

1 Senator Vickerman from the Committee on Agriculture,
2 Veterans and Gaming, to which was re-referred

3 S.F. No. 569: A bill for an act relating to natural
4 resources; modifying safety training provisions; providing for
5 certain background checks; providing that boat trailers are
6 subject to forfeiture for a designated offense; providing for
7 advanced hunter designation on driver's license or
8 identification card; modifying reporting requirements of certain
9 snowmobile and all-terrain vehicle sanctions; modifying lawful
10 purposes for which gambling profits may be expended; amending
11 Minnesota Statutes 2004, sections 84.027, by adding a
12 subdivision; 84.91, subdivision 1; 84.9256, subdivision 1;
13 97B.015, subdivisions 1, 2, 5; 97B.020; 169A.63, subdivision 6;
14 171.07, subdivision 13; 349.12, subdivision 25.

15 Reports the same back with the recommendation that the bill
16 do pass and be re-referred to the Committee on Crime Prevention
17 and Public Safety. Report adopted.

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Jim Vickerman
.....
(Committee Chair)

March 16, 2005.....
(Date of Committee recommendation)

1 Senator Vickerman from the Committee on Agriculture,
2 Veterans and Gaming, to which was referred

3 S.F. No. 1622: A bill for an act relating to the military;
4 changing eligibility for certain duties; amending Minnesota
5 Statutes 2004, sections 193.29, subdivision 3; 193.30; 193.31.

6 Reports the same back with the recommendation that the bill
7 do pass and be placed on the Consent Calendar. Report adopted.

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Jim Vickerman
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(Committee Chair)

March 16, 2005.....
(Date of Committee recommendation)

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1 Senator Vickerman from the Committee on Agriculture,
2 Veterans and Gaming, to which was referred

3 S.F. No. 1623: A bill for an act relating to veterans;
4 authorizing the placement of a plaque in the court of honor on
5 the capitol grounds to honor the veterans of the Persian Gulf
6 War.

7 Reports the same back with the recommendation that the bill
8 do pass and be placed on the Consent Calendar. Report adopted.

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Jim Vickerman
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(Committee Chair)

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March 16, 2005.....
(Date of Committee recommendation)

1 Senator Vickerman from the Committee on Agriculture,
2 Veterans and Gaming, to which was referred

3 S.F. No. 1288: A bill for an act relating to gambling;
4 modifying definition of video game of chance; amending Minnesota
5 Statutes 2004, section 609.75, subdivision 8.

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

8 Delete everything after the enacting clause and insert:

9 "Section 1. Minnesota Statutes 2004, section 609.75,
10 subdivision 8, is amended to read:

11 Subd. 8. [VIDEO GAME OF CHANCE.] A video game of chance is
12 a game or device that simulates one or more games commonly
13 referred to as poker, blackjack, craps, hi-lo, roulette, or
14 other common gambling forms, though not offering any type of
15 pecuniary award or gain to players. The term also includes any
16 video game having one or more of the following characteristics:

17 (1) it is primarily a game of chance, and has no
18 substantial elements of skill involved;

19 (2) it awards game credits or replays and contains a meter
20 or device that records unplayed credits or replays. A video
21 game that simulates horse racing that does not involve a prize
22 payout is not a video game of chance.

23 Sec. 2. [EFFECTIVE DATE.]

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

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

27*Jim Vickerman*.....
28 (Committee Chair)

29
30 March 16, 2005.....
31 (Date of Committee recommendation)

1 Senator Vickerman from the Committee on Agriculture,
2 Veterans and Gaming, to which was referred

3 S.F. No. 1580: A bill for an act relating to agriculture;
4 expanding the definition of shade tree; appropriating money;
5 amending Minnesota Statutes 2004, section 18G.16, subdivision 1.

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

8 Page 2, line 25, delete "with minimal to residual"

9 Page 2, delete "timber value"

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

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(Committee Chair)

March 16, 2005.....
(Date of Committee recommendation)

1 Senator Vickerman from the Committee on Agriculture,
2 Veterans and Gaming, to which was referred

3 S.F. No. 1621: A bill for an act relating to the military;
4 providing for rental of certain facilities at Camp Ripley;
5 amending Minnesota Statutes 2004, section 190.16, by adding a
6 subdivision.

7 Reports the same back with the recommendation that the bill
8 do pass and be placed on the Consent Calendar. Report adopted.

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Jim Vickerman
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(Committee Chair)

March 16, 2005.....
(Date of Committee recommendation)

1 Senator Vickerman from the Committee on Agriculture,
2 Veterans and Gaming, to which was referred

3 S.F. No. 1624: A bill for an act relating to the military;
4 clarifying statutes pertaining to the accumulation of vacation
5 and sick leave by public officers and employees while on
6 military leave and upon reinstatement in public office or
7 employment; authorizing payment for some or all of the
8 accumulated leave; amending Minnesota Statutes 2004, sections
9 192.261, subdivision 2; 471.975.

10 Reports the same back with the recommendation that the bill
11 do pass and be re-referred to the Committee on State and Local
12 Government Operations. Report adopted.

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Jim Vickerman
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(Committee Chair)
March 16, 2005.....
(Date of Committee recommendation)

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A bill for an act

2 relating to natural resources; modifying safety
3 training provisions; providing for certain background
4 checks; providing that boat trailers are subject to
5 forfeiture for a designated offense; providing for
6 advanced hunter designation on driver's license or
7 identification card; modifying reporting requirements
8 of certain snowmobile and all-terrain vehicle
9 sanctions; modifying lawful purposes for which
10 gambling profits may be expended; amending Minnesota
11 Statutes 2004, sections 84.027, by adding a
12 subdivision; 84.91, subdivision 1; 84.9256,
13 subdivision 1; 97B.015, subdivisions 1, 2, 5; 97B.020;
14 169A.63, subdivision 6; 171.07, subdivision 13;
15 349.12, subdivision 25.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

17 Section 1. Minnesota Statutes 2004, section 84.027, is
18 amended by adding a subdivision to read:

19 Subd. 17. [BACKGROUND CHECKS FOR VOLUNTEER
20 INSTRUCTORS.] (a) The commissioner may conduct background checks
21 for volunteer instructor applicants for department safety
22 training and education programs, including the programs
23 established under sections 84.791 (youth off-highway motorcycle
24 safety education and training), 84.86 and 84.862 (youth and
25 adult snowmobile safety training), 84.925 (youth all-terrain
26 vehicle safety education and training), 97B.015 (youth firearms
27 safety training), and 97B.025 (hunter and trapper education and
28 training).

29 (b) The commissioner shall perform the background check by
30 retrieving criminal history data maintained in the criminal

1 justice information system (CJIS) and other data sources.

2 (c) The commissioner shall develop a standardized form to
3 be used for requesting a background check, which must include:

4 (1) a notification to the applicant that the commissioner
5 will conduct a background check under this section;

6 (2) a notification to the applicant of the applicant's
7 rights under paragraph (d); and

8 (3) a signed consent by the applicant to conduct the
9 background check expiring one year from the date of signature.

10 (d) The volunteer instructor applicant who is the subject
11 of a background check has the right to:

12 (1) be informed that the commissioner will request a
13 background check on the applicant;

14 (2) be informed by the commissioner of the results of the
15 background check and obtain a copy of the background check;

16 (3) obtain any record that forms the basis for the
17 background check and report;

18 (4) challenge the accuracy and completeness of the
19 information contained in the report or a record; and

20 (5) be informed by the commissioner if the applicant is
21 rejected because of the result of the background check.

22 Sec. 2. Minnesota Statutes 2004, section 84.91,
23 subdivision 1, is amended to read:

24 Subdivision 1. [ACTS PROHIBITED.] (a) No owner or other
25 person having charge or control of any snowmobile or all-terrain
26 vehicle shall authorize or permit any individual the person
27 knows or has reason to believe is under the influence of alcohol
28 or a controlled substance or other substance to operate the
29 snowmobile or all-terrain vehicle anywhere in this state or on
30 the ice of any boundary water of this state.

31 (b) No owner or other person having charge or control of
32 any snowmobile or all-terrain vehicle shall knowingly authorize
33 or permit any person, who by reason of any physical or mental
34 disability is incapable of operating the vehicle, to operate the
35 snowmobile or all-terrain vehicle anywhere in this state or on
36 the ice of any boundary water of this state.

1 (c) A person who operates or is in physical control of a
2 snowmobile or all-terrain vehicle anywhere in this state or on
3 the ice of any boundary water of this state is subject to
4 chapter 169A. In addition to the applicable sanctions under
5 chapter 169A, a person who is convicted of violating section
6 169A.20 or an ordinance in conformity with it while operating a
7 snowmobile or all-terrain vehicle, or who refuses to comply with
8 a lawful request to submit to testing under sections 169A.50 to
9 169A.53 or an ordinance in conformity with it, shall be
10 prohibited from operating the snowmobile or all-terrain vehicle
11 for a period of one year. The commissioner shall notify the
12 person of the time period during which the person is prohibited
13 from operating a snowmobile or all-terrain vehicle.

14 (d) Administrative and judicial review of the operating
15 privileges prohibition is governed by section 97B.066,
16 subdivisions 7 to 9, if the person does not have a prior
17 impaired driving conviction or prior license revocation, as
18 defined in section 169A.03. Otherwise, administrative and
19 judicial review of the prohibition is governed by section
20 169A.53.

21 (e) The court shall promptly forward to the commissioner
22 and the Department of Public Safety copies of all convictions
23 and criminal and civil sanctions imposed under this section and
24 chapter chapters 169 and 169A relating to snowmobiles and
25 all-terrain vehicles.

26 (f) A person who violates paragraph (a) or (b), or an
27 ordinance in conformity with either of them, is guilty of a
28 misdemeanor. A person who operates a snowmobile or all-terrain
29 vehicle during the time period the person is prohibited from
30 operating a vehicle under paragraph (c) is guilty of a
31 misdemeanor.

32 Sec. 3. Minnesota Statutes 2004, section 84.9256,
33 subdivision 1, is amended to read:

34 Subdivision 1. [PROHIBITIONS ON YOUTHFUL OPERATORS.] (a)
35 Except for operation on public road rights-of-way that is
36 permitted under section 84.928, a driver's license issued by the

1 state or another state is required to operate an all-terrain
2 vehicle along or on a public road right-of-way.

3 (b) A person under 12 years of age shall not:

4 (1) make a direct crossing of a public road right-of-way;

5 (2) operate an all-terrain vehicle on a public road
6 right-of-way in the state; or

7 (3) operate an all-terrain vehicle on public lands or
8 waters.

9 (c) Except for public road rights-of-way of interstate
10 highways, a person 12 years of age but less than 16 years may
11 make a direct crossing of a public road right-of-way of a trunk,
12 county state-aid, or county highway or operate on public lands
13 and waters, only if that person possesses a valid all-terrain
14 vehicle safety certificate issued by the commissioner and is
15 accompanied on another all-terrain vehicle by a person 18 years
16 of age or older who holds a valid driver's license.

17 (d) All-terrain vehicle safety certificates issued by the
18 commissioner to persons 12 years old, but less than 16 years
19 old, are not valid for machines in excess of 90cc engine
20 capacity unless:

21 (1) the person successfully completed the safety education
22 and training program under section 84.925, subdivision 1,
23 including a riding component; and

24 ~~(2) the riding component of the training was conducted~~
25 ~~using an all-terrain vehicle with over 90cc engine capacity; and~~

26 ~~(3) the person is able to properly reach and control the~~
27 ~~handle bars and reach the foot pegs while sitting upright on the~~
28 ~~seat of the all-terrain vehicle.~~

29 Sec. 4. Minnesota Statutes 2004, section 97B.015,
30 subdivision 1, is amended to read:

31 Subdivision 1. [ESTABLISHMENT.] The commissioner shall
32 ~~make rules establishing~~ establish a statewide course in the safe
33 use of firearms and identification of wild mammals and
34 birds. ~~At least one course must be held within the boundary of~~
35 ~~each school district.~~ A course may be held in a school district.
36 The courses must be conducted by the commissioner in cooperation

1 with other organizations. The courses must instruct youths in
2 commonly accepted principles of safety in hunting and handling
3 common hunting firearms and identification of various species of
4 wild mammals and birds by sight and other unique characteristics.

5 Sec. 5. Minnesota Statutes 2004, section 97B.015,
6 subdivision 2, is amended to read:

7 Subd. 2. [ADMINISTRATION, SUPERVISION, AND ENFORCEMENT.]

8 (a) The commissioner shall appoint a qualified person from the
9 Enforcement Division under civil service rules as supervisor of
10 hunting safety and prescribe the duties and responsibilities of
11 the position. The commissioner shall determine and provide the
12 Enforcement Division with the necessary personnel for this
13 section.

14 ~~(b) The commissioner may appoint one or more county~~
15 ~~directors of hunting safety in each county. An appointed county~~
16 ~~director is responsible to the Enforcement Division. The~~
17 Enforcement Division may appoint instructors necessary for this
18 section. ~~County directors and~~ Instructors shall serve on a
19 voluntary basis without compensation. The Enforcement Division
20 must supply the materials necessary for the course. School
21 districts may cooperate with the commissioner and volunteer
22 instructors to provide space for the classroom portion of the
23 training.

24 Sec. 6. Minnesota Statutes 2004, section 97B.015,
25 subdivision 5, is amended to read:

26 Subd. 5. [FIREARMS SAFETY CERTIFICATE.] The commissioner
27 shall issue a firearms safety certificate to a person that
28 satisfactorily completes the required course of instruction. A
29 person must be at least age 11 to take the firearms safety
30 course and may receive a firearms safety certificate, but the
31 certificate is not valid for hunting until the person is-at
32 least reaches age 12. A person who is age 11 and has a firearms
33 safety certificate may purchase a deer, bear, turkey, or prairie
34 chicken license that will become valid when the person reaches
35 age 12. A firearms safety certificate issued to a person under
36 age 12 by another state as provided in section 97B.020 is not

1 valid for hunting in Minnesota until the person reaches age 12.
2 The form and content of the firearms safety certificate shall be
3 prescribed by the commissioner.

4 Sec. 7. Minnesota Statutes 2004, section 97B.020, is
5 amended to read:

6 97B.020 [FIREARMS SAFETY CERTIFICATE REQUIRED.]

7 (a) Except as provided in this section and section 97A.451,
8 subdivision 3a, a person born after December 31, 1979, may not
9 obtain an annual license to take wild animals by firearms unless
10 the person has:

11 (1) a firearms safety certificate or equivalent
12 certificate;

13 (2) a driver's license or identification card with a valid
14 firearms safety qualification indicator issued under section
15 171.07, subdivision 13;

16 (3) a previous hunting license with a valid firearms
17 safety qualification indicator; or

18 (4) other evidence indicating that the person has completed
19 in this state or in another state a hunter safety course
20 recognized by the department under a reciprocity agreement or
21 certified by the department as substantially similar.

22 (b) A person who is on active duty and has successfully
23 completed basic training in the United States armed forces,
24 reserve component, or National Guard may obtain a hunting
25 license or approval authorizing hunting regardless of whether
26 the person is issued a firearms safety certificate.

27 ~~(b)~~ (c) A person born after December 31, 1979, may not use
28 a lifetime license to take wild animals by firearms, unless the
29 person meets the requirements for obtaining an annual license
30 under paragraph (a) or (b).

31 Sec. 8. Minnesota Statutes 2004, section 169A.63,
32 subdivision 6, is amended to read:

33 Subd. 6. [VEHICLE SUBJECT TO FORFEITURE.] (a) A motor
34 vehicle is subject to forfeiture under this section if it was
35 used in the commission of a designated offense or was used in
36 conduct resulting in a designated license revocation.

1 (b) Motorboats subject to seizure and forfeiture under this
2 section also include their trailers.

3 Sec. 9. Minnesota Statutes 2004, section 171.07,
4 subdivision 13, is amended to read:

5 Subd. 13. [FIREARMS SAFETY DESIGNATION.] (a) When an
6 applicant has a record transmitted to the department as
7 described in paragraph (c) or presents:

8 (1) a firearms safety certificate issued for successfully
9 completing a firearms safety course administered under section
10 97B.015; or

11 (2) an advanced hunter certificate issued for successfully
12 completing an advanced hunter education course administered
13 under section 97B.025,

14 and requests a driver's license or identification card described
15 in paragraph (b), the department shall issue, renew, or reissue
16 to the applicant a driver's license or Minnesota identification
17 card described in paragraph (b).

18 (b) Pursuant to paragraph (a), the department shall issue a
19 driver's license or Minnesota identification card bearing a
20 graphic or written indication that the applicant has
21 successfully completed a firearms safety course administered
22 under section 97B.015, an advanced hunter education course
23 administered under section 97B.025, or both of the described
24 courses.

25 (c) The department shall maintain in its records
26 information transmitted electronically from the commissioner of
27 natural resources identifying each person to whom the
28 commissioner has issued a firearms safety certificate or an
29 advanced hunter education certificate. The records transmitted
30 from the Department of Natural Resources must contain the full
31 name and date of birth as required for the driver's license or
32 identification card. Records that are not matched to a driver's
33 license or identification card record may be deleted after seven
34 years.

35 Sec. 10. Minnesota Statutes 2004, section 349.12,
36 subdivision 25, is amended to read:

1 Subd. 25. [LAWFUL PURPOSE.] (a) "Lawful purpose" means one
2 or more of the following:

3 (1) any expenditure by or contribution to a 501(c)(3) or
4 festival organization, as defined in subdivision 15a, provided
5 that the organization and expenditure or contribution are in
6 conformity with standards prescribed by the board under section
7 349.154, which standards must apply to both types of
8 organizations in the same manner and to the same extent;

9 (2) a contribution to an individual or family suffering
10 from poverty, homelessness, or physical or mental disability,
11 which is used to relieve the effects of that poverty,
12 homelessness, or disability;

13 (3) a contribution to an individual for treatment for
14 delayed posttraumatic stress syndrome or a contribution to a
15 program recognized by the Minnesota Department of Human Services
16 for the education, prevention, or treatment of compulsive
17 gambling;

18 (4) a contribution to or expenditure on a public or private
19 nonprofit educational institution registered with or accredited
20 by this state or any other state;

21 (5) a contribution to a scholarship fund for defraying the
22 cost of education to individuals where the funds are awarded
23 through an open and fair selection process;

24 (6) activities by an organization or a government entity
25 which recognize humanitarian or military service to the United
26 States, the state of Minnesota, or a community, subject to rules
27 of the board, provided that the rules must not include mileage
28 reimbursements in the computation of the per diem reimbursement
29 limit and must impose no aggregate annual limit on the amount of
30 reasonable and necessary expenditures made to support:

31 (i) members of a military marching or color guard unit for
32 activities conducted within the state;

33 (ii) members of an organization solely for services
34 performed by the members at funeral services; or

35 (iii) members of military marching, color guard, or honor
36 guard units may be reimbursed for participating in color guard,

1 honor guard, or marching unit events within the state or states
2 contiguous to Minnesota at a per participant rate of up to \$35
3 per diem;

4 (7) recreational, community, and athletic facilities and
5 activities intended primarily for persons under age 21, provided
6 that such facilities and activities do not discriminate on the
7 basis of gender and the organization complies with section
8 349.154;

9 (8) payment of local taxes authorized under this chapter,
10 taxes imposed by the United States on receipts from lawful
11 gambling, the taxes imposed by section 297E.02, subdivisions 1,
12 4, 5, and 6, and the tax imposed on unrelated business income by
13 section 290.05, subdivision 3;

14 (9) payment of real estate taxes and assessments on
15 permitted gambling premises wholly owned by the licensed
16 organization paying the taxes, or wholly leased by a licensed
17 veterans organization under a national charter recognized under
18 section 501(c)(19) of the Internal Revenue Code, not to exceed:

19 (i) for premises used for bingo, the amount that an
20 organization may expend under board rules on rent for bingo; and

21 (ii) \$35,000 per year for premises used for other forms of
22 lawful gambling;

23 (10) a contribution to the United States, this state or any
24 of its political subdivisions, or any agency or instrumentality
25 thereof other than a direct contribution to a law enforcement or
26 prosecutorial agency;

27 (11) a contribution to or expenditure by a nonprofit
28 organization which is a church or body of communicants gathered
29 in common membership for mutual support and edification in
30 piety, worship, or religious observances;

31 (12) payment of the reasonable costs of an audit required
32 in section 297E.06, subdivision 4, provided the annual audit is
33 filed in a timely manner with the Department of Revenue;

34 (13) a contribution to or expenditure on ~~a-wildlife~~
35 ~~management-project-that-benefits-the-public-at-large,~~ provided
36 ~~that-the-state-agency-with-authority-over-that-wildlife~~

1 management-project-approves-the-project-before-the-contribution
2 or-expenditure-is-made;

3 ~~(14)~~-expenditures, approved-by-the-commissioner-of-natural
4 resources, by-an-organization-for-grooming-and-maintaining
5 snowmobile-trails-and-all-terrain-vehicle-trails-that-are-(1)
6 grant-in-aid-trails-established-under-section-85.019, or-(2)
7 other-trails-open-to-public-use, including-purchase-or-lease-of
8 equipment-for-this-purpose; projects or activities approved by
9 the commissioner of natural resources for:

10 (i) wildlife management projects that benefit the public at
11 large;

12 (ii) grant-in-aid trail maintenance and grooming
13 established under sections 84.83 and 84.927, and other trails
14 open to public use, including purchase or lease of equipment for
15 this purpose; or

16 (iii) supplies and materials for safety training and
17 educational programs coordinated by the Department of Natural
18 Resources, including the Enforcement Division;

19 ~~(15)~~ (14) conducting nutritional programs, food shelves,
20 and congregate dining programs primarily for persons who are age
21 62 or older or disabled;

22 ~~(16)~~ (15) a contribution to a community arts organization,
23 or an expenditure to sponsor arts programs in the community,
24 including but not limited to visual, literary, performing, or
25 musical arts;

26 ~~(17)~~ (16) an expenditure by a licensed veterans
27 organization for payment of water, fuel for heating,
28 electricity, and sewer costs for a building wholly owned or
29 wholly leased by and used as the primary headquarters of the
30 licensed veterans organization;

31 ~~(18)~~ (17) expenditure by a licensed veterans organization
32 of up to \$5,000 in a calendar year in net costs to the
33 organization for meals and other membership events, limited to
34 members and spouses, held in recognition of military service.
35 No more than \$5,000 can be expended in total per calendar year
36 under this clause by all licensed veterans organizations sharing

1 the same veterans post home; or
2 ~~(19)~~ (18) payment of fees authorized under this chapter
3 imposed by the state of Minnesota to conduct lawful gambling in
4 Minnesota.

5 (b) Notwithstanding paragraph (a), "lawful purpose" does
6 not include:

7 (1) any expenditure made or incurred for the purpose of
8 influencing the nomination or election of a candidate for public
9 office or for the purpose of promoting or defeating a ballot
10 question;

11 (2) any activity intended to influence an election or a
12 governmental decision-making process;

13 (3) the erection, acquisition, improvement, expansion,
14 repair, or maintenance of real property or capital assets owned
15 or leased by an organization, unless the board has first
16 specifically authorized the expenditures after finding that (i)
17 the real property or capital assets will be used exclusively for
18 one or more of the purposes in paragraph (a); (ii) with respect
19 to expenditures for repair or maintenance only, that the
20 property is or will be used extensively as a meeting place or
21 event location by other nonprofit organizations or community or
22 service groups and that no rental fee is charged for the use;
23 (iii) with respect to expenditures, including a mortgage payment
24 or other debt service payment, for erection or acquisition only,
25 that the erection or acquisition is necessary to replace with a
26 comparable building, a building owned by the organization and
27 destroyed or made uninhabitable by fire or natural disaster,
28 provided that the expenditure may be only for that part of the
29 replacement cost not reimbursed by insurance; (iv) with respect
30 to expenditures, including a mortgage payment or other debt
31 service payment, for erection or acquisition only, that the
32 erection or acquisition is necessary to replace with a
33 comparable building a building owned by the organization that
34 was acquired from the organization by eminent domain or sold by
35 the organization to a purchaser that the organization reasonably
36 believed would otherwise have acquired the building by eminent

1 domain, provided that the expenditure may be only for that part
2 of the replacement cost that exceeds the compensation received
3 by the organization for the building being replaced; or (v) with
4 respect to an expenditure to bring an existing building into
5 compliance with the Americans with Disabilities Act under item
6 (ii), an organization has the option to apply the amount of the
7 board-approved expenditure to the erection or acquisition of a
8 replacement building that is in compliance with the Americans
9 with Disabilities Act;

10 (4) an expenditure by an organization which is a
11 contribution to a parent organization, foundation, or affiliate
12 of the contributing organization, if the parent organization,
13 foundation, or affiliate has provided to the contributing
14 organization within one year of the contribution any money,
15 grants, property, or other thing of value;

16 (5) a contribution by a licensed organization to another
17 licensed organization unless the board has specifically
18 authorized the contribution. The board must authorize such a
19 contribution when requested to do so by the contributing
20 organization unless it makes an affirmative finding that the
21 contribution will not be used by the recipient organization for
22 one or more of the purposes in paragraph (a); or

23 (6) a contribution to a statutory or home rule charter
24 city, county, or town by a licensed organization with the
25 knowledge that the governmental unit intends to use the
26 contribution for a pension or retirement fund.



Department of Natural Resources Fact Sheet



ENFORCEMENT AND SAFETY TRAINING PROGRAMS BILL SF 569

Summary

This bill will:

- (1) Authorize the commissioner to run comprehensive criminal history background checks on volunteer instructors who work with children.
- (2) Make a very, very technical correction to the DWI conviction record references in the snowmobile/all-terrain vehicle laws.
- (3) Clarify that youth may use any size ATV for the riding component of the all-terrain vehicle (ATV) training course.
- (4) Make technical changes to the firearms safety certification provisions relating to the requirement to adopt rules on course content and to hold classes in certain locations including school districts.
- (5) Clarify that 11 year olds can obtain hunting licenses after completing a firearms safety course, but the license and certificate are not valid for hunting until the person reaches age 12.
- (6) Clarify that a previous hunting license used to demonstrate that the holder had completed a training course needs to include a firearms safety training indicator.
- (7) Provide for an advanced/adult hunter education (AHE) indicator on driver's licenses, in the same manner as the current firearms and snowmobile safety training indicators.
- (8) Authorize forfeiture by all peace officers of a boat's trailer when a boat/motor are forfeited under the DWI laws.
- (9) Authorize charitable gambling funds to be utilized by youth and adult safety training and education programs of the Department of Natural Resources.

It is needed because

- (1) **Running comprehensive criminal history background checks on volunteer instructors** who work with children is necessary to determine that volunteer instructors are not inappropriately working with children and adults in our education programs, and reflects direction under the Child Protection Act.

Background: Up until 1999, we had been doing comprehensive record checks for volunteer

instructors working with children. At that time, we discovered we did not have clear statutory authority to run that level of check, and are currently doing public information criminal history checks only. Our goal is to conduct a quality background check on every volunteer instructor applicant, that is done efficiently and at an affordable price. The change will allow us to run the checks using our BCA/CJIS terminal and certified operators without a fee. BCA/CJIS staff worked with us on language and support us in this initiative.

- (2) **The technical DWI record correction in Chapter 84** will clarify that the appropriate all-terrain vehicle and snowmobile DWI conviction records are forwarded to both the Dept. of Natural Resources and the Dept. of Public Safety. Both agencies have responsibilities under the DWI laws that require these records.

Background: The reference to Chapter 169A was inadvertently left off the extensive revisor's instructions section of the 2000 DWI recodification bill. A parallel provision was included in those instructions and currently appears in the motorboat provisions in MS 86B.331, subd. 1, paragraph (e). These changes would make the snowmobile/ATV language the same as those parallel motorboat provisions.

- (3) **The ATV training program requirement changes will allow any size ATV to be used for the riding component of the class**, as long as the person fits the machine. The person completing the class may continue to operate any size ATV that lawfully fits them.

Background: When implementing the new riding component test into the ATV safety training program, it was determined that the size limitation of the ATV was not necessary and would allow better program flexibility if it were removed from statute. This change was included in the DNR's OHV bill in 2004 that was generally accepted by the legislature, but was not passed into law in 2004.

- (4) **The requirement to adopt rules for firearms safety course content** is being repealed because

sufficient direction for course content already exists in statute.

Background: Rules have not been adopted to date. The firearms safety program has successfully been in place for over 50 years, and course content across the country is reasonably standardized.

The requirement to hold a firearms safety class in each school district and to appoint a county director for the program is antiquated and no longer needed. But, school districts can often provide centrally located classroom space at little or no cost.

Background: We have hundreds of instructors in each of the programs, and current personal transportation seems to have made this provision unnecessary.

(5) **Firearms safety certificates are not valid for hunting until the person reaches age 12.**

These changes will clarify that an 11 year old can purchase a license after completing a firearms safety training course, but the license and certificate are not valid for hunting until they reach age 12.

Background: It was determined this fall that the 2004 legislative changes allowing the issuance of a temporary certificate to a person that was 11 years of age needed to be clarified that a license could be obtained, but was not valid until the person reaches age 12.

(6) **Unlawfully obtaining a hunting license without a firearms safety certification** does not pre-empt the requirement for the safety training.

Background: There have been instances where persons who have unlawfully obtained a hunting license without first completing the required safety training-course have argued/tried to use that unlawfully obtained license to replace the training requirement to obtain all future hunting licenses. The change in this bill will clarify that a previous hunting license used to demonstrate the successful completion of the mandated training class needs to include a training completion indicator on it – Minnesota and many states are going to this format of license. As of December 2004, there are fewer than 700 unmatched hunter license records to training records that would be impacted by this clarification. There is an on-line course available to adults in addition to the traditional youth classroom format course.

(7) **Advanced/Adult Hunter education training would be listed as a driver's license indicator** in the same manner as youth firearms safety and snowmobile training indicators.

Background: Advanced/adult hunter education (AHE) courses are offered as a suite of courses that provide comparable education to the standard youth firearms safety course. This suite of courses is accepted by most states in lieu of youth firearms

safety training. This new provision would provide a convenient way for AHE graduates to demonstrate to other states and landowners that they have completed this advanced training that is acceptable as firearms safety training.

(8) **DWI motorboat forfeitures** are inordinately difficult without the ability to forfeit their trailers.

Background: The forfeiture of motorboats under the DWI laws presents some unique logistical challenges. Boats generally cannot be simply loaded up onto a tow truck or onto a generic utility or boat trailer. Boat trailers are more unique to individual models of boats. Most boats get sold/purchased as a package, including a trailer that fits the boat, and is generally financed as a package. It gets very complicated trying to locate an appropriate trailer to borrow to safely transport the seized boat. Currently, there is a similar boat/motor/trailer provision in the newer gross overlimits (game and fish) law – that is working very well. The DWI Task Force supports this initiative, and passed a resolution of support at its February 4, 2005 meeting.

(9) **Charitable gambling funds could be utilized by youth and adult DNR training and education programs.** These funds could help provide valuable class and program materials for our educational programs.

Background: Utilization of these funds is already specifically allowed for DNR wildlife management areas and ATV trails. Other youth programs and opportunities similarly currently benefit from charitable gambling funds. The key difference in this proposal is that DNR's Enforcement Division (a law enforcement agency) would be able to utilize these funds in our programs. DNR is not responsible for enforcing gambling laws, and there should not be a conflict of interest. Gambling Control Board staff worked with us on language and supports us in this initiative.

Financial implications (if appropriate)

The changes in this bill would allow us to appropriately maximize available staff and material resources.

For further information contact:

COL Mike Hamm, Chief Conservation Officer
DNR Division of Enforcement
(651) 296-4828
mike.hamm@dnr.state.mn.us

Pat Watts, Policy/Legal Analyst
DNR Division of Enforcement
(651) 296-4883
pat.watts@dnr.state.mn.us

1 Senator moves to amend S.F. No. 1288 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 609.75,
4 subdivision 8, is amended to read:

5 Subd. 8. [VIDEO GAME OF CHANCE.] A video game of chance is
6 a game or device that simulates one or more games commonly
7 referred to as poker, blackjack, craps, hi-lo, roulette, or
8 other common gambling forms, though not offering any type of
9 pecuniary award or gain to players. The term also includes any
10 video game having one or more of the following characteristics:

11 (1) it is primarily a game of chance, and has no
12 substantial elements of skill involved;

13 (2) it awards game credits or replays and contains a meter
14 or device that records unplayed credits or replays. The term
15 does not include games or devices that simulate horse racing.

16 Sec. 2. [EFFECTIVE DATE.]

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

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14 or device that records unplayed credits or replays. The term
15 does not include games or devices that simulate horse racing.

16 Sec. 2. [EFFECTIVE DATE.]

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

Senators Saxhaug, Dille and Vickerman introduced--

S.F. No. 1288: Referred to the Committee on Agriculture, Veterans and Gaming.

A bill for an act

relating to gambling; modifying definition of video game of chance; amending Minnesota Statutes 2004, section 609.75, subdivision 8.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 609.75, subdivision 8, is amended to read:

Subd. 8. [VIDEO GAME OF CHANCE.] A video game of chance is a game or device that simulates one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette, or other common gambling forms of wagering, though not offering any type of pecuniary award or gain to players and in which the player's skill is not a substantial element in determining the outcome of the game. ~~The term also includes any video game~~

~~having one or more of the following characteristics:~~

~~(1) it is primarily a game of chance, and has no substantial elements of skill involved;~~

~~(2) it awards game credits or replays and contains a meter or device that records unplayed credits or replays.~~

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

Senators Higgins, Sams, Dille, Jungbauer and Kiscaden introduced--
S.F. No. 1580: Referred to the Committee on Agriculture, Veterans and Gaming.

1 A bill for an act

2 relating to agriculture; expanding the definition of
3 shade tree; appropriating money; amending Minnesota
4 Statutes 2004, section 18G.16, subdivision 1.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6 Section 1. Minnesota Statutes 2004, section 18G.16,
7 subdivision 1, is amended to read:

8 Subdivision 1. [DEFINITIONS.] (a) The definitions in this
9 subdivision apply to this section.

10 (b) "Metropolitan area" means the counties of Anoka,
11 Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

12 (c) "Municipality" means a home rule charter or statutory
13 city or a town located in the metropolitan area that exercises
14 municipal powers under section 368.01 or any general or special
15 law; a special park district organized under chapter 398; a
16 special-purpose park and recreation board organized under the
17 city charter of a city of the first class located in the
18 metropolitan area; a county in the metropolitan area for the
19 purposes of county-owned property or any portion of a county
20 located outside the geographic boundaries of a city or a town
21 exercising municipal powers; and a municipality or county
22 located outside the metropolitan area with an approved disease
23 control program.

24 (d) "Shade tree disease" means Dutch-elm-disease, oak-wilt,
25 or any disorder affecting the growth and life of shade trees.

1 (e) "Wood utilization or disposal system" means facilities,
2 equipment, or systems used for the removal and disposal of
3 diseased shade trees, including collection, transportation,
4 processing, or storage of wood and assisting in the recovery of
5 materials or energy from wood.

6 (f) "Approved disease control program" means a municipal
7 plan approved by the commissioner to control shade tree disease.

8 (g) "Disease control area" means an area approved by the
9 commissioner within which a municipality will conduct an
10 approved disease control program.

11 (h) "Sanitation" means the identification, inspection,
12 disruption of a common root system, girdling, trimming, removal,
13 and disposal of dead or diseased wood of shade trees, including
14 subsidies for trees removed pursuant to subdivision 4, on public
15 or private property within a disease control area.

16 (i) "Reforestation" means the replacement of shade trees
17 removed from public property and the planting of a tree as part
18 of a municipal disease control program. For purposes of this
19 paragraph, "public property" includes private property within
20 five feet of the boulevard or street terrace in a city that
21 enacted an ordinance on or before January 1, 1977, that
22 prohibits or requires a permit for the planting of trees in the
23 public right-of-way.

24 (j) "Shade tree" means a woody perennial grown primarily
25 for aesthetic or environmental purposes with minimal to residual
26 timber value.

27 Sec. 2. [APPROPRIATION.]

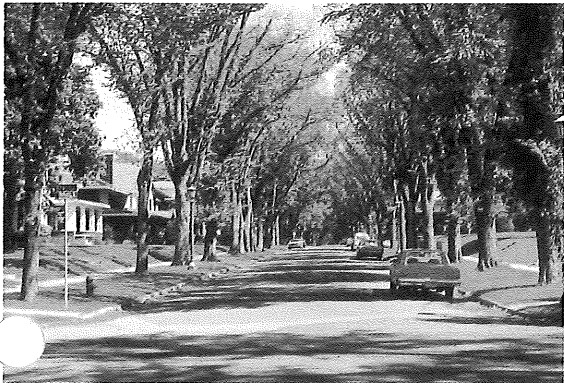
28 \$15,000,000 is appropriated from the general fund to the
29 commissioner of agriculture for the shade tree pest and disease
30 control program under Minnesota Statutes, section 18G.16.

Minnesota Department of Agriculture
Overview of the Minnesota Shade Tree Program
1974 to 1982

- The Shade Tree Program at the Minnesota Department of Agriculture was initiated in 1974 in response to the increase in Dutch Elm Disease (DED).
- The enabling statute provided funds to eligible cities (both metro and outside the metro area) for removing and disposing dead and dying elm trees as well as reforestation efforts.
- The statute set the framework for the Tree Inspector certification program.
- This statute is still active, but funding has not been made available for grants since the early 1980's.
- In the first year, only \$78,702 of the appropriated \$800,000 was used, but participation increased quickly.
- During the 1977-1978 biennium, \$24,000,000 of grant funds were distributed to both metro and non-metro municipalities on a 50% cost share basis.
- Staff was increased from one FTE to 14 FTE and 34 seasonal employees located across the state.
- The 1979-1980 biennium mirrored the previous biennium for funding and participation. The Minnesota Shade Tree Advisory Council noted that more trees were planted than removed, indicating a successful program.
- In 1981, state fiscal concerns reduced the fund allotment to \$7,000,000.
- An emergency freeze in March 1981 resulted in a cost share of only 18% .
- A special session for the 1981-1982 appropriations eliminated funding.
- The Tree Inspector Program continues and is a well-received program.
- MDA currently cooperates with the University, which provides training.
- MDA plans to automate the certification system by November 2005 (next renewal period) so that this process can be accomplished on-line.

EMERGENCY!

Public Alarmed Over Loss of Trees!



Minneapolis Park & Recreation Board

Minnesota neighborhood before trees lost to Dutch elm disease.



Minneapolis Park & Recreation Board

Same neighborhood after trees lost to Dutch elm disease.

"Keeping our community forests healthy costs money and local governments are bearing the brunt of it, even as unfunded mandates continue. We need help! If we don't protect the resources we currently have, the ultimate cost increases exponentially."

*— Judy Johnson, Mayor,
City of Plymouth*

"I find it disheartening to pay for someone to remove my trees when I want to take care of them but can't get the information I need to do so."

*— Trevor Miyamoto,
Resident of Minnetonka*

MINNESOTA DUTCH ELM DISEASE FACTS

- Tree loss in 2004 was the worst in 30 years!
- Losses in 2005 and 2006 are expected to be twice as high!

MnSTAC Forestry Alert 2005
Minnesota Shade Tree Advisory Committee



*"Beautification be damned,
it's economics!"*

—Don Willeke, Founding Chair, MnSTAC

Value of trees at risk in Minnesota:

- The 128 million trees in Minnesota communities have a total compensatory value of \$80 billion*
- Forest products manufactured in Minnesota exceed \$7 billion per year**

It's economics:

- | | |
|-----------------------|-----------------------|
| • Jobs | • Energy Conservation |
| • Property Values | • Wildlife Habitat |
| • Forest Industry | • Safety |
| • Clean Water and Air | • Health |
| • Tourism | • Neighborhoods |
| • Recreation | |



Deborah Reese, MnDNR

No trees = No benefits!

* Nowak, D.J., D.E. Crane, and J.F. Dwyer. 2002. Compensatory Value of Urban Trees in the United States. *Journal of Arboriculture* 28(4):194-199.

** MN DNR. 2004 Minnesota Forest Health Highlights.

*The Bad Ones Are Here...
The Worst Ones Are Coming!*

Trees are being lost and threatened by increasing numbers of devastating insect and disease problems!



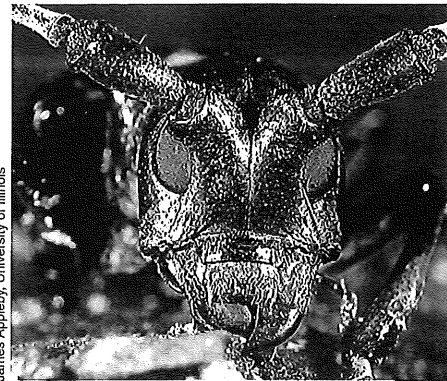
Gypsy moth is established in Wisconsin and the leading front is approaching Minnesota.



Emerald ash borer was first found in the Detroit metropolitan area in 2002 and has been carried by humans to other locations in Indiana, Michigan, and Ohio.



Asian longhorned beetle was found in New York City in 1996 and in Chicago in 1998. Early detection and rapid response in Chicago was key to the current successful eradication program.



James Appleby, University of Illinois

Asian longhorned beetle



Larry R. Barber, USDA Forest Service

Trees being cut due to Asian longhorned beetle infestation in Chicago.

ACTION IS NEEDED NOW!

The Minnesota Shade Tree Advisory Committee recommends that the Minnesota Legislature and Governor act to:

- Establish dedicated funds for forest health to implement Minnesota Statute 18G.16, Subd. 8. Grants to municipalities. "... for partial funding of municipal sanitation and reforestation programs to replace trees lost to disease or natural disaster ... and for acquisition or implementation of a wood use or disposal system."
- Fund LCMR's 2005-2007 recommendation for Minnesota ReLeaf, to leverage local funding and citizen volunteer support.
- Provide emergency bonding funds to protect communities' capital investments in their urban forest from the current outbreak of Dutch elm disease and other devastating insect and disease problems, established and coming, to control tree loss in 2005-2007.
- Support and direct the Minnesota Forest Resources Council to help create, with funding, a 7-County Metro Area Forest Landscape Plan that would include strategies for forest health.



Tree Trust

Don't let a devastating pest take away their quality of life!

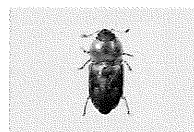
THREATS TO MINNESOTA'S TREES

Asian Longhorned Beetle—an exotic wood borer that poses an enormous threat to urban and rural forests killing hardwoods—primarily maples, elms and willows. Early detection is critical. <http://www.uvm.edu/albeetle/>



Donald Duerr, USDA Forest Service

Sap Beetle—native and exotic sap beetles spread the oak wilt fungus affecting all species of oak. There are active infection centers in 21 counties. Prompt identification, removal and disposal of dead and dying oaks is critical. <http://www.co.sherburne.mn.us/zoning/enviro/oakwilt.htm>



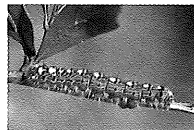
USDA Forest Service, NCRS

Gypsy Moth—an exotic defoliator of hardwoods that prefers oaks and is spreading into Minnesota. Benefits of slowing the rate of spread exceeds the costs of treatment and monitoring by 3 to 1. <http://www.fs.fed.us/ne/morgantown/4557/gmoth/>



John H. Ghent, USDA Forest Service

Forest Tent Caterpillar—a native cyclic defoliator that can kill oak, aspen, and birch if stressed by drought. It is a major pest in urban and rural forests. In 2004, identified 27,500 acres of dead aspen and 22,900 acres of dying aspen. Birch had 3,200 acres of mortality. Strong forestry programs can reduce the impact. <http://www.extension.umn.edu/distribution/horticulture/DG7563.html>



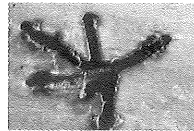
Ronald F. Billings, Texas Forest Service

Elm Bark Beetle (larval galleries)—spreads Dutch elm disease. Native and exotic elm bark beetles are serious pests to American, Siberian, and red elms. Prompt identification, removal and disposal of dead and dying elms is critical. <http://www.mda.state.mn.us/invasives/delmdisease/default.htm>



Missoula Archives, USDA Forest Service

Pine Bark Beetle (larvae in galleries)—a native beetle killing red pine stands and plantations during drought periods. Awareness and prevention is critical. http://www.dnr.state.mn.us/treecare/forest_health/barkbeetles/index.html



Scott Tunnock, USDA Forest Service

Emerald Ash Borer—an exotic wood borer that kills all species of ash, a major component of our urban and rural forests. At least 8 million ash trees have been killed in IN, MI, and OH. The potential for spread to Minnesota is high. Early detection is critical. <http://www.emeraldashborer.info/>

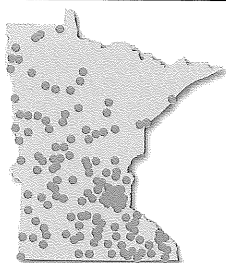


David Cappaert, Michigan State University

Bulldozers—represent negative human impacts to urban and rural forest health. Urban sprawl and improper construction techniques impact forest health. Awareness, land-use planning, and best management practices are critical. http://www.dnr.state.mn.us/treecare/maintenance/construction_damage.html



Kate Drewry, MnDNR



Minnesota ReLeaf is a matching grant program that provides funding to local units of government, non-profits, and schools to incorporate a more comprehensive approach in planning and managing their community forest resource. MN ReLeaf has helped over 200 communities throughout the state.

Minnesota Shade Tree Advisory Committee

The Minnesota Shade Tree Advisory Committee (MnSTAC) was established in 1974 to address the health and well-being of Minnesota's community forests, initially focusing on Dutch elm disease. Today, the organization has a diverse membership of over 420 representing a broad spectrum of tree-related interests. MnSTAC is recognized throughout Minnesota and the nation for its expertise, innovation, counsel, coordination, and support relative to urban and community forestry issues.

For More Information Related web sites:

2004 Minnesota Forest Health Highlights—http://www.na.fs.fed.us/spfo/fhm/fhh/fhh-04/mn/mn_04.pdf

MN Dept. of Agriculture—<http://www.mda.state.mn.us/>

MN Dept. of Natural Resources—www.dnr.state.mn.us

MN Shade Tree Advisory Committee —
www.mnstac.org

TreeLink—
www.treelink.org/

Tree Trust—
www.treetrust.org

USDA Forest Service—
www.na.fs.fed.us/spfo/

University of MN-Extension—
www.extension.umn.edu/

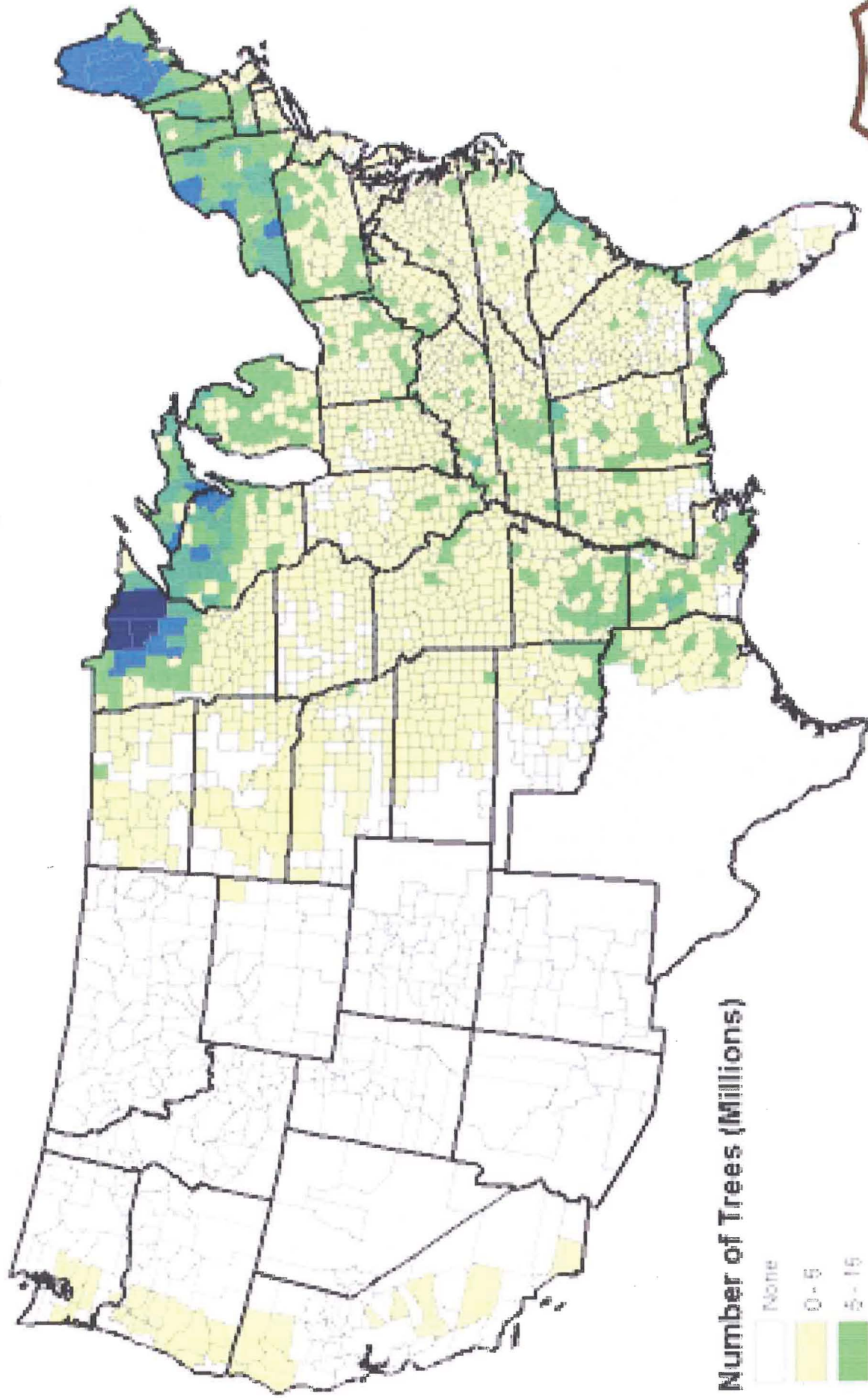


Ken Simons, President
Minnesota Shade Tree Advisory Committee
c/o Tree Trust
2350 Wycliff Street,
Suite 200
St. Paul, MN 55114
763-717-9366
or visit: www.mnstac.org



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MnSTAC Forestry Alert
2005

Emerald Ash Borer Susceptibility - Known Host



Number of Trees (Millions)

- None
- 0 - 5
- 5 - 15
- 15 - 30
- 30 - 60
- 60 - 120
- No Data



EMERALD ASH BORER

A THREAT TO MINNESOTA ASH TREES - COULD MY TREE HAVE IT?

ADULT

Because of its size and short period of activity, the metallic green adult is often difficult to detect even in areas of high infestation.



GROWN DECLINE

The typical pattern of crown decline caused by EAB is the top 1/3 dying first and then progressing down the tree.

LARVA

The distinctly segmented larva is relatively easy to locate by peeling back loose bark of infested trees.

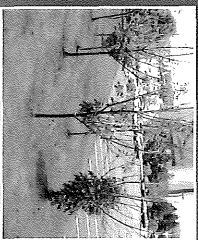
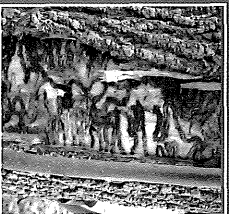


EPIGORMIC SPROUTS

As the top of the tree declines, new shoots may be produced lower on the tree.

S-SHAPED GALLERIES

Even after larvae have matured and exited the tree, the distinct S-shaped galleries under the bark are diagnostic of EAB.



SYMPTOMS ON MULTIPLE TREES

Detectable levels of EAB infestation will almost always include a number of declining ash in an area. Always look for other ash nearby with similar symptoms.

D-SHAPED EXIT HOLES

Although they are difficult to find, D-shaped exit holes are diagnostic of EAB activity.



WOODPECKER HOLES

Woodpeckers love EAB larvae and woodpecker holes may indicate the presence of EAB. However, not all EAB infested trees are attacked by woodpeckers and other insect larvae may also attract woodpeckers.

For more information on the EAB threat in Minnesota or to report a possible EAB-infested ash tree: (651) 296-6684, www.nda.state.mn.us / keyword: ash borer



In accordance with the Americans With Disabilities Act, an alternative form of communication is available upon request. (TTY) 1-800-627-3529

Senators Ruud, Wergin and Vickerman introduced--

S.F. No. 1623: Referred to the Committee on Agriculture, Veterans and Gaming.

1 A bill for an act
2 relating to veterans; authorizing the placement of a
3 plaque in the court of honor on the capitol grounds to
4 honor the veterans of the Persian Gulf War.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6 Section 1. [PLAQUE HONORING VETERANS OF THE PERSIAN GULF
7 WAR.]

8 A memorial plaque may be placed in the court of honor on
9 the capitol grounds to recognize the valiant service to our
10 nation by the thousands of brave men and women who served
11 honorably as members of the United States armed forces during
12 the Persian Gulf War. The plaque must be furnished by a person
13 or organization other than the Department of Veterans Affairs
14 and must be approved by the commissioner of veterans affairs and
15 the Capitol Area Architectural and Planning Board.

16 [EFFECTIVE DATE.] This section is effective the day
17 following final enactment.

1 Senator moves to amend S.F. No. as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 349.12, is
4 amended by adding a subdivision to read:

5 Subd. 3c. [BAR BINGO.] "Bar bingo" is a bingo occasion
6 conducted at a permitted premises in an area where intoxicating
7 liquor or 3.2 percent malt beverages are sold and where the
8 licensed organization conducts another form of lawful gambling.

9 Sec. 2. Minnesota Statutes 2004, section 349.12,
10 subdivision 5, is amended to read:

11 Subd. 5. [BINGO OCCASION.] "Bingo occasion" means a single
12 gathering or session at which a series of one or more successive
13 bingo games is played. There is no limit on the number of games
14 conducted during a bingo occasion but a bingo occasion must not
15 last longer than eight consecutive hours.

16 Sec. 3. Minnesota Statutes 2004, section 349.12,
17 subdivision 25, is amended to read:

18 Subd. 25. [LAWFUL PURPOSE.] (a) "Lawful purpose" means one
19 or more of the following:

20 (1) any expenditure by or contribution to a 501(c)(3) or
21 festival organization, as defined in subdivision 15a, provided
22 that the organization and expenditure or contribution are in
23 conformity with standards prescribed by the board under section
24 349.154, which standards must apply to both types of
25 organizations in the same manner and to the same extent;

26 (2) a contribution to or expenditure for goods and services
27 for an individual or family suffering from poverty,
28 homelessness, or ~~physical-or-mental~~ disability, which is used to
29 relieve the effects of that ~~poverty,-homelessness,-or-disability~~
30 suffering;

31 (3) ~~a-contribution-to-an-individual-for-treatment-for~~
32 ~~delayed-posttraumatic-stress-syndrome-or~~ a contribution to a
33 program recognized by the Minnesota Department of Human Services
34 for the education, prevention, or treatment of ~~compulsive~~
35 problem gambling;

36 (4) a contribution to or expenditure on a public or private

1 nonprofit educational institution registered with or accredited
2 by this state or any other state;

3 (5) a contribution to a scholarship fund for defraying the
4 cost of education to individuals where the funds are awarded
5 through an open and fair selection process;

6 (6) activities by an organization or a government entity
7 which recognize ~~humanitarian-or~~ military service to the United
8 States, the state of Minnesota, or a community, subject to rules
9 of the board, provided that the rules must not include mileage
10 reimbursements in the computation of the per diem reimbursement
11 limit and must impose no aggregate annual limit on the amount of
12 reasonable and necessary expenditures made to support:

13 (i) members of a military marching or color guard unit for
14 activities conducted within the state;

15 (ii) members of an organization solely for services
16 performed by the members at funeral services; ~~or~~

17 (iii) members of military marching, color guard, or honor
18 guard units may be reimbursed for participating in color guard,
19 honor guard, or marching unit events within the state or states
20 contiguous to Minnesota at a per participant rate of up to \$35
21 per diem; or

22 (iv) active military personnel and their immediate family
23 members in need of support services;

24 (7) recreational, community, and athletic facilities and
25 activities intended primarily for persons under age 21, provided
26 that such facilities and activities do not discriminate on the
27 basis of gender and the organization complies with section
28 349.154;

29 (8) payment of local taxes authorized under this chapter,
30 taxes imposed by the United States on receipts from lawful
31 gambling, the taxes imposed by section 297E.02, subdivisions 1,
32 4, 5, and 6, and the tax imposed on unrelated business income by
33 section 290.05, subdivision 3;

34 (9) payment of real estate taxes and assessments on
35 permitted gambling premises ~~wholly~~ owned by the licensed
36 organization paying the taxes, or wholly leased by a licensed

1 veterans organization under a national charter recognized under
2 section 501(c)(19) of the Internal Revenue Code, ~~not to exceed~~
3 ~~(i) for premises used for bingo, the amount that an~~
4 ~~organization may expend under board rules on rent for bingo, and~~
5 ~~(ii) \$35,000 per year for premises used for other forms of~~
6 ~~lawful gambling;~~

7 (10) a contribution to the United States, this state or any
8 of its political subdivisions, or any agency or instrumentality
9 thereof other than a direct contribution to a law enforcement or
10 prosecutorial agency;

11 (11) a contribution to or expenditure by a nonprofit
12 organization which is a church or body of communicants gathered
13 in common membership for mutual support and edification in
14 piety, worship, or religious observances;

15 (12) payment of the reasonable costs of an audit required
16 in section 297E.06, subdivision 4, provided the annual audit is
17 filed in a timely manner with the Department of Revenue and paid
18 prior to June 30, 2006;

19 ~~(13) a contribution to or expenditure on a wildlife~~
20 ~~management project that benefits the public at large, provided~~
21 ~~that the state agency with authority over that wildlife~~
22 ~~management project approves the project before the contribution~~
23 ~~or expenditure is made;~~

24 ~~(14) expenditures, approved by the commissioner of natural~~
25 ~~resources, by an organization for grooming and maintaining~~
26 ~~snowmobile trails and all-terrain vehicle trails that are (1)~~
27 ~~grant-in-aid trails established under section 85.019, or (2)~~
28 ~~other trails open to public use, including purchase or lease of~~
29 ~~equipment for this purpose;~~

30 (13) a contribution to or expenditure on projects or
31 activities approved by the commissioner of natural resources for:

32 (i) wildlife management projects that benefit the public at
33 large;

34 (ii) grant-in-aid trail maintenance and grooming
35 established under sections 84.83 and 84.927 and other trails
36 open to public use, including purchase or lease of equipment for

1 this purpose; and

2 (iii) supplies and materials for safety training and
3 educational programs coordinated by the Department of Natural
4 Resources including the Enforcement Division;

5 ~~(15)~~ (14) conducting nutritional programs, food shelves,
6 and congregate dining programs primarily for persons who are age
7 62 or older or disabled;

8 ~~(16)~~ (15) a contribution to a community arts organization,
9 or an expenditure to sponsor arts programs in the community,
10 including but not limited to visual, literary, performing, or
11 musical arts;

12 ~~(17)~~ (16) an expenditure by a licensed veterans
13 organization for payment of water, fuel for heating,
14 electricity, and sewer costs for a building wholly owned or
15 wholly leased by and used as the primary headquarters of the
16 licensed veterans organization;

17 ~~(18)~~ (17) expenditure by a licensed veterans organization
18 of up to \$5,000 in a calendar year in net costs to the
19 organization for meals and other membership events, limited to
20 members and spouses, held in recognition of military service.
21 No more than \$5,000 can be expended in total per calendar year
22 under this clause by all licensed veterans organizations sharing
23 the same veterans post home; ~~or~~

24 ~~(19)~~ (18) payment of fees authorized under this chapter
25 imposed by the state of Minnesota to conduct lawful gambling in
26 Minnesota; or

27 (19) a contribution or expenditure to honor an individual's
28 humanitarian service as demonstrated through philanthropy or
29 volunteerism to the United States, this state, or local
30 community.

31 (b) Notwithstanding paragraph (a), "lawful purpose" does
32 not include:

33 (1) any expenditure made or incurred for the purpose of
34 influencing the nomination or election of a candidate for public
35 office or for the purpose of promoting or defeating a ballot
36 question;

1 (2) any activity intended to influence an election or a
2 governmental decision-making process;

3 (3) the erection, acquisition, improvement, expansion,
4 repair, or maintenance of real property or capital assets owned
5 or leased by an organization, unless the board has first
6 specifically authorized the expenditures after finding that (i)
7 the real property or capital assets will be used exclusively for
8 one or more of the purposes in paragraph (a); (ii) with respect
9 to expenditures for repair or maintenance only, that the
10 property is or will be used extensively as a meeting place or
11 event location by other nonprofit organizations or community or
12 service groups and that no rental fee is charged for the use;
13 (iii) with respect to expenditures, including a mortgage payment
14 or other debt service payment, for erection or acquisition only,
15 that the erection or acquisition is necessary to replace with a
16 comparable building, a building owned by the organization and
17 destroyed or made uninhabitable by fire or ~~natural~~
18 ~~disaster~~ catastrophe, provided that the expenditure may be only
19 for that part of the replacement cost not reimbursed by
20 insurance; (iv) with respect to expenditures, including a
21 mortgage payment or other debt service payment, for erection or
22 acquisition only, that the erection or acquisition is necessary
23 to replace with a comparable building a building owned by the
24 organization that was acquired from the organization by eminent
25 domain or sold by the organization to a purchaser that the
26 organization reasonably believed would otherwise have acquired
27 the building by eminent domain, provided that the expenditure
28 may be only for that part of the replacement cost that exceeds
29 the compensation received by the organization for the building
30 being replaced; or (v) with respect to an expenditure to bring
31 an existing building into compliance with the Americans with
32 Disabilities Act under item (ii), an organization has the option
33 to apply the amount of the board-approved expenditure to the
34 erection or acquisition of a replacement building that is in
35 compliance with the Americans with Disabilities Act;

36 (4) an expenditure by an organization which is a

1 contribution to a parent organization, foundation, or affiliate
2 of the contributing organization, if the parent organization,
3 foundation, or affiliate has provided to the contributing
4 organization within one year of the contribution any money,
5 grants, property, or other thing of value;

6 (5) a contribution by a licensed organization to another
7 licensed organization unless the board has specifically
8 authorized the contribution. The board must authorize such a
9 contribution when requested to do so by the contributing
10 organization unless it makes an affirmative finding that the
11 contribution will not be used by the recipient organization for
12 one or more of the purposes in paragraph (a); or

13 (6) a contribution to a statutory or home rule charter
14 city, county, or town by a licensed organization with the
15 knowledge that the governmental unit intends to use the
16 contribution for a pension or retirement fund.

17 [EFFECTIVE DATE.] The effective date for paragraph (a),
18 clause (9), is January 1, 2006. All other changes in section 3
19 are effective the day following final enactment.

20 Sec. 4. Minnesota Statutes 2004, section 349.12,
21 subdivision 33, is amended to read:

22 Subd. 33. [RAFFLE.] "Raffle" means a game in which a
23 participant buys a ticket ~~for-a-chance-at-a-prize-with-the~~
24 ~~winner-determined-by-a-random-drawing-to-take-place-at-a~~
25 ~~location-and-date-printed-upon-the-ticket~~ or other certificate
26 of participation in an event where the prize determination is
27 based on a method of random selection and all entries have an
28 equal chance of selection. The ticket or certificate of
29 participation must include the location, date, and time of the
30 selection of the winning entries.

31 [EFFECTIVE DATE.] This section is effective the day
32 following final enactment.

33 Sec. 5. Minnesota Statutes 2004, section 349.15,
34 subdivision 1, is amended to read:

35 Subdivision 1. [EXPENDITURE RESTRICTIONS.] Gross profits
36 from lawful gambling may be expended only for lawful purposes or

1 allowable expenses as authorized by the membership of the
2 conducting organization at a monthly meeting of the
3 organization's membership. Provided that no more than 70
4 percent of the gross profit less the tax imposed under section
5 297E.02, subdivision 1, from bingo, and no more than 55 60
6 percent of the gross profit from other forms of lawful gambling,
7 may be expended biennially during the term of the license for
8 allowable expenses related to lawful gambling.

9 [EFFECTIVE DATE.] This section is effective for licenses
10 issued after June 30, 2006.

11 Sec. 6. Minnesota Statutes 2004, section 349.151,
12 subdivision 4, is amended to read:

13 Subd. 4. [POWERS AND DUTIES.] (a) The board has the
14 following powers and duties:

15 (1) to regulate lawful gambling to ensure it is conducted
16 in the public interest;

17 (2) to issue licenses to organizations, distributors,
18 distributor salespersons, ~~bingo-halls~~, manufacturers, linked
19 bingo game providers, and gambling managers;

20 (3) to collect and deposit license, permit, and
21 registration fees due under this chapter;

22 (4) to receive reports required by this chapter and inspect
23 all premises, records, books, and other documents of
24 organizations, distributors, manufacturers, and linked bingo
25 game providers, ~~and-bingo-halls~~ to insure compliance with all
26 applicable laws and rules;

27 (5) to make rules authorized by this chapter;

28 (6) to register gambling equipment and issue registration
29 stamps;

30 (7) to provide by rule for the mandatory posting by
31 organizations conducting lawful gambling of rules of play and
32 the odds and/or house percentage on each form of lawful
33 gambling;

34 (8) to report annually to the governor and legislature on
35 its activities and on recommended changes in the laws governing
36 gambling;

1 (9) to impose civil penalties of not more than \$500 per
2 violation on organizations, distributors, distributor
3 salespersons, manufacturers, ~~binge-halls~~, linked bingo game
4 providers, and gambling managers for failure to comply with any
5 provision of this chapter or any rule or order of the board;

6 (10) to issue premises permits to organizations licensed to
7 conduct lawful gambling;

8 (11) to delegate to the director the authority to issue or
9 deny license and premises permit applications and renewals under
10 criteria established by the board;

11 (12) to delegate to the director the authority to approve
12 or deny fund loss requests, contribution of gambling funds to
13 another licensed organization, and property expenditure requests
14 under criteria established by the board;

15 (13) to suspend or revoke licenses and premises permits of
16 organizations, distributors, distributor salespersons,
17 manufacturers, ~~binge-halls~~, linked bingo game providers, or
18 gambling managers as provided in this chapter;

19 ~~{13}~~ (14) to register employees of organizations licensed
20 to conduct lawful gambling;

21 ~~{14}~~ (15) to require fingerprints from persons determined
22 by board rule to be subject to fingerprinting;

23 ~~{15}~~ (16) to delegate to a compliance review group of the
24 board the authority to investigate alleged violations, issue
25 consent orders, and initiate contested cases on behalf of the
26 board;

27 ~~{16}~~ (17) to order organizations, distributors, distributor
28 salespersons, manufacturers, ~~binge-halls~~, linked bingo game
29 providers, and gambling managers to take corrective actions; and

30 ~~{17}~~ (18) to take all necessary steps to ensure the
31 integrity of and public confidence in lawful gambling.

32 (b) The board, or director if authorized to act on behalf
33 of the board, may by citation assess any organization,
34 distributor, ~~employee-eligible-to-make-sales-on-behalf-of-a~~
35 distributor salesperson, manufacturer, ~~binge-hall-licensee~~,
36 linked bingo game provider, or gambling manager a civil penalty

1 of not more than \$500 per violation for a failure to comply with
2 any provision of this chapter or any rule adopted or order
3 issued by the board. Any organization, distributor, ~~binge-hall~~
4 ~~licensee distributor salesperson~~, gambling manager, linked bingo
5 game provider, or manufacturer assessed a civil penalty under
6 this paragraph may request a hearing before the board. Appeals
7 of citations imposing a civil penalty are not subject to the
8 provisions of the Administrative Procedure Act.

9 (c) All penalties received by the board must be deposited
10 in the general fund.

11 (d) All fees imposed by the board under sections 349.16 to
12 349.167 must be deposited in the state treasury and credited to
13 a lawful gambling regulation account in the special revenue
14 fund. Receipts in this account are available for the operations
15 of the board up to the amount authorized in biennial
16 appropriations from the legislature.

17 Sec. 7. Minnesota Statutes 2004, section 349.151,
18 subdivision 4b, is amended to read:

19 Subd. 4b. [PULL-TAB SALES FROM DISPENSING DEVICES.] (a)
20 The board may by rule authorize but not require the use of
21 pull-tab dispensing devices.

22 (b) Rules adopted under paragraph (a):

23 (1) must limit the number of pull-tab dispensing devices on
24 any permitted premises to three; and

25 (2) must limit the use of pull-tab dispensing devices to a
26 permitted premises which is (i) a licensed premises for on-sales
27 of intoxicating liquor or 3.2 percent malt beverages; or (ii) a
28 ~~licensed-binge-hall-that-allows-gambling-only-by~~ premises where
29 bingo is conducted and admission is restricted to persons 18
30 years or older.

31 (c) Notwithstanding rules adopted under paragraph (b),
32 pull-tab dispensing devices may be used in establishments
33 licensed for the off-sale of intoxicating liquor, other than
34 drugstores and general food stores licensed under section
35 340A.405, subdivision 1.

36 Sec. 8. Minnesota Statutes 2004, section 349.152,

1 subdivision 2, is amended to read:

2 Subd. 2. [DUTIES OF DIRECTOR.] The director has the
3 following duties:

4 (1) to carry out gambling policy established by the board;

5 (2) to employ and supervise personnel of the board;

6 (3) to advise and make recommendations to the board on
7 rules, policy, and legislative initiatives;

8 (4) to approve or deny operational requests from licensees
9 as delegated by the board;

10 (5) to issue licenses and premises permits as authorized by
11 the board;

12 ~~(5)~~ (6) to issue cease and desist orders;

13 ~~(6)~~ (7) to make recommendations to the board on license
14 issuance, denial, censure, suspension and revocation, civil
15 penalties, and corrective action the board imposes;

16 ~~(7)~~ (8) to ensure that board rules, policy, and decisions
17 are adequately and accurately conveyed to the board's licensees;

18 ~~(8)~~ (9) to conduct investigations, inspections, compliance
19 reviews, and audits under this chapter; and

20 ~~(9)~~ (10) to issue subpoenas to compel the attendance of
21 witnesses and the production of documents, books, records, and
22 other evidence relating to an investigation, compliance review,
23 or audit the director is authorized to conduct.

24 Sec. 9. Minnesota Statutes 2004, section 349.153, is
25 amended to read:

26 349.153 [CONFLICT OF INTEREST.]

27 (a) A person may not serve on the board, be the director,
28 or be an employee of the board who has an interest in any
29 corporation, association, limited liability company, or
30 partnership that is licensed by the board as a distributor,
31 manufacturer, or linked bingo game provider, ~~or bingo hall~~ under
32 section 349.164.

33 (b) A member of the board, the director, or an employee of
34 the board may not accept employment with, receive compensation
35 directly or indirectly from, or enter into a contractual
36 relationship with an organization that conducts lawful gambling,

1 a distributor, a linked bingo game provider, ~~a-bingo-hall,~~ or a
 2 manufacturer while employed with or a member of the board or
 3 within one year after terminating employment with or leaving the
 4 board.

5 (c) A distributor, ~~bingo-hall,~~ manufacturer, linked bingo
 6 game provider, or organization licensed to conduct lawful
 7 gambling may not hire a former employee, director, or member of
 8 the Gambling Control Board for one year after the employee,
 9 director, or member has terminated employment with or left the
 10 Gambling Control Board.

11 Sec. 10. Minnesota Statutes 2004, section 349.154,
 12 subdivision 1, is amended to read:

13 Subdivision 1. [STANDARDS FOR CERTAIN ORGANIZATIONS.] ~~The~~
 14 ~~board-shall-by-rule-prescribe~~ Standards that must be met by any
 15 licensed organization that is a 501(c)(3) organization. ~~The~~
 16 ~~standards-must-provide~~ include:

17 (1) ~~operating-standards-for-the-organization,-including a~~
 18 maximum percentage or percentages not to exceed 30 percent of
 19 the organization's total expenditures ~~that-may-be-expended~~ for
 20 the organization's administration and ~~operation~~ fund raising as
 21 reported biennially to and in a format prescribed by the board;
 22 and

23 (2) ~~standards~~ for any expenditure by the organization of
 24 net profits from lawful gambling, ~~including-a-requirement~~ that
 25 the expenditure be related to the primary purpose of the
 26 organization or meet the criteria of a lawful purpose donation
 27 as defined in section 349.12, subdivision 25.

28 [EFFECTIVE DATE.] This section is effective for licenses
 29 issued after June 30, 2006.

30 Sec. 11. Minnesota Statutes 2004, section 349.155,
 31 subdivision 3, is amended to read:

32 Subd. 3. [MANDATORY DISQUALIFICATIONS.] (a) In the case of
 33 licenses for manufacturers, distributors, distributor
 34 salespersons, ~~bingo-halls,~~ linked bingo game providers, and
 35 gambling managers, the board may not issue or renew a license
 36 under this chapter, and shall revoke a license under this

1 chapter, if the applicant or licensee, or a director, officer,
2 partner, governor, or person in a supervisory or management
3 position of the applicant or licensee:

4 (1) has ever been convicted of a felony or a crime
5 involving gambling;

6 (2) has ever been convicted of (i) assault, (ii) a criminal
7 violation involving the use of a firearm, or (iii) making
8 terroristic threats;

9 (3) is or has ever been connected with or engaged in an
10 illegal business;

11 (4) owes \$500 or more in delinquent taxes as defined in
12 section 270.72;

13 (5) had a sales and use tax permit revoked by the
14 commissioner of revenue within the past two years; or

15 (6) after demand, has not filed tax returns required by the
16 commissioner of revenue. The board may deny or refuse to renew
17 a license under this chapter, and may revoke a license under
18 this chapter, if any of the conditions in this paragraph are
19 applicable to an affiliate or direct or indirect holder of more
20 than a five percent financial interest in the applicant or
21 licensee.

22 (b) In the case of licenses for organizations, the board
23 may not issue or renew a license under this chapter, and shall
24 revoke a license under this chapter, if the organization, or an
25 officer or member of the governing body of the organization:

26 (1) has been convicted of a felony or gross misdemeanor
27 ~~within the five years before the issuance or renewal of the~~
28 ~~license~~ involving theft or fraud;

29 (2) has ever been convicted of a crime involving gambling;
30 or

31 (3) has had a license issued by the board or director
32 permanently revoked for violation of law or board rule.

33 Sec. 12. Minnesota Statutes 2004, section 349.16,
34 subdivision 8, is amended to read:

35 Subd. 8. [LOCAL INVESTIGATION FEE.] A statutory or home
36 rule charter city or county notified under section 349.213,

1 subdivision 2, may assess an investigation fee on organizations
2 ~~or-binge-halls~~ applying for or renewing a premises permit ~~or-a~~
3 ~~binge-hall-license~~. An investigation fee may not exceed the
4 following limits:

- 5 (1) for cities of the first class, \$500;
- 6 (2) for cities of the second class, \$250;
- 7 (3) for all other cities, \$100; and
- 8 (4) for counties, \$375.

9 Sec. 13. Minnesota Statutes 2004, section 349.161,
10 subdivision 5, is amended to read:

11 Subd. 5. [PROHIBITION.] (a) No distributor, distributor
12 salesperson, or other employee of a distributor, may also be a
13 wholesale distributor of alcoholic beverages or an employee of a
14 wholesale distributor of alcoholic beverages.

15 (b) No distributor, distributor salesperson, or any
16 representative, agent, affiliate, or other employee of a
17 distributor, may: (1) be involved in the conduct of lawful
18 gambling by an organization; (2) keep or assist in the keeping
19 of an organization's financial records, accounts, and
20 inventories; or (3) prepare or assist in the preparation of tax
21 forms and other reporting forms required to be submitted to the
22 state by an organization.

23 (c) No distributor, distributor salesperson, or any
24 representative, agent, affiliate, or other employee of a
25 distributor may provide a lessor of gambling premises any
26 compensation, gift, gratuity, premium, or other thing of value.

27 (d) No distributor, distributor salesperson, or any
28 representative, agent, affiliate, or other employee of a
29 distributor may provide an employee or agent of the organization
30 any compensation, gift, gratuity, premium, or other thing of
31 value greater than \$25 per organization in a calendar year.

32 (e) No distributor, distributor salesperson, or any
33 representative, agent, affiliate, or other employee of a
34 distributor may participate in any gambling activity at any
35 gambling site or premises where gambling equipment purchased
36 from that distributor or distributor salesperson is being used

1 in the conduct of lawful gambling.

2 ~~(e)~~ (f) No distributor, distributor salesperson, or any
3 representative, agent, affiliate, or other employee of a
4 distributor may alter or modify any gambling equipment, except
5 to add a "last ticket sold" prize sticker.

6 ~~(f)~~ (g) No distributor, distributor salesperson, or any
7 representative, agent, affiliate, or other employee of a
8 distributor may: (1) recruit a person to become a gambling
9 manager of an organization or identify to an organization a
10 person as a candidate to become gambling manager for the
11 organization; or (2) identify for an organization a potential
12 gambling location.

13 ~~(g)~~ (h) No distributor or distributor salesperson may
14 purchase gambling equipment for resale to a person for use
15 within the state from any person not licensed as a manufacturer
16 under section 349.163, except for gambling equipment returned
17 from an organization licensed under section 349.16, or exempt or
18 excluded from licensing under section 349.166.

19 ~~(h)~~ (i) No distributor or distributor salesperson may sell
20 gambling equipment to any person for use in Minnesota other than
21 (i) a licensed organization or organization excluded or exempt
22 from licensing, or (ii) the governing body of an Indian tribe.

23 ~~(i)~~ (j) No distributor or distributor salesperson may sell
24 or otherwise provide a pull-tab or tipboard deal with the symbol
25 required by section 349.163, subdivision 5, paragraph (h),
26 visible on the flare to any person other than in Minnesota to a
27 licensed organization or organization exempt from licensing.

28 Sec. 14. Minnesota Statutes 2004, section 349.162,
29 subdivision 1, is amended to read:

30 Subdivision 1. [~~STAMP~~ REGISTRATION REQUIRED.] ~~(a)~~ A
31 distributor may not sell, transfer, furnish, or otherwise
32 provide to a person, and no person may purchase, borrow, accept,
33 or acquire from a distributor gambling equipment for use within
34 the state unless the equipment has been registered with the
35 board ~~and-has-a-registration-stamp-affixed,-except-for-gambling~~
36 ~~equipment-not-stamped-by-the-manufacturer-pursuant-to-section~~

1 349.163, subdivision 5 or 8. Each stamp must bear a
2 registration number assigned by the board.

3 (b) A manufacturer must return all unused registration
4 stamps in its possession to the board by February 17, 1995. No
5 manufacturer may possess unaffixed registration stamps after
6 February 17, 1995.

7 (c) After February 17, 1996, no person may possess any
8 unplayed pull-tab or tipboard deals with a registration stamp
9 affixed to the flare or any unplayed paddleticket cards with a
10 registration stamp affixed to the master flare. This paragraph
11 does not apply to unplayed pull-tab or tipboard deals with a
12 registration stamp affixed to the flare, or to unplayed
13 paddleticket cards with a registration stamp affixed to the
14 master flare, if the deals or cards are identified on a list of
15 existing inventory submitted by a licensed organization or a
16 licensed distributor, in a format prescribed by the commissioner
17 of revenue, to the commissioner of revenue on or before February
18 17, 1996 or the Department of Revenue in a manner prescribed by
19 the board or the Department of Revenue. Gambling equipment kept
20 in violation of this paragraph subdivision is contraband under
21 section 349.2125.

22 Sec. 15. Minnesota Statutes 2004, section 349.162,
23 subdivision 4, is amended to read:

24 Subd. 4. [PROHIBITION.] (a) No person other than a
25 licensed distributor ~~or licensed manufacturer~~ may possess
26 unaffixed registration stamps issued by the board for the
27 purpose of registering gambling equipment.

28 (b) Unless otherwise provided in this chapter, no person
29 may possess gambling equipment that has not been stamped and
30 registered.

31 (c) On and after January 1, 1991, no distributor may:

32 (1) sell a bingo hard card or paper sheet that does not
33 bear an individual number; or

34 (2) sell a package of bingo paper sheets that does not
35 contain bingo paper sheets in numerical order.

36 Sec. 16. Minnesota Statutes 2004, section 349.162,

1 subdivision 5, is amended to read:

2 Subd. 5. [SALES FROM FACILITIES.] (a) All gambling
3 equipment purchased or possessed by a licensed distributor for
4 resale to any person for use in Minnesota must, prior to the
5 equipment's resale, be unloaded into a storage facility located
6 in Minnesota which the distributor owns or leases; and which has
7 been registered, in advance and in writing, with the Division of
8 Alcohol and Gambling Enforcement as a storage facility of the
9 distributor. All unregistered gambling equipment and all
10 unaffixed registration stamps owned by, or in the possession of,
11 a licensed distributor in the state of Minnesota shall be stored
12 at a storage facility which has been registered with the
13 Division of Alcohol and Gambling Enforcement. No gambling
14 equipment may be moved from the facility unless the gambling
15 equipment has been first registered with the board, ~~except for~~
16 ~~gambling equipment not stamped by the manufacturer pursuant to~~
17 ~~section 349.163, subdivision 5 or 8~~ or the Department of Revenue.

18 (b) Notwithstanding section 349.163, subdivisions 5, 6, and
19 8, a licensed manufacturer may ship into Minnesota approved or
20 unapproved gambling equipment if the licensed manufacturer ships
21 the gambling equipment to a Minnesota storage facility that is:
22 (1) owned or leased by the licensed manufacturer; and (2)
23 registered, in advance and in writing, with the Division of
24 Alcohol and Gambling Enforcement as a manufacturer's storage
25 facility. No gambling equipment may be shipped into Minnesota
26 to the manufacturer's registered storage facility unless the
27 shipment of the gambling equipment is reported to the Department
28 of Revenue in a manner prescribed by the department. No
29 gambling equipment may be moved from the storage facility unless
30 the gambling equipment is sold to a licensed distributor and is
31 otherwise in conformity with this chapter, is shipped to an
32 out-of-state site and the shipment is reported to the Department
33 of Revenue in a manner prescribed by the department, or is
34 otherwise sold and shipped as permitted by board rule.

35 (c) All storage facilities owned, leased, used, or operated
36 by a licensed distributor or manufacturer may be entered upon

1 and inspected by the employees of the Division of Alcohol and
2 Gambling Enforcement, the Division of Alcohol and Gambling
3 Enforcement director's authorized representatives, employees of
4 the Gambling Control Board or its authorized representatives,
5 employees of the Department of Revenue, or authorized
6 representatives of the director of the Division of Special Taxes
7 of the Department of Revenue during reasonable and regular
8 business hours. Obstruction of, or failure to permit, entry and
9 inspection is cause for revocation or suspension of a
10 manufacturer's or distributor's licenses and permits issued
11 under this chapter.

12 (d) Unregistered gambling equipment and unaffixed
13 registration stamps found at any location in Minnesota other
14 than the manufacturing plant of a licensed manufacturer or a
15 registered storage facility are contraband under section
16 349.2125. This paragraph does not apply:

17 (1) to unregistered gambling equipment being transported in
18 interstate commerce between locations outside this state, if the
19 interstate shipment is verified by a bill of lading or other
20 valid shipping document; and

21 (2) to gambling equipment ~~not-stamped-by-the-manufacturer~~
22 ~~pursuant-to-section-349.163, subdivision 5 or 8~~ registered with
23 the Department of Revenue for distribution to the tribal casinos.

24 Sec. 17. Minnesota Statutes 2004, section 349.163,
25 subdivision 3, is amended to read:

26 Subd. 3. [PROHIBITED SALES.] (a) A manufacturer may not:

27 (1) sell gambling equipment for use or resale within the
28 state to any person not licensed as a distributor, except that
29 gambling equipment used exclusively in a linked bingo game may
30 be sold to a licensed linked bingo provider; or

31 (2) sell gambling equipment to a distributor in this state
32 that has the same serial number as another item of gambling
33 equipment of the same type that is sold by that manufacturer for
34 use or resale in this state.

35 (b) A manufacturer, affiliate of a manufacturer, or person
36 acting as a representative or agent of a manufacturer may not

1 provide a lessor of gambling premises or an appointed official
2 any compensation, gift, gratuity, premium, contribution, or
3 other thing of value.

4 (c) A manufacturer may not sell or otherwise provide a
5 pull-tab or tipboard deal with the symbol required by
6 subdivision 5, paragraph ~~(h)~~ (d), imprinted on the flare to any
7 person other than a licensed distributor unless the manufacturer
8 first renders the symbol permanently invisible.

9 Sec. 18. Minnesota Statutes 2004, section 349.1635,
10 subdivision 4, is amended to read:

11 Subd. 4. [PROHIBITION.] (a) Except for services associated
12 exclusively with a linked bingo game, a linked bingo game
13 provider may not participate or assist in the conduct of lawful
14 gambling by an organization. No linked bingo game provider may:

15 (1) ~~also be licensed as a bingo hall-er~~ hold any financial
16 or managerial interest in a premises leased for the conduct of
17 bingo hall;

18 (2) also be licensed as a distributor or hold any financial
19 or managerial interest in a distributor;

20 (3) sell or lease linked bingo game equipment to any person
21 not licensed as an organization;

22 (4) purchase gambling equipment to be used exclusively in a
23 linked bingo game from any person not licensed as a manufacturer
24 under section 349.163; and

25 (5) provide an organization, a lessor of gambling premises,
26 or an appointed official any compensation, gift, gratuity,
27 premium, or contribution.

28 (b) Employees of the board and the Division of Alcohol and
29 Gambling Enforcement may inspect the books, records, inventory,
30 and business premises of a licensed linked bingo game provider
31 without notice during the normal business hours of the linked
32 bingo game provider. The board may charge a linked bingo game
33 provider for the actual cost of conducting scheduled or
34 unscheduled inspections of the licensee's facilities.

35 Sec. 19. Minnesota Statutes 2004, section 349.166,
36 subdivision 1, is amended to read:

1 Subdivision 1. [EXCLUSIONS.] (a) Bingo, with the exception
2 of linked bingo games, may be conducted without a license and
3 without complying with sections 349.168, subdivisions 1 and 2;
4 349.17, subdivisions 1, 4, and 5; 349.18, subdivision 1; and
5 349.19, if it is conducted:

6 (1) by an organization in connection with a county fair,
7 the state fair, or a civic celebration and is not conducted for
8 more than 12 consecutive days and is limited to no more than
9 four separate applications for activities applied for and
10 approved in a calendar year; or

11 (2) by an organization that conducts four or fewer bingo
12 occasions in a calendar year.

13 An organization that holds a license to conduct lawful
14 gambling under this chapter may not conduct bingo under this
15 subdivision.

16 (b) Bingo may be conducted within a nursing home or a
17 senior citizen housing project or by a senior citizen
18 organization if the prizes for a single bingo game do not exceed
19 \$10, total prizes awarded at a single bingo occasion do not
20 exceed \$200, no more than two bingo occasions are held by the
21 organization or at the facility each week, only members of the
22 organization or residents of the nursing home or housing project
23 are allowed to play in a bingo game, no compensation is paid for
24 any persons who conduct the bingo, and a manager is appointed to
25 supervise the bingo. Bingo conducted under this paragraph is
26 exempt from sections 349.11 to 349.23, and the board may not
27 require an organization that conducts bingo under this
28 paragraph, or the manager who supervises the bingo, to register
29 or file a report with the board. The gross receipts from bingo
30 conducted under the limitations of this subdivision are exempt
31 from taxation under chapter 297A.

32 (c) Raffles may be conducted by an organization without a
33 ~~license-and-without-complying-with-sections-349-154-to-349-165~~
34 ~~and-349-167-to-349-213~~ registering with the board if the value
35 of all raffle prizes awarded by the organization in a calendar
36 year does not exceed \$1,500.

1 (d) Except as provided in paragraph (b), the organization
2 must maintain all required records of excluded gambling activity
3 for 3-1/2 years.

4 Sec. 20. Minnesota Statutes 2004, section 349.166,
5 subdivision 2, is amended to read:

6 Subd. 2. [EXEMPTIONS.] (a) Lawful gambling, with the
7 exception of linked bingo games, may be conducted by an
8 organization without a license and without complying with
9 sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 4
10 and 5; 349.18, subdivision 1; and 349.19 if:

11 (1) the organization conducts lawful gambling on five or
12 fewer days in a calendar year;

13 (2) the organization does not award more than \$50,000 in
14 prizes for lawful gambling in a calendar year;

15 (3) the organization pays a fee of \$50 to the board,
16 notifies the board in writing not less than 30 days before each
17 lawful gambling occasion of the date and location of the
18 occasion, or 60 days for an occasion held in the case of a city
19 of the first class, the types of lawful gambling to be
20 conducted, the prizes to be awarded, and receives an exemption
21 identification number;

22 (4) the organization notifies the local government unit 30
23 days before the lawful gambling occasion, or 60 days for an
24 occasion held in a city of the first class;

25 (5) the organization purchases all gambling equipment and
26 supplies from a licensed distributor; and

27 (6) the organization reports to the board, on a single-page
28 form prescribed by the board, within 30 days of each gambling
29 occasion, the gross receipts, prizes, expenses, expenditures of
30 net profits from the occasion, and the identification of the
31 licensed distributor from whom all gambling equipment was
32 purchased.

33 (b) If the organization fails to file a timely report as
34 required by paragraph (a), clause (3) or (6), the board shall
35 not issue any authorization, license, or permit to the
36 organization to conduct lawful gambling on an exempt, excluded,

1 or licensed basis until the report has been filed and the
2 organization may be subject to penalty as determined by the
3 board.

4 (c) Merchandise prizes must be valued at their fair market
5 value.

6 (d) Unused pull-tab and tipboard deals must be returned to
7 the distributor within seven working days after the end of the
8 lawful gambling occasion. The distributor must accept and pay a
9 refund for all returns of unopened and undamaged deals returned
10 under this paragraph.

11 (e) An organization that is exempt from taxation on
12 purchases of pull-tabs and tipboards under section 297E.02,
13 subdivision 4, paragraph (b), clause (4), must return to the
14 distributor any tipboard or pull-tab deal no part of which is
15 used at the lawful gambling occasion for which it was purchased
16 by the organization.

17 (f) The organization must maintain all required records of
18 exempt gambling activity for 3-1/2 years.

19 Sec. 21. Minnesota Statutes 2004, section 349.167,
20 subdivision 1, is amended to read:

21 Subdivision 1. [GAMBLING MANAGER REQUIRED.] (a) All lawful
22 gambling conducted by a licensed organization must be under the
23 supervision of a gambling manager. A gambling manager
24 designated by an organization to supervise lawful gambling is
25 responsible for the gross receipts of the organization and for
26 its conduct in compliance with all laws and rules. A person
27 designated as a gambling manager shall maintain a ~~fidelity~~
28 dishonesty bond in the sum of \$10,000 in favor of the
29 organization conditioned on the faithful performance of the
30 manager's duties. The terms of the bond must provide that
31 notice be given to the board in writing not less than 30 days
32 before its cancellation.

33 (b) A person may not act as a gambling manager for more
34 than one organization.

35 (c) An organization may not conduct lawful gambling without
36 having a gambling manager.

1 (d) An organization may not have more than one gambling
2 manager at any time.

3 Sec. 22. Minnesota Statutes 2004, section 349.168,
4 subdivision 8, is amended to read:

5 Subd. 8. [PERCENTAGE OF GROSS PROFIT PAID.] (a) A licensed
6 organization may pay a percentage of the gross profit from
7 raffle ticket sales to a nonprofit organization that sells
8 raffle tickets for the licensed organization.

9 (b) A licensed organization may compensate an employee of
10 the organization for the sale of gambling equipment at a bar
11 operation if the frequency of the activity is one day or less
12 per week and the games are limited to 30 chances or less per
13 game. For purposes of this paragraph, an employee shall not be
14 a lessor, employee of the lessor, or an immediate family member
15 of the lessor.

16 Sec. 23. Minnesota Statutes 2004, section 349.17,
17 subdivision 5, is amended to read:

18 Subd. 5. [BINGO CARDS AND SHEETS.] (a) The board shall by
19 rule require that all licensed organizations: (1) conduct bingo
20 only using liquid daubers on bingo paper sheets that bear an
21 individual number recorded by the distributor or linked bingo
22 game provider; and (2) use each bingo paper sheet for no more
23 than one bingo occasion. In lieu of the requirements of clause
24 (2), a licensed organization may electronically record the sale
25 of each bingo hard card or paper sheet at each bingo occasion
26 using an electronic recording system approved by the board.

27 (b) The requirements of paragraph (a) shall only apply to a
28 licensed organization that received gross receipts from bingo in
29 excess of \$150,000 in the organization's last fiscal year.

30 Sec. 24. Minnesota Statutes 2004, section 349.17,
31 subdivision 7, is amended to read:

32 Subd. 7. [NOON-HOUR BAR BINGO.] ~~Notwithstanding~~
33 ~~subdivisions 1 and 3,~~ An organization may conduct bar bingo
34 subject to the following restrictions:

35 (1) ~~the bingo is conducted only between the hours of 11:00~~
36 ~~a.m. and 2:00 p.m.;~~

1 ~~(2)~~ the bingo is conducted at a site the organization owns
2 or leases and which has a license for the sale of intoxicating
3 beverages on the premises under chapter 340A;

4 ~~(3)-the-bingo-is-limited-to-one-progressive-bingo-game-per~~
5 ~~site-as-defined-by-section-349.211,-subdivision-2,~~

6 ~~(4)~~ (2) the bingo is conducted using only bingo paper
7 sheets purchased from a licensed distributor;

8 ~~(5)-if-the-premises-are-leased,-the~~ (3) no rent may not
9 exceed-\$25-per-day-for-each-day-bingo-is-conducted be paid for a
10 bar bingo occasion; and

11 ~~(6)~~ (4) linked bingo games may not be conducted at a noon
12 hour bar bingo occasion.

13 Sec. 25. Minnesota Statutes 2004, section 349.1711,
14 subdivision 1, is amended to read:

15 Subdivision 1. [SALE OF TICKETS.] Tipboard games must be
16 played using only tipboard tickets that are either (1) attached
17 to a placard and arranged in columns or rows, or (2) separate
18 from the placard and contained in a receptacle while the game is
19 in play. The placard serves as the game flare. The placard
20 must contain a seal that conceals the winning number or symbol.
21 When a tipboard ticket is purchased and opened from a game
22 containing more than 30 tickets, each player having a tipboard
23 ticket with one or more predesignated numbers or symbols must
24 sign the placard at the line indicated by the number or symbol
25 on the tipboard ticket.

26 Sec. 26. Minnesota Statutes 2004, section 349.173, is
27 amended to read:

28 349.173 [CONDUCT OF RAFFLES.]

29 (a) Raffle tickets or certificates of participation at a
30 minimum must list the three most expensive prizes to be
31 awarded. If additional prizes will be awarded ~~that-are-not~~
32 ~~contained-on-the-raffle-ticket,-the-raffle-ticket-must-contain~~
33 ~~the-statement-"A-complete-list-of-additional-prizes-is-available~~
34 upon-request.", a complete list of additional prizes must be
35 publicly posted at the event and copies of the complete prize
36 list made available upon request. Notwithstanding section

1 349.12, subdivision 33, raffles conducted under the exemptions
2 in section 349.166 may use tickets that contain only the
3 sequential number of the raffle ticket and no other information
4 if the organization makes a list of prizes and a statement of
5 other relevant information required by rule available to persons
6 purchasing tickets and if tickets are only sold at the event and
7 on the date when the tickets are drawn.

8 (b) Raffles must be conducted in a manner that ensures:

9 (1) all entries in the raffle have an equal chance of
10 selection;

11 (2) entry in the raffle is not conditional upon any other
12 purchase;

13 (3) the method of selection is conducted in a public forum;

14 (4) the method of selection cannot be manipulated or based
15 on the outcome of an event not under the control of the
16 organization;

17 (5) physical presence at the raffle is not a requirement to
18 win; and

19 (6) all sold and unsold tickets or certificates of
20 participation are accounted for.

21 (c) Methods of selecting winning entries from a raffle
22 other than prescribed in rule may be used with the prior written
23 approval of the board.

24 [EFFECTIVE DATE.] This section is effective the day
25 following final enactment.

26 Sec. 27. Minnesota Statutes 2004, section 349.18,
27 subdivision 1, is amended to read:

28 Subdivision 1. [LEASE OR OWNERSHIP REQUIRED; RENT
29 LIMITATIONS.] (a) An organization may conduct lawful gambling
30 only on premises it owns or leases. Leases must be on a form
31 prescribed by the board. Except for leases entered into before
32 August 1, 1994, the term of the lease may not begin before the
33 effective date of the premises permit and must expire on the
34 same day that the premises permit expires. Copies of all leases
35 must be made available to employees of the board and the
36 Division of Alcohol and Gambling Enforcement on request. The

1 board may prescribe by rule limits on the amount of rent which
2 an organization may pay to a lessor for premises leased for
3 bingo. Any rule adopted by the board limiting the amount of
4 rent to be paid may only be effective for leases entered into,
5 or renewed, after the effective date of the rule.

6 (b) Rent paid by an organization for leased premises for
7 the conduct of pull-tabs, tipboards, and paddlewheels is subject
8 to the following limits:

9 (1) for booth operations, including booth operations where
10 a pull-tab dispensing device is located, booth operations where
11 a bar operation is also conducted, and booth operations where
12 both a pull-tab dispensing device is located and a bar operation
13 is also conducted, the maximum rent is:

14 (i) in any month where the organization's gross profit at
15 those premises does not exceed \$4,000, up to \$400; and

16 (ii) in any month where the organization's gross profit at
17 those premises exceeds \$4,000, up to \$400 plus not more than ten
18 percent of the gross profit for that month in excess of \$4,000;

19 (2) for bar operations, including bar operations where a
20 pull-tab dispensing device is located but not including bar
21 operations subject to clause (1), and for locations where only a
22 pull-tab dispensing device is located:

23 (i) in any month where the organization's gross profit at
24 those premises does not exceed \$1,000, up to \$200; and

25 (ii) in any month where the organization's gross profit at
26 those premises exceeds \$1,000, up to \$200 plus not more than 20
27 percent of the gross profit for that month in excess of \$1,000;

28 (3) a lease not governed by clauses (1) and (2) must be
29 approved by the board before becoming effective;

30 (4) total rent paid to a lessor from all organizations from
31 leases governed by clause (1) may not exceed \$1,750 per month.
32 Total rent paid to a lessor from all organizations from leases
33 governed by clause (2) may not exceed \$2,500 per month.

34 (c) Rent paid by an organization for leased premises for
35 the conduct of bingo is subject to the following limits:

36 (1) not more than ten percent of the monthly gross profit

1 from all lawful gambling activities held during bingo occasions
2 excluding bar bingo, or a rate based on a cost per square foot
3 not to exceed ten percent of a comparable cost per square foot
4 for leased space as approved by the director, whichever is less;
5 and

6 (2) no rent may be paid for bar bingo.

7 (d) Amounts paid as rent under leases are all-inclusive.

8 No other services or expenses provided or contracted by the
9 lessor may be paid by the organization, including, but not
10 limited to, trash removal, janitorial and cleaning services,
11 snow removal, lawn services, electricity, heat, security,
12 security monitoring, storage, other utilities or services, and,
13 in the case of bar operations, cash shortages, unless approved
14 by the director. Any other expenditure made by an organization
15 that is related to a leased premises must be approved by the
16 director. An organization may not provide any compensation or
17 thing of value to a lessor or the lessor's employees from any
18 fund source other than its gambling account. Rent payments may
19 not be made to an individual.

20 ~~(d)~~ (e) Notwithstanding paragraph (b), an organization may
21 pay a lessor for food or beverages or meeting room rental if the
22 charge made is comparable to similar charges made to other
23 individuals or groups.

24 ~~(e)~~ (f) No person, distributor, manufacturer, lessor,
25 linked bingo game provider, or organization other than the
26 licensed organization leasing the space may conduct any activity
27 other than the sale or serving of food and beverages on the
28 leased premises during times when lawful gambling is being
29 conducted on the premises.

30 ~~(f)~~ (g) At a site where the leased premises consists of an
31 area on or behind a bar at which alcoholic beverages are sold
32 and employees of the lessor are employed by the organization as
33 pull-tab sellers at the site, pull-tabs and tipboard tickets may
34 be sold and redeemed by those employees at any place on or
35 behind the bar, but the tipboards and receptacles for pull-tabs
36 and cash drawers for lawful gambling receipts must be maintained

1 only within the leased premises.

2 ~~(g)~~ (h) Employees of a lessor or employees of an
3 organization may participate in lawful gambling on the premises
4 provided (1) if pull-tabs or tipboards are sold, the
5 organization voluntarily posts, or is required to post, the
6 major prizes as specified in section 349.172; and (2) any
7 employee ~~of-the-lessor~~ participating in lawful gambling is not a
8 gambling employee for the organization conducting lawful
9 gambling on the premises.

10 ~~(h)~~ (i) A gambling employee may purchase pull-tabs or
11 tipboards at the site of the employee's place of employment
12 provided:

13 (1) the organization voluntarily posts, or is required to
14 post, the major prizes for pull-tab or tipboard games as
15 specified in section 349.172; and

16 (2) the employee is not involved in the sale of pull-tabs
17 or tipboards at that site.

18 ~~(i)~~ (j) At a leased site where an organization uses a
19 paddlewheel consisting of 30 numbers or less or a tipboard
20 consisting of 30 tickets or less, tickets may be sold throughout
21 the permitted premises, but winning tickets must be redeemed,
22 the paddlewheel must be located, and the tipboard seal must be
23 opened within the leased premises.

24 ~~(j)~~ (k) A member of the lessor's immediate family may not
25 be a compensated employee of an organization leasing space at
26 the premises. For purposes of this paragraph, a "member of the
27 immediate family" is a spouse, parent, child, or sibling.

28 Sec. 28. Minnesota Statutes 2004, section 349.19,
29 subdivision 4, is amended to read:

30 Subd. 4. [DISCREPANCIES.] If at a bingo occasion a
31 discrepancy of more than ~~\$20~~ \$50 is found between the gross
32 receipts as reported by the checkers and the gross receipts
33 determined by adding the cash receipts, the discrepancy must be
34 reported to the board within five days of the bingo occasion.

35 Sec. 29. Minnesota Statutes 2004, section 349.19,
36 subdivision 10, is amended to read:

1 Subd. 10. [PULL-TAB RECORDS.] (a) The board shall by rule
2 require a licensed organization to require each winner of a
3 pull-tab prize of \$50 or more to present identification in the
4 form of a driver's license, Minnesota identification card, or
5 other identification the board deems sufficient to allow the
6 identification and tracing of the winner. The rule must require
7 the organization to retain winning pull-tabs of \$50 or more, and
8 the identification of the winner of the pull-tab, for 3-1/2
9 years.

10 (b) An organization must maintain separate cash banks for
11 each deal of pull-tabs unless (1) two or more deals are
12 commingled in a ~~single-receptacle~~ pull-tab dispensing device, or
13 (2) the organization uses a cash register, of a type approved by
14 the board, which records all sales of pull-tabs by separate
15 deals.

16 (c) The board shall:

17 (1) by rule adopt minimum technical standards for cash
18 registers that may be used by organizations, and shall approve
19 for use by organizations any cash register that meets the
20 standards; and

21 (2) before allowing an organization to use a cash register
22 that commingles receipts from several different pull-tab games
23 in play, adopt rules that define how cash registers may be used
24 and that establish a procedure for organizations to reconcile
25 all pull-tab games in play at the end of each month.

26 Sec. 30. Minnesota Statutes 2004, section 349.211,
27 subdivision 2c, is amended to read:

28 Subd. 2c. [TIPBOARD PRIZES.] The maximum prize which may
29 be awarded for a tipboard ticket is ~~\$500~~ \$599, not including any
30 cumulative or carryover prizes. Cumulative or carryover prizes
31 in tipboard games shall not exceed \$2,500.

32 Sec. 31. Minnesota Statutes 2004, section 349.2125,
33 subdivision 1, is amended to read:

34 Subdivision 1. [CONTRABAND DEFINED.] The following are
35 contraband:

36 (1) all pull-tab or tipboard deals or paddleticket cards

1 not ~~stamped-or~~ bar coded in accordance with this chapter or
2 chapter 297E;

3 (2) all pull-tab or tipboard deals in the possession of any
4 unlicensed person, firm, or organization, ~~whether-stamped-or~~
5 ~~unstamped~~;

6 (3) any container used for the storage and display of any
7 contraband pull-tab or tipboard deals as defined in clauses (1)
8 and (2);

9 (4) all currency, checks, and other things of value used
10 for pull-tab or tipboard transactions not expressly permitted
11 under this chapter, and any cash drawer, cash register, or any
12 other container used for illegal pull-tab or tipboard
13 transactions including its contents;

14 (5) any device including, but not limited to, motor
15 vehicles, trailers, snowmobiles, airplanes, and boats used, with
16 the knowledge of the owner or of a person operating with the
17 consent of the owner, for the storage or transportation of more
18 than five pull-tab or tipboard deals that are contraband under
19 this subdivision. When pull-tabs and tipboards are being
20 transported in the course of interstate commerce between
21 locations outside this state, the pull-tab and tipboard deals
22 are not contraband, notwithstanding the provisions of clauses
23 (1) and (12);

24 (6) any unaffixed registration stamps except as provided in
25 section 349.162, subdivision 4;

26 (7) any prize used or offered in a game utilizing
27 contraband as defined in this subdivision;

28 (8) any altered, modified, or counterfeit pull-tab or
29 tipboard ticket;

30 (9) any unregistered gambling equipment except as permitted
31 by this chapter;

32 (10) any gambling equipment kept in violation of section
33 349.18;

34 (11) any gambling equipment not in conformity with law or
35 board rule;

36 (12) any pull-tab or tipboard deal in the possession of a

1 person other than a licensed distributor or licensed
2 manufacturer for which the person, upon demand of a licensed
3 peace officer or authorized agent of the commissioner of revenue
4 or director of alcohol and gambling enforcement, does not
5 immediately produce for inspection the invoice or a true and
6 correct copy of the invoice for the acquisition of the deal from
7 a licensed distributor;

8 (13) any pull-tab or tipboard deals or portions of deals on
9 which the tax imposed under chapter 297E has not been paid; and

10 (14) any device prohibited by section 609.76, subdivisions
11 4 to 6.

12 Sec. 32. Minnesota Statutes 2004, section 349.213, is
13 amended to read:

14 349.213 [LOCAL AUTHORITY.]

15 Subdivision 1. [LOCAL REGULATION.] (a) A statutory or home
16 rule city or county has the authority to adopt more stringent
17 regulation of lawful gambling within its jurisdiction, including
18 the prohibition of lawful gambling, and may require a permit for
19 the conduct of gambling exempt from licensing under section
20 349.166. The fee for a permit issued under this subdivision may
21 not exceed \$100. The authority granted by this subdivision does
22 not include the authority to require a license or permit to
23 conduct gambling by organizations or sales by distributors or
24 linked bingo game providers licensed by the board. The
25 authority granted by this subdivision does not include the
26 authority to require an organization to make specific
27 expenditures of more than ten percent per year from its net
28 profits derived from lawful gambling. For the purposes of this
29 subdivision, net profits are gross profits less amounts expended
30 for allowable expenses and paid in taxes assessed on lawful
31 gambling. A statutory or home rule charter city or a county may
32 not require an organization conducting lawful gambling within
33 its jurisdiction to make an expenditure to the city or county as
34 a condition to operate within that city or county, except as
35 authorized under section 349.16, subdivision 8, or 297E.02;
36 provided, however, that an ordinance requirement that such

1 organizations must contribute ten percent per year of their net
2 profits derived from lawful gambling conducted at premises
3 within the city's or county's jurisdiction to a fund
4 administered and regulated by the responsible local unit of
5 government without cost to such fund, for disbursement by the
6 responsible local unit of government of the receipts for (i)
7 lawful purposes, or (ii) police, fire, and other emergency or
8 public safety-related services, equipment, and training,
9 excluding pension obligations, is not considered an expenditure
10 to the city or county nor a tax under section 297E.02, and is
11 valid and lawful. A city or county making expenditures
12 authorized under this paragraph must by March 15 of each year
13 file a report with the board, on a form the board prescribes,
14 that lists all such revenues collected and expenditures for the
15 previous calendar year.

16 (b) A statutory or home rule city or county may by
17 ordinance require that a licensed organization conducting lawful
18 gambling within its jurisdiction expend all or a portion of its
19 expenditures for lawful purposes on lawful purposes conducted or
20 located within the city's or county's trade area. Such an
21 ordinance must be limited to lawful purpose expenditures of
22 gross profits derived from lawful gambling conducted at premises
23 within the city's or county's jurisdiction, must define the
24 city's or county's trade area, and must specify the percentage
25 of lawful purpose expenditures which must be expended within the
26 trade area. A trade area defined by a city under this
27 subdivision must include each city and township contiguous to
28 the defining city.

29 (c) A more stringent regulation or prohibition of lawful
30 gambling adopted by a political subdivision under this
31 subdivision must apply equally to all forms of lawful gambling
32 within the jurisdiction of the political subdivision, except a
33 political subdivision may prohibit the use of paddlewheels.

34 Subd. 2. [LOCAL APPROVAL.] Before issuing or renewing a
35 premises permit ~~or-bingo-hall-license~~, the board must notify the
36 city council of the statutory or home rule city in which the

1 organization's premises ~~or-the-binge-hall~~ is located or, if the
2 premises ~~or-hall~~ is located outside a city, the county board of
3 the county and the town board of the town where the premises ~~or~~
4 ~~hall~~ is located. The board may require organizations ~~or-binge~~
5 ~~halls~~ to notify the appropriate local government at the time of
6 application. This required notification is sufficient to
7 constitute the notice required by this subdivision. The board
8 may not issue or renew a premises permit ~~or-binge-hall-license~~
9 unless the organization submits a resolution from the city
10 council or county board approving the premises permit ~~or-binge~~
11 ~~hall-license~~. The resolution must have been adopted within 90
12 days of the date of application for the new or renewed permit or
13 license.

14 Subd. 3. [LOCAL GAMBLING TAX.] A statutory or home rule
15 charter city that has one or more licensed organizations
16 operating lawful gambling, and a county that has one or more
17 licensed organizations outside incorporated areas operating
18 lawful gambling, may impose a local gambling tax on each
19 licensed organization within the city's or county's
20 jurisdiction. The tax may be imposed only if the amount to be
21 received by the city or county is necessary to cover the costs
22 incurred by the city or county to regulate lawful gambling. The
23 tax imposed by this subdivision may not exceed three percent per
24 year of the gross receipts of a licensed organization from all
25 lawful gambling less prizes actually paid out by the
26 organization. A city or county may not use money collected
27 under this subdivision for any purpose other than to regulate
28 lawful gambling. All documents pertaining to site inspections,
29 finances, penalties, or other corrective action involving local
30 lawful gambling regulation must be shared with the board within
31 30 days of filing at the city or county of jurisdiction. A tax
32 imposed under this subdivision is in lieu of all other local
33 taxes and local investigation fees on lawful gambling. A city
34 or county that imposes a tax under this subdivision shall
35 annually, by March 15, file a report with the board in a form
36 prescribed by the board showing (1) the amount of revenue

1 produced by the tax during the preceding calendar year, and (2)
2 the use of the proceeds of the tax.

3 Sec. 33. Minnesota Statutes 2004, section 609.75,
4 subdivision 1, is amended to read:

5 Subdivision 1. [LOTTERY.] (a) A lottery is a plan which
6 provides for the distribution of money, property or other reward
7 or benefit to persons selected by chance from among participants
8 some or all of whom have given a consideration for the chance of
9 being selected. A participant's payment for use of a 900
10 telephone number or another means of communication that results
11 in payment to the sponsor of the plan constitutes consideration
12 under this paragraph.

13 (b) An in-package chance promotion is not a lottery if all
14 of the following are met:

15 (1) participation is available, free and without purchase
16 of the package, from the retailer or by mail or toll-free
17 telephone request to the sponsor for entry or for a game piece;

18 (2) the label of the promotional package and any related
19 advertising clearly states any method of participation and the
20 scheduled termination date of the promotion;

21 (3) the sponsor on request provides a retailer with a
22 supply of entry forms or game pieces adequate to permit free
23 participation in the promotion by the retailer's customers;

24 (4) the sponsor does not misrepresent a participant's
25 chances of winning any prize;

26 (5) the sponsor randomly distributes all game pieces and
27 maintains records of random distribution for at least one year
28 after the termination date of the promotion;

29 (6) all prizes are randomly awarded if game pieces are not
30 used in the promotion; and

31 (7) the sponsor provides on request of a state agency a
32 record of the names and addresses of all winners of prizes
33 valued at \$100 or more, if the request is made within one year
34 after the termination date of the promotion.

35 (c) Except as provided by section 349.40, acts in this
36 state in furtherance of a lottery conducted outside of this

1 state are included notwithstanding its validity where conducted.

2 (d) The distribution of property, or other reward or
3 benefit by an employer to persons selected by chance from among
4 participants who, all of whom:

5 (1) have made a contribution through a payroll or pension
6 deduction campaign to a registered combined charitable
7 organization, within the meaning of section 309.501; or

8 (2) have paid other consideration to the employer entirely
9 for the benefit of such a registered combined charitable
10 organization, as a precondition to the chance of being selected,
11 is not a lottery if:

12 ~~(1)~~ (i) all of the persons eligible to be selected are
13 employed by or retirees of the employer; and

14 ~~(2)~~ (ii) the cost of the property or other reward or
15 benefit distributed and all costs associated with the
16 distribution are borne by the employer.

17 Sec. 34. [REPEALER.]

18 Minnesota Statutes 2004, sections 349.162, subdivision 3;
19 349.164; and 349.17, subdivision 1, are repealed."

20 Delete the title and insert:

21 "A bill for an act relating to gambling; amending various
22 provisions relating to lawful gambling; amending and providing
23 definitions; making technical, clarifying, and conforming
24 changes; amending Minnesota Statutes 2004, sections 349.12,
25 subdivisions 5, 25, 33, by adding a subdivision; 349.15,
26 subdivision 1; 349.151, subdivisions 4, 4b; 349.152, subdivision
27 2; 349.153; 349.154, subdivision 1; 349.155, subdivision 3;
28 349.16, subdivision 8; 349.161, subdivision 5; 349.162,
29 subdivisions 1, 4, 5; 349.163, subdivision 3; 349.1635,
30 subdivision 4; 349.166, subdivisions 1, 2; 349.167, subdivision
31 1; 349.168, subdivision 8; 349.17, subdivisions 5, 7; 349.1711,
32 subdivision 1; 349.173; 349.18, subdivision 1; 349.19,
33 subdivisions 4, 10; 349.211, subdivision 2c; 349.2125,
34 subdivision 1; 349.213; 609.75, subdivision 1; repealing
35 Minnesota Statutes 2004, sections 349.162, subdivision 3;
36 349.164; 349.17, subdivision 1."

Senators Koering; Lourey; Wergin; Johnson, D.E. and Vickerman introduced--
S.F. No. 1621: Referred to the Committee on Agriculture, Veterans and Gaming.

A bill for an act

relating to the military; providing for rental of
certain facilities at Camp Ripley; amending Minnesota
Statutes 2004, section 190.16, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 190.16, is
amended by adding a subdivision to read:

Subd. 6a. [RENTAL OF CAMP RIPLEY FACILITIES.] The adjutant
general or the adjutant general's designee may rent buildings or
other facilities at Camp Ripley to persons under terms and
conditions specified by the adjutant general or designee.

Subject to any prohibitions or restrictions in any agreement
between the United States and the state of Minnesota, proceeds
of rentals under this subdivision must be applied as follows:

(1) payment of increased utilities, maintenance, or other
costs directly attributable to the rental;

(2) other operating and maintenance or repair costs for the
building or facility being rented; and

(3) maintenance and improvement of buildings or other
facilities at Camp Ripley.

Rentals under this subdivision must be made under terms and
conditions that do not conflict with the use of Camp Ripley for
military purposes.

Senators Koering; Wergin; Johnson, D.E.; Skoe and Hann introduced--
S.F. No. 1622: Referred to the Committee on Agriculture, Veterans and Gaming.

1 A bill for an act

2 relating to the military; changing eligibility for
3 certain duties; amending Minnesota Statutes 2004,
4 sections 193.29, subdivision 3; 193.30; 193.31.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6 Section 1. Minnesota Statutes 2004, section 193.29,
7 subdivision 3, is amended to read:

8 Subd. 3. [JOINT BOARDS.] In all cases in which more than
9 one company or other unit of the military forces shall occupy
10 the same armory, the armory board shall consist of
11 ~~officers~~ military personnel assigned to the units or
12 organizations quartered therein. The adjutant general shall
13 designate by order from time to time the representatives of each
14 unit quartered therein to comprise the armory board for each
15 armory. In the discretion of the adjutant general, the
16 membership of the board may be comprised of officers, warrant
17 officers, and enlisted personnel and may be changed from time to
18 time so as to give the several organizations quartered therein
19 proper representation on the board.

20 Sec. 2. Minnesota Statutes 2004, section 193.30, is
21 amended to read:

22 193.30 [~~COMMANDING-OFFICERS~~ MANAGEMENT OF ARMORY BOARD.]

23 The senior ~~officer~~ member on each armory board shall be the
24 chair, and the junior ~~officer~~ member thereof shall be the
25 recorder. A record of the proceedings of the board shall be

1 kept, and all motions offered, whether seconded or not, shall be
2 put to a vote and the result recorded. In the case of a tie
3 vote the adjutant general, upon the request of any member, shall
4 decide. The governor may make and alter rules for the
5 government of armory boards, officers, and other persons having
6 charge of armories, arsenals, or other military property of the
7 state.

8 Sec. 3. Minnesota Statutes 2004, section 193.31, is
9 amended to read:

10 193.31 [~~SENIOR-OFFICER-TO~~ CONTROL OF DRILL HALL.]

11 The senior ~~officer~~ member of any company or other
12 organization assembling at an armory for drill or instruction
13 shall have control of the drill hall or other portion of the
14 premises used therefor during such occupancy, subject to the
15 rules prescribed for its use and the orders of that ~~officer's~~
16 member's superior. Any person who intrudes contrary to orders,
17 or who interrupts, molests, or insults any troops so assembled,
18 or who refuses to leave the premises when properly requested so
19 to do, shall be guilty of a misdemeanor. Nothing in this
20 section shall prevent reasonable inspection of the premises by
21 the proper municipal officer, or by the lessor thereof in
22 accordance with the terms of the lease.

Senators Hann, Belanger, Vickerman and Dille introduced--

S.F. No. 1624: Referred to the Committee on Agriculture, Veterans and Gaming.

1 A bill for an act

2 relating to the military; clarifying statutes
3 pertaining to the accumulation of vacation and sick
4 leave by public officers and employees while on
5 military leave and upon reinstatement in public office
6 or employment; authorizing payment for some or all of
7 the accumulated leave; amending Minnesota Statutes
8 2004, sections 192.261, subdivision 2; 471.975.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

10 Section 1. Minnesota Statutes 2004, section 192.261,
11 subdivision 2, is amended to read:

12 Subd. 2. [REINSTATEMENT.] Except as otherwise hereinafter
13 provided, upon the completion of such service such officer or
14 employee shall be reinstated in the public position, which was
15 held at the time of entry into such service, or a public
16 position of like seniority, status, and pay if such is available
17 at the same salary which the officer or employee would have
18 received if the leave had not been taken, upon the following
19 conditions: (1) that the position has not been abolished or
20 that the term thereof, if limited, has not expired; (2) that the
21 officer or employee is not physically or mentally disabled from
22 performing the duties of such position; (3) that the officer or
23 employee makes written application for reinstatement to the
24 appointing authority within 90 days after termination of such
25 service, or 90 days after discharge from hospitalization or
26 medical treatment which immediately follows the termination of,
27 and results from, such service; provided such application shall

1 be made within one year and 90 days after termination of such
2 service notwithstanding such hospitalization or medical
3 treatment; (4) that the officer or employee submits an honorable
4 discharge or other form of release by proper authority
5 indicating that the officer's or employee's military or naval
6 service was satisfactory. Upon such reinstatement the officer
7 or employee shall have the same rights with respect to accrued
8 and future seniority status, efficiency rating, vacation, sick
9 leave, and other benefits as if that officer or employee had
10 been actually employed during the time of such leave. The
11 officer or employee reinstated under this section is entitled to
12 vacation and sick leave with pay as provided in any applicable
13 civil service rules, collective bargaining agreement, or
14 compensation plan, and accumulates vacation and sick leave from
15 the time the person enters active military service until the
16 date of reinstatement without regard to any otherwise applicable
17 limits on civil service rules limiting the number of days which
18 may be accumulated. No officer or employee so reinstated shall
19 be removed or discharged within one year thereafter except for
20 cause, after notice and hearing; but this shall not operate to
21 extend a term of service limited by law.

22 [EFFECTIVE DATE.] This section is effective the day
23 following final enactment and applies to any public officer or
24 public employee serving in active military service on or after
25 September 11, 2001.

26 Sec. 2. Minnesota Statutes 2004, section 471.975, is
27 amended to read:

28 471.975 [MAY PAY DIFFERENTIAL OF RESERVE ON ACTIVE DUTY.]

29 (a) Except as provided in paragraph (b), a statutory or
30 home rule charter city, county, town, or other political
31 subdivision may pay to each eligible member of the National
32 Guard or other reserve component of the armed forces of the
33 United States an amount equal to the difference between the
34 member's basic active duty military salary and the salary the
35 member would be paid as an active political subdivision
36 employee, including any adjustments the member would have

1 received if not on leave of absence. This payment may be made
2 only to a person whose basic active duty military salary is less
3 than the salary the person would be paid as an active political
4 subdivision employee. Back pay authorized by this section may
5 be paid in a lump sum. Payment under this section must not
6 extend beyond four years from the date the employee reported for
7 active service, plus any additional time the employee may be
8 legally required to serve.

9 (b) Subject to the limits under paragraph (g), each school
10 district shall pay to each eligible member of the National Guard
11 or other reserve component of the armed forces of the United
12 States an amount equal to the difference between the member's
13 basic active duty military salary and the salary the member
14 would be paid as an active school district employee, including
15 any adjustments the member would have received if not on leave
16 of absence. The pay differential must be based on a comparison
17 between the member's daily rate of active duty pay, calculated
18 by dividing the member's military monthly salary by the number
19 of paid days in the month, and the member's daily rate of pay
20 for the member's school district salary, calculated by dividing
21 the member's total school district salary by the number of
22 contract days. The member's salary as a school district
23 employee must include the member's basic salary and any
24 additional salary the member earns from the school district for
25 cocurricular activities. The differential payment under this
26 paragraph must be the difference between the daily rates of
27 military pay times the number of school district contract days
28 the member misses because of military active duty. This payment
29 may be made only to a person whose basic active duty military
30 salary is less than the salary the person would be paid as an
31 active school district employee. Payments may be made at the
32 intervals at which the member received pay as a school district
33 employee. Payment under this section must not extend beyond
34 four years from the date the employee reported for active
35 service, plus any additional time the employee may be legally
36 required to serve.

1 (c) An eligible member of the reserve components of the
2 armed forces of the United States is a reservist or National
3 Guard member who was an employee of a political subdivision at
4 the time the member reported for active service on or after May
5 29, 2003, or who is on active service on May 29, 2003.

6 (d) ~~Notwithstanding other obligations under law and~~ Except
7 as provided in paragraph (e) and elsewhere in Minnesota
8 Statutes, a statutory or home rule charter city, county, town,
9 or other political subdivision has total discretion regarding
10 employee benefit continuation for a member who reports for
11 active service and the terms and conditions of any benefit.

12 (e) A school district must continue the employee's
13 enrollment in health and dental coverage, and the employer
14 contribution toward that coverage, until the employee is covered
15 by health and dental coverage provided by the armed forces. If
16 the employee had elected dependent coverage for health or dental
17 coverage as of the time that the employee reported for active
18 service, a school district must offer the employee the option to
19 continue the dependent coverage at the employee's own expense.
20 A school district must permit the employee to continue
21 participating in any pretax account in which the employee
22 participated when the employee reported for active service, to
23 the extent of employee pay available for that purpose.

24 (f) For purposes of this section, "active service" has the
25 meaning given in section 190.05, subdivision 5, but excludes
26 service performed exclusively for purposes of:

27 (1) basic combat training, advanced individual training,
28 annual training, and periodic inactive duty training;

29 (2) special training periodically made available to reserve
30 members; and

31 (3) service performed in accordance with section 190.08,
32 subdivision 3.

33 (g) A school district making payments under paragraph (b)
34 shall place a sum equal to any difference between the amount of
35 salary that would have been paid to the employee who is
36 receiving the payments and the amount of salary being paid to

1 substitutes for that employee into a special fund that must be
2 used to pay or partially pay the deployed employee's payments
3 under paragraph (b). A school district is required to pay only
4 this amount to the deployed school district employee.

5 [EFFECTIVE DATE.] This section is effective the day
6 following final enactment and applies to any public officer or
7 public employee serving in active military service on or after
8 September 11, 2001.



Department of Employee Relations

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www.doer.state.mn.us

DATE: March 13, 2003

TO: Human Resource Directors/Designees
Labor Relations Directors/Designees

FROM: Cal R. Ludeman
Commissioner

RE: **Military Leave and Insurance Continuation Issues**

PERSL #1375

See page 3

Background:

Due to the recent increased use of military leave by State employees, DOER has received many inquiries about the use of military leave under both state and federal law. In this memo, we attempt to provide responses to some of the most frequently asked questions regarding the use of military leave. You should understand that most of these questions relate to extended military leaves longer than 30 days.

Question: Should employees on extended military leave be allowed to take one day of vacation per payroll period to extend the employer contribution for insurance benefits?

Answer: No. Employees on extended military leave cannot use one day of vacation per payroll period to extend the employer contribution for insurance benefits. The service member and dependents have health and dental insurance coverage available immediately after reporting for duty if called for active duty of 30 days or more. Coverage is available at no cost. Under federal law, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), the State must also offer COBRA benefit continuation for persons who are absent from work to serve in the military. Upon the employee's return to employment following the military service, the State must provide health insurance coverage immediately with no waiting period or exclusions for pre-existing conditions, unless the exclusions apply to injuries or conditions that were incurred as a result of the military service.

This is also consistent with the language in the insurance article of the labor agreements and Plans which provides that an employee on an unpaid leave of absence may not use vacation leave for the purposes of maintaining eligibility for an Employer Contribution by keeping the employee on a state payroll for one (1) working day per pay period (e.g., AFSCME contract, Article 19, Section 3.D.2.).

Question: Should employees on extended military leave be allowed to use vacation while they are on military leave?

Answer: Yes, employees may use their vacation accruals prior to any unpaid leave of absence. There may be no break between active work status and the use of such vacation. The federal law (The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)) permits employees on military leave to use vacation benefits during the period of the employee's military service. As stated above, the employees are not permitted to use the vacation "for the purpose of" maintaining the Employer Contribution for health insurance. We have also been recently advised that employees on military leave do not have the right to use vacation sporadically (e.g., a day or week at a time during the unpaid leave).

Question: Upon return from military leave, is an employee entitled to return to his/her former position?

Answer: It depends. The position into which a person is reinstated is based on the length of the leave and whether the employee continues to be qualified for that position.

Under USERRA, a person whose military service lasts 1 to 90 days must be "promptly reemployed" in the following order of priority:

1. In the job the person would have held had the person remained continuously employed so long as the person is qualified for the job, or can become qualified after reasonable efforts by the employer to qualify the person; or,
2. If the employee cannot become qualified for the position described above in (1), in the position the employee held on the date the employee commenced the service so long as the person is qualified for the job or could become qualified after reasonable efforts by the employer; or
3. If the employee cannot become qualified for either of the above positions (other than for a disability incurred in or aggravated by the military service), in any other position that is the nearest approximation of (1) for which the person is qualified, with full seniority.

If the military service lasts 90 days or more, the employee must be promptly reemployed in the following order of priority:

1. In the job the person would have held had the person remained continuously employed, or a position of equivalent seniority, status and pay so long as the person is qualified for the job, or can become qualified after reasonable efforts by the employer to qualify the person; or,
2. If the employee cannot become qualified for the position in (1), in the employee's pre-service position so long as the person is qualified for the job or could become qualified after reasonable efforts by the employer; or
3. If the employee cannot become qualified for the position in either (1) or (2), in any other position which is the nearest approximation of (1) for which the person is qualified, with full seniority.

Please note that in many cases, options (1) and (2) in both scenarios are likely to be the same, i.e., the position that the employee held at the time the employee commenced military service. However, if the person would have been promoted with reasonable certainty had the person not been absent, the person would be entitled to the promotion upon reinstatement. On the other hand, the position could be at a lower level than the one previously held, it could be a different job, or it could conceivably be in layoff status.

State law also provides that a state employee who takes unpaid military leave is entitled to reinstatement. Although the conditions for reinstatement are slightly different depending on the type of leave, the law generally provides that state employees returning from military leave are entitled to be returned to their former position or a comparable position of "like seniority, status and pay." Further, upon such reinstatement, the employee has the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if that employee had been actually employed during the time of such leave. According to this language, it is clear that state employees continue to accrue vacation and sick leave hours during their absence when on military leave.

NOTE: If an employee incurs or aggravates a disability during the military service that affects the employee's ability to return to employment, you should consult with your labor relations representative to determine the employee's rights to reinstatement.

Question: May you treat the employee differently depending on whether the military leave is for voluntary service or for involuntary (mandated) service?

Answer: No. Neither state nor federal law allows the employer to distinguish between voluntary and involuntary service. In fact, the federal act specifically prohibits the employer from making any such distinction. 38 U.S.C. Sec. 4312(h). Further, the Minnesota courts have held that the protection of the state military leave law is available to all persons who perform military service, whether that service is voluntary or involuntary.

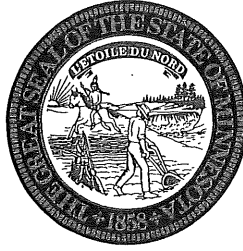
Federal Guidance Available: If you would like further guidance on these issues under the federal law, there are helpful questions & answers on the Department of Labor's USERRA Advisor website (<http://www.dol.gov/elaws>).

cc: DOER Labor Relations/Compensation Staff
DOER Employee Insurance Division Staff
DDIRs

Research Department

Thomas Todd, Director

600 State Office Building
St. Paul, Minnesota 55155-1206
651-296-6753 [FAX 651-296-9887]
www.house.mn/hrd/hrd.htm



Minnesota House of Representatives

" Attachment B "

February 22, 2005

Officer Paul Barnes
St. Louis Park Police Department
3015 Raleigh Ave.
St. Louis Park, Minnesota 55416

Dear Officer Barnes:

This letter is written in response to your request for clarification of Minnesota Statutes pertaining to the granting of vacation and sick leave to state and local government employees who are ordered into active military service and who, upon completion of that service, return to their previous positions in government employment.

Background

You have noted that upon returning in April, 2004 from leave for military service, including deployment for war service in Iraq, you successfully resumed your employment with the St. Louis Park Police Department (the SLP/PD). Soon after, you inquired of the police department and other appropriate city officials regarding your various employment-related rights under federal and state law during the time of your military leave.

Your discussions with city officials, your union representative, and other returning veterans employed in other jurisdictions, has lead you to believe that under state law (M.S. § 192.261, subd. 2), you are entitled to the vacation and sick time (which is combined in the SLP/PD as "flex time") that you would have accrued had you not been on military leave. As of this date, however, the city is still not convinced of that viewpoint.¹

In the fall of 2004, you asked for further clarification from Representative Jim Rhodes, then Chair of the Minnesota House of Representatives Governmental Operations and Veterans Affairs Committee, who assigned the question to myself as House Research Department staff for that committee.

¹ To clarify, you are not basing your argument on federal law – USERRA, the Uniformed Services Employment and Reemployment Rights Act of 1994, coded as 38 U.S.C. § 4301 et seq. The relevant section of USERRA law essentially states that, at a minimum, a public or private employer must provide to an employee who is on a military leave of absence the *same benefits* that the employer generally provides to employees on any other unpaid leave of absence.



In a memo to Representative Rhodes dated October 11, 2004, *we concluded that, as a municipal employee returning from military leave, you are indeed entitled under Minnesota Statutes to the vacation and sick time (i.e., "flex time," in the parlance of the SLP/PD) that you would have accrued had you not been on military leave.* As noted in that memo, this conclusion was based on the plain language of M.S. § 192.261, as well as the precedent of the standing interpretation of that law by the Minnesota Department of Employee Relations for state employees, as well as a long list of (over 15) Attorney General opinions interpreting that statute dating to WWII.

However, you note that, as of this date, the city of St. Louis Park has not yet agreed with your request by awarding the flex time due to you in accordance with M.S. § 192.261. You have noted that the city, in its discussions with the Minnesota League of Cities, is awaiting the interpretation of a more recent statute – *The Salary Continuation Act of 2003* – as it relates to the original law on which you base your claim.

Original Law

Minnesota Statutes, § 192.261, subdivision 2 provides that when a public employee who was on leave to engage in active military services is reinstated to public employment:

"Upon such reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if that officer or employee had been actually employed during the time of such leave."

As noted above and in our earlier memo to Representative Rhodes, there have been many Attorney Generals' opinions dating to the WWII era interpreting this law to mean that when a person who had been on active military service is reinstated, the person must be credited with vacation and sick leave that would have accrued if the person had been employed during the period of active service. Current state personnel policy, and that of at least some political subdivisions, is consistent with the Attorney General's interpretation.

Salary Continuation Law of 2003

Minnesota Statutes § 471.975 authorizes political subdivisions of the state to pay to eligible members of the National Guard or other military Reserves who are ordered to active military service the difference between the member's basic active duty military salary and the salary the person would be paid as an active political subdivision employee. Subdivision (d) of that statute states:

(d) Notwithstanding other obligations under law and except as provided in paragraph (e), a statutory or home rule charter city, county, town, or other political subdivision has total discretion regarding employee benefit continuation for a member who reports for active service and the terms and conditions of any benefit. (Paragraph

(e) requires payment of certain salary continuation for eligible school district employees.)²

Comparison with the Original Law

The question arises regarding whether the salary continuation law of 2003 (§471.975, subd. (d)) supersedes the original law (§192.261, subd. 2) with regard to the crediting of vacation and sick leave time upon an employee's reinstatement following military leave. In other words, does the 2003 language make the crediting of vacation and sick leave for periods of active service discretionary, rather than mandatory?

Under the following analysis, we conclude that § 192.261 governs in your specific circumstance, since it applies upon the employee's *reinstatement*, and is not a situation of benefit *continuation*.

- As used in the 2003 law, vacation and sick leave would likely be considered a "benefit". Vacation and sick leave are commonly understood as employee benefits. Also, the language of § 192.261 cited above refers to "vacation, sick leave, and other benefits," showing that in the context of chapter 192 vacation and sick leave are considered "benefits".
- The 2003 law, through the use of the phrase "Notwithstanding other obligations under law", specifically overrides pre-existing obligations relating to "employee benefit continuation." To the extent that § 192.261 deals with employee benefit continuation, there is a strong argument that the 2003 law supersedes it. Under this interpretation, the employer would have total discretion to credit vacation and sick leave for an employee on leave for active military duty.
- On the other hand, § 192.261 arguably *does not deal with* "employee benefit continuation." Rather, it deals with rights "*upon reinstatement*".

In other words, combining the 2003 law with § 192.261, *an employee does not continue to accrue vacation and sick leave while on active military duty, unless the employer uses its discretion* under § 471.975 to provide this benefit continuation. If the employee doesn't return to the public position, the employee would have only the vacation and sick leave that had already accrued up to the date that the employee left for active service.

However, upon reinstatement (if this occurs) to public service, § 192.261 requires the employer to credit the employee with vacation and sick leave that would have accrued during the period of active service.

² Minnesota Statutes § 471.975 was enacted during the Persian Gulf War by *Laws 1991, Ch.345, Art. 1*. It was amended by *Laws 2003, Ch. 123, sec. 2*, to update its language to apply to the current global war on terrorism. Paragraph (d) was included in that amendment. The statute was further amended by *Laws 2004, Ch. 256, Art. 1, sec. 6*, to require payment of a certain salary continuation by school districts.

In conclusion, § 471.975 should be read to deal with *benefit continuation, which is discretionary*, while § 192.261 should be read to deal with *benefit reinstatement, which is mandatory*. Thus, it is our interpretation that § 192.261 is not superceded by § 471.975, and that, upon your reinstatement to your previous position following your return from active military duty the City of St. Louis Park as your employer must credit you with the vacation and sick leave time (its "flextime") that you would have earned had you "been actually employed during the time of such leave."

If the statutory language were considered ambiguous, general principles of statutory construction would apply. For example, a court might look to contemporaneous legislative history, or to the occasion and necessity for the law and the circumstances under which it was enacted.

Having been the House Research analyst chiefly responsible for HF274, the enacting legislation in 2003, I can speak to the legislative history of that enactment. Unfortunately, the most relevant committee tapes are blank for that hearing (the House Government Operations committee clerk believes they forgot to press *record*).

I remember this enactment well, having personally done the bill drafting for it when it was first enacted in 1991, and then again when it was revised in 2003, having spent considerable time working on this legislation during both of those legislative sessions. Both times, the bill originated here in the House.³

While House Research rarely speaks to legislative intent for past enactments, for this particular statute I would not hesitate to relate my very clear understanding that the chief author of HF294 fully intended this bill, to provide new benefits (differential pay) to National Guard and other military Reserve members who have been ordered to active duty, without in any way limiting or diminishing existing benefits under law.

Regarding the "notwithstanding" clause of paragraph (d), to the best of my knowledge the language of paragraph (d) was brought to the chief author by an outside lobbyist for use as an author's amendment to ensure that political public employers would not be required to continue family health insurance benefits during a soldier's mobilization period. To the best of my knowledge, the only discussion of that provision pertained to health insurance; there was no legislative intent to undermine the provisions of § 192.261. From the vantage point of the present, however, it would have been a clearer expression of that legislative intent had I objected to the use of the "notwithstanding" clause and suggested eliminating it from the paragraph.

In closing, I hope that the City of St. Louis Park and the League of Minnesota Cities will find this analysis helpful for understanding our position in support of your interpretation that under § 192.261, the city of St. Louis Park is obligated to award you the vacation and sick days that you would have accrued had you actually been employed by the city during the time of your military leave. Please feel free to share this letter with your city and the League as you wish. As you know, I have been contacted by a number of interested legislators on your behalf about this issue, and I will be sharing this letter with them as well.

³ The chief author was Representative Edwina Garcia in 1991, and Representative Rob Eastlund in 2003. The following ten co-authors are listed for HF294 from 2003: Eastlund; Rhodes; Cornish; Kahn; Nelson, P.; Larson; Tinglestad; Erickson; Abeler; Anderson, B.

On behalf of the legislature, I am pleased to be of service to you and the interested legislators on this important matter. Thank you for your own service to and sacrifices for our nation and community, both while in military service and now in your role as a policeman. I hope you find this information helpful for acquiring the employment benefits due to you.

Sincerely,



James D. Cleary

Legislative Analyst for Military and Veterans Affairs
Minnesota House of Representatives

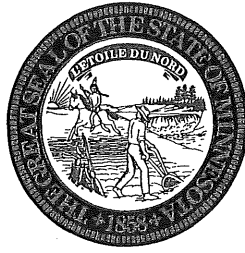
JC/jb

// Attachment C //

Research Department

Thomas Todd, Director

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Minnesota House of Representatives

October 11, 2004

TO: Representative Jim Rhodes

FROM: Jim Cleary, Legislative Analyst (651-296-5053)

JC

RE: Employment and re-employment rights for citizen-soldiers ordered into active military service.

Background to your Constituent's Question:

This memo is in response to your request for assistance in answering some questions for your constituent, Officer Paul Barnes, an investigator with the St. Louis Park Police Department who is also a citizen-soldier who has recently returned from a period of active military service in Iraq. As you authorized, I have contacted Officer Barnes directly for a more detailed discussion of his situation and concern.

Officer Barnes noted that upon returning in April, 2004 from his leave for military service he successfully resumed his employment with the St. Louis Park Police Department (the SLP/PD). Soon after, he inquired of the police department and other appropriate city officials regarding his various employment-related rights under federal and state law during the time of his military leave.

Such discussions by Officer Barnes with city officials, his union representative, and other returning veterans, has lead him to believe that under state law, he may be entitled to the vacation and sick time (which is combined in the SLP/PD as "flex time") that he would have accrued had he not been on military leave. As of this date, however, the city is not convinced of that viewpoint.¹

¹ Note that Officer Barnes is not basing his argument on federal law – USERRA, or the Uniformed Services Employment and Reemployment Rights Act of 1994, coded as 38 U.S.C. § 4301 et seq. The relevant section of USERRA law essentially states that, at a minimum, a public or private employer must provide to an employee who is on a military leave of absence the *same benefits* that the employer generally provides to employees on any other unpaid leave of absence. It is not yet clear to me whether the City of St. Louis Park provides any accumulated vacation and sick time to employees on regular unpaid leave of absence.



That then is the concern that prompted Officer Barnes to contact you, and it is the question upon which this memo focuses.

Research, Analysis and Conclusion:

In developing this response, I reviewed both federal USERRA law and state military leave law,² as well as three very informative explanatory memos on these laws compiled by private labor law firms. I have also consulted a published announcement on reemployment rights from the Minnesota Department of Employee Relations, and have chatted with a State JAG official for additional insights.³ Finally, I have reviewed the extensive list of Minnesota Attorney General opinions issued since the pertinent state law was enacted in 1941.

On the basis of this information, it appears clear to House Research that Officer Barnes is correct in interpreting Minnesota Statutes, section 192.261 as entitling him, as a public employee of (the state or) a political subdivision to accumulate vacation and sick leave time from the date on which he entered active military service until the date of reinstatement in his employment with the St. Louis Park Police Department (without regard to any limitation by civil service rules as to number of days which may be accumulated).

The following information supports this interpretation and conclusion.

I hope that you and Officer Barnes find this memo informative and useful in considering the issue of concern. Please do not hesitate to call on me for additional research on this important topic, if needed; I would be happy to assist you further with it.

A. The Plain Language of the Law

Minnesota Statutes, section 192.261 is the principal state law establishing employment rights protections for state or local public employees who during times of war or national emergency enter, voluntarily or involuntarily, into active military service. This statute states quite clearly that such employees³ shall be entitled to leave of absence from public office or employment without pay during such military service, with the right of reinstatement in the public position following that service.

The statute further states:

“Upon such reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if that officer or employee had been actually employed during the time of such leave.” (Minn. Stat. § 192.261, subd. 2.)

² Minnesota Statutes, section 291.261 (Leave of Absence).

³ The Minnesota National Guard itself has not taken a formal position on the issue.

B. DOER's Interpretation for State Employees

The Minnesota Department of Employee Relations (DOER), in a March 13, 2003 memo from the commissioner to the department's human resource and labor relations directors, interprets state law as follows:

"Further, upon such reinstatement, the employee has the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if that employee had been actually employed during the time of such leave. *According to this language, it is clear that state employees continue to accrue vacation and sick leave hours during their absence when on military leave.*" (Minnesota Department of Employee Relations, commissioner's memo PERSL #1375, dated March 13, 2003; italics and bolding added.)

Thus, the official interpretation of Minnesota Statutes, section 192.216 by the state of Minnesota for state government employees is that a public employee on military leave of absence continues to accrue vacation and sick time during the person's military leave just as if the person had actually been employed by the state during that leave. Moreover, it is important to note in the context of Officer Barnes' legislative inquiry that the statutory language specifically includes all state and local government employees – i.e., "*any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state*" (Minnesota Statutes, section 192.261, subd. 2, cross-referenced from subd. 3.) Thus, the same statutory meaning is applicable to local government officials and employees as pertains to state government officials and employees.

C. Attorney General's Opinions

The following case law and selected Attorney General's opinions interpreting Minnesota Statutes 192.216 support the conclusion stated above.

- **Construction and application.** Case law has determined that "*This section is not limited to war or other emergency.*" (*Byrne v. Independent School Dist. No. 237*, 1975, 305 Minn. 49, 232 N.W.2nd 432).
- **Construction with other laws.** That court ruling (*Byrne v. Independent School District No. 237*) further notes that Minnesota Statutes §§ 192.26 and 192.61 are "*liberally construed so as to effectively implement their basic purposes and are available to all who perform military service, whether such service is voluntary or involuntary.*" (*Id.*)
- **Purpose.** The Attorney General has noted that "*Legislative intent in adopting Laws 1941, c. 120 (§§ 192.26 to 192.264), was, among other things, to insure public employees against being deprived of benefits which would have been theirs if they had not entered the armed forces.*" (Op.Atty.Gen. 120, March 14, 1946.)
- **Jurisdiction.** The Attorney General has also noted that a "*Village is without authority to adopt a policy governing military leaves that is inconsistent with statutory provisions.*" (Op.Atty.Gen., 469-B, May 4, 1951.)

- **Public employees – generally.** The Attorney General has noted that the statute applies to all state and local public employees, irrespective of whether one’s position is or is not in the classified civil service, *“This section, as amended by Laws 1945 c. 489, does not distinguish between classified and unclassified employees.”* (Op.Atty.Gen., 644-D, Nov. 6, 1945.)
- **Benefits – In general.** The Attorney General has specifically noted that *“If employee would have been entitled at any time to any of the benefits referred to in subdivision 2 of this section, as amended by Laws 1945, c. 489, had such employee been at his work instead of serving in armed forces, employee’s rights to such benefits accrued at such time and employee became entitled to such benefits as of such time upon compliance with conditions, precedent to reinstatement.”* (Op.Atty.Gen., 210-H-1a, April 25, 1946.)
- **Vacation and sick leave – in general.** The Attorney General has noted that a *“Veteran reinstated under this section . . . is entitled to vacation with pay and sick leave as provided in civil service rules and accumulates vacation and sick leave from time he enters military service until date of reinstatement without regard to limitation by civil service rules as to number of days which may be accumulated.”* (Op.Atty.Gen., 120, January 25, 1946.)
- **Entitlement, vacation and sick leave.** Other Attorney General opinions specifically address the entitlement of vacation and sick leave, as follows:
 - *“Veteran, who returned to position with municipality upon discharge from armed forces, upon reinstatement was entitled to accrued vacation. . . .”* (Op.Atty.Gen., 310-H-1-a, Jan. 8, 1953.)
 - *“Soldier returning to his position as chief of police was entitled to vacation which he would otherwise have earned if he took vacation while he was still chief of police.”* (Op.Atty.Gen., 120, Feb. 3, 1948.)
 - *“Where right of police officers to vacations has been fixed by rules of police civil service commission, right of police officer who served in armed forces during World War II to receive on his return and compliance with the conditions of this section and § 419.06 the vacation which he would have received if he had not been serving in armed forces is secured to him by this section.”* (Id.)
- **Computation, vacation and sick leave.** The following items are Attorney General opinions bearing on the computation of vacation and sick leave time for employees on military leave.
 - *“County Highway Department employee reinstated to his position after service in Armed Forces of United States was entitled to vacation time equivalent to period of vacation he would have received if he had been an employee of county during time during which he was in service and rule prohibiting accumulation of vacation time was not applicable.”* (Ops.Atty.Gen., 120, Jan. 24, 1955.)
 - *“Where during employee’s absence on military leave, employing authority, by virtue either of civil service rules or of custom, granted vacations to employees,*

employee on reinstatement from military leave is entitled to total amount of vacation to which such employee would have been entitled to during period of military leave if he had been actually at work.” (Op.Atty.Gen., 120, 310-H-1-a, Feb. 5, 1946.)

- *“Under this section as amended by Laws 1945, c. 489, returning veteran employed by county is entitled to accumulated vacation time and sick leave, to be computed according to the established practice or custom of each of the county offices and for the full period of his military leave.” (Op.Atty.Gen., 120, Nov. 29, 1945.)*

- **Payments, vacation and sick leave.** Additional Attorney General’s opinions reinforce the interpretation of Minnesota Statutes, section 192.216 that a public official or employee is entitled to accrue vacation and sick time benefits while on military leave, and also clarify that the employer and employee may agree to payment in lieu of the actual use of such accrued time, but that the public employer may not require such in-lieu payment.

- *“Where police officer was in military service and accumulated vacation rights which he exercised upon being reinstated into his position, city may determine for itself upon what basis payment should be made for vacation period.” (Op.Atty.Gen. 120, Nov. 7, 1946.)*
- *“Employee of city police department who is under civil service is entitled on return from military service to accrued vacation leave, but city may not pay such employee in lieu of granting such accrued vacation leave.” (Op.Atty.Gen., 120, Sept. 5, 1946.)*
- *“Employee entitled to vacation accumulated while on military leave may take such vacation only at such times as may be approved by appointing authority, though appointing authority’s action must not be arbitrary and may not unreasonably defer the taking of the vacation, so that for all practical purposes employee is deprived of vacation rights.” (Op.Atty.Gen., 120, June 3, 1946.)*

Senator Lourey introduced--

S.F. No. 1566: Referred to the Committee on Agriculture, Veterans and Gaming.

1 A bill for an act
2 relating to wild rice; prohibiting the release,
3 planting, cultivation, harvest, and sale of
4 genetically engineered wild rice; amending Minnesota
5 Statutes 2004, sections 18F.12; 18F.13; proposing
6 coding for new law in Minnesota Statutes, chapter 18F.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

8 Section 1. [18F.10] [RELEASE OF GENETICALLY ENGINEERED
9 WILD RICE.]

10 A person may not release, plant, cultivate, harvest, sell,
11 or offer for sale in Minnesota a genetically engineered organism
12 containing or related to wild rice.

13 Sec. 2. Minnesota Statutes 2004, section 18F.12, is
14 amended to read:

15 18F.12 [RULES.]

16 Except as provided in section 18F.10, the commissioner
17 shall adopt rules governing the issuance of permits for proposed
18 releases of genetically engineered agriculturally related
19 organisms, experimental genetically engineered pesticides, and
20 genetically engineered fertilizers, genetically engineered soil
21 amendments, and genetically engineered plant amendments. The
22 rules must include a requirement for environmental review
23 subject to the provisions of chapter 116D and rules adopted
24 under it. The rules must also include provisions requiring
25 concurrent permit review for proposed releases that would
26 require more than one permit under this chapter, chapter 18B or

1 18C.

2 Sec. 3. Minnesota Statutes 2004, section 18F.13, is
3 amended to read:

4 18F.13 [EXEMPTIONS.]

5 (a) Except as provided in section 18F.10, the commissioner
6 may provide exemptions to the requirements to prepare an
7 environmental assessment worksheet and obtain a permit for
8 release of genetically engineered agriculturally related
9 organisms for which substantial evidence, including past
10 releases, has shown that the organism can be released without
11 adverse effects on humans and the environment.

12 (b) The commissioner may provide exemptions from the
13 requirements to prepare an environmental assessment worksheet
14 and obtain a permit for release of genetically engineered
15 agriculturally related organisms for which substantial evidence,
16 including past releases, has shown that the organism can be
17 released under alternative oversight without adverse effects to
18 humans and the environment.

19 Sec. 4. [EFFECTIVE DATE.]

20 Sections 1 to 3 are effective the day following final
21 enactment.



Attachment D

From: "chip@lakecountryjournal.com" <chip@lakecountryjournal.com>
To: <sen.becky.lourey@senate.mn>
Date: Tue, Mar 15, 2005 5:41 PM
Subject: Our Natural Wild Rice

Dear Senator,

I have recently been made aware of a bill coming up (the Wild Rice Protection Bill - Senate File 1566) that is dealing with a hugely important aspect of the Minnesota wild rice industry. I am urging you to please be sensitive to the importance of keeping our wild rice protected from genetic manipulation, and allowing potential for corporate patenting.

There are becoming fewer and fewer true Minnesota products that haven't been "tainted" in one way or another. Please support this legislation for many thousands of us who are passionate about our State and its wonderful "fruits". I firmly believe it's the right thing to do.

Thanks for your time and consideration!

Chip

--

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**Testimony of R. Dennis Olson, Director
Trade & Agriculture Project
Institute for Agriculture & Trade Policy
In Support of S.F. 1566
March 16, 2005**

Good afternoon. Thank you for the opportunity to speak here today. My name is Dennis Olson, and I am the director of the Trade and Agriculture Project at the Institute for Agriculture and Trade Policy. The institute advocates for family farmers within the debates over international trade agreements.

I am here today to urge this committee to support S.F. 1566.

I urge the wild rice industry to proceed with caution when deciding whether to allow the introduction of a genetically engineered variety. This is what the wheat industry did. They asked tough questions of the biotech industry about what the probable risks and costs that would have come with the introduction of genetically engineered wheat? I offer some of these questions that were asked by the wheat industry:

- 1) Is segregation feasible? Who will pay for it?
- 2) What are the liability risks to farmers—both those who chose to plant GE varieties and those who choose not to plant them?
- 3) What will be the reaction of our major customers to the introduction of a GE variety?
- 4) What will introduction of a GE variety do to the market price of all farmers of a commodity?

Objections to GE wheat are based on the belief that it will inevitably contaminate non-GE wheat—restricting the ability of farmers, elevators and processors to meet the requirements of customers who demand non-GE wheat. GE proponents argue that GE and non-GE crops can coexist with a dual marketing system that would solve the problem of consumer rejection by segregating GE and non-GE crops. Such a system would provide U.S. GE wheat to buyers who accept it, and non-GE wheat to others who don't want it. There is much controversy over the effectiveness of this approach, and the potential cost of a dual marketing system is open to debate (Wisner 2003, 22-25).

The Canadian Wheat Board commissioned a study (Van Acker, Brule-Babel and Friesen 2003) that assessed the factors contributing to GE contamination of the Canadian canola crop, and extrapolated whether similar contamination would occur with the introduction of GE wheat. Because many of the factors are the same (Van Acker, Brule-Babel and Friesen 2003, 15-16), the study concluded that the potential level of contamination of the wheat crop caused by the unconfined release of Roundup Ready® wheat would be similar to the substantial contamination that occurred with canola (Van Acker, Brule-Babel and Friesen 2003, 1).

However, the Van Acker study points out that the question of creating a viable dual segregation system must be first answered on the farm, not at the elevator. "The segregation issue is inextricably linked to Roundup Ready wheat management issues because both are about limiting transgene movement from Roundup Ready wheat to non-Roundup Ready wheat" (Van Acker, Brule-Babel and

tolerance levels. A September 30, 2002 U.S. Wheat Associates survey found that 100% of those responding to the survey of wheat buyers from Japan, China, and Korea said that they would not buy GE wheat under any circumstances, even if their governments gave regulatory approval for it (WORC web site 2003).

Similar strong resistance to GE crops exists in Europe. Peter Jones, an official with Rank Hovis, which controls over 30% of the milling and baking in the United Kingdom, said: "I am going to ask you not to grow genetically modified wheat until we are able to sell in our market the bread made from the flour made from that [GE] wheat. I cannot tell you how to run your business – but if you do grow genetically modified...wheat, we will not be able to buy any of your wheat – neither GM nor the conventional. The latter because we will not be able to guarantee the integrity of even the conventional to zero content of GM" (WORC web site 2003). Nicolaas Konijneenkijk, President of the Netherlands company, AGRO Consulting and Trading, summed up the general attitude among European wheat buyers when he said: "Wheat and bread are sacred in Europe and many other parts of the world. If farmers and government officials in the U.S. fail to recognize that, they can kiss their markets goodbye" (WORC web site 2003).

Economic Costs of GE Wheat to Farmers and the Rural Economy

In an October 2003 study (Wisner 2003) Dr. Robert Wisner – a leading grain market economist at Iowa State University – looked specifically at the potential impacts that Monsanto's pending commercial introduction of GE HRS wheat would have on U.S. export markets and the wheat economy. Key findings of the study include:

- Between 30 and 50% of the foreign market for U.S. hard red spring wheat, and even more of U.S. durum wheat exports, could be lost if GE HRS wheat is introduced into the U.S. in the next two to six years.
- U.S. average HRS wheat prices would be forced down to feed-wheat price levels, approximately one-third lower than the average of recent years.
- Loss of wheat export markets would lead to loss of wheat acreage; loss of revenue to industries supplying inputs to wheat producers; losses for other rural farm-related and non-farm businesses, local and state government tax revenues, and institutions supported by tax revenues; and diminished economic health of rural communities and state governments in the spring wheat belt. (Wisner 2003, Executive Summary)

"A large majority of foreign consumers and wheat buyers do not want genetically modified wheat," concluded Dr. Wisner. "Right or wrong, consumers are the driving force in countries where food labeling allows choice." (WORC Press Release 2003).

"While there are many unknowns about genetically modified wheat, one thing's for certain," said Montana wheat farmer Helen Waller, "commercial introduction into Montana, North Dakota, and other wheat-producing states could result in our wheat commanding only feed

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"While there are many unknowns about genetically modified wheat, one thing's for certain," said Montana wheat farmer Helen Waller, "commercial introduction into Montana, North Dakota, and other wheat-producing states could result in our wheat commanding only feed

3

grain prices, consequently reducing our market price by a third. And that will put farmers like myself out of business." (WORC Press Release 2003).

Canadian Contamination of Canola Seed Stock

The contamination of seed stocks caused by the introduction of Roundup Ready® GE canola has devastated the organic canola industry in Canada, prompting the filing of a class action lawsuit by organic growers against Monsanto and Aventis. The lawsuit argues that GE canola has contaminated seed stocks, farm fields and the canola distribution systems to such an extent that it has virtually wiped out the organic canola market for Saskatchewan farmers. The suit seeks damages against the two companies arguing that they were negligent for failing to implement effective measures that would have prevented farm-to-farm contamination. (OCA 2002)

"You can't grow organic canola in Canada anymore, simply because the GM variety exists," said Jim Robbins, a Canadian canola farmer (Reuters 2003).

In conclusion, I urge this committee to pass SF 1566, and give Minnesota's growing wild rice industry time to ask and receive adequate answers to these hard questions before the introduction of a GE variety unnecessarily jeopardizes the economic viability of this important industry.

Thank you.

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● Why plant what you can't sell?



● Protecting Montana's valuable wheat from genetic contamination

Montana is one of the nation's top wheat producers. 60% of Montana's wheat is exported primarily to Japan, Taiwan, the Philippines and South Korea, making these export markets critical to the success of Montana's wheat industry.

Monsanto, a multinational chemical corporation, is taking steps to introduce genetically engineered wheat into Montana and other states by 2005. However, major importers of Montana wheat have made it clear they will not purchase wheat containing even trace amounts of genetically engineered grains.

Introducing genetically engineered wheat into Montana could result in the loss of valuable export markets for Montana wheat farmers. To protect wheat farmers and the communities they support, the **Montana Legislature should pass a temporary moratorium on the introduction of genetically engineered wheat until its agronomic, economic, and legal impacts are understood.**



Protecting wheat farmers and the communities they support

Disadvantages of genetically engineered wheat: *Though Monsanto claims genetically engineered wheat will simplify weed control for farmers, it will come at a stiff price:*

- **Loss of Markets:** Montana wheat farmers risk losing critical export markets even if they don't plant genetically engineered wheat. The inability to segregate grains during shipping and the possibility of cross pollination would make it impossible to keep genetically engineered wheat from contaminating traditional varieties.
- **Legal Liability:** Monsanto's contracts with farmers specify that the company cannot be held liable for damages caused by planting genetically engineered crops. **Farmers therefore could be held liable** if their crops contaminate a neighbor's field. Likewise, Monsanto has sued farmers for the presence of genetically engineered seeds in their crops, even if the farmer did not plant or buy them.

< **Superweeds:** Some scientists fear that genetically engineered grains could cross with weeds, creating superweeds that would complicate weed management for farmers.

- **Loss of Right To Save Seeds:** Because Monsanto's contracts force farmers to sign away their right to save or sell seeds, farmers would be forced to buy seeds every year.
- **Permanent Field Contamination:** Fields contaminated with genetically engineered grains are very difficult to reclaim. Cross-pollination from neighboring fields can result in unintended contamination.
- **Other Financial Costs:** A 1999 study conducted by Dr. Chuck Benbrook, former National Academy of Sciences researcher, found that genetically engineered soybean production cost 50% more than a comparable conventional seed and weed management system.

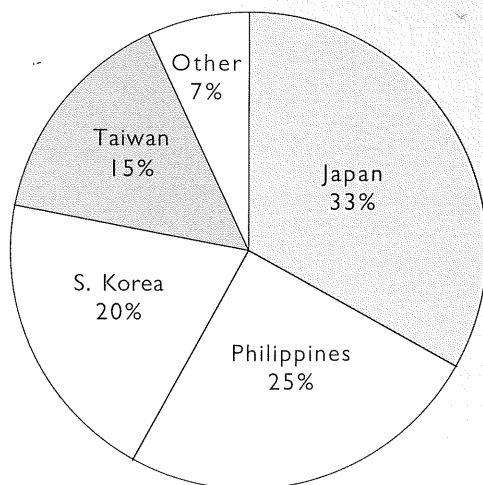
Genetic engineering, as opposed to hybridization or cross breeding, is the process of inserting genes from one kind of organism, such as a fish, into the genes of another kind of organism, such as a tomato. This creates an entirely new organism with a unique genetic makeup that is then patented. Monsanto's genetically engineered soybeans, corn, and wheat are engineered to be resistant to the herbicide Roundup, which is produced by Monsanto.

Current grain shipping systems are not designed to segregate genetically engineered grains from traditional varieties. The presence of genetically engineered grains in the current shipping system would make it impossible to meet overseas labeling requirements, effectively closing important markets to Montana grain producers. **Thus, a decision to introduce genetically engineered wheat into Montana would close those important export markets for all Montana wheat farmers - not just those who purchase Monsanto's genetically engineered seeds.**

The Japanese Millers Association, which represents 90% of Japanese wheat production, has said it will not buy genetically engineered wheat at any level.



Top importers of Montana wheat



Export Markets: 60% of Montana wheat, mixed with wheat from North Dakota, Nebraska, and Colorado, is exported primarily to Japan, the Philippines, South Korea, and Taiwan. (Montana Department of Agriculture). Each of these countries requires mandatory labeling for even trace amounts of genetically engineered organisms. In addition, **the Japanese Millers Association, which represents 90% of Japanese wheat production, has announced that it will not purchase genetically engineered wheat at any level.** Buyers in South Korea and the Philippines have indicated a similar intolerance.

U.S. Markets: In an ABC News poll conducted in June 2001, 93% of respondents favored labeling of food containing genetically engineered organisms. A Pew Charitable Trust poll conducted in April 2001 found that 75% of respondents wanted to know if their food contained genetically engineered organisms, while 58% were opposed to the use of such ingredients in food.

Technology Agreements: Farmers don't buy or own genetically engineered seeds; they enroll in technology use agreements that license them to use the patented technology contained in the seeds. Monsanto's technology use agreements limit the company's liability, and impose stiff fines - payment of 120 times the amount of the technology fee farmers pay to use the seeds - for violations of the agreement. **Technology use agreements:**

- Require farmers to use all genetically engineered seeds purchased in a single growing season
- Prohibit farmers from saving or selling seeds, forcing them to purchase seeds every year
- Force farmers to use specified herbicides applied in accordance with a company-directed weed management plan

Why plant what you can't sell?



Monsanto, a multinational chemical manufacturer, plans to introduce genetically engineered wheat into Montana and other states by 2005. Meanwhile, major importers of Montana wheat have made it clear they will not purchase wheat containing even trace amounts of genetically engineered organisms. Because grain shipping systems are not equipped to segregate genetically engineered wheat from traditional wheat, **the introduction of Monsanto's genetically engineered wheat could destroy export markets for all Montana wheat farmers.**

The farmers, ranchers, and concerned citizens who make up the Northern Plains Resource Council are committed to protecting Montana's valuable wheat from genetic contamination. To reach that goal, Northern Plains members are working to pass a temporary moratorium on the introduction of genetically engineered wheat into Montana, and secure funding for a study of its agronomic, economic, and legal impacts. **You can help!**

1. **Join Northern Plains** and be part of this grassroots effort to protect Montana's valuable wheat from genetic contamination. Join online at www.northernplains.org or call (406) 248-1154.
2. **Learn more.** Attend one of the many town meetings on genetically engineered wheat that will be held near you. Go to www.northernplains.org for an updated schedule of meetings and times, or call (406) 248-1154.

Northern Plains Resource Council

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Non-profit
postage paid
Billings, MT
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Chairman Vickerman and members of the committee. My name is Beth Nelson and I am president of the Minnesota Cultivated Wild Rice Council. The matter before us today first came to our attention three weeks ago when Sarah Alexander and Frank Bibeau, representing the White Earth Land Recovery Project, came as guests to a Minnesota Cultivated Wild Rice Council board meeting near Grand Rapids, Minnesota. They informed us that they were planning on seeking legislation opposing genetically modified wild rice in the State of Minnesota. This was the first time this matter had been brought to our attention.

Ms. Alexander stayed for our February 24-25 Annual Conference and upon leaving it was suggested we continue our dialogue by arranging a meeting to be held in April at Mille Lacs which would include members of our respective boards, as well as the scientists with whom we work, to discuss the matter further. However, since they have proceeded with this legislation prior to any such opportunity to discuss the matter at length, we can only surmise their presence at our meeting three weeks ago was not necessarily to seek a consensus on this matter of the entire Minnesota wild rice industry (both cultivated and hand harvested), but rather to gauge the Council's support, or lack thereof, for this issue and proceed accordingly, without regard for the interests of the cultivated wild rice industry.

In our view, this is not a matter of urgency. We are not developing, nor do we have plans to develop genetically modified wild rice. We are not aware of any entity that is developing GMO wild rice. The stringent federal regulatory processes currently in place, coupled with the enormous investment (in the millions of dollars) necessary to develop GMO wild rice, would certainly render any effort cost prohibitive.

Wild rice is our State grain. The native stands are critically important to the cultivated wild rice industry and we do not intend to do anything which will jeopardize these stands. We were and are

prepared to meet and further discuss the concerns of the White Earth Land Recovery Project. However, at this point we have not been given enough time to review their materials and discuss the matter with the scientific community. Again, we value the native stands and we too want to protect them. However, we believe legislative action at this time is premature and would hope any future attempts to implement legislation in this area would be based on sound science rather than emotion.