a termination or personnel settlement agreement entered into between January 27, 1989, and August 1, 1990, the classification of data is determined by the law applicable to the data at the time a request for access to the data is made, regardless of the data's classification at the time it was collected, created, or received. No cause of action may arise as a result of the release of data contained in a termination or settlement agreement if the data are public under this subdivision.*

Sec. 3. Minnesota Statutes 1990, section 13.40, is amended to read:

13.40 [LIBRARY AND HISTORICAL DATA.]

Subdivision 1. [RECORDS SUBJECT TO THIS CHAPTER.] (a) *For purposes of this section, "historical records repository" means an archives or manuscript repository operated by any state agency, statewide system, or political subdivision whose purpose is to collect and maintain data to further the history of a geographic or subject area. The term does not include the state archives as defined in section 138.17, subdivision 1, clause (5).*

(b) ~~All records~~ *Data collected, maintained, used, or disseminated by a library or historical records repository operated by any state agency, political subdivision, or statewide system shall be administered in accordance with the provisions of this chapter.*

Subd. 2. [PRIVATE DATA; RECORDS OF BORROWING.] *That portion of records data maintained by a library which links a library patron's name with materials requested or borrowed by the patron or which links a patron's name with a specific subject about which the patron has requested information or materials is classified as private, pursuant to under section 13.02, subdivision 12, and shall not be disclosed except pursuant to a valid court order.*

Subd. 3. [NONGOVERNMENTAL DATA.] *Data held in the custody of a historical records repository that were not originally created, received, maintained, or disseminated by a state agency, statewide system, or political subdivision are not government data. These data are accessible to the public unless:*

(1) *the data are contributed by private persons under an agreement that restricts access, to the extent of any lawful limitation; or*

(2) *access would significantly endanger the physical or organizational integrity of the data.*

#### Sec. 4. [13.48] [AWARD DATA.]

*Financial data on business entities submitted to a state agency, statewide system, or political subdivision for the purpose of presenting awards to business entities for achievements in business development or performance are private data on individuals or nonpublic data.*

Sec. 5. Minnesota Statutes 1990, section 13.55, is amended to read:

#### 13.55 [~~ST. PAUL CIVIC CONVENTION CENTER AUTHORITY~~ DATA.]

Subdivision 1. [~~NONPUBLIC NOT PUBLIC CLASSIFICATION.~~] *The following data received, created, or maintained by the St. Paul civic center authority or for publicly owned and operated convention facilities, civic center authorities, or the metropolitan sports facilities commission are classified as nonpublic data pursuant to section 13.02, subdivision 9, or private data on individuals pursuant to section 13.02, subdivision 12:*

(a) (1) *a letter or other documentation from any person who makes inquiry to or who is contacted by the authority facility as to the availability of authority facilities the facility for staging events;*

(b) (2) *identity of firms and corporations which contact the authority facility;*

(c) (3) *type of event which they wish to stage in authority facilities the facility;*

(d) (4) *suggested terms of rentals; and*

(e) (5) responses of authority staff to these inquiries.

Subd. 2. [PUBLIC DATA.] The data made nonpublic *or private* by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

(a) ~~A~~ (1) *five years elapse from the date on which the lease or contract is entered into between the ~~authority~~ facility and the inquiring party or parties, or the event which was the subject of inquiry occurs at the facility, whichever occurs first;*

(b) (2) the event which was the subject of inquiry does not occur; or

(c) (3) the event which was the subject of inquiry occurs elsewhere.

Subd. 3. [EXHIBITOR DATA.] *The names, addresses, and contact persons for individual exhibitors at an exhibition may be withheld at the discretion of the facility to protect the competitive position of the facility or its customers.*

Sec. 6. Minnesota Statutes 1990, section 13.82, subdivision 4, is amended to read:

Subd. 4. [RESPONSE OR INCIDENT DATA.] The following data created or collected by law enforcement agencies which documents the agency's response to a request for service *including, but not limited to, responses to traffic accidents*, or which describes actions taken by the agency on its own initiative shall be public government data:

(a) Date, time and place of the action;

(b) Agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 10;

(c) Any resistance encountered by the agency;

(d) Any pursuit engaged in by the agency;

(e) Whether any weapons were used by the agency or other individuals;

(f) A brief factual reconstruction of events associated with the action;

(g) Names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 10;

(h) Names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 10;

(i) The name and location of the health care facility to which victims or casualties were taken; ~~and~~

(j) Response or incident report number; *and*

(k) *Dates of birth of the parties involved in a traffic accident.*

Sec. 7. Minnesota Statutes 1990, section 13.82, subdivision 10, is amended to read:

Subd. 10. [PROTECTION OF IDENTITIES.] A law enforcement agency *or a law enforcement dispatching agency working under direction of a law enforcement agency* may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) When access to the data would reveal the identity of an undercover law enforcement officer;

(b) When access to the data would reveal the identity of a victim of criminal sexual conduct or of a violation of section 617.246, subdivision 2;

(c) When access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;

(d) When access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual; or

(e) When access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred; or

(f) *When access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller.*

Sec. 8. Minnesota Statutes 1990, section 13.83, subdivision 4, is amended to read:

Subd. 4. [INVESTIGATIVE DATA.] Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data or protected nonpublic data, until the completion of the coroner's or medical examiner's final summary of findings at which point the data collected in the investigation and the final summary thereof shall become private or nonpublic data, ~~except that unless the final summary and the death certificate indicate the manner of death is homicide, undetermined, or pending investigation and there is an active law enforcement investigation, within the meaning of section 13.82, subdivision 5, relating to the death of the deceased individual. If there is an active law enforcement investigation of a possible homicide, the data remain confidential or protected nonpublic. However, upon review by the county attorney of the jurisdiction in which the law enforcement investigation is active, the data may be released to persons described in subdivision 8 if the county attorney determines release would not impede the ongoing investigation. When the law enforcement investigation becomes inactive, the data shall become private or nonpublic data.~~ Nothing in this subdivision shall be construed to make non public the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Sec. 9. Minnesota Statutes 1990, section 13.83, subdivision 8, is amended to read:

Subd. 8. [ACCESS TO NONPUBLIC DATA.] The data made nonpublic

by this section are accessible to *the physician who attended the decedent at the time of death*, the legal representative of the decedent's estate, and to the decedent's surviving spouse, parents, children, and siblings and their legal representatives.

Sec. 10. Minnesota Statutes 1990, section 13.84, is amended by adding a subdivision to read:

*Subd. 8. [CHILD ABUSE DATA; RELEASE TO CHILD PROTECTIVE SERVICES.] A court services agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under section 626.556 to a local welfare agency if:*

*(1) the local welfare agency has an active case involving a common client or clients who are the subject of the data; and*

*(2) the data are necessary for the local welfare agency to effectively process the agency's case, including investigating or performing other duties relating to the case required by law.*

*Court services data disclosed under this subdivision may be used only for purposes of the active case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.*

Sec. 11. Minnesota Statutes 1990, section 169.09, subdivision 13, is amended to read:

*Subd. 13. [ACCIDENT REPORTS CONFIDENTIAL.] All written reports and supplemental reports required under this section to be provided to the department of public safety shall be without prejudice to the individual so reporting and shall be for the confidential use of the department of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes, except that the department of public safety or any law enforcement department of any municipality or county in this state shall, upon written request of any person involved in an accident or upon written request of the representative of the person's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed pursuant to section 573.02, disclose to the requester, the requester's legal counsel or a representative of the requester's insurer any information contained therein except the parties' version of the accident as set out in the written report filed by the parties or may disclose identity of a person involved in an accident when the identity is not otherwise known or when the person denies presence at the accident. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department of public safety shall furnish upon the demand of any person who has, or claims to have, made a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department of public safety solely to prove a compliance or a failure to comply with the requirements that the report be made to the department of public safety. Disclosing any information contained in any accident report, except as provided herein, is unlawful and a misdemeanor.*

Nothing herein shall be construed to prevent any person who has made a report pursuant to this chapter from providing information to any persons involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the person's knowledge. It is intended by this subdivision to render privileged

the reports required but it is not intended to prohibit proof of the facts to which the reports relate. ~~Legally qualified newspaper publications and licensed radio and television stations shall upon request to a law enforcement agency be given an oral statement covering only the time and place of the accident, the names, addresses, and dates of birth of the parties involved, whether a citation was issued, and if so, what it was for, and whether the parties involved were wearing seat belts, and a general statement as to how the accident happened without attempting to fix liability upon anyone, but said legally qualified newspaper publications and licensed radio and television stations shall not be given access to the hereinbefore mentioned confidential reports, nor shall any such statements or information so orally given be used as evidence in any court proceeding, but shall merely be used for the purpose of a proper publication or broadcast of the news. Response or incident data may be released pursuant to section 13.82, subdivision 4.~~

When these reports are released for accident analysis purposes the identity of any involved person shall not be revealed. Data contained in these reports shall only be used for accident analysis purposes, except as otherwise provided by this subdivision. Accident reports and data contained therein which may be in the possession or control of departments or agencies other than the department of public safety shall not be discoverable under any provision of law or rule of court.

Notwithstanding other provisions of this subdivision to the contrary, the commissioner of public safety shall give to the commissioner of transportation the name and address of a carrier subject to section 221.031 that is named in an accident report filed under subdivision 7 or 8. The commissioner of transportation may not release the name and address to any person. The commissioner shall use this information to enforce accident report requirements under chapter 221. In addition the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.

The department may charge authorized persons a \$5 fee for a copy of an accident report.

Sec. 12. Minnesota Statutes 1990, section 260.161, subdivision 3, is amended to read:

Subd. 3. (a) *Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1, peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, or (4) to the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation; except that traffic investigation reports may be open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident, or (5) as provided in paragraph (d).* Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and

necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

(c) The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

*(d) Traffic investigation reports are open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Identifying information on juveniles who are parties to traffic accidents may be disclosed as authorized under section 13.82, subdivision 4, unless the information would identify a juvenile who was taken into custody or who is suspected of committing an offense that would be a crime if committed by an adult, or would associate a juvenile with the offense, and the offense is not a minor traffic offense under section 260.193.*

Sec. 13. Minnesota Statutes 1990, section 383B.225, subdivision 6, is amended to read:

Subd. 6. [INVESTIGATION PROCEDURE.] (a) Upon notification of the death of any person, as provided in subdivision 5, the county medical examiner or a designee may proceed to the body, take charge of it, and order, when necessary, that there be no interference with the body or the scene of death. Any person violating the order of the examiner is guilty of a misdemeanor. The examiner or the examiner's designee shall make inquiry regarding the cause and manner of death and prepare written findings together with the report of death and its circumstances, which shall be filed in the office of the examiner. When it appears that death may have resulted from a criminal act and that further investigation is advisable, a copy of the report shall be transmitted to the county attorney. The examiner may take possession of all property of the deceased, mark it for identification, and make an inventory. The examiner shall take possession of all articles useful in establishing the cause of death, mark them for identification and retain them securely until they are no longer needed for evidence or investigation. The examiner shall release any property or articles needed for any criminal investigation to law enforcement officers conducting the investigation. When a reasonable basis exists for not releasing property or articles to law enforcement officers, the examiner shall consult with the county attorney. If the county attorney determines that a reasonable basis exists for not releasing the property or articles, the examiner may retain them. The property or articles shall be returned immediately upon completion of the investigation. When the property or articles are no longer needed for the investigation or as evidence, the examiner shall release the property or articles to the person or persons entitled to them. Notwithstanding any other law to the contrary, when personal property of a decedent has come into the possession of the examiner, and is not used for a criminal investigation or as evidence, and has not been otherwise released as provided in this subdivision, the name of the decedent shall be filed with the probate court, together with a copy of the inventory of the decedent's property. At that time, an examination of the records of the probate court shall be made to determine whether a will has been admitted to probate or an administration has been commenced. Property of a nominal value, including wearing apparel, may be released to the spouse or any blood relative of the decedent or to the person accepting financial responsibility for burial of the decedent.

If property has not been released by the examiner and no will has been admitted to probate or administration commenced within six months after death, the examiner shall sell the property at a public auction upon notice and in a manner as the probate court may direct. If the name of the decedent is not known, the examiner shall inventory the property of the decedent and after six months may sell the property at a public auction. The examiner shall be allowed reasonable expenses for the care and sale of the property and shall deposit the net proceeds of the sale with the county administrator, or the administrator's designee, in the name of the decedent, if known. If the decedent is not known, the examiner shall establish a means of identifying the property of the decedent with the unknown decedent and shall deposit the net proceeds of the sale with the county administrator, or a designee, so, that, if the unknown decedent's identity is established within six years, the proceeds can be properly distributed. In either case, duplicate receipts shall be provided to the examiner, one of which shall be filed with the court, the other of which shall be retained in the office of the examiner. If a representative shall qualify within six years from the time of deposit, the county administrator, or a designee, shall pay the amount of the deposit to the representative upon order of the court. If no order is made within six years, the proceeds of the sale shall become a part of the general revenue of the county.

*(b) Notwithstanding section 13.42, 13.46, or 144.651, or 595.02, for the purposes of this section only, health-related records or data on a decedent whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, must be made promptly available to the medical examiner, upon the medical examiner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The medical examiner shall pay the reasonable costs of copies of records or data provided to the medical examiner under this section. Notwithstanding section 13.83, subdivisions 4 and 8, data collected or created pursuant to this paragraph relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated remain confidential or protected nonpublic data, except that the medical examiner's report may contain a summary of the data. Nothing in this subdivision authorizes access to data maintained under section 13.38.*

Sec. 14. Minnesota Statutes 1990, section 390.11, subdivision 7, is amended to read:

Subd. 7. [REPORTS.] (a) Deaths of the types described in this section must be promptly reported for investigation to the coroner by the law enforcement officer, attending physician, mortician, person in charge of the public institutions referred to in subdivision 1, or other person with knowledge of the death.

*(b) Notwithstanding section 13.42, 13.46, 144.651, or 595.02, for the purposes of this section only, health-related records or data on a decedent whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, must be made promptly available to the coroner, upon the coroner's written request, by a person having custody of, possession of, access to, or knowledge of the*



*records or data. The coroner shall pay the reasonable costs of copies of records or data provided to the coroner under this section. Notwithstanding section 13.83, subdivisions 4 and 8, data collected or created pursuant to this paragraph relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated remain confidential or protected nonpublic data, except that the coroner's report may contain a summary of the data. Nothing in this subdivision authorizes access to data maintained under section 13.38.*

Sec. 15. Minnesota Statutes 1990, section 390.32, subdivision 6, is amended to read:

Subd. 6. [REPORT OF DEATHS.] (a) Deaths of the types described in this section must be promptly reported for investigation to the sheriff by the attending physician, mortician, person in charge of the public institutions referred to in subdivision 1, or other person having knowledge of the death.

*(b) Notwithstanding section 13.42, 13.46, 144.651, or 595.02, for the purposes of this section only, health-related records or data on a decedent whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, must be made promptly available to the medical examiner, upon the medical examiner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The medical examiner shall pay the reasonable costs of copies of records or data provided to the medical examiner under this section. Notwithstanding section 13.83, subdivisions 4 and 8, data collected or created pursuant to this paragraph relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated remain confidential or protected nonpublic data, except that the medical examiner's report may contain a summary of the data. Nothing in this subdivision authorizes access to data maintained under section 13.38.*

Sec. 16. Minnesota Statutes 1990, section 403.07, subdivision 4, is amended to read:

Subd. 4. [USE OF FURNISHED INFORMATION.] Names, addresses, and telephone numbers provided to a 911 system under subdivision 3 are private data and may be used only for identifying the location or identity, or both, of a person calling a 911 public safety answering point. The information furnished under subdivision 3 may not be used or disclosed by 911 system agencies, their agents, or their employees for any other purpose except under a court order. ~~This subdivision does not affect access to service data under section 13.82, subdivision 3, when data subject to that provision is sought from a law enforcement agency.~~

Sec. 17. Minnesota Statutes 1990, section 626.556, is amended by adding a subdivision to read:

Subd. 10h. [CHILD ABUSE DATA; RELEASE TO FAMILY COURT SERVICES.] *The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under this section to a court services agency if:*

*(1) the court services agency has an active case involving a common*

*client or clients who are the subject of the data; and*

*(2) the data are necessary for the court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.*

*The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.*

Sec. 18. Minnesota Statutes 1990, section 626.556, subdivision 11c, is amended to read:

Subd. 11c. [WELFARE, COURT SERVICES AGENCY, AND SCHOOL RECORDS MAINTAINED.] Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, *court services agencies*, or schools under this section shall be destroyed as provided in paragraphs (a) to ~~(e)~~ (d) by the responsible authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records may be maintained for a period of four years. After the individual alleged to have maltreated a child is notified under subdivision 10f of the determinations at the conclusion of the assessment or investigation, upon that individual's request, records shall be destroyed within 30 days.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be destroyed seven years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

*(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.*

Sec. 19. [EFFECTIVE DATE.]

*Section 2 is effective the day following final enactment and applies to data collected, created, or received before, on, or after the effective date."*

Delete the title and insert:

"A bill for an act relating to the collection and dissemination of data; clarifying that the classification of data is determined by the date on which the request for the data is made; classifying certain privately donated historical records as not government data; classifying certain award data as private data; classifying convention center data; protecting the identity of a person placing a call on the 911 system; classifying county coroner and medical examiner data; allowing the attending physician access to the medical examiner's data; authorizing child protective service agencies and family

court service agencies to share information about cases relating to child abuse when they involve common clients; clarifying access to identifying information on juveniles who are parties to traffic accidents; modifying access to peace officer records relating to juveniles; requiring records and other data relating to deaths to be made available to coroners and medical examiners; maintaining certain data as confidential at the conclusion of the medical examiner's investigation; amending Minnesota Statutes 1990, sections 13.01, by adding a subdivision; 13.03, by adding a subdivision; 13.40; 13.55; 13.82, subdivisions 4 and 10; 13.83, subdivisions 4 and 8; 13.84, by adding a subdivision; 169.09, subdivision 13; 260.161, subdivision 3; 383B.225, subdivision 6; 390.11, subdivision 7; 390.32, subdivision 6; 403.07, subdivision 4; and 626.556, subdivision 11c, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 13."

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

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

S.F. No. 1414: A resolution memorializing the President and Congress of the United States to ensure that the federal milk marketing order is modified.

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

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

S.F. No. 475: A bill for an act relating to child care; establishing the Minnesota early childhood care and education council; specifying duties and membership; specifying new duties for regional resource and referral agencies; clarifying requirements for child care services; appropriating money; amending Minnesota Statutes 1990, sections 256H.02; 256H.03; 256H.05; 256H.09, by adding a subdivision; 256H.15, subdivision 1; 256H.20; 256H.21, subdivisions 6 and 10; and 256H.22, subdivisions 1, 2, 3, 4, 5, 6, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 256H; repealing Minnesota Statutes 1990, sections 256H.22, subdivisions 10 and 11; and 256H.25.

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

Page 9, line 22, delete "*shall consist*" and insert "*consists*" and delete "24" and insert "19"

Page 10, line 4, delete "24" and insert "19"

Page 10, delete lines 18 to 36

Page 11, delete lines 1 to 8 and insert:

"*Subd. 3. [DUTIES.] The council shall:*

*(1) develop a biennial plan for early childhood care and education in the state;*

*(2) take a leadership role in developing its recommendations in conjunction with the recommendations of other state agencies on the state budget for early childhood care and education;*

*(3) apply for and receive state money and public and private grant money;*

*(4) participate in and facilitate the development of interagency agreements on early childhood care and education issues;*

*(5) review state agency policies on early childhood care and education issues so that they do not conflict;*

*(6) advocate for an effective and coordinated early childhood care and education system with state agencies and programs;*

*(7) study the need for child care funding for special populations whose needs are not being addressed by current programs;*

*(8) ensure that the early childhood care and education system reflects community diversity;*

*(9) be responsible for advocating policies and funding for early childhood care and education; and*

*(10) submit a report to the legislature by January 1 of each odd-numbered year, containing a description of the activities and work plan of the council and any legislative recommendations developed by the council."*

Page 11, lines 27 and 28, reinstate the stricken language and delete the new language

Page 11, line 36, reinstate the stricken "commissioner" and delete "council"

Page 12, line 11, reinstate the stricken "commissioner" and delete "council"

Page 14, lines 21 and 29, reinstate the stricken "commissioner" and delete "council"

Page 14, line 26, reinstate the stricken "commissioner"

Page 14, line 27, delete "council"

Pages 14 and 15, delete section 11

Pages 15 to 17, delete sections 14 and 15

Pages 17 to 19, delete sections 17 to 19

Page 19, delete section 21

Page 21, line 1, delete everything after the first comma and insert "section"

Page 21, line 2, delete "and 11; and" and delete "are" and insert "is"

Page 21, line 4, delete "21" and insert "14"

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete line 10 and insert "subdivision 10; and 256H.22, subdivision 1,"

Page 1, line 11, delete "3, 4, 5, 6,"

Page 1, line 13, delete "sections" and insert "section 256H.25."

Page 1, delete line 14

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. 811: A bill for an act relating to retirement; providing certain disability benefits to certain persons under the public employees retirement association police and fire plan.

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

Delete everything after the enacting clause and insert:

"Section 1. [BENEFIT ENTITLEMENT.]

*The surviving spouse of a person who was born on February 20, 1958, who worked as a police officer for the city of St. Paul, and who died before July 1, 1990, is entitled to receive survivor benefits from the public employees retirement association police and fire fund under Minnesota Statutes, section 353.657, subdivision 1, notwithstanding the fact that the spouse and the decedent had been married for a period of less than one year before the date of death of the decedent. Survivor benefits are those specified in section 353.657, subdivisions 2 and 2a.*

Sec. 2. [EFFECTIVE DATE.]

*Section 1 is effective the day following final enactment and applies retroactively to June 28, 1990."*

Amend the title as follows:

Page 1, line 2, delete "disability" and insert "survivor"

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

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

S.F. No. 1064: A bill for an act relating to waters; exempting certain proceedings by the board of water and soil resources from the administrative procedure act; changing administrative appeal procedures; authorizing appeals to the court of appeals; exempting the Minnesota housing finance agency from restrictions on transfers of marginal land and wetlands; limiting a prohibition on certain new water use permits to the metropolitan area; exempting tree and shrub planting from certain notification requirements; amending Minnesota Statutes 1990, sections 103B.345, subdivisions 2 and 4; 103D.105, subdivision 1; 103D.111; 103F.535, subdivision 1; 103G.271, subdivision 4a; and 216D.01, subdivision 5.

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

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

S.F. No. 776: 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.036; 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.

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

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

S.F. No. 666: A bill for an act relating to agriculture; changing certain deadlines of the agricultural chemical response compensation board; amending Minnesota Statutes 1990, sections 18E.04, subdivision 5; and 18E.05, 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 18E.03, subdivision 4, is amended to read:

Subd. 4. [FEE THROUGH 1990.] (a) The response and reimbursement fee consists of the surcharge fees in this subdivision and shall be collected until March 1, 1991.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, that is equal to 0.1 percent of sales of the pesticide in the state and sales of pesticides for use in the state during the period April 1, 1990, through December 31, 1990, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale location and the distributors.

(c) The commissioner shall impose a ten cents per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the license application

of persons licensed under chapters 18B and 18C consisting of:

(1) a \$150 surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a \$150 surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under sections 18C.415 and 18C.425;

(3) a \$50 surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a \$20 surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a \$20 surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a ~~\$50~~ \$25 surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

(f) A \$1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than \$2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

(g) Paragraphs (c) to (f) apply to sales, licenses issued, applications received for licenses, and inspection fees imposed on or after July 1, 1990.

Sec. 2. Minnesota Statutes 1990, section 18E.04, subdivision 4, is amended to read:

Subd. 4. [REIMBURSEMENT PAYMENTS.] (a) The board shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the agricultural chemical response and reimbursement account for:

(1) 90 percent of the total reasonable and necessary corrective action costs greater than \$1,000 and less than *or equal to* \$100,000; and

(2) 100 percent of the total reasonable and necessary corrective action costs ~~equal to or~~ greater than \$100,000 but less than *or equal to* \$200,000.

(b) A reimbursement or payment may not be made until the board has determined that the costs are reasonable and are for a reimbursement of the costs that were actually incurred.

(c) The board may make periodic payments or reimbursements as corrective action costs are incurred upon receipt of invoices for the corrective

action costs.

(d) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments and reimbursements directed by the board under this subdivision.

Sec. 3. Minnesota Statutes 1990, section 18E.04, subdivision 5, is amended to read:

Subd. 5. [REIMBURSEMENT OR PAYMENT DECISIONS.] (a) The board may issue a letter of intent on whether a person is eligible for payment or reimbursement. The letter is not binding on the board.

(b) The board must issue an order granting or denying a request within 30 days following *the board meeting at which the board votes to grant or deny* a request for reimbursement or for payment under subdivision 1, 2, or 3.

(c) After an initial request is made for reimbursement, notwithstanding subdivisions 1 to 4, the board may deny additional requests for reimbursement.

(d) If a request is denied, the eligible person may appeal the decision as a contested case hearing under chapter 14.

Sec. 4. Minnesota Statutes 1990, section 18E.05, subdivision 3, is amended to read:

Subd. 3. [PROCEDURES.] The board must ~~issue an order granting or denying a request within 30 days of receipt of a completed application unless the applicant and the commissioner agree to a longer time period-~~ *receive a completed application at least 30 days before a board meeting in order for a request for reimbursement or payment to be considered at that meeting, unless the applicant and the commissioner agree to a longer time period. The board may waive the 30-day requirement if it determines that undue financial hardship to the applicant will result if action is delayed until the next regular meeting. The board must act upon a completed application request at the next regular board meeting, unless additional information is required from the applicant or the commissioner.* If the board denies reimbursement or payment, its decision may be appealed in a contested case proceeding under chapter 14."

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "lowering the fee for licensed lawn service applicators;" and after "certain" insert "reimbursement figures and"

Page 1, line 4, after "sections" insert "18E.03, subdivision 4;"

Page 1, line 5, delete the first "subdivision" and insert "subdivisions 4 and"

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. 820: A bill for an act relating to the state agricultural society; providing some building and contracting exceptions; regulating real estate



transactions; amending Minnesota Statutes 1990, sections 37.02 and 37.19.

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

Page 1, line 21, after "*contracts*" insert "*for the leasing of space*"

Page 1, line 22, before the period, insert "*except that the attorney general must approve a standard lease contract for proper form*"

Page 2, after line 23, insert:

"Sec. 3. Minnesota Statutes 1990, section 375.79, is amended to read:  
375.79 [EXHIBITS AT STATE FAIR.]

A county board, for the purpose of assisting to *design, construct, and maintain an exhibit of the products of the county, practices, or public concerns of the county or state, or that assist in promoting, advertising, improving, or developing the economic, agricultural, or natural resources of the county or state, or protecting or improving the public health or the environment of the county or state* at the Minnesota state fair, may appropriate out of the general revenue fund of the county, not more than ~~\$1,000, not including money received by the county as premiums or prizes at the state fair for that year~~ \$2,000.

~~All money derived from premiums or prizes for the county exhibit at the state fair shall be paid into the treasury of the county.~~

Sec. 4. [REPEALER.]

*Minnesota Statutes 1990, sections 375.80; 375.81; and 375.82, are repealed."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "setting conditions for counties to assist state fair exhibits;"

Page 1, line 5, delete "and" and insert a semicolon and before the period, insert "; and 375.79; repealing Minnesota Statutes 1990, sections 375.80; 375.81; and 375.82"

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

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

S.F. No. 1300: A bill for an act relating to agriculture; allowing exemption of certain garbage from requirements for feeding to livestock or poultry; amending Minnesota Statutes 1990, section 35.73, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 35.

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

Page 1, line 10, delete "(a)"

Page 1, line 15, before the period, insert "*or materials exempted under section 2*"

Page 1, delete lines 16 to 22

Page 1, line 24, before "No" insert "*If it is considered by the board to be in the best interest of the livestock industry of the state and not detrimental to the public health, safety, or general welfare, the board may adopt rules authorizing an exempt materials permit for specified materials of a nonmeat nature.*"

Page 1, lines 25 and 26, delete "*paragraph (b),*"

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

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

H.F. No. 664: 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; 16B.65, by adding a subdivision; and 471.468.

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

Page 1, line 11, delete "*shall*" and after the second comma, insert "*shall*"

Page 1, line 26, strike "*shall*" and insert "*of a building or facility may*" and strike "*hereafter*"

Page 2, line 1, strike "*of any building or facility*"

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

H.F. No. 1551: A bill for an act relating to retirement; Edina volunteer firefighters relief association; modifying limitations on survivor benefit coverage; amending Laws 1965, chapter 592, section 4, as amended.

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

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

H.F. No. 609: A bill for an act relating to veterans; authorizing the veterans homes board to rent certain facilities; authorizing expenditures of money; amending Minnesota Statutes 1990, section 198.003.

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

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

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.

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

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

H.F. No. 74 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.
74	213				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 74 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 74 and insert the language after the enacting clause of S.F. No. 213, the first engrossment; further, delete the title of H.F. No. 74 and insert the title of S.F. No. 213, the first engrossment.

And when so amended H.F. No. 74 will be identical to S.F. No. 213, and further recommends that H.F. No. 74 be given its second reading and substituted for S.F. No. 213, 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. 1422 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.
1422	1248				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1422 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1422 and insert the language after the enacting clause of S.F. No. 1248, the second engrossment; further, delete the title of H.F. No. 1422 and insert the title of S.F. No. 1248, the second engrossment.

And when so amended H.F. No. 1422 will be identical to S.F. No. 1248, and further recommends that H.F. No. 1422 be given its second reading and substituted for S.F. No. 1248, 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. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

S.F. No. 476: A bill for an act relating to taxation; increasing the taxes on cigarettes; changing the computation of alcoholic beverage taxes; amending Minnesota Statutes 1990, sections 297.02, subdivision 1; 297.03, subdivision 5; 297C.01, by adding subdivisions; and 297C.02.

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

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### FEDERAL UPDATE

Section 1. Minnesota Statutes 1990, section 290.01, subdivision 19, is amended to read:

Subd. 19. [NET INCOME.] The term "net income" means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

In the case of a regulated investment company or a fund thereof, as defined in section 851(a) or 851(h) of the Internal Revenue Code, federal taxable income means investment company taxable income as defined in section 852(b)(2) of the Internal Revenue Code, except that:

(1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal Revenue Code does not apply; and

(2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code.

The net income of a real estate investment trust as defined and limited by section 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

The Internal Revenue Code of 1986, as amended through December 31, 1986, shall be in effect for taxable years beginning after December 31, 1986. The provisions of sections 10104, 10202, 10203, 10204, 10206, 10212, 10221, 10222, 10223, 10226, 10227, 10228, 10611, 10631, 10632, and 10711 of the Omnibus Budget Reconciliation Act of 1987, Public Law Number 100-203, the provisions of sections 1001, 1002, 1003, 1004, 1005, 1006, 1008, 1009, 1010, 1011, 1011A, 1011B, 1012, 1013, 1014, 1015, 1018, 2004, 3041, 4009, 6007, 6026, 6032, 6137, 6277, and 6282 of the Technical and Miscellaneous Revenue Act of 1988, Public Law Number 100-647, and the provisions of sections 7811, 7816, and 7831 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, and the provisions of section 11702 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, shall be effective at the time they become effective for federal income tax purposes.

The Internal Revenue Code of 1986, as amended through December 31,

1987, shall be in effect for taxable years beginning after December 31, 1987. The provisions of sections 4001, 4002, 4011, 5021, 5041, 5053, 5075, 6003, 6008, 6011, 6030, 6031, 6033, 6057, 6064, 6066, 6079, 6130, 6176, 6180, 6182, 6280, and 6281 of the Technical and Miscellaneous Revenue Act of 1988, Public Law Number 100-647, and the provisions of sections 7815 and 7821 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, shall become effective at the time they become effective for federal tax purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1988, shall be in effect for taxable years beginning after December 31, 1988. The provisions of sections 7101, 7102, 7104, 7105, 7201, 7202, 7203, 7204, 7205, 7206, 7207, 7210, 7211, 7301, 7302, 7303, 7304, 7601, 7621, 7622, 7641, 7642, 7645, 7647, 7651, and 7652 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, and the provision of section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law Number 101-73, and the provisions of sections 11701 and 11703 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, shall become effective at the time they become effective for federal tax purposes.

*The Internal Revenue Code of 1986, as amended through December 31, 1989, shall be in effect for taxable years beginning after December 31, 1989. The provisions of sections 11321, 11322, 11324, 11325, 11403, 11404, 11410, and 11521 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, shall become effective at the time they become effective for federal purposes.*

*The Internal Revenue Code of 1986, as amended through December 31, 1990, shall be in effect for taxable years beginning after December 31, 1990.*

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19a to 19g mean the code in effect for purposes of determining net income for the applicable year.

Sec. 2. Minnesota Statutes 1990, section 290.01, subdivision 19a, is amended to read:

Subd. 19a. [ADDITIONS TO FEDERAL TAXABLE INCOME.] For individuals, estates, and trusts, there shall be added to federal taxable income:

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute, and

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(h) of the Internal Revenue Code, making the payment; and

(2) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code. *For the purpose of this paragraph, the disallowance of itemized deductions pursuant to section 68 of the Internal Revenue Code of 1986, income taxes shall be the last itemized deductions disallowed; and*

(3) the capital gain amount of a lump sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law Number 99-514, applies.

Sec. 3. Minnesota Statutes 1990, section 290.01, subdivision 19d, is amended to read:

Subd. 19d. [CORPORATIONS; MODIFICATIONS DECREASING FEDERAL TAXABLE INCOME.] For corporations, there shall be subtracted from federal taxable income after the increases provided in subdivision 19c:

(1) the amount of foreign dividend gross-up added to gross income for federal income tax purposes under section 78 of the Internal Revenue Code;

(2) the decrease in salary expense for federal income tax purposes due to claiming the federal jobs credit under section 51 of the Internal Revenue Code;

(3) any dividend (not including any distribution in liquidation) paid within the taxable year by a national or state bank to the United States, or to any instrumentality of the United States exempt from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;

(4) amounts disallowed for intangible drilling costs due to differences between this chapter and the Internal Revenue Code in taxable years beginning before January 1, 1987, as follows:

(i) to the extent the disallowed costs are represented by physical property, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7, subject to the modifications contained in subdivision 19e; and

(ii) to the extent the disallowed costs are not represented by physical property, an amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section 290.09, subdivision 8;

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code, except that:

(i) for capital losses incurred in taxable years beginning after December 31, 1986, capital loss carrybacks shall not be allowed;

(ii) for capital losses incurred in taxable years beginning after December 31, 1986, a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

(iii) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryback to each of the three taxable years preceding the loss year, subject to the provisions of Minnesota Statutes 1986, section

290.16, shall be allowed; and

(iv) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryover to each of the five taxable years succeeding the loss year to the extent such loss was not used in a prior taxable year and subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed;

(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or 291 of the Internal Revenue Code in computing federal taxable income;

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (11), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

(8) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7;

(9) the amount included in federal taxable income attributable to the credits provided in Minnesota Statutes 1986, section 273.1314, subdivision 9, or Minnesota Statutes, section 469.171, subdivision 6;

(10) amounts included in federal taxable income that are due to refunds of income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or a foreign country or possession of the United States to the extent that the taxes were added to federal taxable income under section 290.01, subdivision 19c, clause (1), in a prior taxable year;

(11) the following percentage of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation:

Taxable Year	
Beginning After	Percentage
December 31, 1988	50 percent
December 31, 1990	80 percent; and

(12) income or gains from the business of mining as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota franchise tax; and

(13) the amount of handicap access expenditures in the taxable year which are not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code of 1986.

Sec. 4. Minnesota Statutes 1990, section 290.067, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT OF CREDIT.] A taxpayer may take as a credit against the tax due from the taxpayer and a spouse, if any, under this chapter an amount equal to the dependent care credit for which the taxpayer is eligible pursuant to the provisions of section 21 of the Internal Revenue Code subject to the limitations provided in subdivision 2 except that in determining whether the child qualified as a dependent, income received as an aid to families with dependent children grant or allowance to or on behalf of the child must not be taken into account in determining whether the child received more than half of the child's support from the taxpayer, and the provisions of section 32(b)(1)(D) of the Internal Revenue Code of 1986, as amended through December 31, 1990, shall not apply.

If the taxpayer is not required and does not file a federal individual income tax return for the tax year, no credit is allowed for any amount paid to any person unless:

(1) the name, address, and taxpayer identification number of the person are included on the return claiming the credit; or

(2) if the person is an organization described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code, the name and address of the person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence does not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information required.

In the case of a nonresident, part-year resident, or person whose tax is computed under section 290.06, subdivision 2c, paragraph (f), the credit determined under section 21 of the Internal Revenue Code must be allocated based on the ratio by which the earned income of the claimant and the claimant's spouse from Minnesota sources bears to the total earned income of the claimant and the claimant's spouse.

Sec. 5. Minnesota Statutes 1990, section 290.92, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (1) [WAGES.] For purposes of this section, the term "wages" means the same as that term is defined in section 3401(a) and (f) of the Internal Revenue Code of 1986, as amended through December 31, 1988 1990, *except wages shall not include agricultural labor as defined in section 3121(g) of the Internal Revenue Code of 1986, as amended through December 31, 1990.*

(2) [PAYROLL PERIOD.] For purposes of this section the term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by the employee's employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

(3) [EMPLOYEE.] For purposes of this section the term "employee" means any resident individual performing services for an employer, either within or without, or both within and without the state of Minnesota, and



every nonresident individual performing services within the state of Minnesota, the performance of which services constitute, establish, and determine the relationship between the parties as that of employer and employee. As used in the preceding sentence, the term "employee" includes an officer of a corporation, and an officer, employee, or elected official of the United States, a state, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

(4) [EMPLOYER.] For purposes of this section the term "employer" means any person, including individuals, fiduciaries, estates, trusts, partnerships, and corporations transacting business in or deriving any income from sources within the state of Minnesota for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that if the person for whom the individual performs or performed the services does not have legal control of the payment of the wages for such services, the term "employer," except for purposes of paragraph (1), means the person having legal control of the payment of such wages. As used in the preceding sentence, the term "employer" includes any corporation, individual, estate, trust, or organization which is exempt from taxation under section 290.05 and further includes, but is not limited to, officers of corporations who have legal control, either individually or jointly with another or others, of the payment of the wages.

(5) [NUMBER OF WITHHOLDING EXEMPTIONS CLAIMED.] For purposes of this section, the term "number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under subdivision 5, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

#### Sec. 6. [FEDERAL CHANGES.]

*The changes made by sections 11301, 11302, 11303, 11304, 11305, 11343, 11344, 11531, 11601, 11602, 11701, 11702, 11703, and 11704 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, which affect the definition of net income of insurance companies as defined in Minnesota Statutes, section 290.35, the definition of alternative minimum taxable income as defined in Minnesota Statutes, sections 290.091, subdivision 2, and 290.0921, subdivision 3, grantor as defined in Minnesota Statutes, section 290.25, federal gross estate as defined in Minnesota Statutes, section 291.005, gross income as defined in Minnesota Statutes, section 290.01, subdivision 20, and the definition of wages as defined in Minnesota Statutes, section 290.92, subdivision 1, shall be effective at the same time they become effective for federal tax purposes.*

*The waiver of estimated tax penalties provided by section 11307 of the Revenue Reconciliation Act of 1990 shall also apply to Minnesota to the extent the underpayment was created or increased by the changes made by sections 11301, 11302, 11303, and 11305.*

#### Sec. 7. [INSTRUCTION TO REVISOR.]

*In the next edition of Minnesota Statutes, the revisor of statutes shall substitute the phrase "Internal Revenue Code of 1986, as amended through December 31, 1990" for the words "Internal Revenue Code of 1986, as amended through December 31, 1989" wherever the phrase occurs in chapters 289A, 290, 290A, and 291, except for section 290.01, subdivision 19.*

#### Sec. 8. [EFFECTIVE DATE.]

*Except where specifically provided otherwise, sections 1 to 7 are effective for taxable years beginning after December 31, 1990.*

## ARTICLE 2

### CIGARETTE TAX AND SALES

Section 1. Minnesota Statutes 1990, section 297.02, subdivision 1, is amended to read:

Subdivision 1. [RATES.] A tax is hereby imposed upon the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, ~~49~~ 31 mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, ~~38~~ 62 mills on each such cigarette.

Sec. 2. Minnesota Statutes 1990, section 297.03, subdivision 5, is amended to read:

Subd. 5. [SALE OF STAMPS.] The commissioner shall sell stamps to any person licensed as a distributor at a discount of ~~1.25~~ .8 percent from the face amount of the stamps for the first \$1,500,000 of such stamps purchased in any fiscal year; and at a discount of ~~.75~~ .5 percent on the remainder of such stamps purchased in any fiscal year. The commissioner shall not sell stamps to any other person. The commissioner may prescribe the method of shipment of the stamps to the distributor as well as the quantities of stamps purchased.

Sec. 3. Minnesota Statutes 1990, section 297.32, subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of ~~35~~ 60 percent of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (1) brings, or causes to be brought, into this state from without the state tobacco products for sale; (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Sec. 4. Minnesota Statutes 1990, section 297.32, subdivision 2, is amended to read:

Subd. 2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of ~~35~~ 60 percent of the cost of such tobacco products.

The tax imposed by this subdivision shall not apply if the tax imposed by subdivision 1 on such tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

1. not more than 50 cigars;
2. not more than ten oz. snuff or snuff powder;

3. not more than one lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 5. Minnesota Statutes 1990, section 297.35, subdivision 1, is amended to read:

Subdivision 1. On or before the 18th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~4.5~~ one percent of such liability as compensation to reimburse the distributor for expenses incurred in the administration of sections 297.31 to 297.39.

Sec. 6. [FLOOR STOCKS TAX.]

*Subdivision 1. [CIGARETTES.] A floor stocks tax is imposed on every person engaged in business in this state as a distributor, retailer, subjobber, vendor, manufacturer, or manufacturer's representative of cigarettes, on the stamped cigarettes in the person's possession or under the person's control at 12:01 a.m. on July 1, 1991. The tax is imposed at the following rates:*

*(1) on cigarettes weighing not more than three pounds a thousand, 12 mills on each cigarette;*

*(2) on cigarettes weighing more than three pounds a thousand, 24 mills on each cigarette.*

*Each distributor, by July 8, 1991, shall file a report with the commissioner, in the form the commissioner prescribes, showing the cigarettes on hand at 12:01 a.m. on July 1, 1991, and the amount of tax due on them. The tax imposed by this section is due and payable by August 1, 1991, and after that date bears interest at the rate of one percent a month.*

*Each retailer, subjobber, vendor, manufacturer, or manufacturer's representative shall file a return with the commissioner, in the form the commissioner prescribes, showing the cigarettes on hand at 12:01 a.m. on July 1, 1991, and pay the tax due thereon by August 1, 1991. Tax not paid by the due date bears interest at the rate of one percent a month.*

*Subd. 2. [AUDIT AND ENFORCEMENT.] The tax imposed by this section is subject to the audit, assessment, and collection provisions applicable to the taxes imposed under chapter 297C. The commissioner may require a distributor to receive and maintain copies of floor stocks tax returns filed by all persons requesting a credit for returned cigarettes.*

*Subd. 3. [DEPOSIT OF PROCEEDS.] The revenue from the tax imposed under this section shall be deposited by the commissioner in the state treasury and credited to the general fund.*

Sec. 7. [EFFECTIVE DATE.]

*Sections 1 to 6 are effective July 1, 1991.*

### ARTICLE 3

#### ALCOHOLIC BEVERAGE TAX

Section 1. Minnesota Statutes 1990, section 297C.01, is amended by adding a subdivision to read:

*Subd. 6. [BARREL.] A "barrel" of fermented malt beverages is equal to 31 gallons.*

Sec. 2. Minnesota Statutes 1990, section 297C.01, is amended by adding a subdivision to read:

*Subd. 7. [VALUE.] "Value" is the highest gross sales price received by a taxable seller from the sale of a similarly packaged container of the same product during the taxable period, not including the tax imposed by this chapter. No deduction for discounts or any other item is allowed in determining value, except that a deduction is allowed for transportation charges from the taxable seller's location to the buyer's place of business if the transportation charges are separately stated.*

Sec. 3. Minnesota Statutes 1990, section 297C.02, is amended to read:  
297C.02 [TAX IMPOSED.]

Subdivision 1. [DISTILLED SPIRITS AND WINE.] There is imposed ~~on all an excise tax of 18.2 percent on the value of each container of distilled spirits and wine manufactured, imported, sold, or possessed in this state. the following excise tax:~~

	Standard	Metrie
(a) Distilled spirits, liqueurs, cordials, and specialties regardless of alcohol content (excluding ethyl alcohol)	\$5.03 per gallon	\$1.33 per liter
(b) Wine containing 14 percent or less alcohol by volume	\$.30 per gallon	\$.08 per liter
(c) Wine containing more than 14 percent but not more than 21 percent alcohol by volume	\$.95 per gallon	\$.25 per liter
(d) Wine containing more than 21 percent but not more than 24 percent alcohol by volume	\$1.82 per gallon	\$.48 per liter
(e) Wine containing more than 24 percent alcohol by volume	\$3.52 per gallon	\$.93 per liter
(f) Natural and artificial sparkling wines containing alcohol	\$1.82 per gallon	\$.48 per liter

The metrie tax is imposed on all products taxable under this subdivision when the net contents are stated in metrie units of measure.

In computing the tax on a package of distilled spirits or wine a proportional tax at a like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a fractional part of a gallon less than  $\frac{1}{16}$  of a gallon is the same as for  $\frac{1}{16}$  of a gallon.

The tax on miniatures of two fluid ounces or less or 50 milliliters or less is 14 cents.

The commissioner of revenue may establish by rule a date and procedure for the conversion of excise tax computation and reporting from rates expressed in gallons to rates expressed in metric volumes. The official conversion factor is one liter equals 0.264172 United States gallons.

Subd. 2. [WINE.] *There is imposed an excise tax of 5.7 percent on the value of each container of wine imported, sold, or possessed in this state, provided that the tax imposed under this subdivision shall be in an amount that is no less than 26 cents per liter or 99 cents per gallon.*

Subd. 3. [FERMENTED MALT BEVERAGES.] *There is imposed an excise tax of 15.6 percent on the direct or indirect sale of fermented malt beverages the following excise tax:*

(1) *On fermented malt beverages containing not more than 3.2 percent alcohol by weight, \$2.40 per barrel of 31 gallons;*

(2) *On fermented malt beverages containing more than 3.2 percent alcohol by weight, \$4.60 per barrel of 31 gallons.*

*The tax is at a proportional rate for fractions of a barrel of 31 gallons value of each individual container of fermented malt beverages containing seven or more gallons which is directly or indirectly sold in this state.*

*There is imposed an excise tax of 7.2 percent on the value of each container of fermented malt beverages containing less than seven gallons which is directly or indirectly sold in this state.*

Subd. 3- 4. [TAX CREDIT.] *A qualified brewer producing fermented malt beverages is entitled to a tax credit of \$4.60 per barrel equal to the tax payable on the first 25,000 taxable barrels sold in any fiscal year beginning July 1, regardless of the alcohol content of how the product is packaged. Qualified brewers may take the credit on the 18th day of each month, but the total credit allowed may not exceed in any fiscal year the lesser of (a) the liability for tax or (b) \$115,000.*

For purposes of this subdivision, a "qualified brewer" means a brewer, whether or not located in this state, manufacturing less than 100,000 barrels of fermented malt beverages in the calendar year immediately preceding the calendar year for which the credit under this subdivision is claimed. In determining the number of barrels, all brands or labels of a brewer must be combined. All facilities for the manufacture of fermented malt beverages owned or controlled by the same person, corporation, or other entity must be treated as a single brewer.

Subd. 4. [BOTTLE TAX.] *A tax of one cent is imposed on each bottle or container of distilled spirits and wine. The wholesaler is responsible for the payment of this tax when the bottles of distilled spirits and wine are removed from inventory for sale, delivery, or shipment.*

The following are exempt from the tax:

(1) *miniatures of distilled spirits and wines;*

- (2) containers of fermented malt beverage;
- (3) containers of intoxicating liquor or wine holding less than 200 milliliters;
- (4) containers of wine intended exclusively for sacramental purposes;
- (5) containers of alcoholic beverages sold to qualified, approved military clubs;
- (6) containers of alcoholic beverages sold to common carriers engaged in interstate commerce;
- (7) containers of alcoholic beverages sold to authorized food processors or pharmaceutical firms for use exclusively in the manufacturing of food products or medicines;
- (8) containers of alcoholic beverages sold and shipped to dealers, wineries, or distillers in other states; and
- (9) containers of alcoholic beverages sold to other Minnesota wholesalers.

Sec. 4. [EFFECTIVE DATE.]

*Sections 1 to 3 are effective July 1, 1991."*

Delete the title and insert:

"A bill for an act relating to taxation; updating references to the Internal Revenue Code; increasing the taxes on cigarettes and tobacco products; changing the computation of alcoholic beverage taxes; amending Minnesota Statutes 1990, sections 290.01, subdivisions 19, 19a, and 19d; 290.067, subdivision 1; 290.92, subdivision 1; 297.02, subdivision 1; 297.03, subdivision 5; 297.32, subdivisions 1 and 2; 297.35, subdivision 1; 297C.01, by adding subdivisions; and 297C.02."

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. 1333: A bill for an act relating to natural resources; amending certain provisions concerned with the management of fish and wildlife; increasing certain license fees; appropriating money; amending Minnesota Statutes 1990, sections 84.944, subdivision 2; 84.96, subdivision 5; 97A.075, subdivision 2; 97A.325, subdivision 2; 97A.435, subdivision 2; 97A.475, subdivisions 2, 3, and 7; 97A.485, subdivision 7; and 97B.801; repealing Minnesota Statutes 1990, section 97B.721.

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

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 1990, section 84.0855, is amended to read:

84.0855 [SPECIAL RECEIPTS; APPROPRIATION.]

Money received by the commissioner of natural resources as fees for seminars or workshops, for the sale of publications, maps, or other natural resource related merchandise, or to buy supplies for the use of volunteers, may be credited to one or more special accounts in the state treasury and

is appropriated to the commissioner for the purposes for which the money was received.

Sec. 2. Minnesota Statutes 1990, section 84.82, subdivision 2, is amended to read:

Subd. 2. [APPLICATION, ISSUANCE, REPORTS.] Application for registration or reregistration shall be made to the commissioner of natural resources, or the commissioner of public safety or an authorized deputy registrar of motor vehicles in such form as the commissioner of public safety shall prescribe, and shall state the name and address of every owner of the snowmobile and be signed by at least one owner. *The commissioner of natural resources shall authorize retail dealers of snowmobiles to serve as agents of the commissioner for purposes of snowmobile registration and reregistration. A person who purchases a snowmobile from a retail dealer may make application for registration to the dealer at the point of sale. The dealer shall issue a temporary registration to each purchaser who applies to the dealer for registration. The temporary registration is valid until the final registration becomes effective.* Upon receipt of the application and the appropriate fee as hereinafter provided, such snowmobile shall be registered and a registration number assigned which shall be affixed to the snowmobile in such manner as the commissioner of natural resources shall prescribe. Each deputy registrar of motor vehicles acting pursuant to section 168.33, shall also be a deputy registrar of snowmobiles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to assure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with these accounting and procedural requirements. A fee of 50 cents in addition to that otherwise prescribed by law shall be charged for each snowmobile registered by the registrar or a deputy registrar. The additional fee shall be disposed of in the manner provided in section 168.33, subdivision 2.

Sec. 3. Minnesota Statutes 1990, section 84.82, subdivision 3, is amended to read:

Subd. 3. [FEES FOR REGISTRATION.] (a) The fee for registration of each snowmobile, other than those used for an agricultural purpose, as defined in section 84.92, subdivision 1c, or those registered by a dealer or manufacturer pursuant to clause (b) or (c) shall be as follows: ~~\$18~~ \$30 for three years and \$4 for a duplicate or transfer.

(b) The ~~total~~ registration fee for ~~all snowmobiles~~ each snowmobile owned by a dealer and operated for demonstration or testing purposes shall be ~~\$50~~ \$5 per year.

(c) The total registration fee for all snowmobiles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes shall be \$150 per year. Dealer and manufacturer registrations are not transferable."

Page 2, line 1, delete "permanent" and insert "payment rate for a permanent easement on"

Page 2, line 2, delete "payment rate"

Page 2, line 3, after "resources" insert "under section 103F.515, subdivision 6,"

Page 2, after line 16, insert:

"Sec. 6. Minnesota Statutes 1990, section 85.055, subdivision 1, is amended to read:

Subdivision 1. [FEES.] The fee for state park permits for:

- (1) an annual use of state parks is ~~\$16~~ \$18;
- (2) a second vehicle state park permit is ~~one-half the annual state park permit fee in clause (1)~~ \$12;
- (3) a special state park permit valid up to two days is ~~\$3.25~~ \$4;
- (4) a special daily vehicle state park permit for groups is as prescribed by the commissioner;
- (5) an employee's state park permit is without charge;
- (6) a special state park permit for handicapped persons and persons over age 65 under section 85.053, subdivision 7, clauses (1) and (2), is ~~one-half the annual state park permit fee in clause (1)~~ \$12; and
- (7) a special state park permit valid up to two days for handicapped persons and persons over age 65 under section 85.053, subdivision 7, clauses (1) and (3), is \$2 \$4.

The fees specified in this subdivision include any sales tax required by state law.

Sec. 7. 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 in length or less~~ is ~~\$12~~ \$35 except:

- (1) for watercraft 19 feet in length or less that is offered for rent or lease, the fee is ~~\$6~~ \$12;
- (2) for a canoe, kayak, sailboat, sailboard, paddle boat, or rowing shell 19 feet in length or less, the fee is ~~\$7~~ \$12;
- (3) ~~for a watercraft less than 17 feet in length, the fee is \$22;~~
- (4) 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)~~ (5) for a watercraft owned by a dealer under a dealer's license, the fee is as provided in subdivision 5.

Sec. 8. Minnesota Statutes 1990, section 86B.415, subdivision 2, is amended to read:

Subd. 2. [WATERCRAFT OVER 19 FEET.] Except as provided in subdivisions 3, 4, and 5, the watercraft license fee:

- (1) for a watercraft more than 19 feet but less than 26 feet in length is ~~\$20~~ \$45;
- (2) for a watercraft 26 feet but less than 40 feet in length is ~~\$30~~ \$60; and
- (3) for a watercraft 40 feet in length or longer is ~~\$40~~ \$80.

Sec. 9. Minnesota Statutes 1990, section 86B.415, subdivision 3, is amended to read:



Subd. 3. [WATERCRAFT OVER 19 FEET FOR HIRE.] The license fee for a watercraft more than 19 feet in length for hire with an operator is ~~\$50~~ \$80 each.

Sec. 10. Minnesota Statutes 1990, section 86B.415, subdivision 4, is amended to read:

Subd. 4. [WATERCRAFT USED BY NONPROFIT CORPORATION FOR TEACHING.] The watercraft license fee for a watercraft used by a nonprofit organization for teaching boat and water safety is ~~\$3~~ \$6 each.

Sec. 11. Minnesota Statutes 1990, section 86B.415, subdivision 5, is amended to read:

Subd. 5. [DEALER'S LICENSE.] There is no separate fee for watercraft owned by a dealer under a dealer's license. The fee for a dealer's license is ~~\$30~~ \$60.

Sec. 12. Minnesota Statutes 1990, section 86B.415, subdivision 6, is amended to read:

Subd. 6. [TRANSFER OR DUPLICATE LICENSE.] The fee to transfer a watercraft license or be issued a duplicate license is ~~\$3~~ \$4.

Sec. 13. Minnesota Statutes 1990, section 86B.415, subdivision 7, is amended to read:

Subd. 7. [WATERCRAFT SURCHARGE.] A surcharge of \$2 is placed on each watercraft licensed under subdivisions 1 to 6, ~~that is 17 feet in length or longer,~~ for management of purple loosestrife and Eurasian water milfoil according to law.

Sec. 14. Minnesota Statutes 1990, section 97A.015, subdivision 45, is amended to read:

Subd. 45. [SMALL GAME.] "Small game" means game birds, gray squirrel, fox squirrel, cottontail rabbit, snowshoe hare, jack rabbit, raccoon, lynx, bobcat, ~~red fox and~~ gray fox, fisher, pine marten, opossum, badger, cougar, wolverine, muskrat, mink, otter, and beaver.

Sec. 15. Minnesota Statutes 1990, section 97A.015, subdivision 53, is amended to read:

Subd. 53. [UNPROTECTED WILD ANIMALS.] "Unprotected wild animals" means wild animals that are not protected wild animals including weasel, coyote (brush wolf), gopher, porcupine, skunk, ~~and~~ civet cat, ~~red fox,~~ and unprotected birds."

Page 3, after line 5, insert:

"Sec. 18. Minnesota Statutes 1990, section 97A.431, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] Persons eligible for a moose license shall be determined under this section and commissioner's order. A person is eligible for a moose license only if the person:

(1) is a resident;

(2) is at least age 16 before the season opens; and

(3) has not been issued a moose license ~~for any of the last five seasons after January 1, 1981."~~

Page 3, line 21, strike everything after "(5)"

Page 3, line 22, strike "(6)"

Page 3, line 23, strike "(7)" and insert "(6)" and strike "four" and insert "six"

Page 3, line 25, strike "(8)" and insert "(7)"

Page 3, line 26, strike "(9)" and insert "(8)"

Page 3, line 28, delete "(10)" and insert "(9)"

Page 4, line 2, after "bobcat," insert "gray"

Page 4, after line 17, insert:

"Sec. 23. Minnesota Statutes 1990, section 97A.485, subdivision 6, is amended to read:

Subd. 6. [LICENSES TO BE SOLD AND ISSUING FEES.] (a) Persons authorized to sell licenses under this section must sell the following licenses for the license fee and the following issuing fees:

(1) to take deer or bear with firearms and by archery, the issuing fee is \$1;

(2) Minnesota sporting, the issuing fee is \$1; and

(3) to take small game, for a person under age 65 to take fish by angling or for a person of any age to take fish by spearing, and to trap fur-bearing animals, the issuing fee is \$1;

(4) for a trout and salmon stamp that is not issued simultaneously with an angling or sporting license, an issuing fee of 50 cents may be charged at the discretion of the authorized seller; and

(5) for stamps other than a trout and salmon stamp, there is no fee.

(b) An issuing fee may not be collected for issuance of a trout and salmon stamp if a stamp is issued simultaneously with the related angling or sporting license. Only one issuing fee may be collected when selling more than one trout and salmon stamp in the same transaction after the end of the season for which the stamp was issued.

(c) The auditor or subagent shall keep the issuing fee as a commission for selling the licenses.

(d) The commissioner shall collect the issuing fee on licenses sold by the commissioner.

(e) A license, except stamps, must state the amount of the issuing fee and that the issuing fee is kept by the seller as a commission for selling the licenses.

~~(f) The fee for an angling license paid by a resident 65 years of age or over must be refunded to the licensee upon request to the commissioner, if the request is made within 30 days of the sale. The commissioner shall design a system on the license for this purpose. An auditor or subagent may not provide postage stamps or pre-addressed envelopes for obtaining the refund. An auditor or subagent must provide information on the purposes for which license receipts are spent and the effects of applying for a refund."~~

Page 4, after line 27, insert:

"Sec. 25. Minnesota Statutes 1990, section 97A.485, subdivision 9, is amended to read:

Subd. 9. [CERTAIN LICENSES NOT TO BE ISSUED AFTER SEASON OPENS.] (a) *Except as provided in paragraphs (b) and (d)*, the following licenses may not be issued after the day before the opening of the related firearms season:

- (1) to take deer with firearms or by archery;
- (2) to guide bear hunters; and
- (3) to guide turkey hunters.

(b) Paragraph (a) does not apply to deer licenses for discharged military personnel under section 97A.465, subdivision 4.

(c) A nonresident license or tag to take and possess raccoon, bobcat, Canada lynx, or *gray* fox may not be issued after the fifth day of the open season.

*(d) The commissioner may issue a license to take deer to a person for whom the three-year period under section 97A.421, subdivision 3, ends during an open deer season.*

Sec. 26. Minnesota Statutes 1990, section 97A.541, is amended to read:

97A.541 [NONRESIDENT: SMALL GAME TAGS.]

A nonresident may not possess or transport a raccoon, bobcat, Canada lynx, or *gray* fox taken in this state without a tag attached to the animal. The commissioner shall prescribe, by order, the type of tag and the number of tags to be issued with each nonresident raccoon, bobcat, Canada lynx, or *gray* fox license and shall furnish the tags with the licenses to be issued.

Sec. 27. Minnesota Statutes 1990, section 97B.075, is amended to read:

97B.075 [HUNTING RESTRICTED BETWEEN EVENING AND MORNING.]

A person may not take protected wild animals, except raccoon and *gray* fox, with a firearm or by archery between the evening and morning times established by commissioner's order.

Sec. 28. Minnesota Statutes 1990, section 97B.601, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENTS: RACCOON, BOBCAT, *GRAY* FOX, COYOTE, CANADA LYNX.] A nonresident may not take raccoon, bobcat, *gray* fox, coyote, or Canada lynx without a separate license to take that animal in addition to a small game license.

Sec. 29. Minnesota Statutes 1990, section 97B.601, subdivision 4, is amended to read:

Subd. 4. [EXCEPTION TO LICENSE REQUIREMENTS.] (a) A resident under age 16 may take small game without a small game license, and a resident under age 13 may trap without a trapping license, as provided in section 97A.451, subdivision 3.

(b) A person may take small game without a small game license on land occupied by the person as a principal residence.

(c) An owner or occupant may take certain small game causing damage without a small game or trapping license as provided in section 97B.655.

(d) A person may use dogs to pursue and tree raccoons under section 97B.621, subdivision 2, during the closed season without a license.

(e) *A person may take turkey without a small game license.*

Sec. 30. Minnesota Statutes 1990, section 97B.631, is amended to read:  
97B.631 [GRAY FOX.]

Subdivision 1. [RESTRICTIONS ON TAKING.] A person may not remove a *gray fox* from a den or trap *gray fox* within 300 feet of a *gray fox* den from April 1 to August 31.

Subd. 2. [PERMIT REQUIRED TO SNARE.] A person may not use a snare to take *gray fox* except under a permit from the commissioner.

Sec. 31. Minnesota Statutes 1990, section 97B.655, subdivision 1, is amended to read:

Subdivision 1. [OWNERS AND OCCUPANTS MAY TAKE CERTAIN ANIMALS.] A person may take mink, squirrel, rabbit, hare, raccoon, lynx, bobcat, *gray fox*, muskrat, or beaver on land owned or occupied by the person where the animal is causing damage. The person may take the animal without a license and in any manner except by poison, or artificial lights in the closed season. Raccoons may be taken under this subdivision with artificial lights during open season. A person that kills mink, raccoon, lynx, bobcat, *gray fox*, muskrat, or beaver under this subdivision must bring the entire animal to a conservation officer or employee of the division within 24 hours after the animal is killed.

Sec. 32. Minnesota Statutes 1990, section 97B.721, is amended to read:  
97B.721 [LICENSE REQUIRED TO TAKE TURKEY.]

A person may not take turkey without a ~~small game license~~ and a turkey license."

Page 5, after line 3, insert:

"Sec. 34. [EXPERIMENTAL MOURNING DOVE SEASON.]

Subdivision 1. [TIME PERIOD.] *Notwithstanding Minnesota Statutes, section 97B.731, subdivision 2, until December 31, 1992, mourning doves may be taken and possessed in that part of the state lying west of a line formed by U.S. Route 71 from the Iowa border north to Blackduck, then continuing north on Minnesota Route 72 to Baudette, in accordance with an order issued by the commissioner of natural resources under subdivision 2.*

Subd. 2. [COMMISSIONER'S ORDER.] *The commissioner may by order prescribe an open season and restrictions for taking mourning doves in the designated area. The order must expire on or before December 31, 1992.*

Subd. 3. [LICENSE AND STAMP REQUIRED.] *A person may not take mourning doves under this section without a small game license and a mourning dove stamp in possession.*

Subd. 4. [MOURNING DOVE STAMP.] (a) *The fee for a mourning dove stamp is \$5.*

(b) *The commissioner may use revenue from mourning dove stamps for*

*preparing the report required in section 35.*

Sec. 35. [REPORT.]

*The commissioner shall report to the legislature by March 1, 1993, on the results of the experimental mourning dove season authorized by section 34. The report must include a description of the impact of the experimental season on the mourning dove population in the designated area.*

Sec. 36. [STUDY; LEGISLATIVE RECOMMENDATIONS.]

*The commissioner shall submit recommendations to the legislature before January 1, 1992, concerning the snowmobile account, its continuing viability, and the grants made to local governments from the snowmobile account for grants-in-aid trail operations and maintenance equipment. The recommendations should address, at a minimum, ways to ensure funding for trail-grooming equipment and the appropriateness of the present formula dedicating a share of the unrefunded gas tax to the snowmobile account."*

Page 5, line 5, delete "97B.721" and insert "97B.301, subdivision 5"

Page 5, line 7, delete "1, 2, and 3" and insert "4, 5, 16, 34, and 35"

Page 5, line 8, after the period, insert "Sections 2 and 3 are effective July 1, 1991." and delete "4, 5, 10, and 11" and insert "17, 19, 33, and 37"

Page 5, line 9, after the period, insert "Sections 7 to 13 are effective January 1, 1993." and delete "6 to 9" and insert "20 to 22 and 24"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the first semicolon, insert "designating red fox as an unprotected wild animal;" and after the second semicolon, insert "authorizing an experimental season on mourning doves in a designated area; requiring mourning dove stamps and setting a fee for them; requiring a report to the legislature on the experimental season; changing watercraft and snowmobile fees; allowing money from the sale of natural resource related merchandise to be credited to certain accounts; removing the refund of angling license fees for senior citizens; allowing the issuance of a deer license during the season under certain conditions; changing state park permit fees; changing eligibility requirements for moose licenses;"

Page 1, line 6, after "sections" insert "84.0855; 84.82, subdivisions 2 and 3;" and after "5;" insert "85.055, subdivision 1; 86B.415, subdivisions 1, 2, 3, 4, 5, 6, and 7; 97A.015, subdivisions 45 and 53;"

Page 1, line 7, after the second semicolon, insert "97A.431, subdivision 2;"

Page 1, line 9, delete "subdivision 7;" and insert "subdivisions 6, 7, and 9; 97A.541; 97B.075; 97B.601, subdivisions 3 and 4; 97B.631; 97B.655, subdivision 1; 97B.721;"

Page 1, line 10, delete "97B.721" and insert "97B.301, subdivision 5"

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

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

S.F. No. 937: A bill for an act relating to human services; establishing an investment per bed limit for nursing homes; establishing an equipment allowance for nursing homes; establishing a capital replacement per diem for nursing homes; authorizing the recognition of debt from sales or refinancing occurring after May 22, 1983; amending Minnesota Statutes 1990, section 256B.431, subdivision 3f, and by adding a subdivision.

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

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

Section 1. Minnesota Statutes 1990, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the

exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;

(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration;

(g) to license or certify beds in a new facility constructed to replace a facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

(i) to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

(j) to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) the nursing home beds are not certified for participation in the medical assistance program; and (2) the relocation of nursing home beds

under this clause should not exceed a radius of six miles;

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

(o) to certify or license new beds in a new facility on the Red Lake Indian Reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in United States Code, title 42, section 1396d(b);

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or \$200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause;

(r) to license and certify nursing home beds to replace currently licensed



and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements; or

(s) to license or certify beds that are moved from a nursing home to a separate facility under common ownership or control that was formerly licensed as a hospital and is currently licensed as a nursing facility and that is located within eight miles of the original facility, provided the original nursing home building will no longer be operated as a nursing home. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation; or

*(t) to license and certify as a skilled nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the facility can meet skilled nursing facility licensing standards without an increase in staffing or property costs and the commissioner of human services certifies to the commissioner of health that licensing and certifying the facility as a skilled nursing facility will result in a savings in the medical assistance program.*

Sec. 2. Minnesota Statutes 1990, section 144A.31, subdivision 4, is amended to read:

Subd. 4. [ENFORCEMENT.] (a) The board shall develop and recommend for implementation effective methods of enforcing quality of care standards. The board shall develop and monitor, and the commissioner of human services shall implement, a resident relocation plan that instructs a county in which a nursing home or certified boarding care home is located of procedures to ensure that the needs of residents in nursing homes or certified boarding care homes about to be closed are met. The duties of a county under the relocation plan also apply when residents are to be discharged from a nursing home or certified boarding care home as a result of a change in certification, closure, or loss or termination of the facility's medical assistance provider agreement. The resident relocation plans and county duties required in this subdivision apply to the voluntary or involuntary closure, or reduction in services or size of, an intermediate care facility for the mentally retarded. The relocation plan for intermediate care facilities for the mentally retarded must conform to Minnesota Rules, parts 4655.6810 to 4655.6830, 9525.0015 to 9525.0165, and 9546.0010 to 9546.0060, or their successors. The commissioners of health and human services may waive a portion of existing rules that the commissioners determine does not apply to persons with mental retardation or related conditions. The

county shall ensure appropriate placement of residents in licensed and certified facilities or other alternative care such as home health care and foster care placement. In preparing for relocation, the board shall ensure that residents and their families or guardians are involved in planning the relocation.

*(b) In emergency situations, the commissioner of human services may transfer existing intermediate care facility for persons with mental retardation or related conditions beds, relocate residents, and establish an interim payment rate under the procedures contained in Minnesota Rules, part 9553.0075, for up to two years, as necessary to ensure the replacement of the original services for the residents. The payment rate must be based on projected costs and is subject to settle up. An emergency situation exists when it appears to the commissioner of human services that the health, safety, or welfare of residents may be in jeopardy due to imminent or actual loss of use of the physical plant or damage to the physical plant making it temporarily or permanently uninhabitable. The subsequent rate for a facility providing services for the same resident following the temporary emergency situation must be based upon the costs incurred during the interim period if the residents are permanently placed in the same facility. If the residents need to be relocated for permanent placements, the temporary emergency location must close and the procedures for establishing rates for newly constructed or newly established facilities must be followed. This provision regarding emergency situations does not apply to facilities placed in receivership by the commissioner of human services under section 245A.12 or 245A.13, or facilities that have rates set under section 252.292, subdivision 4, or to relocations of residents to existing facilities.*

Sec. 3. Minnesota Statutes 1990, section 252.46, subdivision 14, is amended to read:

Subd. 14. [PILOT STUDY.] The commissioner may initiate a pilot payment rate system under section 252.47. The pilot project may establish training and demonstration sites. The pilot payment rate system must include actual transfers of funds, not simulated transfers. The pilot payment rate system may involve up to four counties and four vendors representing different geographic regions and rates of reimbursement. Participation in the pilot project is voluntary. Selection of participants by the commissioner is based on the vendor's submission of a complete application form provided by the commissioner. The application must include letters of agreement from the host county, counties of financial responsibility, and residential service providers. Evaluation of the pilot project must include consideration of the effectiveness of procedures governing establishment of equitable payment rates. Implementation of the pilot payment rate system is contingent upon federal approval and systems feasibility. The policies and procedures governing administration, participation, evaluation, service utilization, and payment for services under the pilot payment rate system are not subject to the rulemaking requirements of chapter 14.

Sec. 4. Minnesota Statutes 1990, section 252.478, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF PROGRAM METRO TRANSPORTATION SUPPORT GRANTS.] The commissioner of human services shall establish and operate a metro transportation support grants program to provide reimbursement for client transportation by metro mobility, or cost-effective alternatives, to day training and habilitation services for which

client transportation is a required and funded component, and to maximize use of federal funds for this reimbursement. A metro transportation support grants account shall be established in the department of human services chart of accounts.

Sec. 5. Minnesota Statutes 1990, section 252.478, subdivision 3, is amended to read:

Subd. 3. [COUNTY SHARE.] The county share of the metro transportation support grants program costs will be distributed by the department to all metropolitan counties from the metro transportation support grants account. ~~For state fiscal year 1991, the funds transferred from the regional transit board to this account shall be distributed to: Ramsey county, 48 percent; Hennepin county, 46 percent; Dakota county, five percent; and Anoka county, one percent. For subsequent fiscal years, funds shall be distributed annually based on each county's percentage of total expenses incurred for trips provided on metro mobility to and from day training and habilitation services during the preceding 12-month period; in amounts not to exceed those received by the counties and used for increased expenses incurred for trips provided on metro mobility during fiscal year 1991. Counties must recommend decreases to the payment rates for vendors whose transportation costs decrease with use of cost-effective alternatives. Counties should deposit these funds into the program accounts that will incur the transportation expenses.~~

Sec. 6. Minnesota Statutes 1990, section 256B.0641, is amended by adding a subdivision to read:

Subd. 3. [EXCEPTION.] *Subdivision 2 does not apply to the change of ownership of a facility to a nonrelated organization while the facility to be sold, transferred, or reorganized is in receivership under section 245A.12 or 245A.13, and the commissioner during the receivership has not determined the need to place residents of the facility into a newly constructed or newly established facility. Nothing in this subdivision limits the liability of a former owner.*

Sec. 7. Minnesota Statutes 1990, section 256B.431, subdivision 21, is amended to read:

Subd. 21. [INFLATION ADJUSTMENTS AFTER JULY 1, 1990.] (a) For rate years beginning on or after July 1, 1990, the forecasted composite price index for a nursing home's allowable operating cost per diems shall be determined using Data Resources, Inc., forecast for change in the Nursing Home Market Basket. The commissioner of human services shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

(b) *For rate years beginning on or after July 1, 1992, the commissioner shall index the prior year's operating cost limits by the percentage change in the Data Resources, Inc., nursing home market basket between the midpoint of the current reporting year and the midpoint of the previous reporting year. The commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.*

Sec. 8. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2m. [WORKERS' COMPENSATION SAVINGS TO BE USED FOR

**SALARY INCREASE.]** *Any reduction in workers' compensation costs experienced by a nursing home between April 1, 1991, and July 1, 1993, must be used to provide salary increases and related personnel costs for positions below top management. The salary increase must be in addition to salary increases that would be provided using the prospective rate adjustment for inflation in salary and related personnel costs. Any portion of amount of the reduction in a facility's workers' compensation costs that is not accompanied by a corresponding salary increase attributable to that reduction is not an allowable cost in the reporting year.*

Sec. 9. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

**Subd. 2n. [SPECIAL PAYMENT RATES FOR SHORT-STAY FACILITIES.]** *Notwithstanding contrary provisions of this section and rules adopted by the commissioner, for the rate years beginning on and after July 1, 1992, a nursing facility whose average length of stay for the rate year beginning July 1, 1991, is less than 180 days must be reimbursed at 125 percent of the facility's care-related limit and 105 percent of the facility's other-operating-cost limit. The facility continues to receive this rate even if the facility's average length of stay is less than 180 days in rate years subsequent to the rate year beginning July 1, 1991.*

Sec. 10. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

**Subd. 2o. [FACILITIES SPECIALIZING IN THE TREATMENT OF HUNTINGTON'S DISEASE.]** *The commissioner shall reimburse facilities that specialize in the treatment of Huntington's disease using the reimbursement methods that apply to facilities licensed under the department of human services' rules governing residential services for physically handicapped persons.*

Sec. 11. Minnesota Statutes 1990, section 256B.431, subdivision 3f, is amended to read:

**Subd. 3f. [PROPERTY COSTS AFTER JULY 1, 1988.]** (a) **[INVESTMENT PER BED LIMIT.]** *For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be \$32,571 per licensed bed in multiple bedrooms and \$48,857 per licensed bed in a single bedroom. For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be \$49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). For the rate year beginning July 1, 1991, the replacement-cost-new per bed limit must be \$47,500 per licensed bed in a multiple-bed room and \$71,250 per licensed bed in a single-bed room. Beginning January 1, 1990 1992, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1), except that the index utilized must be the Bureau of the Census composite fixed-weighted price index as published in the survey of current business.*

(b) **[RENTAL FACTOR.]** *For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing homes for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this*

paragraph for the rate year beginning July 1, 1988.

(c) [OCCUPANCY FACTOR.] For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing homes except those whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use 95 percent of capacity days. For a nursing home whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 95 percent of capacity days.

(d) [EQUIPMENT ALLOWANCE.] For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing home's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing home's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day.

For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E.

(e) [POST CHAPTER 199 RELATED-ORGANIZATION DEBTS AND INTEREST EXPENSE.] For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principal payments, and the nursing home demonstrates to the commissioner's satisfaction that the interest rate on the debt was less than market interest rates for similar arms-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing home must also demonstrate that the seller no longer participates in the management or operation of the nursing home. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.

(f) [BUILDING CAPITAL ALLOWANCE FOR NURSING HOMES WITH OPERATING LEASES.] For rate years beginning on or after July 1, 1990, a nursing home with operating lease costs incurred for the nursing home's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8.

(g) [CAPITAL REPLACEMENT PER DIEM.] *For rate years beginning on or after July 1, 1991, the commissioner shall establish a capital replacement per diem for each nursing home which must be added to the property-related per diem rate paid to each provider. The capital replacement per diem shall be determined as follows:*

*(1) The annual capital replacement cost for each nursing home shall be 75 percent of the annual reported depreciation on buildings, attached fixtures, and land improvements used by the nursing home.*

*(2) The annual replacement cost from clause (1) shall be reduced by 50 percent of the excess of the nursing home's annual property-related payments, not including equipment allowance and capital replacement per*

*diems, over the nursing home's annual principal and interest payments on debt allowable for that rate year. The reduced annual replacement cost shall be no greater than \$800 times the number of licensed beds of the nursing home and not less than \$200 times the number of licensed beds of the nursing home. For purposes of this clause, the number of licensed beds shall be the number used to aggregate the applicable investment per bed limits.*

*(3) The capital replacement per diem shall be calculated by dividing the reduced annual capital replacement cost in clause (2) by the occupancy factor determined in paragraph (c).*

*(h) [CAPITAL REPLACEMENT FUND RESTRICTIONS.] The capital replacement per diem and any interest earned on the capital replacement fund must be used for the purchase or financing of new capital assets or the replacement of capital assets or payment of capitalized repairs for the nursing home, and must not be used for the purchase or replacement of movable equipment. A separate capital replacement fund balance must be calculated and reported for each facility. Any amounts received during the cost reporting period as capital replacement per diem not used for the purposes stated above must be allocated to that fund and the fund's balance must be reported on the facility's cost report. If a provider does not allocate and report the required amount in the fund, the provider's capital replacement per diem for the next rate year shall be reduced by the amount necessary to recover the difference between the amount actually allocated to the fund and the required amount. Interest income on the capital replacement fund shall not be offset against the provider's rates. The capital replacement fund and any interest accrued or money earned on the fund shall remain the property of the nursing home regardless of sale, transfer, change of ownership, merger, consolidation, or reorganization. In cases where a dissolution of ownership occurs or the facility discontinues operation as a nursing facility, the fund and any interest accrued or money earned must be paid to the state general fund and deposited in the medical assistance account. For a licensed provider with an operating lease on the nursing home, the capital replacement fund and any interest accrued or money earned shall not be the property of the lessor but shall be the property of the licensed provider for the duration of the operating lease or any renewal or extension of that operating lease.*

Sec. 12. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

*Subd. 3k. [PROPERTY-RELATED PAYMENTS AFTER JUNE 30, 1991.] Notwithstanding Minnesota Rules, part 9549.0060, subparts 5 and 7, this subdivision applies to property-related payments for rate years beginning on or after July 1, 1991.*

*(a) An increase in the amount of a debt and increases in total interest expense as a result of refinancing of capital assets which occurs after May 22, 1983, shall be allowed if the refinancing either lowers the effective annual interest rate or refinances a capital debt with a balloon payment on an otherwise allowable debt. Increases in total interest expenses which result from refinancing of a capital debt with a balloon payment shall be allowed to the extent that:*

*(1) the interest rate on the refinanced debt is within the limit imposed by Minnesota Rules, part 9549.0060, subpart 6, item A;*

*(2) the refinanced debt does not exceed the balloon payment, except to*

*the extent of the costs of refinancing; and*

*(3) the term of the refinanced debt does not exceed the greater of either the term of the original debt computed as though the balloon payment did not exist or the remaining useful life of the asset as measured by the depreciation allowance found in the most recent appraisal.*

*(b) An increase in the amount of total outstanding debt and increases in interest expense on the debt incurred after May 22, 1983, as a result of a change in ownership or reorganization of provider entities shall be allowed. The appraised value determined under Minnesota Rules, part 9549.0060, subpart 5, shall not be increased solely as a result of a change in ownership or reorganization of provider entities.*

*(c) An increase in the amount of total outstanding debt and increases in interest expense incurred after May 22, 1983, shall be allowable for the costs of financing and refinancing, including points, origination fees, financing charges, legal fees, and the amortization of bond premiums or discounts.*

*(d) Interest expense shall be allowable on debt incurred or refinanced after May 22, 1983, for the purchase or financing of new moveable equipment or the replacement of movable equipment in connection with a project approved under section 144A.073 as an exemption to the nursing home moratorium or in connection with an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost, including the movable equipment, exceeds the lesser of \$200,000 or ten percent of the most recent appraised value. The interest rate on the debt must be within the limit imposed by Minnesota Rules, part 9549.0060, subpart 6, item A.*

*Interest expense on such debt incurred prior to May 22, 1983, shall also be allowable if the project was approved under Minnesota Statutes, sections 145.832 to 145.845, the Minnesota certificate of need act, prior to the effective date of its repeal, to the extent that the debt would have been allowable under the rules and statutes in effect at the time the project was approved, and if the approved project was completed after January 1, 1983.*

*(e) Any portion of the total allowable debt exceeding the appraised value as determined on or after July 1, 1985, under Minnesota Rules, part 9549.0060, subpart 5, shall not be allowed, except to the extent of the debt allowed for movable equipment under paragraph (d). For debt resulting from changes in ownership or reorganization of provider entities occurring after May 22, 1983, and prior to July 1, 1985, total allowable debt shall not exceed the lesser of that allowable under the federal Medicare limits in effect at the time of the change in ownership or reorganization of provider entities or as allowable in the event of change of ownership or reorganization of provider entities under Minnesota Rules, parts 9510.0010 to 9510.0480, at the time of the change in ownership or reorganization of the provider entities, provided that in applying Minnesota Rules, parts 9510.0010 to 9510.0480, a nursing home which has reduced licensed bed capacity after May 22, 1983, shall be allowed to:*

*(1) aggregate the applicable per bed limits based on the number of beds licensed prior to the reduction; and*

*(2) establish capacity days based on the number of beds on July 1, 1990.*

*(f) Any portion of the total allowable debt which exceeds the historical cost of the capital asset acquired shall not be allowed, except to the extent*

*of the debt allowed for costs of financing and refinancing under paragraph (c) and for movable equipment under paragraph (d).*

Sec. 13. Minnesota Statutes 1990, section 256B.50, subdivision 1d, is amended to read:

Subd. 1d. [EXPEDITED APPEAL REVIEW PROCESS.] (a) Within 120 days of the date an appeal is due according to subdivision 1b, the department shall review an appealed adjustment equal to or less than \$100 annually per licensed bed of the provider, make a determination concerning the adjustment, and notify the provider of the determination. Except as allowed in paragraph (g), this review does not apply to an appeal of an adjustment made to, or proposed on, an amount already paid to the provider. In this subdivision, an adjustment is each separate disallowance, allocation, or adjustment of a cost item or part of a cost item as submitted by a provider according to forms required by the commissioner.

(b) For an item on which the provider disagrees with the results of the determination of the department made under paragraph (a), the provider may, within 60 days of the date of the review notice, file with *both* the office of administrative hearings and the department its written argument and documents, information, or affidavits in support of its appeal. If the provider fails to make a ~~submission~~ *timely submissions* in accordance with this paragraph, the department's determinations on the disputed items must be upheld.

(c) Within 60 days of the date the department received the provider's submission under paragraph (b), the department may file with the office of administrative hearings and serve upon the provider its written argument and documents, information, and affidavits in support of its determination. If the department fails to make a submission in accordance with this paragraph, the administrative law judge shall proceed pursuant to paragraph (d) based on the provider's submission.

(d) Upon receipt by the office of administrative hearings of the department's submission made under paragraph (c) or upon the expiration of the 60-day filing period, whichever is earlier, the chief administrative law judge shall assign the matter to an administrative law judge. The administrative law judge shall consider the submissions of the parties and all relevant rules, statutes, and case law. The administrative law judge may request additional argument from the parties if it is deemed necessary to reach a final decision, but shall not allow witnesses to be presented or discovery to be made in the proceeding. Within 60 days of receipt by the office of administrative hearings of the department's submission or the expiration of the 60-day filing period in paragraph (c), whichever is earlier, the administrative law judge shall make a final decision on the items in issue, and shall notify the provider and the department by first-class mail of the decision on each item. The decision of the administrative law judge is the final administrative decision, is not appealable, and does not create legal precedent, except that the department may make an adjustment contrary to the decision of the administrative law judge based upon a subsequent cost report amendment or field audit that reveals information relating to the adjustment that was not known to the department at the time of the final decision.

(e) For a disputed item otherwise subject to the review set forth in this subdivision, the department and the provider may mutually agree to bypass the expedited review process and proceed to a contested case hearing at



any time prior to the time for the department's submission under paragraph (c).

(f) When the department determines that ~~the appeals of two or more providers otherwise~~ *an appeal item* subject to the review set forth in this subdivision ~~present presents~~ the same or substantially the same adjustment, ~~presented in another appeal filed pursuant to this chapter,~~ the department may remove the disputed items from the review in this subdivision, and the disputed items shall proceed in accordance with subdivision 1c. The department's decision to remove the appealed adjustments to contested case proceeding is final and is not reviewable.

(g) For a disputed item otherwise subject to the review in this subdivision, the department or a provider may petition the chief administrative law judge to issue an order allowing the petitioning party to bypass the expedited review process. If the petition is granted, the disputed item must proceed in accordance with subdivision 1c. In making the determination, the chief administrative law judge shall consider the potential impact and precedential and monetary value of the disputed item. A petition for removal to contested case hearing must be filed with the chief administrative law judge and the opposing party on or before the date on which its submission is due under paragraph (b) or (c). Within 20 days of receipt of the petition, the opposing party may submit its argument opposing the petition. Within 20 days of receipt of the argument opposing the petition, or if no argument is received, within 20 days of the date on which the argument was due, the chief administrative law judge shall issue a decision granting or denying the petition. If the petition is denied, the petitioning party has 60 days from the date of the denial to make a submission under paragraph (b) or (c).

(h) The department and a provider may mutually agree to use the procedures set forth in this subdivision for any disputed item not otherwise subject to this subdivision.

(i) Nothing shall prevent either party from making its submissions and arguments under this subdivision through a person who is not an attorney.

(j) This subdivision applies to all appeals for rate years beginning after June 30, 1988.

Sec. 14. Minnesota Statutes 1990, section 256B.501, is amended by adding a subdivision to read:

*Subd. 2a. [WORKERS' COMPENSATION SAVINGS TO BE USED FOR SALARY INCREASE.] Any reduction in workers' compensation costs experienced by an intermediate care facility for persons with mental retardation and related conditions between April 1, 1991, and July 1, 1993, must be used to provide salary increases and related personnel costs for positions below top management. The salary increase must be in addition to salary increases that would be provided using the prospective rate adjustment for inflation in salary and related personnel costs. Any portion of amount of the reduction in a facility's workers' compensation costs that is not accompanied by a corresponding salary increase attributable to that reduction is not an allowable cost in the reporting year.*

Sec. 15. Minnesota Statutes 1990, section 256B.501, subdivision 11, is amended to read:

**Subd. 11. [INVESTMENT PER BED LIMITS, INTEREST EXPENSE LIMITATIONS, AND ARMS-LENGTH LEASES.]** (a) The provisions of

Minnesota Rules, part 9553.0075, except as modified under this subdivision, shall apply to newly constructed or established facilities that are certified for medical assistance on or after May 1, 1990.

(b) For purposes of establishing payment rates under this subdivision and Minnesota Rules, parts 9553.0010 to 9553.0080, the term "newly constructed or newly established" means a facility (1) for which a need determination has been approved by the commissioner under sections 252.28 and 252.291; (2) whose program is newly licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, and certified under Code of Federal Regulations, title 42, section 442.400, et seq.; and (3) that is part of a proposal that meets the requirements of section 252.291, subdivision 2, paragraph (2). The term does not include a facility for which a need determination was granted solely for other reasons such as the relocation of a facility; a change in the facility's name, program, number of beds, type of beds, or ownership; or the sale of a facility, unless the relocation of a facility to one or more service sites is the result of a closure of a facility under section 252.292, in which case clause (3) shall not apply. The term does include a facility that converts more than 50 percent of its licensed beds from class A to class B residential or class B institutional to serve persons discharged from state regional treatment centers on or after May 1, 1990, in which case clause (3) does not apply.

(c) Newly constructed or newly established facilities that are certified for medical assistance on or after May 1, 1990, shall be allowed the capital asset investment per bed limits as provided in clauses (1) to (4).

(1) The 1990 calendar year investment per bed limit for a facility's land must not exceed \$5,700 per bed for newly constructed or newly established facilities in Hennepin, Ramsey, Anoka, Washington, Dakota, Scott, Carver, Chisago, Isanti, Wright, Benton, Sherburne, Stearns, St. Louis, Clay, and Olmsted counties, and must not exceed \$3,000 per bed for newly constructed or newly established facilities in other counties.

(2) The 1990 calendar year investment per bed limit for a facility's depreciable capital assets must not exceed \$44,800 for class B residential beds, and \$45,200 for class B institutional beds.

(3) The investment per bed limit in clause (2) must not be used in determining the three-year average percentage increase adjustment in Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (4), for facilities that were newly constructed or newly established before May 1, 1990.

(4) The investment per bed limits in clause (2) and Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (2), shall be adjusted annually beginning January 1, 1991, and each January 1 following, as provided in Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (2), *except that the index utilized must be the Bureau of Census composite fixed-weighted price index as published in the survey of current business.*

(d) A newly constructed or newly established facility's interest expense limitation as provided for in Minnesota Rules, part 9553.0060, subpart 3, item F, on capital debt for capital assets acquired during the interim or settle-up period, shall be increased by 2.5 percentage points for each full .25 percentage points that the facility's interest rate on its mortgage is below the maximum interest rate as established in Minnesota Rules, part 9553.0060, subpart 2, item A, subitem (2). For all following rate periods, the interest expense limitation on capital debt in Minnesota Rules, part

9553.0060, subpart 3, item F, shall apply to the facility's capital assets acquired, leased, or constructed after the interim or settle-up period. If a newly constructed or newly established facility is acquired by the state, the limitations of this paragraph and Minnesota Rules, part 9553.0060, subpart 3, item F, shall not apply.

(e) If a newly constructed or newly established facility is leased with an arms-length lease as provided for in Minnesota Rules, part 9553.0060, subpart 7, the lease agreement shall be subject to the following conditions:

(1) the term of the lease, including option periods, must not be less than 20 years;

(2) the maximum interest rate used in determining the present value of the lease must not exceed the lesser of the interest rate limitation in Minnesota Rules, part 9553.0060, subpart 2, item A, subitem (2), or 16 percent; and

(3) the residual value used in determining the net present value of the lease must be established using the provisions of Minnesota Rules, part 9553.0060.

(f) All leases of the physical plant of an intermediate care facility for the mentally retarded shall contain a clause that requires the owner to give the commissioner notice of any requests or orders to vacate the premises 90 days before such vacation of the premises is to take place. In the case of unlawful detainer actions, the owner shall notify the commissioner within three days of notice of an unlawful detainer action being served upon the tenant. The only exception to this notice requirement is in the case of emergencies where immediate vacation of the premises is necessary to assure the safety and welfare of the residents. In such an emergency situation, the owner shall give the commissioner notice of the request to vacate at the time the owner of the property is aware that the vacating of the premises is necessary. This section applies to all leases entered into after May 1, 1990. Rentals set in leases entered into after that date that do not contain this clause are not allowable costs for purposes of medical assistance reimbursement.

(g) A newly constructed or newly established facility's preopening costs are subject to the provisions of Minnesota Rules, part 9553.0035, subpart 12, and must be limited to only those costs incurred during one of the following periods, whichever is shorter:

(1) between the date the commissioner approves the facility's need determination and 30 days before the date the facility is certified for medical assistance; or

(2) the 12-month period immediately preceding the 30 days before the date the facility is certified for medical assistance.

## ARTICLE 2

Section 1. Minnesota Statutes 1990, section 144A.10, subdivision 4, is amended to read:

Subd. 4. [CORRECTION ORDERS.] Whenever a duly authorized representative of the commissioner of health finds upon inspection of a nursing home, that the facility or a controlling person or an employee of the facility is not in compliance with sections 144.651, 144A.01 to 144A.16, or 626.557 or the rules promulgated thereunder, a correction order shall be

issued to the facility. The correction order shall state the deficiency, cite the specific rule or statute violated, state the suggested method of correction, and specify the time allowed for correction. If the commissioner finds that the nursing home had uncorrected or repeated violations which create a risk to resident care, safety, or rights, the commissioner shall notify the commissioner of human services who shall (1) ~~review reimbursement to the nursing home to determine the extent to which the state has paid for substandard care and,~~ (2) ~~furnish the findings and disposition to the commissioner of health within 30 days of notification require the facility to use any efficiency incentive payments received under section 256B.431, subdivision 2b, paragraph (d), to correct the violations and shall require the facility to forfeit incentive payments for failure to correct the violations as provided in section 256B.431, subdivision 2p.~~

Sec. 2. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

*Subd. 2p. [EFFICIENCY INCENTIVE REDUCTIONS FOR SUBSTANDARD CARE.] For rate years beginning on or after July 1, 1991, the efficiency incentive established under subdivision 2b, paragraph (d), shall be reduced or eliminated for facilities determined by the commissioner of health under section 144A.10, subdivision 4, to have uncorrected or repeated violations which create a risk to resident care, safety, or rights. Upon being notified by the commissioner of health of uncorrected or repeated violations, the commissioner of human services shall require the facility to use efficiency incentive payments to correct the violations. The commissioner of human services shall require the facility to forfeit efficiency incentive payments for failure to correct the violations. Any forfeiture shall be limited to the amount necessary to correct the violation.*

Sec. 3. [256B.81] [DEPOSITS INTO MEDICAL ASSISTANCE ACCOUNT.]

*All money collected under section 4 shall be deposited in the medical assistance account and is appropriated to the commissioner of human services for the purposes of section 5. Deposits into the account do not cancel but are available until expended.*

Sec. 4. [256B.82] [PAYMENTS INTO ACCOUNT.]

*Subdivision 1. [NURSING FACILITY LICENSE SURCHARGE.] Effective July 1, 1991, each nursing facility subject to the reimbursement principles in Minnesota Rules, parts 9549.0010 to 9549.0080, shall pay to the medical assistance account an annual surcharge of \$450 per licensed bed, according to the schedule in subdivision 6.*

*Subd. 2. [HOSPITAL SURCHARGE.] Effective July 1, 1991, each hospital shall pay to the medical assistance account an annual surcharge equal to ten percent of medical assistance payments received for inpatient and outpatient services according to the schedule in subdivision 6.*

*Subd. 3. [PHYSICIAN SURCHARGE.] Effective July 1, 1991, each physician and physician clinic shall pay to the medical assistance account an annual surcharge equal to five percent of medical assistance payments received according to the schedule in subdivision 6.*

*Subd. 4. [DENTIST SURCHARGE.] Effective July 1, 1991, each dentist and dental clinic shall pay to the medical assistance account an annual surcharge equal to five percent of medical assistance payments received*

according to the schedule in subdivision 6.

*Subd. 5. [SPECIAL TRANSPORTATION SURCHARGE.] Effective July 1, 1991, each special transportation provider shall pay to the medical assistance account an annual surcharge equal to 17 percent of medical assistance payments received for special transportation according to the schedule in subdivision 6.*

*Subd. 6. [PAYMENTS INTO THE ACCOUNT.] Payments into the medical assistance account under subdivisions 1 to 5 must be paid in quarterly installments due on the 15th of the month. The first payment is due September 15, 1991, with subsequent payments due on December 15, March 15, and June 15. The payment under subdivision 1 must be equal to the annual surcharge divided by 4. The payment under subdivisions 2 to 5 shall be determined by taking the amount of medical assistance payments received by each provider in the three months prior to the quarter in which the payment is due and multiplying that amount by the percentage surcharge for each provider.*

*Subd. 7. [NOT ALLOWABLE COST.] Provider payments into the medical assistance account under this section are not an allowable cost for purposes of the medical assistance program.*

*Subd. 8. [NOTICE; APPEALS.] The commissioner shall give each provider a ten-day notice of each payment due. A provider may request a contested case hearing under chapter 14 within 60 days of receipt of the notice. The decision of the commissioner regarding the amount due stands until the appeal is decided.*

*Subd. 9. [ENFORCEMENT.] The commissioner shall bring action in district court to collect provider payments due under subdivisions 1 to 6 that are more than 60 days in arrears.*

**Sec. 5. [256B.83] [EXPENDITURES FROM THE ACCOUNT.]**

*Subdivision 1. [HOSPITAL REIMBURSEMENT.] (a) Effective for services rendered on or after July 1, 1991, the commissioner shall make indigent care payments to hospitals, in addition to all other payments to hospitals, determined by dividing the amount received under section 4, subdivision 2, by the number of admissions, multiplying the result by 115 percent for the same quarter, and adding that amount to each admission in the following quarter.*

*(b) The commissioner shall not implement a peer grouping system for hospital reimbursement.*

*Subd. 2. [PHYSICIAN REIMBURSEMENT.] The commissioner shall make payments for the additional cost of increasing payments to physicians for services rendered on or after July 1, 1991, to the following levels:*

*(a) Payments for office and outpatient services, obstetrical services, and preventive care services must be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 with a 20 percent discount.*

*(b) Payments for critical care services and hospital medical services must be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 with a 30 percent discount.*

*(c) Payments for all other services must be calculated at the lower of (1) the submitted charges or (2) the median charges in 1989 with a 40 percent discount.*

**Subd. 3. [NURSING FACILITY REIMBURSEMENT.]** *For rate years beginning on or after July 1, 1991, the commissioner shall make payments for the additional cost of reimbursing nursing facilities participating in the medical assistance program as follows:*

*(1) all nonproperty related costs must be reimbursed under the laws and rules in effect on March 1, 1991, except as provided in paragraph (5);*

*(2) all property-related costs must be reimbursed under the laws and rules in effect on March 1, 1991, except as provided in paragraphs (3) and (4);*

*(3) property-related costs related to any modifications adopted by the 1991 legislature in article 1, sections 11 and 12, to increase property reimbursement above the level under laws and rules in effect on March 1, 1991;*

*(4) a capital equipment allowance of \$1.24 per day per bed shall be paid. For a licensed provider with an operating lease on the nursing facility, the capital equipment allowance shall not be the property of the lessor but shall be the property of the licensed provider for the duration of the operating lease or any renewal or extension of the operating lease; and*

*(5) the efficiency incentive per diem payment annually established under section 256B.431, subdivision 2b, paragraph (d), shall be increased by the inflation factor determined in section 256B.431, subdivision 21, clause (b).*

**Subd. 4. [PERSONAL NEEDS ALLOWANCE.]** *The commissioner shall make payments for the additional cost of providing cost-of-living increases in the personal needs allowance under section 256B.35, subdivision 1.*

**Subd. 5. [SPECIAL TRANSPORTATION.]** *The commissioner shall make payments for the additional cost of establishing maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed \$18 for the base rate and \$1.20 per mile.*

**Subd. 6. [INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]** *The commissioner shall make payments for the additional cost of reimbursing privately operated intermediate care facilities for persons with mental retardation that result from providing efficiency incentive payments and reimbursement for workers' compensation costs under the rules and laws in effect on March 1, 1991.*

**Subd. 7. [DAY TRAINING AND HABILITATION.]** *The commissioner shall make payments for the additional cost of reimbursing day training and habilitation services that result from promulgating rate-setting rules and providing rate variances under the rules and laws in effect on March 1, 1991.*

**Subd. 8. [DENTISTS.]** *The commissioner shall make payments for the additional costs of (1) reimbursing dentists for services rendered on or after July 1, 1991, at the lower of (i) submitted charges, or (ii) the median charges in 1989 with a 20 percent discount; and (2) providing dental services to medical assistance adult recipients in excess of \$150 per year.*

**Subd. 9. [INFLATIONARY INCREASES.]** *The commissioner shall make payments for the additional costs of providing inflationary increases to*

*providers of services to recipients receiving alternative care grant waiver services, community alternative care waiver services, community alternatives for disabled individuals waiver services, home and community-based waiver services, personal care attendant services, private duty nurse services, and day training and habilitation services.*

**Subd. 10. [COUNTY SHARE OF COSTS.]** *The commissioner shall make payments for the additional county share of costs under this section, in accordance with section 256B.19.*

**Subd. 11. [ADMINISTRATIVE COST.]** *The commissioner may expend up to \$1,750,000 for the administrative costs associated with sections 256B.81 to 256B.86.*

**Sec. 6. [256B.84] [CONTINGENT ON FEDERAL FINANCIAL PARTICIPATION.]**

*The provisions of sections 256B.81 to 256B.85 apply only as long as federal financial participation under Title XIX of the Social Security Act is available for payments made out of the medical care fund under section 256B.83. In the event federal financial participation is denied, (1) the commissioner shall discontinue collections from providers under section 4 and shall eliminate increases to providers and recipients under section 5 effective immediately, and (2) article 3 becomes effective immediately.*

**Sec. 7. [256B.85] [NO REDUCTIONS WHILE FEES IN EFFECT.]**

*The commissioner shall not reduce the payments under section 5 as long as the surcharges under section 4 remain in effect. The commissioner shall report to the legislature annually on January 15 regarding the amount of actual and anticipated surcharge collections and provider payments. The report shall include recommendations for improving the operation of sections 256B.81 to 256B.86, including any changes in surcharges or payments necessary to ensure that payments under section 5 do not exceed collections under section 4.*

**Sec. 8. [256B.86] [IMPLEMENTATION; RULEMAKING.]**

*The commissioner shall implement sections 3 to 7 on July 1, 1991, without complying with the rulemaking requirements of the administrative procedure act. The commissioner shall adopt permanent rules to implement this act by June 30, 1993.*

**Sec. 9. [REGULATORY REVIEW.]**

*The commissioner of health shall study the regulation of long-term care facilities and report to the legislature by January 15, 1992, with any recommendations for changes in the current regulatory structure. The study must address at least the following issues:*

- (1) the possibility of unifying the federal and state enforcement systems;*
- (2) the effectiveness of existing enforcement tools;*
- (3) the appropriateness of current licensure standards; and*
- (4) alternative mechanisms for dispute resolution.*

**Sec. 10. [NURSING HOME FINANCIAL PERFORMANCE MONITORING.]**

*The commissioners of health and human services shall recommend to the*

legislature by January 15, 1992, a system to monitor the financial performance of nursing homes on an ongoing basis. The system may provide for the inclusion of nursing homes in the health care cost information act of 1984 or for another method to obtain, analyze, and report financial data. The system must be coordinated with existing nursing home financial reporting requirements and must provide for periodic reports to the legislature on the financial condition of nursing homes.

### ARTICLE 3

#### Section 1. [DAY TRAINING AND HABILITATION RATE VARIANCES.]

*Notwithstanding Minnesota Statutes, section 252.46, subdivision 6, the commissioner of human services may grant a day training and habilitation rate variance only if the increase is necessary to demonstrate compliance with minimum licensing standards and the request for a variance satisfies all of the criteria in Minnesota Statutes, section 252.46, subdivision 6, other than clause (3). The commissioner shall not grant a variance to provide community integrated and supported employment services.*

#### Sec. 2. [HOSPITAL PEER GROUPS.]

*(a) Paragraph (b) applies to medical assistance payments to hospitals and supercedes any inconsistent provisions of Minnesota Statutes, sections 256.9685 to 256.969.*

*(b) For admissions occurring after the transition period specified in Minnesota Statutes, section 256.9695, subdivision 3, operating payment rates of each hospital shall be limited to the operating payment rates within its peer group so that the statewide operating payment level is reduced by 4.5 percent. For subsequent rate years, the limits shall be adjusted by the hospital cost index. The commissioner shall contract for the development of criteria for and the establishment of the peer groups. Peer groups must be established based on variables that affect medical assistance cost such as scope and intensity of services, acuity of patients, location, and capacity. Rates shall be standardized by the case mix index and adjusted, if applicable, for the variable outlier percentage. The peer groups may exclude and have separate limits or be standardized for operating cost differences that are not common to all hospitals in order to establish a minimum number of groups.*

#### Sec. 3. [MEDICAL ASSISTANCE COVERAGE OF DENTAL SERVICES.]

*Notwithstanding Minnesota Statutes, section 256B.0625, subdivision 9, medical assistance only covers dental services for children under age 18, and dental services not to exceed \$150 annually for adults.*

#### Sec. 4. [MEDICAL ASSISTANCE COVERAGE OF SPECIAL TRANSPORTATION.]

*For medical assistance coverage of special transportation under Minnesota Statutes, section 256B.0625, subdivision 17, the commissioner of human services shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed \$12.50 for the base rate and 60 cents per mile.*



**Sec. 5. [NURSING HOME WORKERS' COMPENSATION COSTS.]**

*Notwithstanding contrary provisions of Minnesota Statutes, section 256B.431, in determining medical assistance payments to nursing facilities, the commissioner must reduce the workers' compensation cost during the reporting year for each nursing facility by 16 percent for the purposes of computing the payment rates for the rate year beginning July 1, 1991, and for the first nine months of the rate year beginning July 1, 1992. For any nursing facility that cannot separately report the workers' compensation costs, the commissioner shall determine the amount of the workers' compensation costs to be reduced by identifying the nursing facility's portion of total workers' compensation costs by applying the individual Medicare stepdowns which the nursing facility used to allocate its payroll taxes and fringe benefits and multiplying that amount by 16 percent.*

**Sec. 6. [NURSING HOME COST LIMITS.]**

*(a) The provisions in paragraphs (b) to (e) apply to medical assistance payments to nursing facilities and supercede any inconsistent provisions in Minnesota Statutes, section 256B.431.*

*(b) [OTHER OPERATING COST LIMITS.] For the rate year beginning July 1, 1991, the commissioner, in conjunction with the rebasing for the reporting year September 30, 1990, shall establish the other-operating-cost limits in Minnesota Rules, part 9549.0055, subpart 2, item E, at 108 percent of the median of the array of allowable historical other-operating-cost per diems. The limits must be established according to Minnesota Statutes, section 256B.431, subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1992, the adjusted other-operating-cost limits must be indexed as in Minnesota Statutes, section 256B.431, subdivision 2l.*

*(c) [CARE-RELATED OPERATING COST LIMITS.] For the rate year beginning July 1, 1991, the commissioner, in conjunction with the rebasing for the reporting year September 30, 1990, shall establish the care-related operating cost limits in Minnesota Rules, part 9549.0055, subpart 2, items A and B, at 122 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other care-related operating cost per diems. The limits must be established according to Minnesota Statutes, section 256B.431, subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1992, the adjusted care-related limits must be indexed as in Minnesota Statutes, section 256B.431, subdivision 2l.*

*(d) [ADMINISTRATIVE COST LIMITS.] For rate years beginning on or after July 1, 1991, the cost limitation for costs in the general and administrative cost category in Minnesota Rules, part 9549.0055, subpart 2, item D, shall be modified as in clauses (1) to (4):*

*(1) the percentage limitation for nursing homes with 60 or fewer licensed beds shall be 14 percent;*

*(2) the percentage limitation for nursing homes with 61 to 100 licensed beds shall be 13 percent;*

*(3) the percentage limitation for nursing homes with 101 to 200 licensed beds shall be 12 percent; and*

*(4) the percentage limitation for nursing homes with more than 200 licensed beds shall be 11 percent.*

(e) [EFFICIENCY INCENTIVE.] *For rate years beginning on or after July 1, 1991, a nursing home's maximum efficiency incentive shall be \$1.*

**Sec. 7. [NURSING HOME PROPERTY COSTS.]**

(a) *The provisions of paragraphs (b) to (d) apply to medical assistance payments to nursing facilities and supercede any inconsistent provisions of Minnesota Statutes, section 256B.431.*

(b) *For the rate year beginning July 1, 1991, the property-related payment rate for a nursing home classified as a group A nursing home under Minnesota Statutes, section 256B.431, subdivision 3i, shall be the lesser of the nursing home's property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); but not less than the lesser of \$3.25 or the nursing home's July 1, 1990, property-related payment rate.*

(c) *For the rate year beginning July 1, 1991, a nursing home classified as a group B nursing home under Minnesota Statutes, section 256B.431, subdivision 3i, shall receive the greater of 90 percent of its property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); except that the nursing home's property-related payment rate must not exceed the property-related payment rate in effect on July 1, 1990.*

(d) *For the rate year beginning July 1, 1991, a nursing home classified as a group C nursing home under Minnesota Statutes, section 256B.431, subdivision 3i, shall receive the greater of 85 percent of its property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); except that the nursing home's property-related payment rate must not exceed the property-related payment rate in effect on July 1, 1990.*

**Sec. 8. [ICF-MR PAYMENTS FOR PERSONS WITH SPECIAL NEEDS.]**

(a) *Notwithstanding Minnesota Statutes, section 256B.501, subdivision 8, for medical assistance payments for intermediate care facilities for persons with mental retardation or related conditions, the commissioner of human services shall not authorize an excess payment or limitation exemption for very dependent persons with special needs unless:*

(1) *the need for specific level of service is documented in the individual service plan of the person to be served;*

(2) *the level of service needed can be provided within the rates established under Minnesota Statutes, section 252.46, and Minnesota Rules, parts*

9553.0010 to 9553.0080, without a rate exception within six months;

(3) staff hours beyond those available under the rates established under Minnesota Statutes, section 252.46, and Minnesota Rules, parts 9553.0010 to 9553.0080, necessary to deliver services do not exceed 720 hours within six months;

(4) there is a basis for the estimated cost of services;

(5) the provider requesting the exception documents that current per diem rates are insufficient to support needed services;

(6) estimated costs, when added to the costs of current medical assistance-funded residential and day training and habilitation services and calculated as a per diem, do not exceed the per diem established for the regional treatment centers for persons with mental retardation and related conditions on July 1, 1990, indexed annually by the urban consumer price index, all items, published by the United States Department of Labor, for the next fiscal year over the current fiscal year;

(7) any contingencies for an approval as outlined in writing by the commissioner are met; and

(8) any commissioner orders for use of preferred providers are met.

(b) Those provisions of Minnesota Statutes, section 256B.501, subdivision 8, and rules adopted under it, that are not inconsistent with paragraph (a) remain in effect.

(c) The commissioner may terminate a rate exception authorized under this section or Minnesota Statutes, section 256B.501, subdivision 8, at any time under any of the conditions outlined in Minnesota Rules, part 9510.1120, subpart 3, for county termination, or by reason of information obtained through program and fiscal audits which indicate the criteria outlined in this section or Minnesota Statutes, section 256B.501, subdivision 8, have not been, or are no longer being, met.

#### Sec. 9. [ICF-MR WORKERS' COMPENSATION COSTS.]

(a) Paragraph (b) applies to medical assistance payments to intermediate care facilities for persons with mental retardation or related conditions and supercedes any inconsistent provisions of Minnesota Statutes, section 256B.501.

(b) The commissioner must reduce the workers' compensation cost during the reporting year for each facility by 16 percent for the purposes of computing the payment rates for the rate year beginning October 1, 1991, and for the first nine months of the rate year beginning October 1, 1992.

#### Sec. 10. [ICF-MR EFFICIENCY INCENTIVE.]

(a) Paragraph (b) applies to medical assistance payments to intermediate care facilities for persons with mental retardation or related conditions and supercedes any inconsistent provisions of Minnesota Statutes, section 256B.501.

(b) For rate years beginning on or after October 1, 1991, a facility's maximum efficiency incentive shall be \$1.

#### Sec. 11. [REPEALER.]

Sections 1 to 10 are repealed effective July 1, 1993.

**Sec. 12. [EFFECTIVE DATE.]**

*Sections 1 to 10 are effective only if federal financial participation under Title XIX of the Social Security Act is available for medical assistance payments made under article 2, section 5. Sections 1 to 11 are effective on the date the commissioner of human services receives an official denial of federal financial participation or an official communication from the federal government stating that federal financial participation will not be available, or on the effective date of a federal law that specifically prohibits federal financial participation."*

Delete the title and insert:

"A bill for an act relating to human services; modifying requirements for metro transportation support grants; creating an exception to the nursing home moratorium; specifying inflationary indices to be used in determining rates for nursing homes and intermediate care facilities; revising provider reimbursement under the medical assistance program; establishing surcharges on providers; establishing an investment per bed limit for nursing homes; establishing an equipment allowance for nursing homes; establishing a capital replacement per diem for nursing homes; authorizing the recognition of debt from sales or refinancing occurring after May 22, 1983; amending Minnesota Statutes 1990, sections 144A.071, subdivision 3; 144A.10, subdivision 4; 144A.31, subdivision 4; 252.46, subdivision 14; 252.478, subdivisions 1 and 3; 256B.0641, by adding a subdivision; 256B.431, subdivisions 2l, 3f, and by adding subdivisions; 256B.50, subdivision 1d; and 256B.501, subdivision 11, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 256B."

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

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

S.F. No. 942: A bill for an act relating to education; establishing a scholarship program; specifying conditions; providing for funding through special collegiate license plates; removing some responsibilities from higher education coordinating board and transferring others to the commissioner of education; amending Minnesota Statutes 1990, sections 135A.05; 135A.06, subdivisions 2, 3, and 5; 135A.08; 135A.10, subdivision 1; 135A.15; 136A.02, subdivision 5; 136A.04, subdivision 1; and 290.01, subdivision 19b; proposing coding for new law in Minnesota Statutes, chapters 125; 126; 135A; and 168; repealing Minnesota Statutes 1990, sections 136A.02, subdivision 6; 136A.04, subdivision 2; 136A.041; 136A.043; 136A.044; 136A.85; 136A.86; 136A.87; and 136A.88.

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

Delete everything after the enacting clause and insert:

**"Section 1. [135A.30] [MINNESOTA ACADEMIC EXCELLENCE SCHOLARSHIP.]**

*Subdivision 1. [CREATION.] The Minnesota academic excellence scholarship program is created to reward students who have demonstrated outstanding ability, achievement and potential in one of the following subjects: English/creative writing, fine arts, foreign language, math, science, or*

*social science.*

*Subd. 2. [ELIGIBILITY.] To be eligible to receive a scholarship under this section, a student must:*

*(1) graduate from a Minnesota public or nonpublic high school in the academic year in which the scholarship is awarded;*

*(2) successfully complete a college preparatory curriculum and demonstrate outstanding ability, achievement and potential in one of the specified subjects;*

*(3) be admitted to enroll full time in a nonsectarian, accredited baccalaureate degree-granting program at the University of Minnesota or at a Minnesota state university, or at a Minnesota private, accredited baccalaureate degree-granting college or university; and*

*(4) pursue studies in the subject for which the award is made.*

*Subd. 3. [SELECTION OF RECIPIENTS.] The governing board of an eligible institution shall determine, in consultation with its campuses, application dates and procedures, criteria to be considered, and methods of selecting students to receive scholarships. A campus, with the approval of its governing board, may award a scholarship in any of the specified fields of study (1) in which the campus offers a program that is of the quality and rigor to meet the needs of the talented student, and (2) that is pertinent to the mission of the campus.*

*Subd. 4. [AMOUNT OF SCHOLARSHIP.] The amount of the scholarship must be (1) at accredited public institutions, the cost of tuition and fees for full-time attendance for one academic year, or (2) at accredited private institutions, an amount equal to the lesser of the actual tuition and fees charged by the institution or the tuition and fees in comparable public institutions. Scholarships awarded under this section must not be considered in determining a student's financial need as provided in section 136A.101, subdivision 5.*

*Subd. 5. [RENEWALS.] The scholarship shall be renewed yearly, for up to three additional academic years, if the student (1) maintains full-time enrollment with a grade point average of at least 3.0 on a four point scale; (2) pursues studies and continues to demonstrate outstanding ability, achievement and potential in the field for which the award was made; and (3) is achieving satisfactory progress toward a degree.*

*Subd. 6. [NUMBER OF AWARDS.] The number of scholarships awarded each year shall be determined by the amount of money available in the scholarship account, as provided in section 168.129, subdivision 6, that is credited to a post-secondary institution or system through sales of its license plates. The number of new awards must be determined after subtracting the actual and projected amount necessary for renewals.*

*Subd. 7. [DISTRIBUTION AMONG CAMPUSES.] Post-secondary systems with more than one campus shall allocate at least three-fourths of the revenue available from the contributions received under section 2, subdivision 1, to the campuses to which the contribution is attributable. The governing board annually shall determine the distribution of the remaining portion among the campuses, after consideration of special needs or circumstances.*

*Subd. 8. [ADDITIONAL CONTRIBUTIONS.] A post-secondary system*

*or campus may accept contributions, beyond those raised through the sale of license plates, to supplement the campus fund for academic excellence scholarships.*

**Sec. 2. [168.129] [SPECIAL COLLEGIATE LICENSE PLATES.]**

**Subdivision 1. [GENERAL REQUIREMENTS AND PROCEDURES.]** *The commissioner of public safety shall issue special collegiate license plates to an applicant who (1) is an owner or joint owner of a passenger automobile, pickup truck, or van, (2) pays a fee determined by the commissioner to cover the costs of handling and manufacturing the plates, (3) pays the registration tax required under section 168.12, (4) pays the fees required under this chapter, (5) contributes at least \$100 to the scholarship account established in subdivision 6, and (6) complies with laws and rules governing registration and licensing of vehicles and drivers.*

**Subd. 2. [DESIGN.]** *After consultation with each participating college, university, or post-secondary system, the commissioner shall design the special collegiate plates.*

*In consultation with the commissioner, a participating college or university annually shall indicate the anticipated number of plates needed.*

**Subd. 3. [NO REFUND.]** *Contributions under this section must not be refunded.*

**Subd. 4. [PLATE TRANSFERS.]** *Notwithstanding section 168.12, subdivision 1, on payment of a transfer fee of \$5, plates issued under this section may be transferred to another passenger vehicle, pickup, or van owned or jointly owned by the person to whom the special plates were issued.*

**Subd. 5. [FEES CREDITED.]** *The fees collected under this section must be deposited in the state treasury and credited to the highway user tax distribution fund. Fees collected under this section do not include the contributions collected for the scholarship account.*

**Subd. 6. [SCHOLARSHIP ACCOUNT.]** *A scholarship account is created in the state treasury. Except for one percent that may be retained by the commissioner of public safety for administrative costs, all contributions received under this section must be deposited by the commissioner in the scholarship account. Money in the scholarship account is appropriated to the governing board of the institution to which it is attributable, as provided in subdivision 7.*

**Subd. 7. [RECORD.]** *The commissioner shall maintain a record of the number of license plates issued for each post-secondary institution or system in order to determine the amount of scholarship funds available to that institution or system.*

**Sec. 3. [GOVERNING BOARD DUTIES.]**

*The board of regents of the University of Minnesota, the state university board, and the governing boards of eligible private colleges and universities are requested to cooperate with the higher education coordinating board, the Minnesota academic excellence foundation, public and nonpublic Minnesota high schools, and school districts to publicize the availability of the scholarships and to identify qualified students.*

**Sec. 4. [COLLEGIATE PLATE INITIAL COSTS.]**

*The commissioner of public safety may ask the commissioner of finance*

*to lend general fund money to the commissioner of public safety to pay initial costs of manufacturing collegiate plates for the academic excellence scholarship program. The commissioner of public safety must first certify to the commissioner of finance that there will be adequate revenue from fees collected through the sale of collegiate plates to repay the loan. The commissioner shall use the revenue to make repayment to the general fund of the full amount loaned. Money necessary to meet cash flow difficulties in the manufacture of collegiate plates for the academic excellence scholarship program is appropriated to the commissioner of finance from the general fund for loans to the commissioner of public safety.*

**Sec. 5. [EFFECTIVE DATES.]**

*Subdivision 1. Section 1 is effective for high school graduates beginning in the 1991-1992 school year.*

*Subd. 2. Section 2 is effective for vehicle registrations after June 30, 1991."*

Delete the title and insert:

"A bill for an act relating to education; establishing a scholarship program; providing for funding through special collegiate license plates; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 135A and 168."

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

**SECOND READING OF SENATE BILLS**

S.F. Nos. 772, 1168, 893, 1433, 802, 1414, 811, 1064, 820, 1300 and 476 were read the second time.

**SECOND READING OF HOUSE BILLS**

H.F. Nos. 726, 934, 594, 1551, 611, 74 and 1422 were read the second time.

**MOTIONS AND RESOLUTIONS**

Mr. Johnson, D.J. moved that the name of Mr. Merriam be added as a co-author to S.F. No. 490. The motion prevailed.

Ms. Johnston introduced—

Senate Resolution No. 61: A Senate resolution congratulating Emilie Hanson of Prior Lake, Minnesota, on earning the Minnesota AAA Award for her athletic, academic, and artistic achievements.

Referred to the Committee on Rules and Administration.

Mr. Hottinger introduced—

Senate Resolution No. 62: A Senate resolution congratulating the band director and members of the Janesville-Waldorf-Pemberton Concert and Jazz Bands for winning the Over-All Concert Band and Jazz Band competitions at the All American Music Festival.

Referred to the Committee on Rules and Administration.

Mr. Frank moved that S.F. No. 1323 be withdrawn from the Committee on Governmental Operations and re-referred to the Committee on Rules and Administration. The motion prevailed.

### **INTRODUCTION AND FIRST READING OF SENATE BILLS**

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

Messrs. Beckman; Frederickson, D.J. and Vickerman introduced—

S.F. No. 1524: A bill for an act relating to state government; requiring that the principal offices of the department of agriculture be located in Waseca; proposing coding for new law in Minnesota Statutes, chapter 17.

Referred to the Committee on Governmental Operations.

Ms. Johnson, J.B. introduced—

S.F. No. 1525: A bill for an act relating to the town of Scandia; authorizing the establishment of a detached banking facility under certain conditions.

Referred to the Committee on Commerce.

### **ADJOURNMENT**

Mr. Moe, R.D. moved that the Senate do now adjourn until 12:00 noon, Thursday, April 25, 1991. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate